

General Terms and Conditions for Maintenance and Support of Systems, Software and Hardware GTC Maintenance of Interflex Datensysteme GmbH

1. Subject Matter and Scope

- 1.1 Interflex Datensysteme GmbH (hereinafter called "Interflex") provides the maintenance and support services (hereinafter called "Maintenance Services" or "Maintenance") that are specified in detail in the relevant Description of Services for the customer's systems – which consist of hardware products including firmware (hereinafter called "Hardware") and software products (hereinafter called "Software") – as set forth in the configuration sheets, according to the provisions of the Maintenance Agreement and these General Terms and Conditions for Maintenance and Support of Systems, Software and Hardware (hereinafter called "General Maintenance Conditions"). Performance specifications and configuration sheets are essential contractual elements.
- 1.2 These General Terms and Conditions for Maintenance apply only in relation to entrepreneurs, as defined in § 14 of BGB (German Civil Code). The General Terms and Conditions of Interflex (hereinafter called "GTC") may apply in addition. If there is a conflict between the provisions of the Maintenance Agreement, the configuration sheets, the performance description, these General Maintenance Conditions or the General Terms and Conditions, the order of priority is as follows:
 - 1.) Maintenance Agreement with configuration sheets;
 - 2.) Performance description;
 - 3.) General Maintenance Conditions;
 - 4.) General Terms and Conditions.
- 1.3 The configuration sheets contain a detailed description of the Hardware and Software to be maintained, of the maintenance and support fees (hereinafter "Fees") to be paid, and of the method of payment agreed upon. The configuration sheets will be newly issued or modified or amended after each change in the hardware and software to be maintained.
- 1.4 Interflex will continue to further develop and maintain the internally developed and/or produced software (including firmware) on an ongoing basis until the support is discontinued, such discontinuation to be announced by Interflex in advance ("Discontinuation Notice"). The state of development of the Interflex software can be gathered from the version number. (Example: The first three numbers of the version designation 1.23.456 refer to the version, in this case: 1.23, and the last three numbers to the release, in this case: 456. In the case of the designation V8R2, V8 refers to the version 8 and R2 to the release 2).
- 1.5 Interflex will always maintain the current version and the two preceding versions of any software product produced and/or developed by Interflex itself. New performance features will be incorporated into a new version with a higher version number (hereinafter called "Upgrade"). Removals of defects and improvements of existing performance features lead to new releases within the current version (hereinafter called "Update").
- 1.6 For the further development and maintenance of software from other manufacturers (third-party software) the relevant standards of the respective manufacturer shall apply. If the maintenance agreement covers third-party software, Interflex shall provide the customer with the new version states that it receives from the manufacturer.
- 1.7 Contrary, supplemental or divergent conditions of the customer that deviate from the Maintenance Agreement, the configuration sheets, the performance description, these General Maintenance Conditions or the GTC are not subject matter of the agreement, unless Interflex has given its express consent to their application in writing. This applies even if Interflex performs maintenance without reservation while aware of such contrary, supplemental or divergent conditions of the customer. This in no way affects the rights to which Interflex is entitled in accordance with the statutory provisions or other arrangements exceeding the Maintenance Agreement, the configuration sheets, the performance description, these General Maintenance Conditions or the GTC.
- 1.8 Interflex is authorized to change these General Maintenance Conditions subsequently. The changes are only deemed agreed upon if Interflex notifies the customer about the changes to the General Maintenance Conditions in writing and the customer approves the amended General Maintenance Conditions. The amended General Maintenance Conditions are deemed approved if the customer fails to reject them within a period of four (4) weeks after receipt of the amended General Maintenance Conditions and Interflex had expressly pointed out the consequences of this behavior at the start of the period.

