

## // General Terms and Conditions for Software Maintenance of FNT GmbH

### 1. Scope of Application

#### 1.1.

These General Terms and Conditions (hereinafter referred to as „GT&Cs“ of FNT GmbH and its affiliated companies (hereinafter referred to as „FNT“) apply to all of the Customer's contracts with FNT for the supply of standard software.

Affiliated companies under this GT&Cs means any entity controlled by or under common control with FNT GmbH. The Term control means ownership, directly or indirectly, of equity securities entitling it to exercise in the aggregate equal of more than 50 % of the voting power of the entity in question.

#### 1.2.

Unless otherwise agreed, the incorporation of the Customer's own terms and conditions is hereby rejected. These GT&Cs shall also apply exclusively if FNT carries out the delivery to the Customer without reservation despite being aware of terms and conditions of the Customer, which are contrary to or at variance with these Terms and Conditions.

#### 1.3.

Provisions in an individual written agreement between FNT and the customer shall take precedence over the respective provision in these GTAC in the event of contradictions. The following order of precedence shall apply unless otherwise agreed:

- Main document (e.g., quotation, software maintenance contract)
- Appendices

- Statement of work for maintenance or extended maintenance
- GTAC for software maintenance

### 2. Subject matter of the agreement

#### 2.1.

The services cover the standard software specified in the individual contract in its latest iteration, i.e., with the latest hotfixes, patch releases, minor releases, and major releases. The customer must operate the software at the location stated in the individual contract.

#### 2.2.

FNT shall provide the following services:

- User support  
The customer's employees (IT department staff) may contact the FNT support hotline at any time with questions about using the software and problem reporting using the designated e-mail address, or via the online service portal. The request will be processed during the defined service times. These are Monday to Friday, 8:00 a.m. to 5:00 p.m. CET set for Europe and EST for Americas, excluding statutory public holidays at FNT's headquarters location. The customer will receive assistance and support in the event of software faults and problems while using the software.
- CI Library (Component Library)  
The customer will receive access to the CI Library (hereafter

“Library”) provided that the Library is included in the scope of the individual contractual agreement. This Library exclusively contains standard IT components that are supported by the respective manufacturer and complies with FNT’s component guideline. FNT maintains the Library at its own discretion with regard to customer specific requirements. FNT assumes no liability of guarantee for the accuracy or completeness of this data. The FNT guideline pursuant to the “FNT Library Maintenance” portion of the contract shall apply.

- Provision of the latest iterations; End-of-Life Policy  
FNT shall make new iterations of the software available on a regular basis at its own discretion. These shall include hotfixes (correction of individual faults), patch releases (bundle of fixes for the standard software), minor releases (combination of multiple fixes and minor functional enhancements and/or modifications to the standard software), and major releases (additional and/or modified functions and other modifications/corrections).

The maintenance services shall be provided for the software in the latest version made available. FNT shall make new iterations available from time to time, including new releases. The customer shall ensure that they install the latest iterations. Installation services may be requested in accordance with the price list applicable at the time of placing the order.

The customer acknowledges that it is not possible for a release to receive maintenance on a permanent basis. It should be noted that each release will be maintained in accordance with the times defined in the End-of-Life Policy (available from the FNT Support Center at: <https://www.fntsoftware.com/support/support-center>).

The End-of-Life Policy shall apply to the software maintenance contract. If the customer keeps the software fully updated, the customer shall benefit from new releases as part of the maintenance at no additional cost. If the customer chooses not to install a specific newer release, and does not rectify this by the time maintenance ends for the release installed on the customer’s system, in accordance with the End-of-Life Policy, this shall result in automatic termination of the software maintenance contract. The provisions of section eight (8) of these GTAC shall apply.

FNT seeks to develop the software on an ongoing basis. Provision of the software may therefore also result in an extension and/ or modification of the software that is not detrimental to the customer, with the consequence that new functionalities are available, existing functionalities are optimized, with regard to their execution and/or user interface, or data management is updated in accordance with the latest technology and techniques.

Maintenance shall extend to documentation related to the pro-

grams and files or database material covered by the software maintenance contract.

The applicable associated user documentation shall determine the characteristics of the program iterations provided by FNT. The software and user documentation will be provided in German and English unless expressly agreed to be provided in another language. Customers shall have no express right to multilingual software or documentation.

FNT will deliver new iterations by making the software available as download and will notify the customer of the availability and will provide the user documentation to the customer. The software will be provided in executable form (object code).

