



**EASY SOFTWARE**

# **General Terms and Conditions “Software Support and Maintenance”**

**Version: January 1, 2019**

**EASY SOFTWARE GROUP**

<https://easy-software.com/en/contracts/gtcm>

These General Terms and Conditions "Software Support and Maintenance" apply in addition to the "General Terms and Conditions" of EASY SOFTWARE

- <https://easy-software.com/us/contracts/gtc/>
- <https://easy-software.com/uk/contracts/gtc/>
- <https://easy-software.com/tr/contracts/gtc/>
- <https://easy-software.com/en/contracts/gtc/>
- <https://easy-software.com/en/aq/contracts/gtc/>
- <https://easy-software.com/en/esd/contracts/gtc/>
- <https://easy-software.com/en/ees/contracts/gtc/>
- <https://easy-software.com/en/ems/contracts/gtc/>

and other subsidiaries.

## § 1 Subject of software support and maintenance

1.1. The services rendered by EASY, described in the performance description Software maintenance, are the subject of software maintenance.

The EASY Maintenance and Support Rules are applicable:  
<https://easy-software.com/en/contracts/gtcm/policy/>.

The contractual software maintenance services provided by EASY is available during the following business hours: Working days (Monday through Friday) between 9 a.m. and 5 p.m., except for German Federal and North Rhine Westphalian public holidays, as well as except Christmas Eve (December 24) and New Year's Eve (December 31).

1.2. EASY shall provide the software in object code and in a ready-to-install format to the Customer as part of software maintenance. EASY shall not provide source code to the Customer as part of software maintenance.

1.3. The contractual software maintenance services do not include, in particular, the following services ("Additional Services"):

- 1.3.1. Maintenance services outside the business hours (1.1).
- 1.3.2. Maintenance services that can only be provided at the software's installation site.
- 1.3.3. Services that are necessary when using the software in a hardware and software environment other than recommended by EASY.
- 1.3.4. Services due to scripting: Inasmuch as the software contains interfaces which enable scripting by the Customer and the Customer performs scripting by himself or a third party, maintenance services that become necessary due to the previous named actions are not part of this contract.
- 1.3.5. Services that are based on other customizations which are not authorized by EASY or changes to the software's program code made by the Customer or a third party.
- 1.3.6. Services regarding interoperability of the software with third-party software which is not part of this contract.
- 1.3.7. Services for the software which become necessary through improper use and/or through breach of the Customer's auxiliary obligations (Obliegenheitsverletzung), e.g. ignoring user documentation (e.g. operator errors).
- 1.3.8. Services for hardware, operating systems, networks, or for software from third party manufacturers.

1.4. Additional services, particularly services related to the software, which become necessary owing to scripting, non-authorized changes to the software, or improper use, as well as the error or disruption analysis preceding this, shall be provided by EASY only for separate remuneration. EASY is not obliged to provide such.

## § 2 Additional customer participation services in software maintenance

2.1. The Customer must ensure appropriate backup. This affects the software programs which are not subject to this contract, as well as the Customer's data. Only when the Customer becomes aware of pending disruption and

troubleshooting activities by EASY shall the Customer check whether a current backup is available; otherwise, the Customer will ensure in time such measure prior to the respective action by EASY.

2.2. The Customer will ensure to offer appropriate training courses available for those employees who use the software, and keep those employees up-to-date as required for using the software during the contractual period.

## § 3 Remuneration, billing, changes

3.1. EASY may announce changes regarding the software maintenance fee in writing by giving three months' notice to the end of quarter year. In that case, the new remuneration will be valid from 1st of the following quarter year unless the Customer previously terminates the maintenance contract according to clause 3.3. EASY will refer the Customer to that option when announcing the fee.

3.2. Billing for software maintenance takes place annually on January 1 of a calendar year for a period of 12 months in advance. If the contract start date is after January 1, EASY will bill the annual maintenance fee partially until December 31 of that calendar year in advance.

3.3. If the maintenance fee increases by more than 5 % within 12 months of the last fixing, the customer is entitled to terminate the contract with one month's notice to the end of the month prior to the effective date of the increase.