2. Requirements for the Provision of Services by Interflex

- 2.1 Interflex is under obligation to provide Maintenance Services only if the following requirements to be ensured by the customer are met in particular:
 - 2.1.1 General Requirements:
 - The Hardware and Software of the system to be maintained are attended to on the part of the customer by highly-qualified staff that has been trained by Interflex;
 - The Hardware and Software are in compliance with the then current specifications, as issued by Interflex from time to time.
 - 2.1.2 Hardware:
 - The environmental conditions are in compliance with the specifications in the product description;
 - The Hardware was properly installed and is used according to the specification;
 - Used parts are included in Maintenance only after an initial inspection and approval by the staff of Interflex;
 - 2.1.3 Software:
 - The customer is in possession of a valid license for the Software contained in the system to be maintained;
 - The system requirements and the environmental requirements set forth in the relevant product descriptions are met;
 - The customer uses a Software version that is still maintained by Interflex or by the respective manufacturer (see Para.1.5), and the Hardware necessary for this Software according to the product description is available (Hardware upgrades, if any, that become necessary due to the introduction of new Software are subject to supplementary fees).
 - 2.2 For the provision of services in relation with the proper interaction of the hardware and software covered by the Maintenance Agreement with other products of third-party manufacturers that are not directly covered by the Maintenance Agreement, the customer must ensure that the necessary assistance, both by the customer and by the third-party manufacturer, is provided at no cost to Interflex.
 - 2.3 If the customer should wish after entering into the Maintenance Agreement to include additional Hardware and/or Software subsequently into the existing Maintenance Agreement by way of contractual amendment, Interflex may carry out an initial inspection. During this initial inspection, Interflex will verify whether the requirements pursuant to Para. 2.1 are satisfied. This verification does not release the customer from its duty to ensure compliance with the requirements. The initial inspection, as well as any services Interflex may have to provide based on such inspection to ensure that the Hardware and Software are in compliance with the then applicable Interflex specifications, will be carried out by Interflex according to its General Terms and Conditions, and will be billed to the customer separately according to the Interflex price list, as amended from time to time.
 - 2.4 For maintenance and upkeep services for hardware and software products of other manufacturers Interflex is entitled to additionally resort to the support organization of the respective manufacturer and external service providers.

3. Services Rendered by Interflex

- 3.1 The services to be provided by Interflex depend on the service components chosen in the Maintenance Agreement. These service components are defined in the Description of Services.
- 3.2 If the performance of services is agreed upon in the Maintenance Agreement that are not part of the service components according to the Description of Services, Interflex will provide such services at the prices agreed upon in the particular case according to the provisions of Interflex's General Terms and Conditions.
- 3.3 Interflex may use highly-qualified external staff and subcontractors for the provision of the services.

4. Delimitation: Excluded Services

- 4.1 The following services are not included in the scope of services; consequently, Interflex is under no obligation to provide such services:
 - 4.1.1 Removal of failures and defects resulting from improper use of the system or from other interferences for which Interflex is not responsible and the cause of which is not the operating mode of the system to be maintained itself, in particular, failures and defects that are due to force majeure, interferences by third parties or third-party systems (that are not listed in the configuration sheet), handling errors, as well as non-compliance with user instructions and the customary operating instructions for computing devices;
 - 4.1.2 Repairs or increased expenditures resulting from failure to use original accessories, or from the removal of series numbers and/or other identifications;
 - 4.1.3 Work on facilities, networks, and installations made available on site;
 - 4.1.4 Adaptation of the Software in the event of modifications of the system platform described in the Description of Services or in the configuration sheets and all work that is related to the modification or to an adaptation to another system platform;
 - 4.1.5 Services with respect to Hardware and/or Software which the customer has not used in accordance with the specification and documentation;
 - 4.1.6 Installation of new Software versions and necessary adaptations of the customer's system environment;
 - 4.1.7 Services outside the operating and response times defined in the Description of Services;
 - 4.1.8 Removal of failures and defects having occurred as a consequence of parameterization and programming activities on the part of the customer;
 - 4.1.9 Removal of failures and defects that have been caused by non-compliance with the requirements under Para. 2.1 or by a violation of the customer's duties to assist pursuant to Para. 5;
 - 4.1.10 Removal of failures and defects that could have been prevented if directions and instructions, as contained in the product descriptions of the used products or as issued by Interflex to the customer in another manner, especially within the framework of the Maintenance Agreement, had been complied with;
 - 4.1.11 Services with regard to Hardware or Software that was modified by the customer or a third party without the prior written consent of Interflex;
 - 4.1.12 Removal of failures and defects that are not related to the system to be maintained, as described in the configuration sheets.
- 4.2 Additionally, the scope of performance does not include advisory services and other services that are related to the services mentioned under Para. 4.1.
- 4.3 Interflex will provide services that are not included in the scope of services on the basis of its General Terms and Conditions for additional remuneration, provided that this is agreed upon in writing.

