

GENERAL TERMS AND CONDITIONS FOR SOFTWARE SERVICES

§ 1 Subject Matter of the Agreement

- (1) The subject matter of this agreement is the service and telephone hotline support for the solutions for IT systems and devices (Software Services) specified in the Service Agreement, in the latest version provided to the Customer by windream GmbH.
- (2) Within the scope of this Agreement, windream GmbH provides telephone hotline support according to these GTC, Annex A.
- (3) This Agreement does not apply to third-party software, unless otherwise documented.

§ 2 Scope of the Software Services

- (1) windream GmbH develops and distributes its software in different release versions, which are divided into major, minor and intermediate releases, depending on the changes made. Major releases are characterized by a change of the number in front of the first dot (e.g. from 8.X to 9.X), minor releases by a change of the number to the right of the dot (e.g. 8.0 to 8.1). Intermediate releases are defined by the third and fourth digits, e.g. 8.1.0.12 and 8.1.0.13.
- (2) The obligation to maintain the software relates to the current major release status as well as to the previous minor release status, including all associated interim releases.
- (3) The obligation to maintain the software includes:
 1. Elimination of bugs that significantly impair or reduce the suitability of the software in accordance with the Service Agreement by means of suitable measures (e.g. sending bug fixes).
 2. Transmission of minor releases.
 3. Transmission of major releases. These are versions with completely new program features.
 4. Sending free updates of the MS SQL Server included in the scope of delivery if the Service Agreement includes MS SQL Server Embedded Maintenance.
 5. Sending new documentation or supplementing existing documentation in electronic form.
 6. Information about significant changes and/or additions to the software in accordance with § 2 para. 3 no. 1.
 7. Telephone advice to the Customer in accordance with Annex A: Hotline support.
- (4) The Software Services do not include
 1. Obligation to create additional programs or program supplements.

2. Maintenance of programs or program parts which have been modified by the Customer himself or by third parties at the Customer's request without the written consent of windream GmbH.
 3. Support Services at the Customer's headquarters.
 4. Restoration of files or file contents.
 5. Installation of the changes to the software sent in accordance with § 2 para. 3, if necessary the installation of a newer program version
 6. Training courses.
 7. Conversion of the software to another operating system, another hardware system or another programming language.
 8. Carrying out of adaptation work on the software when existing operating systems are modified by their manufacturers.
- (5) Services according to § 2 para. 4 require a separate agreement with windream at the respective valid remuneration rates of windream.

§ 3 General Requirements for the Software Services

- (1) The Software Services require that
 1. the Software Services Agreement has been concluded no later than 2 months after the conclusion of a contract for the use of the software;
 2. the Customer uses the software in the releases or versions provided to him;
 3. the hardware manufacturer's instructions on the installation, handling and servicing of the hardware system and the data carriers have been observed;
 4. the software provided has not been modified and is used in accordance with the installation requirements applicable to this version;
 5. a data backup appropriate to the sensitivity of the data has been created and that the backup data carriers are stored separately in a secure location;
 6. other handling instructions, in particular the operating instructions or other information, have been observed and followed;
 7. the Customer grants online access to his computers. If a trouble-free online connection is not ensured by the Customer, delays and verifiable additional expenses in the course of editing shall not be borne by windream GmbH;

8. that the Customer provides a description of the Customer problem or the occurring malfunctions that is as precise and comprehensible as possible and that the malfunction is reproducible. In addition, the Customer shall support windream GmbH to a reasonable extent in rectifying the fault.
- (2) If windream GmbH proves that there was no defect in the software forming the subject matter of this Agreement, it may demand remuneration for the expenses incurred for the services rendered on the basis of the defect report in accordance with the general remuneration rates applied by it.
- (3) Prerequisites for services from the MS SQL Server Embedded Maintenance are that the Customer has purchased the MS SQL Server license (CAL) together with the windream software and that the Embedded Maintenance has existed without interruption since its conclusion.