## § 4 Term of contract / termination

4.1. The term of the software maintenance contract begins with deployment of the software to the Customer. Deployment may be through EASY or a third party authorized by EASY.

4.2. The software maintenance contract ends December 31 of the calendar year following one (1) year to the year the contract became effective (example: if the contract starts July 15, 2019, it will end December 31, 2020). The contract will be extended by one (1) year unless it is terminated by a party by giving three (3) months' written notice prior to the end of the respective term. So if not terminated at due date the software maintenance contract will automatically be renewed by another consecutive year.

4.3. The right to terminate a contract for good cause remains unaffected. From EASY's viewpoint, good cause exists particularly when

- 4.3.1. the Customer materially violates his contractual duties, particularly when the Customer performs illegal changes to the software by himself or through third parties;
- 4.3.2. an insolvency cause within the context of Sections 17 to 19 of the German Insolvency Code (InsO) exists with the Customer;
- 4.3.3. the Customer's financial situation deteriorates in such a manner that proper fulfillment of the contract can no longer be expected, even if there is no insolvency cause within the meaning of Sections 17 to 19 InsO, or when
- 4.3.4. the Customer is in arrears paying the owed remuneration for more than two months or a total amount that equals the remuneration for two months.

4.4. Terminations must be in writing via registered letter with advice of delivery.

## Appendix:

Special provisions on maintenance of products and services for the contractor's SAP systems rendered through the use of EASY PCM Process2Go® and EASY PCM Process2Design® from EASY SOFTWARE AG

## Appendix of the General Terms and Conditions “Software Support and Maintenance”

### Special provisions on maintenance of products and services for the contractor's SAP systems rendered through the use of EASY PCM Process2Go® and EASY PCM Process2Design® from EASY SOFTWARE AG

#### § 1 Subject of service

1.1. EASY will provide maintenance for the software listed in the order confirmation from the buyer / contractor (hereinafter referred to as Customer), using EASY PCM Process2Go® and EASY PCM Process2Design® from EASY SOFTWARE AG.

The object of these maintenance terms is to assist the customer through EASY in troubleshooting system problems in order to keep the number and duration of unplanned system outages as low as possible. In addition, these maintenance provisions regulate delivery of current software updates to the customer.

1.2. For maintaining products using EASY PCM Process2Go® and EASY PCM Process2Design® from EASY SOFTWARE AG the following provisions override the provisions of General Terms and Conditions “Software Support and Maintenance” in case they contradict. The respective order confirmation will refer to the overriding validity. Apart from that, the provisions of the General Terms and Conditions and the General Terms and Conditions “Software Support and Maintenance” apply without restrictions.

#### § 2 System maintenance scope

##### 2.1. Terminology

Working day: Monday through Friday, 8:00 a.m. to 06:00 p.m., excluding German public holidays.

- Response: Incorporation and analysis of reported problem or determining the cause of the problem.
- Response time: The time between reporting and initial response, when verified during a working day (period of time until initial professional reply).
- Release change or update: Installing the next-higher software version, when verifying against the installed software version.
- **P1** – system problem: system downtime, i.e. outage of the entire system, production is no longer possible.
- **P2** – system problem: critical system state, outage of a relevant subsystem, limited production is possible.
- **P3** – system problem: outage of uncritical system components, no relevant problem with production mode.

##### 2.2. Problem reports and queries

Problems and queries can be transmitted to EASY only through trained and authorized employees of the Customer via the EASY support portal. EASY will train the Customer's employees for the products used by the end of the project.

The contact persons to be authorized are named by the Customer not later than one month after concluding the maintenance contract.

##### 2.3. Maintenance service

EASY will perform the following professional services for the software products and developments listed in the order confirmation.

Software maintenance: Free delivery of software updates and upgrades of the software licenses listed in the order confirmation.

The provisions from the respective manufacturers, which have been listed separately in an appendix to the order confirmation, apply for maintaining the shipped software by third parties listed separately in the order confirmation.

Problem acceptance: The Customer's authorized employees can submit their queries electronically via the support portal; EASY will then process them. The Customer shall report problems with the software that may occur only via this portal.

Response times: Within a working day, response times of one working hour are complied with for P1 system problems, eight working hours for P2 system problems, and sixteen working hours for P3 system problems or other queries.