5. Customer's Obligations to Cooperate

- 5.1 The customer provides Interflex at no cost with the information and special equipment (e.g., high ladders, lift truck, lifting platform to be able to reach the systems to be maintained) necessary for the performance of the Maintenance Services and grants sufficient access to the Hardware and Software. During the agreed periods of time, the customer grants the staff of Interflex access to the relevant premises and the systems to be maintained as required for the performance of the contractual services. Failure to grant Interflex such access or to grant the same during the agreed-upon times or to the required extent shall entitle Interflex to bill the customer separately for any expenses incurred by us in vain or additionally, unless the customer cannot be held responsible for the failure to safeguard or improper safeguarding of access.
- 5.2 The customer designates a responsible system manager and a deputy manager, who shall be authorized in relation to Interflex to furnish and receive binding information and who will make all decisions in connection with the Maintenance Services.
- 5.3 For reasons of security, an experienced staff member of the customer must be present at the place of installation during the provision of the Maintenance Services by Interflex and must ensure compliance with the company security regulations. The customer's security regulations, if any, must be delivered to Interflex in writing with the placement of the order, at the latest before the work is carried out.
- 5.4 Before Interflex renders the Maintenance Services, the customer must carry out itself all tasks not covered by the scope of the Maintenance Agreement and specified as "to be carried out by the customer" in the Maintenance Agreement.
- 5.5 At the request of Interflex, the customer will make available at no cost a lockable cabinet or other suitable storage facilities in the immediate vicinity of the place of installation of the Hardware and Software to be maintained for the storage of documents, material (e.g., replacement parts), and auxiliary devices which Interflex needs to provide the Maintenance Services.
- 5.6 For services rendered via remote access, the customer will provide a suitable remote data transmission connection at no cost.
- 5.7 Changes in the location of Hardware and other modifications of the system to be maintained (e.g., change of the operating system) must be timely coordinated with Interflex. In this case, Interflex may refuse to continue Maintenance for good cause. In case of continuation of Maintenance, Interflex will compile accordingly modified configuration sheets. Additional costs arising in the performance of the Maintenance Services as a consequence of such changes are to be borne by the customer.
- 5.8 The customer is under obligation to make data and program backups in machine-readable format at regular intervals, at least once a day, and to ensure by doing so that the data and programs can be restored at a reasonable cost. The data backup is to be carried out according to the specifications of Interflex or of the respective manufacturer or, in the absence of such specifications, according to the generally accepted principles of secure data processing practices. Before Interflex begins to work on the customer's systems, the customer must have a current data backup available in any case.

6. Fees

- 6.1 The amount and billing interval (monthly, semi-annual, or annual) of the Fees are set forth in the Maintenance Agreement and the configuration sheets.
- 6.2 In the event of an increase in Fees as a consequence of a change agreed in writing to the scope of the Maintenance Services or because additional service components have been chosen, the amount of the increase will be charged for the remainder of the current billing interval pro rata temporis. For this purpose, the Fee for a calendar day will be fixed – depending on the agreed billing interval – at 1/30 of the monthly Fee, 1/180 of the semi-annual Fee, or 1/360 of the annual Fee. The invoicing for extra payments to be made by the customer shall take place during the following month after implementation of the agreed upon change.
- 6.3 Interflex may increase the Fees according to the following rules as a consequence of circumstances other than those mentioned under Para. 6.2, especially to compensate increases in wages and other costs.
 - 6.3.1 Interflex is entitled to increase the maintenance fees after expiry of a price fixing arrangement set forth in the Maintenance Agreement or in the configuration sheets either on January 1 or July 1 of a given year.
 - 6.3.2 Interflex will notify the customer at least three months in advance of any increase in Fees in writing (e-mail is sufficient). However, an increase will take effect no earlier than at the end of the twelfth month following the effective date of the Maintenance Agreement or since the last increase in Fees.
 - 6.3.3 If Interflex announces an increase in Fees, the customer has a special termination right in respect of the Maintenance Agreement – such right to be exercised with two months' prior notice with effect as of the date on which the announced increase in Fees takes effect – but only if the increase in Fees exceeds the increase, as expressed in percent, in the official consumer price index for Germany since the last increase in Fees by more than two percentage points.