§ 4 Liability

- (1) windream GmbH shall only be liable for any damages, regardless of the legal grounds, including tort, if windream GmbH culpably violates an essential contractual obligation (cardinal obligation) in a way that jeopardizes the purpose of the Agreement or if the damage is due to gross negligence or intent on the part of windream GmbH.
- (2) If the breach of a material contractual obligation (cardinal obligation) by windream GmbH is not due to gross negligence or intent, the liability of windream GmbH shall be limited to such typical damages or such typical scope of damage that were reasonably foreseeable for windream GmbH at the time of the conclusion of the Agreement.
- (3) The parties agree that the typically foreseeable scope of damage is limited to the sum of EUR 50,000.00 per loss event.
- (4) The same shall apply in the event of an intentional or grossly negligent breach of obligations by employees, staff or agents who are not organs or executives of windream GmbH.
- (5) In the cases of § 4 para. 1 and § 4 para. 4, windream GmbH shall not be liable for indirect damages, consequential damages or loss of profit.
- (6) The liability of windream GmbH under the Product Liability Act or for the absence of warranted characteristics remains unaffected.
- (7) The Customer is obliged to take reasonable precautions to protect his data and programs, in particular by making backup copies with sufficient frequency in machine-readable form. windream GmbH shall not be liable for the loss of data which could have been avoided by observing this obligation. Otherwise any liability of windream GmbH for loss of data is subject to the other limitations of this § 4.
- (8) The exclusion or limitation of claims according to the above § 4 para. 1 to § 4 para. 6 includes claims against employees, staff and agents of windream GmbH who are not organs or executives of windream GmbH.

- (9) The above exclusions and limitations of liability apply to any liability including default, impossibility or culpa in contrahendo, positive breach of contract, culpable breach of warranty obligations and tort.

§ 5 Confidentiality / Security

- (1) windream GmbH shall take due care to ensure that all persons entrusted by it with the processing or fulfillment of this Agreement observe the statutory provisions on data protection and do not disclose to third parties or otherwise exploit the information obtained from the Customer's area and marked as confidential. An obligation of these persons to maintain data secrecy, as required by data protection law, must be undertaken prior to the first commencement of their activities and presented to the Customer upon request.
- (2) The Customer is obliged to treat as confidential all knowledge of business secrets acquired in the course of the contractual relationship.
- (3) The above obligations of the contracting parties do not include: proprietary ideas, concepts, experience and other techniques arising from the performance of the Agreement and relating exclusively to data processing, as well as other knowledge and information that is in the public domain.
- (4) windream GmbH shall secure all documents of which it becomes aware in connection with the service and which are designated by the Customer as requiring protection against unauthorized access. windream GmbH shall be obliged to hand over these documents, including any copies, to the Customer at the latest upon delivery of the respective service.
- (5) The Customer may terminate the contractual relationship without notice if windream GmbH does not fulfill its obligation according to paragraph 1 within a reasonable period of time set or if windream GmbH intentionally or grossly negligently violates data protection regulations or security agreements.

§ 6 Standby and Response Times

- (1) The term "on-call time" refers to the period of time during which windream GmbH or third-party companies commissioned by windream GmbH provide services within the scope of this Agreement. The on-call time of windream GmbH is Monday to Friday from 8:30 am to 5:30 pm. National holidays are excluded. Activities outside the period specified in sentence 2 are subject to a charge. The scope and remuneration agreements for services are set out in the agreements for Software Services. Any additional working hours shall be considered overtime. Travel time shall be charged as working time.
- (2) The response time defines the period of time within which the processing of the Customer's hotline message is taken up by windream GmbH or a qualified third party company. The response time shall be deemed to have been complied with if the Customer is informed within the agreed period that the editor has commenced processing. In principle, a response time of 4 hours is agreed within the framework of this Agreement. Shorter response times require a separate agreement for an additional charge.

§ 7 Remuneration

- (1) The remuneration for the Software Services shall cover all services owed pursuant to § 2. If services are rendered beyond the above-mentioned scope (§ 2 para. 4), these shall be remunerated at the applicable daily rates of windream GmbH.
- (2) The current remuneration is increased by 3% at the beginning of each contract year, unless otherwise agreed in the individual contract.
- (3) If the consumer price index for Germany determined by the Federal Statistical Office (on the basis of 2020 = 100) increases by at least 10 percent compared to the index published for the previous year (effective date in each case 31st December), windream GmbH may increase the remuneration owed by 60% of the determined change at the beginning of the contract year following the change, in deviation from § 7 para. 3, without the need for an amendment to the Agreement.
If the index is discontinued during the term of the Agreement, the corresponding successor index shall take its place.
- (4) The remuneration for the Software Services is due annually in advance and is payable upon receipt of the invoice. If the remuneration is increased during the term, the difference shall be paid to windream GmbH free of charge by the end of the month in which the increase in remuneration becomes effective.
- (5) If the Customer does not pay by the due date, interest of 9% above the respective prime rate of the European Central Bank shall be owed from the due date, without the need for a prior reminder.
- (6) The Customer may only offset undisputed or legally established claims and may only assert a right of retention or a similar right to refuse performance on the basis of such claims.