Troubleshooting: EASY endeavors to troubleshoot problems that occur as quickly and efficiently as possible. Troubleshooting occurs, where technically feasible or justifiable, as remote maintenance to minimize processing times.

##### 2.4. Preclusion

Maintenance of the hardware used, of the operating system environment and of the network is precluded. This may require a separate agreement.

Professional services do not include:

- Installation for the purpose of first-time restoration of operations readiness and performing installation of updates
- Developing software programs that have functions other than those specified in the product description
- Familiarizing and training the Customer
- Correction of malfunctions and consulting on errors that are tracked to incorrect operation by the Customer
- Restoring data sets and system environments not specifically caused by intervention on the part of EASY.

#### § 3 Customer's rights and duties

3.1. As long as EASY is obliged to perform maintenance services, the Customer will only have EASY or, upon the previous consent of EASY, third parties perform all maintenance and other related activities.

3.2. The Customer is obliged to execute and log the administrative tasks he has to perform himself only on instructions given by EASY.

3.3. The basis of this contract and the maintenance fees is an online remote maintenance connection that the Customer shall provide to EASY. Where technically feasible and justifiable by the Customer, the remote maintenance connection is of the site-to-site VPN type. If the Customer does not provide the corresponding remote maintenance capabilities, the additional expenses incurred through this shall be estimated with a flat-rate surcharge of 25% to the respective price for maintenance services.

3.4. The Customer shall undertake to build a working test system where all modifications to the software can be tested under conditions that come as close as possible to production mode. This particularly applies to modifications made by the Customer himself, as well as prior to loading new release, version or correction versions of the software.

3.5. The Customer is obliged to ensure cooperation necessary for rendering the maintenance service by EASY.

3.6. The Customer is responsible for backup of his data on suitable media, as well as for retaining these storage media. The Customer is also responsible for regular tests of successful restoration of the backed-up system state.

3.7. The Customer is obliged to provide EASY the documents and information necessary for complying with its duties.

#### **§ 4 EASY's rights and duties**

- 4.1. EASY is obliged to adhere to the Customer's access log validation.
- 4.2. EASY is obliged to use data transmitted by the Customer only for system maintenance purposes.
- 4.3. EASY is obliged to submit a report of rendered and planned services upon the Customer's request.
- 4.4. EASY reserves the right to render parts of the contractually agreed maintenance services in cooperation with authorized service partners. Permanent transfer of services shall only be performed upon consulting and consenting with the Customer.
- 4.5. EASY guarantees maintenance (maintenance and support services) for the current version of the licenses software, limited to three years from the date of purchasing the license if EASY does not offer any subsequent versions (new release versions). EASY shall render maintenance services for a version no longer current only if that version is not older than the two release versions prior to the current release version.
- 4.6. The maintenance services for software to be rendered by EASY do not include maintenance of modified software delivered by EASY in the EASY namespace but has been modified by the Customer there.
- 4.7. EASY reserves the right to copy and use the software configurations made by the Customer to optimize support.

#### **§ 5 Maintenance fees**

- 5.1. Payment of the maintenance fee, plus legal sales tax/VAT shall be made annually in advance to the EASY bank account. The order confirmation lists the amount of the maintenance fee.
- 5.2. Services for fixing errors not caused by EASY are billed separately.
- 5.3. All prices are excl. travel costs and expenses incurred.
- 5.4. EASY reserves the right to adjust prices to the amount of actual expenses and requirements for maintenance services. EASY will inform the Customer of increasing the amount three months prior to the due date, at the earliest at the end of the agreed minimum term. Two consecutive price increases must generally be separated by at least 12 months. Along with the price adjustment, the Customer will simultaneously receive an updated order confirmation.

#### **§ 6 Interventions**

- 6.1. Interventions or changes to programs and system environments by the Customer and/or third parties represent a fatal impediment to service performance.
- 6.2. In such cases, service obligation on the part of EASY shall only be the case if the original state of the leased programs has been restored.
- 6.3. Inasmuch as EASY performs tasks to restore the original state upon separate prior agreement these services will be billed separately.

#### **§ 7 Maintenance start date**

The Parties shall determine the date on which the maintenance starts in the corresponding order confirmation.