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- 6.3.4 If the customer fails to make use of its special right to terminate the Agreement, the increase in Fees shall take effect on the announced date. Interflex shall inform the customer about this circumstance in the announcement letter.
- 6.4 In addition to the Fees stipulated in the Maintenance Agreement and in the configuration sheets, the statutory VAT at the rate applicable at the time must be paid.
- 7. Terms of Payment**
- 7.1 Unless otherwise agreed in the Maintenance Agreement and in the configuration sheets, Fees and individual invoices for additional services rendered in connection with the Maintenance Agreement are payable net immediately upon receipt of the invoice.
- 7.2 The customer is only entitled to offset claims that are undisputed or have been established as final and non-appealable. The customer may exercise a right of retention only to the extent that the customer's counter-claim is based on the same contractual relationship. The customer has no retention right because of partial performances pursuant to § 320 Para. 2 of BGB.
- 7.3 If the customer defaults in payment, Interflex may discontinue the contractual services for the duration of the default in payment and resume the provision of the services only after payment has been effected or security has been furnished as requested. During a default in payment on the part of the customer, Interflex is entitled to charge interest at the statutory rate for the duration of the default in payment. The right to assert more extensive claims, especially damage compensation, remains unaffected.
- 7.4 The payment will be deemed received on the day on which the amount is made available to Interflex or on which it is credited to the bank account of Interflex in terms of value.
- 8. Claims based on Defects of Maintenance Services**
- 8.1 Interflex provides all Maintenance Services in accordance with methods and procedures that come as close as possible to the current state of technology while taking into account economic efficiency.
- 8.2 If the maintenance services represent work performance (Werkeleistungen) and exhibit deficiencies, which the customer was not aware of at the time of acceptance or it had reserved its rights in connection with the deficiencies at the time of the acceptance, the customer is still entitled to supplementary performance within a suitable period set by the customer. Interflex shall decide on the type of supplementary performance (correction of deficiency or new production).
- 8.3 If Interflex is not disposed to or capable of supplementary performance or the second attempt at supplementary performance should fail, the customer may, at its choice and without prejudice to possible claims for damages and for reimbursement of expenses pursuant to Para. 9, claim a reduction of the agreed Fees for the relevant period of time or of the remuneration additionally agreed upon for the defective service on the basis of a separate agreement or – if the violation of duty is not merely insignificant – terminate the Maintenance Agreement.
- 8.4 Interflex may refuse subsequent performance until the customer has paid to Interflex the Fees or the agreed remuneration less such part as corresponds to the economic importance of the deficiency.
- 8.5 The statutory period of limitation for deficiency claims on part of the customer is one (1) year. Shortening the statutory period of limitations to one year also applies to claims arising in connection with unauthorized acts, which are based on a deficiency in the object of delivery or performance. Shortening the statutory period of limitations does not apply to Interflex's unlimited liability for damages resulting from breach of warranty or injury to life, limb or health, for intent and gross negligence and for product defects or if Interflex has assumed a procurement risk.
- 8.6 If the maintenance services represent work performance (Werkeleistungen) and (a) there is a deficiency in a structure or (b) it involved a work, the success of which in the provision of planning and monitoring services is significant for a structure, then the statutory period of limitation is five (5) years.
- 9. Liability**
- 9.1 Interflex is liable under the statutory provisions if the customer asserts claims for damages or reimbursement of expenses resulting from intent or gross negligence or non-compliance with warranties given (including the assumption of a procurement risk) and in cases of injury to life, limb or health.
- 9.2 In case of slight negligence, Interflex is only liable otherwise for the breach of a major contractual obligation. Major contractual obligations are such that arise in connection with the nature of the contract and are particularly important for fulfilling the contractual purpose. In case of violation of major contractual obligations by way of slight negligence, Interflex's liability is limited to foreseeable damage that typically occurs, however no more than EUR 500,000 per damage event.
- 9.3 In the event of a loss of data, Interflex is liable at maximum for the expenditure that is required for reconstruction if the customer has made adequate data backups according to Para. 5.8.
- 9.4 Liability for damages or for reimbursement of expenses in excess of what is provided for in these General Maintenance Conditions is excluded regardless of the legal nature of the asserted claim. This in no way affects mandatory liability for product defects.
- 9.5 If the liability on the part of Interflex is excluded or limited according to the present General Maintenance Conditions, this equally applies to the liability of the corporate bodies of Interflex and of persons employed by Interflex in the performance of its obligations and of vicarious agents of Interflex, in particular, staff members.
- 10. Rights in Hardware and Software**
- 10.1 Exchanged Hardware parts become the property of Interflex with their removal.
- 10.2 All replacement parts, Hardware and Software products (diagnosis and support programs etc.), and other auxiliary devices (e.g., tools or test systems) that are not integrated into the customer's system and are used by Interflex for the provision of the Maintenance Services and/or are stored at the customer's place remain the property of Interflex and may be used solely by Interflex and its agents. All these items must be returned to Interflex without delay upon request, which may be made at any time, at the latest, however, with the termination of the Maintenance Agreement. The customer has no right of retention in respect of these items.
- 10.3 The Software products mentioned under Para. 10.2 and the related documentation may neither be copied nor be passed on or made available to third parties by the customer.
- 10.4 Unless expressly provided otherwise in these General Maintenance Conditions or in the Description of Services, the performance of the Maintenance Agreement does not include the grant of any rights or licenses whatsoever in or for any patent, copyright, business secret, trademark, or semi-conductor topography or any other intellectual property right owned by Interflex.
- 11. Security Regulations of the Customer, Observance of Statutory Requirements, Data Protection**
- 11.1 The operating system software comprises various options to ensure the security of the system. The customer is responsible for their use. Every change in the operating system must be coordinated with Interflex in good time in advance.
- 11.2 The operating of transnational networks may be subject to the legal rules of various countries, in particular, rules concerning cross-border data traffic. Ensuring compliance with the applicable provisions is exclusively the customer's responsibility.