### 2.3.

Software maintenance shall not include the following:

- Services not related to the standard software specified in the individual contract in its respective current iteration, including but not limited to the latest hotfixes, patch releases, minor releases, and major releases provided through the software maintenance contract.
- Maintenance of modified solutions. This applies whether the software was modified by FNT on behalf of the customer, or by the customer using products provided by FNT. Modifications include:
  - Custom developments involving modification of the standard software at the source code level as well as custom programming that complements the standard software.
  - Enhanced configurations (e.g., expert mode) that are explicitly excluded from maintenance. Information regarding any such restrictions is defined for each FNT software product and release in the Product Support Information section of the product manual or online help.
- Installation services. Unless otherwise agreed in the individual contract, the customer is responsible for installing all new software iterations provided;
- Support requests over and above basic user support for the software, i.e., no training will be provided via the hotline;
- Services requested by the customer outside of agreed support hours. The parties may also agree in specific cases that services shall be provided outside of these hours subject to an additional charge;
- On-site services at the customer’s location;
- Changes and/or additions to the software in a particular manner unless this is merely for the purposes of rectifying a fault;
- Clearance of faults for which the customer or a third party is responsible;
- Modification of the software to match iterations deployed by other users or marketed by FNT, and which thus constitute a separate service;

- Resolution of faults and damage caused by improper handling by the customer, influence of a third party, force majeure, environmental conditions at the installation site, power supply fault, hardware fault, or any other cause for which FNT is not responsible.

2.4.

The right of use for all new software iterations provided to the customer is equivalent to the right of use for the software specified in the individual maintenance contract. On providing these new iterations, FNT grants the customer the same rights as to the software to be maintained.

2.5.

FNT shall be entitled to use third-party services in whole or in part for the purposes of providing its services (sub-contractors).

### 3. Customer's duty to cooperate

3.1.

The customer shall install the new program iterations made available to keep the software updated to the latest iteration. The customer shall alternatively be entitled to instruct FNT to provide installation services in accordance with the price list applicable at the time the order is placed. The End-of-Life Policy shall apply (see also section 2.2 and section 8).

3.2.

The customer shall report any faults and failures without delay and support FNT with troubleshooting and fault rectification. This shall include submission of written fault reports to FNT upon request and provision of other data and logs that are appropriate for the purpose of analyzing the fault. The customer will describe malfunctions in as much detail as possible, with a description of the fault symptoms, usage conditions, preceding instructions to the software, the number of workstations affected, and a description of the system and hardware environment, including any third-party software used. Any hotfixes or patch releases provided by FNT to rectify faults will be installed by the customer without delay to prevent any further subsequent faults.

3.3.

The customer shall be responsible for maintaining a functional hardware and software environment, which is adequately sized with due regard to the additional requirements imposed by the latest program iterations.

3.4.

The customer shall take appropriate precautions if the software does not work as outlined (e.g., through regular data backups, fault diagnosis, regular checking of data processing results). The customer must perform an appropriate data backup before installing new program iterations.

### 4. Prices and payment terms

4.1.

Payment shall be based on the price list as stated at the time of signing the contract and shall be subject to the applicable statutory sales tax.

4.2.

The charges shall be billed annually in advance. Unless otherwise agreed, the invoice amount must be paid in full within 10 days of the invoice date. The following shall apply if a software purchase is agreed to in addition to the software maintenance contract: The software maintenance fee shall be calculated on the first calendar day of the month following the conclusion of the software purchase agreement. The services under the software maintenance contract shall begin on the date of delivery of the software.

4.3.

The prices stated in the individual contract are net prices and are subject to the applicable statutory sales tax. Any packaging, delivery, and shipment costs, customs duties, taxes, and other levies incurred will be charged separately or shall be borne by the customer directly.

4.4.

Services not covered by maintenance will be billed separately and will be charged in accordance with FNT's price list as stated at the time the order is placed. The invoice amount must be paid in full within 10 days of the invoice date. FNT will issue invoices monthly for any bills in arrears. Travel time, travel costs, and other expenses will be billed separately. Journey times for traveling to and from the relevant site will be charged at 50 percent of the hourly rate agreed in the individual contract.

4.5.

FNT reserves the right to increase the charge agreed in an individual contract in accordance with any cost increases that occur, although this increase shall take place no earlier than twelve months after conclusion of the respective individual contract. Any such increase shall become effective no earlier than three months after the end of the month in which FNT provided notification of the change. If the increase amounts to more than five per cent of the agreed charge calculated over a period of 12 months, or five percent of the annual charge in the case of recurring services, the customer shall be entitled to terminate the respective individual contract in writing with a notice period of one month effective as of the date that the new charge comes into effect. FNT shall be entitled to remuneration for the services provided under the contract until the termination becomes effective.

4.6.

In the case of software made available via the Internet, FNT shall be responsible for the cost of making the software availa-

ble on the Internet and the customer shall be responsible for the cost of accessing it.

4.7.

