

1. General

- 1.1 Concerning Software Services of LIBELLE the following Special Terms and Conditions shall complement the General Terms and Conditions of LIBELLE AG (LIBELLE T&C), which shall be part of these Special General Terms and Conditions for Software Services and shall take preference if deviating from the LIBELLE T&C. The latest version of LIBELLE T&C will be sent to the customer on demand.
- 1.2 The scope of the Software Services shall cover the Software developed by LIBELLE AG which is installed at the named Customer's site and specified in the corresponding Software Service Sheet. By signing the Software Service Sheet these provisions and the LIBELLE T&C shall become an integrated part of the Software Service Agreement.

2. Hotline and Support

- 2.1 In case of software failures and handling problems LIBELLE shall support Customer's IT-skilled and designated employees (person in charge of the system and his/her representative) by telephone, by email or online by remote log-in according to the following provisions.

2.2 Hotline for Handling Problems

- a) LIBELLE shall advise the customer in case of Software Handling Problems. LIBELLE may refuse its advice for User Problems regarding basic functions of the Software, which can be solved by consulting the Software Manual (documentation to the Software), or for questions of Customer's employees who did not pass a training session of LIBELLE for the Software.
- b) The Hotline shall be available in the times set forth in clause 2.3.

2.3 Support in Case of Software Failures

- a) In case of failures of the Software due to defects of the Software, LIBELLE shall provide the availability of competent personnel ("Support Service") as soon as a software failure is reported to the Hotline of LIBELLE ("Fault Report").
- b) Support Service concerning detection of defects and fault recovery is subject to the condition that the Customer complies with his co-operation obligations as follows:
 - The customer shall report occurring defects immediately and shall as far as reasonable assist LIBELLE when performing the support service. It is appropriate to provide LIBELLE with a written Fault Report specifying the failure and describing all steps taken. The Customer shall provide LIBELLE on its request with printed error messages and all other data and records that may be useful for the analysis of defects.
 - In case of identifying, or locating, or reporting defects the Customer shall follow the guidance of LIBELLE. The Customer shall use checklists of provided by LIBELLE.
 - The Customer shall duly sustain and maintain his operating hardware and software systems on his own responsibility. He shall conduct data back-up procedures as well (s. clause 9.4).
- c) In particular cases assistance within the scope of the Software Support may necessitate that the Customer supports and agrees to LIBELLE installing, loading and applying test programs, or test-data, or error tracing software (e.g. debugger) or similar tools on the affected system.
- d) For Software Services the following Standby and Reaction Times shall apply within which LIBELLE shall have started processing the Fault Report upon its receipt.

Level 1:
Standby Time: 8.30 a.m. – 5:30 p.m. on Business Days*; Reaction Time: 4 hours in the segment of the Standby Time, Reaction may be "next day" (unexpired Reaction Time outside one day's Standby Time commences on the next day's Standby Time)

Level 2:
Standby Time: 8.30 a.m. – 5:30 p.m. on Business Days*; Reaction Time: 4 hours on the same Business Day

Level 3:
Standby Time: 0.00 a.m. – 12:00 p.m. on all days; (7x24); Reaction Time: 4 hours
* Business Days mean all days, except Saturdays, Sundays and Bank and Public Holidays in Germany and in particular those in the federal state of Baden-Wuerttemberg / Germany.

Only the time elapsed during the Standby Time period shall count for the Reaction Time according to the agreed Level under Nr. 1 to 3.

(e.g. Level 1: Receipt of the Fault Report on Friday 3:30 p.m. plus 4 hours Reaction Time: Reaction until Monday 10:30 a.m.

e.g. Level 2: Receipt of the Fault Report on Friday 3:30 p.m. plus 4 hours Reaction Time: Reaction until Friday 7:30 p.m.)

- 2.4 Exceptionally, LIBELLE shall charge the customer separately for travel expenses, running time, allowance and hours worked if activities become necessary at the place of installation on the Customer's site and within the scope of the Support Service. According to the current price list weekend premiums shall apply.

- 2.5 Having received the Customer's approval, LIBELLE may carry out activities within the scope of the Support Service via remote login, if the appropriate technical requirements at the Customer's site are given. If so, the Customer shall in particular make sure that personal data are not accessible at all. Moreover LIBELLE shall generally commit its service personnel to adhere strictly to the relevant data protection statutes.