- 11.3 Interflex and the customer are obligated to observe the statutory provisions concerning data privacy protection when carrying out the Maintenance Agreement and to impose the obligation to comply with these provisions on their staff. Interflex and the customer are obligated to provide their respective data protection officers upon request with evidence of compliance with this obligation, such evidence to be in the form required pursuant to the statutory provisions.
- 12. Secrecy**
- 12.1 For a period of five (5) years after the end of the Agreement, Interflex is under obligation to maintain the strict confidentiality of all information and data of the customer that are to be considered confidential information or data because of explicit identification as such, or according to the circumstances, and of which Interflex becomes aware when providing the services agreed upon; Interflex may use such information and data only within the limits of the purposes of the Maintenance Agreement. Interflex undertakes to grant only such staff members and agents access to confidential information of the customer as are commissioned with the provision of services within the framework of the Maintenance Agreement.
- 12.2 The customer is under obligation to maintain the strict confidentiality of confidential information that is contained in the files and documents furnished by Interflex for a period of five (5) years after the end of the Agreement; the customer may not communicate, make available or furnish such information, or files or documents, whether in whole or in part and whether for remuneration or without remuneration, to third parties. The customer agrees to take the necessary and appropriate measures to protect such information from disclosure and unauthorized access by third parties.
- 12.3 Interflex and the customer undertake to impose the obligation to comply with the provisions of Paras. 12.1 and 12.2 on their staff and representatives and to provide the other party with corresponding evidence upon request.
- 12.4 If public authorities demand that Interflex or the customer provide information and such information concerns confidential information of the respective other party, such other party must be notified in writing without delay, if possible before the relevant information is disclosed.
- 12.5 The confidentiality obligation does not apply if the confidential information was already known to the receiving party in a manner that can be verified prior to the start of the contractual relation or which were part of the public domain or were generally available prior to the start of the contractual relation or which were generally known and available through no fault of the receiving party. The receiving party has the burden of proof.
- 12.6 The rights and obligations under Paras. 12.1 to 12.4 are not affected by a termination of the Maintenance Agreement. Upon termination of the Maintenance Agreement, Interflex and the customer are obligated to return – or to delete and/or destroy, as requested by the other party – all files and documents containing confidential information of the respective other party.
- 13. Contractual Period**
- 13.1 The Maintenance Agreement takes effect upon signing by the customer and countersigning by Interflex.
- 13.2 The Maintenance Agreement has a minimum term of twelve months; thereafter, it may be terminated by either party with three months' prior notice with effect as of the end of a calendar year.
- 13.3 If there is a change in the scope of Maintenance as a consequence of a non-temporary exchange or discontinuation of individual components of the systems to be maintained on the part of the customer, the Maintenance Agreement may be terminated by the customer with regard to the discontinued or exchanged components subject to observance of a notice period of six calendar weeks with effect as of the end of the next following calendar quarter, however no earlier than with effect as of the end of the respective calendar quarter, which follows the end of the twelfth month following the Maintenance Agreement's entry into force and per year of the agreement, at maximum to an extent corresponding to 30% of the annual net Maintenance Fees. If more than 10% of the annual net Maintenance Fees are attributable to the terminated part, Interflex has the right to terminate the Maintenance Agreement as a whole subject to four weeks' prior notice, with effect as of the end of the respective calendar quarter.
- 13.4 Interflex may terminate the Maintenance Agreement at any time after a prior reminder, subject to observance of a notice period of 30 days, if:
- The systems that are covered by the agreement have been maintained or repaired by persons not authorized by Interflex, or if there have been other, comparable interferences with the systems;
 - The services to be provided by Interflex are significantly impaired through changes, improper handling, or the installation of products of other manufacturers at the customer's initiative;
 - The location of Hardware not specified by Interflex in the Maintenance Agreement as "installable by the customer itself" has been changed without the prior written consent of Interflex;
 - The Software is or has been used, copied, made available or passed on to third parties in violation of the license conditions, or in any other unauthorized manner; or;
 - The measures taken after a written request for payment following a default in payment have been to no avail and an agreement on the provision of security has not been reached.
- 13.5 The right of both parties to give notice of termination with immediate effect for good cause remains unaffected.
- 13.6 Notice of termination must in any case be given in writing.
- 14. Final Provisions**
- 14.1 The provisions in the Maintenance Agreement, the configuration sheets, the Description of Services, these General Maintenance Conditions, and – additionally – the General Terms and Conditions constitute a conclusive and exhaustive set of rules for the services described therein and supersede all prior arrangements/agreements in this respect.
- 14.2 Ancillary arrangements and contractual amendments are not valid unless made in writing. This also applies to the amendment or cancellation of the requirement for written form.
- 14.3 Should any individual provision or any part of any provision of the Maintenance Agreement, the configuration sheets, the Description of Services, these General Maintenance Conditions or the GTC be or become void or unenforceable in part or fully or if a loophole is determined in the aforementioned contractual documents, the validity of the Agreement as a whole or the remaining provisions is in no way affected. The contracting parties are under obligation to replace the invalid or unenforceable provision with such valid provision as comes closest to the economic spirit and purpose of the invalid provision. In case of a loophole, such provision is deemed as agreed upon that comes as close as possible to the sense, spirit and purpose of the Agreement as desired or would have been desired, if the contracting parties had considered the matter in the beginning.
- 14.4 In the event of a partial or full transfer of the business operations of Interflex, Interflex may assign its rights and obligations under the Maintenance Agreement to a third party, such assignment to be notified to the customer six weeks in advance and to take effect at the end of a calendar quarter.
- 14.5 The legal relation between the customer and Interflex is subject to the laws of the Federal Republic of Germany with exclusion of the United Nations Convention on Contracts for the International Sale of Goods.
- 14.6 Exclusive place of jurisdiction for all disputes relating to the business relation between the customer and Interflex shall be Stuttgart, Germany. However, Interflex may sue the customer also at the customer's general place of jurisdiction and at every other admissible place of jurisdiction.

