

# General Terms and Conditions of EasternGraphics RO SRL for Software Maintenance "Maintenance GTC" (Status 2023-01-01)

## I. Scope of application

1) The General Terms and Conditions for Software Maintenance of EasternGraphics RO SRL, Str. Verigei 3, 050321 Bucharest, Romania ("EGR") shall apply to all contractual relationships with customers in connection with the maintenance of software and shall be deemed to be an integral part of the contract unless otherwise agreed in writing in an individual agreement between EGR and the customer.

(2) The Maintenance GTC shall be supplemented by the Software GTC and the General GTC of EGR. The Software GTC and the General GTC shall apply subordinately in the order stated.

## II. Subject of contract

(1) EGR shall provide the following maintenance services for the software supplied by EGR and specified in the quotation or in the software maintenance contract:

- a) provision of the current program version (update) of the software made available by EGR for the respective customer on request by the customer. The customer shall inform itself on an ongoing basis whether new program versions are available.
- b) elimination of defects in the current and previous program versions of the software outside the applicable liability for defects.

As is known, complex software cannot be developed absolutely error-free. Not every error is a defect. Therefore, the maintenance service pursuant to section II, paragraph (1) lit. b) refers only to defects, not to errors that are not defects.

(2) The scope of the aforementioned maintenance services is conclusively described in detail below. EGR shall not owe any further services.

(3) EGR shall provide the maintenance services only for the current and previous program versions of the software. Older program versions shall regularly be excluded from maintenance. Moreover, EGR's maintenance services shall be limited in each case to the standard version of the software.

(4) The integration of program functions of the software that have been individually adapted for the customer by changing the program code (individual adaptations) into the new program version or into the maintenance release of the software shall not be the subject of the maintenance services unless EGR and the customer have agreed this individually. If the customer uses a program version which is not included in the maintenance and/or which contains individual adaptations not included in this software maintenance contract, EGR shall check, by separate agreement and against separate payment, whether the program version which is no longer current can be brought up to the new program status or whether it is possible to incorporate the individual adaptations in the new program version. Insofar as possible according to the results of this check, EGR shall, by separate agreement and against separate payment, bring the software up to the current program version or incorporate the individual adaptations in the new program version. Unless otherwise agreed, the amount of remuneration shall be based on actual expenditure at the hourly or daily rates in EGR's current price list for services. If the maintenance services referred to in this paragraph cannot be provided at a reasonable cost, EGR shall not be obliged to do so.

(5) The maintenance services shall be owed by EGR only if the software is installed in a system environment approved by EGR for the software.

(6) The obligation on EGR to provide maintenance services shall further be subject to the condition that the software in question is installed on an operating system which is generally still being maintained by the manufacturer of the operating system at the time EGR is notified of the defect. Individual maintenance agreements between the manufacturer of the operating system and the customer which extend beyond the general maintenance period shall not be taken into consideration. If the above conditions are not met and EGR nevertheless provides maintenance services, the customer shall pay EGR for the resulting expenditure at EGR's current hourly or daily rates for services. Clause V. (1) g) hereof shall remain unaffected by this.

## III. Provision of program versions (updates)

(1) EGR shall provide the customer with the current version of the program (update) at the customer's request. This shall not apply to extensions to the software to be maintained which EGR offers or markets as a new or separate product and not to new developments of the software with the same or similar functions or on a different technological basis or on the basis of a different license model.

(2) Updates shall be provided by making them available on a server for downloading via data networks (e.g. VPN or Internet).

(3) The installation and commissioning of the updates shall be the responsibility of the customer.

## IV. Remedy of defects in the software

(1) EGR shall remedy or have remedied within a reasonable period the defects in the software of which it has been notified by the customer or of which it has otherwise become aware in accordance with clause II. b) hereof. Insofar as the customer has claims for defects against EGR on the basis of the software transfer contract concluded with EGR, these shall be governed by the software transfer contract, irrespective of whether the defect occurred before or after the conclusion of the software maintenance contract.

(2) EGR shall remedy the defects notified by the customer by suitable measures of its own choice. EGR's right to refuse to remedy the defect

under the statutory conditions shall remain unaffected. Insofar as it is not unreasonable to expect the customer to do so, EGR shall be entitled, in order to remedy the defect, to provide the customer with a new version of the software (e.g. an update or a release/patch) which no longer contains the defect complained of or which remedies it, or to develop an alternative solution or to circumvent the defect by changing the configuration of the software. The installation and commissioning of this update or release/patch shall be the responsibility of the customer.

(3) Defects shall be remedied on the customer's premises only if no other measure promises success.

(4) EGR shall not be liable for the correctness of the customer's data on the software and the possible errors or defects resulting therefrom.

(5) If it transpires that a defect reported by the customer does not actually exist or is not due to the software, the customer shall pay EGR for the work involved in analyzing and processing it at the hourly or daily rates of EGR's current hourly or daily rates for services.

