

Software Maintenance Conditions Valentin Software GmbH

1. Scope

1.1 These Software Maintenance Conditions shall govern the contractual relations established by the Software Maintenance Agreement between Valentin Software GmbH, Stralauer Platz 34, 10243 Berlin (herein- after referred to as "Valentin") and companies, legal enti- ties under public law, or special public assets (hereinafter referred to as "Customers") regarding all maintenance services to software by Valentin.

1.2 Unless provided otherwise, these Software Maintenance Conditions and the contract concluded separately between Valentin and the Customer (which takes priority over these Software Maintenance Conditions) shall apply exclusively to all maintenance services provided by Valentin. In addition, Valentin's then current Price List shall apply.

1.3 Conflicting or differing conditions, in particular general terms and conditions of the Customer, shall not constitute part of the contract, even if Valentin executes the Software Maintenance Agreement without explicitly objecting to such terms and conditions.

1.4 Insofar as the subject of the Software Maintenance Agreement is the transfer of third party standard software or open-source software, such transfer shall be based preferentially and, if applicable, additionally on the said third parties' separate terms and conditions (of licensing) or on the applicable open-source software licenses, respectively.

2. Conclusion of contract, written form

2.1 The Software Maintenance Agreement, inclusive of these Software Maintenance Conditions, shall be concluded either upon acceptance of Valentin's offer by the Customer or upon acceptance of the Customer's order by Valentin. In case of conflict or doubt, the offer or the acceptance of the contract, respectively, by Valentin shall be decisive.

2.2 Valentin offers no contracts or services to consumers.

2.3 The conclusion of the contract shall be subject to the form of Valentin's offer to conclude the contract. Later amendments and supplements to the contract shall require written form in order to be valid. This also applies with regard to any waiver of the written form requirement.

2.4 The Software Maintenance Agreement shall conclusively include all agreements by the Contracting Partners on the Subject of the Contract. No written or verbal ancillary agreements shall have been made. Proof of an ancillary agreement shall be allowed.

2.5 All declarations (of intent) not mentioned in Section 2.3, in particular notices of termination, warnings and the setting of deadlines, must be made in writing in order to become valid.

3. Subject of Maintenance

3.1 Valentin will provide software maintenance for the Customer with regard to the software programs as agreed between Valentin and the Customer.

3.2 The Software Maintenance Agreement can be concluded only with regard to current program versions.

3.3 Subject of the software maintenance is the most recent program version of the software program/s released by Valentin and supplied to the Customer. With the subsequent acquisition of

- upgrades, i.e. program changes to a higher program level subject to a charge, or of
- additional modules, i.e. program enhancements subject to a charge which can be purchased in addition to the basic version,

the scope of the Software Maintenance Agreement will be automatically extended accordingly.

4. Scope of the Software Maintenance

4.1 The software maintenance shall update Valentin's software programs being subject of the contract to the latest released version

4.2 The software maintenance covers:

- The electronic delivery of updates, i.e. program changes within a program level of the software program to a higher version of the program;
- The accessibility of new component data, i.e. updated data records for the software program related to the component used (e.g. PV-modules, inverter, collector data);
- Responding to technical questions via phone/email and general questions regarding delivery, serial numbers and activation of the software program/s and updates, as well as to the accessibility of component data.

4.3 In the event of changes to the legal rules and standards relevant for the software program/s being subject of the contract, Valentin is not obligated to provide corresponding updates.

4.4 The software maintenance does not cover:

- The installation of updates, upgrades or new software;
- The remedy of defects to the software program/s being subject of the contract not covered by defect claims in respect of updates and component data pursuant to Section 5;
- Training, general and specific advice with respect to questions and problems in relation to the use of Valentin's software program/s being subject of the contract.

5. Rights of Use, Defect Claims, Customer's Obligations

With regard to the contractual services, in particular the right to use updates and component data and related claims for defects, the General Terms and Conditions of Business of Valentin Software GmbH, as of

November 2010, apply. These can be found on <http://www.valentin-software.com>. The Customer will assist Valentin in fulfilling the contractual obligations at their own expense; for example, Valentin shall be informed immediately by telephone, or by any other suitable means, of any defects in the updates or component data.

6. Maintenance Fee

6.1 The maintenance fees are due annually in advance, for the first time upon conclusion of this Software Maintenance Agreement. The maintenance fees are due upon receipt of the invoice and shall be transferred to Valentin's account within 14 days.

6.2 The fee increases accordingly if upgrades or additional modules are purchased, either immediately or at a later stage.

7. Term of the Software Maintenance Agreement

7.1 The Software Maintenance Agreement is initially valid for one contract year. Thereafter it is automatically extended for another contract year unless terminated before by one of the contracting parties. Both parties may terminate the Software Maintenance Agreement two months prior to the end of a contract year.

7.2 The right to terminate the agreement for good cause shall remain unaffected. In case of a termination for good cause by Valentin, Valentin retains its claim to the proportionate amount of the maintenance fee incurred up to the time of termination and may make an immediately payable claim to liquidated damages equal to 50% of the fee incurred up to the date the Customer could have properly terminated the Software Maintenance Agreement for the first time. The Customer reserves the right to prove that lower damages were incurred.

7.3 It is possible to give notice for any of Valentin's software program/s being subject of the contract independently of each other. Notice given for one of the program levels does not affect the validity of the Software Maintenance Agreement in respect of the others.

8. General

8.1 The laws of the Federal Republic of Germany shall exclusively apply. The UN Law on International Sales (CISG) is excluded.

8.2 The exclusive place of jurisdiction and fulfillment shall be Berlin.

8.3 The General Terms and Conditions of Business of Valentin Software GmbH as of November 2010 (which can be found on <http://www.valentin-software.com>) shall apply.