Annex to Maintenance Agreement No.:

Description of Services

1. Scope

1.1 This Description of Services applies in addition to the Maintenance Agreement and the General Contractual Terms for Software and Hardware System Maintenance and Support (General Maintenance Conditions) for the hardware (including firmware) and software set forth in the configuration sheets.

1.2 The service components from among those defined in the following that are owed by Interflex as Maintenance Services can be gathered from the Maintenance Agreement in connection with the configuration sheets.

2. Maintenance of Software

2.1 Removal of Defects

2.1.1 Each of the following service components Paras. 2.2 and 2.3 comprises the removal of reproducible defects in such versions of the Software that is set forth in the configuration sheets as are still maintained by Interflex (see Para. 1.4 of the General Maintenance Conditions). A defect is deemed to exist if the Software (i) does not fulfill the functions stated in the product description in force at the time of conclusion of the agreement, (ii) provides incorrect results (iii) interrupts its functions in an uncontrolled manner, or (iv) does not work in any other way pursuant to its specification, provided that its use by the customer is thereby impeded or materially restricted, and such impediment or restriction can be reproduced at Interflex.

2.1.2 Interflex may remove defects by providing Updates or Upgrades (see Para. 1.5 of the General Maintenance Conditions) with at least the same functions. If these Updates or Upgrades require more powerful Hardware and/or a more recent version of the operating system, these must be provided by the customer at its own expense in a state ready for operation.

2.1.3 In order for Interflex to be able to make a remote diagnosis as to the existence of a defect, the customer provides Interflex with remote access – as defined under Para. 2.4 below – to its systems.

2.2 Software Telephone Hotline

2.2.1 The service component "Software Telephone Hotline" comprises the following services:

- Telephone advice on questions concerning functions, operating, and documentation;
- Telephone advice during the parameterization of the system;
- Telephone support with the analysis of problems and defects; and
- Removal of defects and problems if this can be done by telephone.

2.2.2 The customer will be granted a person-based authorization to use the telephone support of Interflex. The customer may specify a maximum of three of its staff members who may use the telephone hotline service. These staff members must have been trained by Interflex.