- 2.6 The respective assistance by the Support Service may include:

- a) the delivery of a new Release (new version of the Software, s. clause 3) beside the normal sequence and/or
- b) An explanation of a so called workaround (intermediary method to bypass a defect) to handle a problem that can not be solved at once, in order to largely maintain the functionality of the Software. Releases may be transferred online to the Customer or may be provided for downloading. The Customer shall be responsible for the implementation of Releases as well as operating the workarounds.

- 2.7 Where LIBELLE detects a defect of the Software in the course of its Software Services, LIBELLE shall reserve the choice for an adequate technical decision, which shall be made in views of all customers of LIBELLE and that shall be reconcilable to the typical customer-group, if and how modifications to the Software shall be made, e.g. through Releases as appropriate.

In this respect, LIBELLE may refuse to make modifications to the Software, if and insofar, but not limited to, as such changes would

- a) implicate a general restructuring of the Software, and/or
- b) result in a functionality equivalent to an extension of the contractual scope of supply, and/or
- c) require adjustments to the Software being necessary for a single customer but not being generally beneficial.

- The latter shall not apply where the defect causes a material process upset at the Customer's system.
- 2.8 According to clause 2.7 LIBELLE shall take into account the following graduated scheme to perform the Support Service within reasonable time that shall be determined by the urgency given as well as by the scope and the difficulty of the efforts required:
- a) Where (material) defects of the Software prevent or significantly diminish or impede the adequate usability of the Software, LIBELLE shall endeavor to largely neutralize such defects in view of the usability of the Software by reasonable interim and bypass solutions (e.g. workarounds) and furthermore shall endeavor to debug the defect in one of the next Releases.
 - b) Where (non-critical) defects noticeably diminish the commercial suitability of the Software, LIBELLE shall usually debug such defects with ordinary Releases.
 - c) Where (slight) defects only interfere with the use of the Software to an extent, which from the Customer's view causes no material business-related damnification, LIBELLE shall endeavor to debug such defects in consultation with the Customer.
- 2.9 Prerequisite for LIBELLE to provide the Support Service shall be the existence of a Software failure according to the following definition:
Incorrect operational performance of a Software feature deviating from the description in the Software Manual that is reproducible and provable by documents and that results either in (i) wrong output of the Software, or (ii) abnormal termination of the Software, or (iii) other non-functionally program flow of the Software.
- Software failures shall not include:
- a) Isolated malfunctions of the Software that do neither prevent nor significantly diminish the commercial usability of the Software;
 - b) Software failures that are not caused by the Software (e.g. by Customer's or third party's maloperations or misentries, or unduly manipulations, or unauthorized interventions or intrusions regarding the Software; or by effects of unapproved non-LIBELLE products, or erroneous data furnished by the Customer or third parties; or modifications of the data of the Software not duly processed by licensed programs of LIBELLE)
 - c) Software failures caused by the Customer due to his breach or neglect of his co-operation obligations; and
 - d) Software Disturbances caused by virus infections or caused by other malware ("malicious software").

3. Software Release

- 3.1 The Customer shall receive without additional costs a periodic Release of the current version of the Software upon its general release by LIBELLE.
- 3.2 Releases shall pass on (i) product improvements developed by LIBELLE, and (ii) necessary adjustments due to changes of the relevant basic technical environment (e.g. new update of an underlying data base software or operating system software), and (iii) functional alterations due to mandatory requirements (e.g. provisions of national law). Thus a Release may entail material revisions or extensions of the Software.
- 3.3 Along with the Release necessary adjustments of the Software Manual shall be made available online or by email or by post.
- 3.4 Six (6) months after allocation of the recent Release LIBELLE shall only maintain this very Release. The recent Release shall substitute the contractual scope of supply regarding software services of LIBELLE.

4. Optional supplementary Services by Arrangement

The following services shall not be covered by the contract but may be agreed upon individually:

- a) User trainings
- b) Conversion or migration of Customer's hardware and software environment to meet the requirements of a new Release
- c) Customizing of the Software

5. Person in Charge for the system

- 5.1 The Customer shall designate in writing a person in charge of the Customer's system as well as his/her representative.
- 5.2 The person in charge and his/her representative shall be authorized as contact person for LIBELLE concerning all questions with respect to the Software Service Agreement.