In the event of late payment, FNT will be entitled to default interest at 10 percentage points above the current base interest rate. This provision will not affect FNT's other statutory rights in the event of late payment by the customer. If payments are overdue, any monies received shall be applied first against any costs and interest incurred and thereafter against the oldest claim.

**5. Liability of FNT**

The following provisions shall apply to all contractual and statutory as well as tortious claims for compensation on the part of the customer against FNT, one of its statutory representatives, or one of its vicarious agents for violation of obligations:

5.1.

In the event of a negligent breach of a material contractual obligation, liability shall be limited to compensation for the average damage that would typically occur and was foreseeable when the contract was entered into. Material contractual obligations are obligations that the contract imposes on FNT in accordance with its content for achieving the purpose of the contract, the fulfillment of which is required for proper implementation of the contract, with the customer generally able to rely on compliance with such obligations.

5.2.

The following shall apply in all other respects:

- Liability shall be excluded for negligent violation of an obligation.
- In the event that data is lost, FNT shall only be liable for the effort and expense that would have been required to restore the data if the customer had performed proper and regular data backups.

5.3.

The limitations on liability set out in sections 5.1 and 5.2 shall not apply to claims based on willful intent, gross negligence, or fraudulent intent, in the event of injury to life, limb, or health to the extent that the German Product Liability Act (Produkthaftungsgesetz) applies, or to a promise of guarantee, unless otherwise agreed in the guarantee declaration in the latter case

**6. Offsetting, retention, assignment**

6.1.

The customer shall only have a right to offset if the counterclaim is undisputed, determined by law, or accepted by FNT. The

customer shall have no right of retention or to refuse performance unless FNT does not dispute the underlying counterclaims or these have been determined by law.

6.2.

Any assignment by the customer of claims arising from the contract entered into with the customer is excluded, in particular assignment of any claims by the customer for defects.

**7. Data protection, confidentiality**

7.1.

The customer will ensure compliance with data protection legislation and will ensure that it notifies FNT of all relevant facts of which FNT must be aware for reasons of data protection and confidentiality.

7.2.

The customer and FNT shall be obligated to treat all confidential information, business secrets, and operating secrets obtained during the contractual relationship as confidential for an unlimited period, and in particular shall not to forward said information or secrets to third parties or use them for any other purpose other than the purposes of the contract.

**8. Term of the contract**

8.1.

The contract shall take effect when the individual contract has been signed by both parties. The term of the contract shall begin on the first day of the following month. The minimum term of the contract shall be one year from the start of the term, and shall be extended by a further contractual year on an annual basis. Either party may terminate the contract at the end of a contractual year upon written notice received within three months prior of the expiration of the initial contract term.

In the following cases, the provisions of the End-of-Life Policy shall apply instead:

- Non-installation of a new program iteration has no impact on the duration of the software maintenance contract as long as the Maintenance phase as per the End-of-Life Policy applies for this release. If the Maintenance phase for the release installed by the customer ends at the time specified in the End-of-Life Policy without the customer having installed the latest release prior to this date, the software maintenance contract will terminate automatically at this time.
- The customer then has the option of taking out an Extended Maintenance contract. The scope and cost will be specified in the respective individual agreement. Unless otherwise agreed, the services will include the provision

of new releases. If the customer installs the newer release during the Extended Maintenance phase, the Extended Maintenance contract will automatically convert to a more affordable, regular Software Maintenance contract, effective as of the next calendar month.

- If the Extended Maintenance phase for the release installed by the customer ends at the time specified in the End-of-Life Policy without the customer having installed the latest release prior to this date, the Extended Maintenance contract will terminate automatically at this time.

Please note: No maintenance or extended maintenance is available for releases that have reached End-of-Life status. If the customer nonetheless requires corresponding services, this may be arranged through an individual agreement.

#### 8.2.

The contract shall terminate automatically without requiring notice of termination no later than the End-of-Life phase being reached in accordance with the date stated for the product version in use by the customer in the FNT End-of-Life Policy (available from the FNT Support Center at: <https://www.fnt-software.com/en/support/support-center>).

#### 8.3.

This shall not affect the right to extraordinary termination.

#### 8.4.

For any termination to be effective it must be submitted in written form.

### 9. Applicable law, place of jurisdiction, contract language

#### 9.1.

The law of the Federal Republic of Germany shall apply to all legal relations between the parties with the exclusion of conflict of laws rule and the United Nations Convention on the International Sale of Goods (CISG).

#### 9.2.

The place of fulfillment and exclusive place of jurisdiction for all disputes shall be the headquarters of FNT provided that the customer is a merchant, legal entity under public law, or special fund under public law. These GTAC are available in German and English. In the event of questions of interpretation and in the event of contradictions the German version shall be applied.