2.2.3 The telephone hotline is available to the authorized persons of the customer during the contact hours set forth under Para. 6.1, at the telephone number specified by Interflex.

2.3 Software On-the-spot Service

The services are identical to those of the service component "Software Telephone Hotline" pursuant to Para. 2.1 but additionally comprise the customer's place – including travel expenses – as place of performance.

2.4 Remote Access

To the extent technically feasible and reasonable in the particular case, the support and the analysis and removal of defects will be carried out by callback procedure via a remote data transmission connection at the customer's place. For this purpose, the customer grants Interflex the according remote access to its systems and advises Interflex of the necessary configurations and technical requirements in this respect.

3. Software Updates

3.1 Update Service

3.1.1 Within the framework of the service component "Update Service", Interflex generally provides the customer at least once per year with an Update (see Para. 1.5 of the General Maintenance Conditions) for Software versions still maintained (see Para. 1.4 of the General Maintenance Conditions) and with the relevant documentation on a machine-readable data storage medium in object-code format, per e-mail or via download from the Interflex-Service-Center for installation by the customer.

3.1.2 Interflex grants the customer a non-exclusive right of use in respect of the Updates according to the provisions in the General Software License Conditions of Interflex. The warranty and liability for Updates are governed by the General Maintenance Conditions and, additionally, by the General Terms and Conditions of Interflex.

3.1.3 Within the framework of the Update Service, the customer acquires no rights whatsoever to or in Upgrades (see Para. 1.5 of the General Maintenance Conditions) created by Interflex, unless otherwise provided for in the Maintenance Agreement. Interflex will offer the customer Upgrades for sale for additional remuneration.

3.1.4 If, according to the booked service components, the customer has a right to take hotline support and the customer needs such hotline support for the installation of an Update, the customer must timely coordinate the support with Interflex at least fourteen (14) days before the intended installation date.

3.1.5 Interflex will advise the customer with regard to the compilation of a performance schedule for the installation of an Update. The performance of the installation itself or other services do not form part of the services to be provided by Interflex according to this service component. If Interflex carries out the installation nonetheless at the customer's request, Interflex will invoice the customer separately for the expenditures incurred according to the price list of Interflex, as amended from time to time.

3.2 Full Service

The "Full Service" service component comprises the services of the "Update Service" service components pursuant to Para. 3.1, "Software Telephone Hotline" pursuant to Para. 2.2, and "Software On-the-spot Service" pursuant to Para. 2.3.

3.3 Update Remote Access

The "Update Remote Access" service component includes the installation of Updates or the provision of support services in case of installation by the customer – by callback procedure via a remote data transmission connection at the customer's place – to the extent technically feasible and reasonable. In all other respects, Para. 2.4 applies correspondingly.

4. Software Support in the Event of Exchange of Data with Third-party Systems

4.1 If, due to an Update, there is a change in the interface requirements for an exchange of data with a connected third-party system, the analysis of the necessary changes in the interface of the connected system is comprised in the services of the "Update Service" service component pursuant to Para. 3.1.

4.2 Parameterization or Software adaptations to the connected third-party system that are necessitated by an Update are equally comprised in the "Update Service" service component pursuant to Para. 3.1. In contrast, necessary parameterization or Software adaptations due to changes in the third-party system are subject to supplementary fees. In relation to other customers not having entered into a maintenance agreement with Interflex or not having chosen the service component "Update Service", the customer has a right to the preferential implementation of these non-gratuitous parameterization adaptations. The customer must notify Interflex as early as possible of planned modifications to the third-party system.

5. Maintenance of Hardware

5.1 Maintenance of Hardware with Substitute Device

5.1.1 Interflex will keep the Hardware and firmware in good working order and will remedy failures, if any. This does not include wearing parts whose serviceability is reduced or lost through wear in use; the customer will be invoiced separately for the exchange of such parts.

5.1.2 Interflex will decide whether defective parts are to be repaired or replaced in the particular case. In this context, the customer has no claim to the use of new parts; Interflex may, at its choice, use used parts of equivalent functional value from its repair pool instead of new parts.

5.1.3 Interflex will remove defects of the firmware without charging additional fees. If more powerful Hardware is required for an Update of the firmware, the extension of the Hardware must be paid for additionally.

5.1.4 If necessary during the search for or removal of a defect to ensure the serviceability of the system, Interflex will lend the customer a corresponding substitute device for the duration of the removal of, or search for, the defect.