6. Deviation from Performance during the Contract Period

- 6.1 During the term of the Software Service Agreement the Customer shall be entitled to ask LIBELLE for retry if LIBELLE upon request of the Customer fails or neglects to perform its services both within a rather reasonable or even agreed time limit ("Deviation from Performance").
- 6.2 In case of deviation from Performance the Customer shall grant LIBELLE a reasonable time-limit to perform the retry, and, subsequent to the expiry of the time-limit, LIBELLE shall only default upon written reminder, if the deviation from Performance still exists and LIBELLE is responsible for that status. A written reminder by the Customer shall be dispensable only, where
- a) LIBELLE seriously and definitely has refused to perform; and/or
 - b) Exceptional reasons, considering each party's interests, justify the occurrence of default with immediate effect.
- 6.3 In case LIBELLE defaults with its Retry, the Customer shall be entitled to
- a) Reduce the remuneration by declaration to LIBELLE, whereupon clause 6.4 shall apply for the lump-sums; or
 - b) Terminate the Software Service Agreement with immediate but no retroactive effect, and irrespective other claims for damages, if the Customer has fixed an additional and reasonable period of time for performance accompanied by a written warning to finally reject the Software Service of LIBELLE thereafter.
- 6.4 The reductions of the remuneration according to clause 6.3 (a) shall amount to
- a) 10 % of the monthly remuneration for each day the agreed Reaction Time was exceeded, or the Hotline was not available during the Standby Time (clock hours shall be calculated pro rata);
 - b) 5 % of the monthly remuneration for each full week during that other contractual services were not provided.
- The monthly reduction shall be limited to the maximum of the relevant monthly remuneration. Where several causes of reduction are shown simultaneously only the highest proportion of reduction shall apply. Claims of delay for compensation or reimbursement by the Customer shall be replaced by the lump-sum reductions. The Customer shall reserve the right to prove that his damage is higher and LIBELLE shall reserve the right to prove that such damage is lower than the lump sum agreed. In case the Customer either terminates the Software Service Agreement, or demands compensation or reimbursement of expenditure instead of performance, the lump-sum settlement shall be suspended; if so the conditions of clause 10 and 11 of the LIBELLE T&C shall apply.

7. Warranty

- 7.1 Where defects arise after the contract period, the legal requirements and these Special General Terms and Conditions for Software Services of LIBELLE and the LIBELLE T&C shall apply.
- 7.2 In particular the following shall apply to Software Services:
The Customer shall duly comply with his duties of examination and complaint accordingly to sec. 377 HGB (German Commercial Code) mutatis mutandis for all Software Services received by LIBELLE. Such procedure is a precondition to assert a claim of warranty. Therefore the Customer shall without undue delay (i) examine the respective Service after receipt

as well as (ii) complain to LIBELLE every time a defect is shown.

8. Remuneration

- 8.1 The monthly remuneration for the Software Service and the billing period shall be stipulated in the Software Service Sheet. The remuneration plus VAT (according to the statutory amount) shall be payable in advance for the billing period and shall fall due at each start date of a new billing period.
- 8.2 Each calendar year and upon prior three month's notice in writing LIBELLE shall be allowed to change the remuneration and surcharges (charges) as from the next year's January 1st.
- 8.3 Increases of remuneration and surcharges shall not be higher than 10 % of the charges of the preceding year. Where an increase exceeds 8 % of the preceding year's charges, the Customer shall be entitled to terminate the Software Service Agreement by a written notification three weeks in advance to the commencement of the increase period announced.

9. Term and Termination

- 9.1 Unless otherwise agreed, the Software Service Agreement shall become effective the first day of the month that is scheduled as the first Service period in the Software Service Sheet.
- 9.2 The Software Service Agreement may be terminated without cause by either party by a written notification three month in advance to the end of the initial term of the Software Service Agreement, but not earlier than twelve (12) months after the initial commencement of the Software Service Agreement. The right of termination for good cause shall not be affected.
- 9.3 Either party shall have the right to terminate the Software Service Agreement by written notification with immediate effect, if the other party defaults with its performance and – despite further written warning providing a reasonable period of grace – does not comply with a material provision of the Software Service Agreement.

10. Licenses

Releases include substitutions of the initial code of the Software and thus shall become part of the licensed Software. Previous versions of the Software may be used only for archiving purposes; the primarily granted license shall continue with the latest version of the Software.