## V. Remuneration, prices

(1) The remuneration for the services listed in clause II hereof and the methods of payment shall be specified in the quotation or in the software maintenance contract. Otherwise the remuneration shall be paid in advance to EGR within 10 days of the commencement of the contract until the end of the first calendar year and, from the second calendar year, by 10 January in each case in advance for the current calendar year.

(2) Within the liability for material defects, payment of the remuneration shall cover only the provision of the updates. After expiry of the liability for material defects the remuneration shall also include the remedy of defects in accordance with clause IV hereof.

(3) EGR shall have the right to adjust the remuneration annually on 1 January by the annual average change in the overall price index for consumers (consumer price index = CPI) in Germany published by the Federal Statistical Office in the last calendar year in relation to the calendar year before last in percentage terms (rate of change), to the extent this is reasonable. The difference between a remuneration already charged or already paid shall be subsequently credited or charged to the customer after publication of the rate of change. Prices shall be rounded to full euros in accordance with commercial practice. If the consumer price index is no longer maintained by the Federal Statistical Office, it shall be replaced by the index determined by law, or alternatively by the index applicable in the area of the Federal Republic of Germany, which most closely corresponds to the consumer price index at the time of its replacement.

(4) EGR shall be entitled to increase the remuneration with effect from the next calendar year with three months' notice. On receipt of EGR's statement concerning the increase in remuneration, the customer shall have the right to terminate the software maintenance contract with two months' notice to the end of the current calendar year. If the customer does not exercise this right, it thereby declares its consent to the increase in remuneration from the next calendar year.

## VI. Customer's duty of cooperation

(1) The customer shall perform the acts of cooperation necessary for EGR to provide its services at its own expense, in particular the following:

- c) Appointment of a German-speaking person in charge and, if necessary, a representative who shall have all the decision-making powers and authority required for the purposes of performance of the contract.
- d) Insofar as services are provided by means of remote data transmission, the customer shall provide EGR at its own expense with the appropriate system environment (hardware and software) and the data lines up to the public data network ready for operation and shall maintain them.
- e) Insofar as EGR provides services at the customer's premises or at another location agreed with the customer, the customer shall grant EGR and its employees access to the software and to the infrastructure required for its use, in particular to the system areas in which the cause of the defect lies and in which the defect is detectable.
- f) If it is unclear which system component is causing a defect, the customer shall first carry out an analysis of the system environment together with EGR and - if necessary - involve third parties with the necessary know-how regarding the system environment at its own expense.
- g) During the performance of the service the customer shall ensure to provide EGR with information at all times about the overall system, the use of the software, and the notified defect as well as carry out tests.
- h) The customer shall install the new program versions provided by EGR in accordance with EGR's instructions.
- i) Insofar as it is necessary for the creation and/or use of a new program version of the software to be maintained, the customer shall provide, set up and operate new versions of the operating system, database or other means necessary for the use of the software at its own expense.

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j) Defects shall be documented by the customer in a manner comprehensible to EGR, and EGR shall be notified of them immediately after they are discovered and, in the case of notification by telephone, EGR shall be notified subsequently in writing or by e-mail. This notification shall contain the more detailed circumstances of the occurrence of the defect, its effects and possible causes.

(2) The aforementioned duty to cooperate shall be an essential contractual obligation. If the customer fails to comply with its duty to cooperate, EGR shall not be obliged to provide the service. In the event of repeated or serious breach of duty, EGR shall be entitled to terminate the contractual relationship without notice.

**VII. Liability for defects**

(1) In the event of defects in the updates supplied by EGR under this contract, the provisions of the Software GTC on liability for defects shall apply, with the change that under the same conditions termination - possibly without notice - shall take the place of withdrawal.

(2) The customer's claims for defects shall become statute-barred within a period of one year from the transfer of risk.

**VIII. Commencement, term and termination of the software maintenance contract**

(1) Unless otherwise agreed, the maintenance contract shall commence upon provision of the software or activation of the license and shall run for an indefinite period. The contract may be terminated with three months' notice to the end of a calendar year, but not before twelve months have elapsed. The right of termination pursuant to clause V. paragraph (4) shall remain unaffected.

(2) The software maintenance contract shall always apply to the software including all modules, regardless of whether these modules were already included in the software at the beginning of the contract or whether they were or will be integrated into the software at a later date. Termination of the software maintenance contract with respect to individual software components or individual modules is not possible unless these can be irretrievably removed, uninstalled or deleted from the software.

(3) Termination must be in writing.

(4) The right to terminate the contract for good cause without notice shall remain unaffected. EGR shall in particular have the right of extraordinary termination if the customer is in arrears with payment of the remuneration and fails to pay despite a reminder.

**IX. Rights of use**

The customer shall acquire the same rights of use to the updates as were granted to it for the software in accordance with the software transfer contract, the Software GTC or the license terms applicable to the software, which shall take precedence in all cases.

**X. Application of the General GTC**

The Software GTC and General GTC of EGR shall supplement these Maintenance GTC and shall apply subordinately thereto in the order stated.