§ 8 Term of the Agreement

- (1) The Agreement shall come into force immediately on the day of its conclusion, by the Customer placing the order and windream GmbH sending the invoice.
- (2) The Agreement can be terminated in writing by either party at the end of the minimum term of 12 months with three months' notice to the end of a contract year. If no notice of termination has been given at the end of the Agreement, the Agreement is extended by a further year.

§ 9 Force Majeure

Events of Force Majeure which render the performance of windream GmbH substantially more difficult or impossible shall entitle windream GmbH to postpone the fulfillment of its obligations by the duration of the impediment and by a reasonable start-up period. Strikes, lockouts and similar circumstances shall be deemed equivalent to force majeure if they are unforeseeable, serious and without fault. windream GmbH shall immediately inform the Customer about the occurrence of such circumstances.

§ 10 Reasons for Exclusion

The Software Services are excluded in the event that third parties have modified the software or parts of the software.

§ 11 Miscellaneous

- (1) Should individual provisions of these General Terms and Conditions not be legally effective or lose their legal effectiveness due to a later circumstance, or should a gap be found in these General Terms and Conditions, this shall not affect the legal effectiveness of the remaining provisions. In place of the invalid provisions or to fill the gap, an appropriate provision shall apply which, as far as possible, comes closest to what the contracting parties intended to achieve economically.
- (2) windream GmbH may also use the services of third parties to fulfill its obligations under this Agreement. This shall not result in a contractual relationship between the Customer and the third party.
- (3) Amendments and supplements to this Agreement and its annexes, including these General Terms and Conditions, must be made in writing. This shall also apply to any waiver of this written form requirement.
- (4) This Agreement and its annexes, including these General Terms and Conditions, shall be governed exclusively by German law.
- (5) The place of jurisdiction for all disputes arising from or in connection with this Agreement and its annexes as well as these General Terms and Conditions is Bochum District Court. The same place of jurisdiction shall apply if the Customer does not have a general place of jurisdiction in Germany, moves its registered office or domicile or usual place of residence out of Germany after conclusion of the Agreement or if its registered office, domicile or usual place of residence is not known at the time the action is filed. However, windream GmbH shall remain entitled to bring an action or proceeding at the Customer's place of business.

GENERAL TERMS AND CONDITIONS FOR SOFTWARE SERVICES

ANNEX A: Hotline support

§ 1 General

- (1) windream GmbH provides hotline support exclusively for the software components documented in the windream Software Services Agreement.
- (2) The hotline support can only be used by named employees of the Customer, who first collect all fault reports from users internally and then forward them to the hotline support. The number of named employees of the Customer in accordance with sentence 1 is generally limited to five (5).
- (3) The hotline support is carried out by the windream GmbH Customer Service. windream GmbH is entitled to have the hotline support carried out in whole or in part by qualified third-party companies.
- (4) Hotline support is generally provided via a three-level service, first level, second level, third level, unless otherwise agreed in writing.
- (5) Customer reports are accepted via the central call center number specified in the Software Services Agreement. Depending on the situation, the Customer report has to be forwarded to the windream GmbH call center in writing upon request.
- (6) The windream GmbH call center provides the Customer with second-level support regarding the MS SQL Server included in the purchase price of the software.

§ 2 Standby and response times

The standby and response times are based on § 6 of the General Terms and Conditions for Software Services.

§ 3 First-level support

- (1) Data is collected from Customer reports as part of first-level support.
- (2) The message is forwarded to second-line support, taking into account the response time agreed in the Software Services Agreement.

§ 4 Second-level support

- (1) With second-level support, the problem description is clearly and comprehensively documented in writing.
- (2) Once the Customer problem has been verified and assessed, a solution appropriate to the Customer problem must be developed and implemented. If the activities of the second-level support do not lead to the desired success, the third-level support must be notified immediately.
- (3) The Customer shall be informed of the processing status by telephone, fax or e-mail within a reasonable period of time. Depending on the processing time, the Customer must be informed several times. The Customer shall be informed of the completion of the processing of the report. The result of the analysis, workaround or other remedy or workaround option will be determined and communicated to the Customer.

§ 5 Third-level support

- (1) The Customer's hotline message shall be recorded by windream GmbH Customer Service. The processing priority is determined in accordance with the internal guidelines.
- (2) The specialist groups are commissioned with the processing according to the processing priority determined under § 5 para. 1. The windream GmbH Customer Service checks the processing progress.
- (3) The Customer will be informed by windream GmbH Customer Service by telephone, fax or e-mail about the processing status within a reasonable period of time. Depending on the processing time, the Customer will be informed several times. The result of the analysis, workaround or other remedies or workarounds will be determined and communicated to the Customer.