5.1.5 If the inspection by Interflex shows that the repair is a service not comprised in the Maintenance Services to be provided under the Maintenance Agreement pursuant to Para. 4 of the General Maintenance Conditions, Interflex will carry out such repair for additional remuneration only. At the customer's request, Interflex will prepare a cost estimate for the repair. If the expected repair costs exceed 70% of the value of a replacement device, Interflex is entitled to refuse the repair and to offer the customer a new device for sale.

5.2 Hardware Repair Only

5.2.1 This service component comprises all services pursuant to Paras. 5.1.1 to 5.1.3 (service component "Maintenance of Hardware with Substitute Device").

5.2.2 If a repair at the customer's place is not possible, Interflex will take the device away for repair and will send it to the repair center of Interflex. After the device has been repaired, it will be sent back to the customer. If staff of Interflex must be assigned to the customer's place to place the repaired device into operation again, Interflex will invoice the customer additionally for the assignment of such staff according to the applicable Interflex price list.

5.2.3 If staff of Interflex must be present at the customer's place for the exchange of firmware, Interflex will invoice the customer additionally for the assignment of such staff according to the applicable Interflex price list.

5.2.4 The provisions of Para. 5.1.5 apply correspondingly.

5.3 Revision Agreement

5.3.1 The basis of the revision agreement is a revision plan which Interflex prepares on the basis of the Hardware to be maintained and which is coordinated with the customer. Within the framework of the revision agreement, Interflex checks and tests once a year the functions of the devices listed in the configuration sheets.

5.3.2 If an examination of the functions of the devices shows that functional defects or risks exist, Interflex will submit to the customer a cost estimate concerning the removal of these functional defects or risks. If, upon submission of such estimate, the customer commissions Interflex with the removal of the functional defects or risks, Interflex will invoice the customer for this work additionally, according to the then applicable price list of Interflex.

5.4 Preventive Maintenance

5.4.1 The "Preventive Maintenance" service component can only be chosen if the "Maintenance of Hardware with Substitute Device" service component pursuant to Para. 5.1 or the "Hardware Repair Only" service component pursuant to Para. 5.2 is also chosen.

5.4.2 The "Preventive Maintenance" service component comprises the services pursuant to Para. 5.3.1 of the "Revision Agreement" service component. If it is discovered during an examination of the functions of the devices that functional defects or functional risks exist, the work necessary for the removal of such defects or risks will – depending on the service components chosen by the customer – be carried out on the terms of service component Paras. 5.1 or 5.2.

5.5 Bring-In Service

5.5.1 Within the framework of the service component "Bring-in Service", the customer may bring or send defective Hardware parts to Interflex for repair itself instead of using the on-the-spot service pursuant to Para. 5.1 or Para. 5.2. A substitute device will be provided to the customer for the duration of the repair for additional remuneration only.

5.5.2 Upon receipt, the Hardware made available by the customer will be examined and its state will be documented. Interflex is not liable for damage sustained during transportation to Interflex.

5.5.3 The provisions of Para. 5.1.5 apply correspondingly.

5.6 Initial Inspection by Trained Customer

Interflex grants the customer a reduction on the Fees agreed upon in the Maintenance Agreement if the customer ensures that any damage is first inspected by a person who has been trained by Interflex before a repair request is made with Interflex. If an initial inspection is not carried out or if defects are discovered during the initial inspection that could be removed by the customer's staff and Interflex is called to the customer's place despite this fact, Interflex will invoice the customer separately for this assignment.

6. Contact Hours and Response Times

6.1 For the "Software Telephone Hotline" service component pursuant to Para. 2.2, the following contact hours and response times are applicable.

6.1.1 The standard contact hours of the User Help Desk are on work days (with the exception of legal holidays at the location of the User Help Desk) from Monday through Friday from 8:00 a.m. to 5:00 p.m. CET. The customer can request for individual products extended contact hours against payment of additional fees; a separate arrangement must be made in this regard in the Maintenance Agreement.

6.1.2 The response time of Interflex after the receipt of a failure report via the telephone hotline is, depending on the service level booked, at maximum

- Service Level I: 8 hours or

- Service Level II: 4 hours

The response time only applies during the hotline's contact hours pursuant to Para. 6.1.1.

6.1.3 The response time is the time in which a highly-qualified staff member of Interflex actively attends to the reported failure and initiates the removal of the failure by telephone, fax, email, remote access, or through an assignment to the customer's place.

6.2 If, according to a service component chosen, Interflex is under obligation to assign staff to the customer's place, such assignments will be made in coordination with the customer on work days during normal business hours (Monday through Friday, 8:00 a.m. to 5:00 p.m.), as a rule.