

Contract terms: Software maintenance and support, Support

1. Subject of the contract terms

The subject of these contract terms shall be all software products (hereinafter 'contract products') supplied by UTAX DocForms GmbH (hereinafter 'UTAX DocForms') and, depending on the type of contract, listed in the software specification of the Software Maintenance and Support Agreement. The contract terms shall be part of the Software Maintenance and Support Agreement.

2. Scope of service

The services specified in Section 2.1 shall only be valid for the software maintenance and support agreement contract type, but not for the support agreement contract type.

2.1 Software maintenance

2.1.1 UTAX DocForms shall supply to the client at no cost the most recent software updates for the delivered contract products in electronic form or on digital media such as CDs or DVDs, provided they have been approved by UTAX DocForms and its upstream suppliers.

2.1.2 Software updates shall not include versions, options or future products that UTAX DocForms or its upstream suppliers license separately.

2.1.3 The conclusion of the software maintenance agreement shall grant the right to receive software updates but not the rights to the actual contract products (see 2.1.1).

2.1.4 It is hereby expressly noted that it is not possible given the current state of technology to develop software that runs on all available hardware systems and system combinations without error.

2.2 Support

2.2.1 The client shall be entitled to free access to the telephone support (hotline) and remote maintenance services of UTAX DocForms during standard business hours.

2.2.2 To ensure comprehensive assistance by the customer support department of UTAX DocForms, the client must have the capability for remote maintenance installed on his system.

3. Services charged separately

3.1 The Software Maintenance and Support Agreement concluded between UTAX DocForms and the client does not cover the following services, which are to be charged separately. The currently valid price list of UTAX DocForms shall apply:

- (a) Services such as, for example, training, installation, programming, custom configuration or system integration requests, data backups, etc.
- (b) Services that become necessary due to improper use, third parties not authorised by UTAX DocForms, failure to observe maintenance and usage recommendations or the use of software components that have not been approved by UTAX DocForms or its upstream suppliers.

4. Maintenance fee

4.1. The payment of the maintenance fee shall cover the software maintenance costs. Expressly excluded shall be the services listed in Section 3.

4.2 If the prices for personnel and material costs increase or market conditions change, then UTAX DocForms may adjust the maintenance fee subject to a term of 3 calendar months (term of change) by providing a written notification of change. If the fee is increased, the client shall be entitled to terminate the contractual relationship 2 calendar months before the term of change expires. If the client does not do so, the adjusted maintenance fee shall be deemed agreed once the term of change expires. If multiple contract products are the subject of this agreement, then termination may be limited to individual contract products. Compensation claims against UTAX DocForms may not be derived from such changes to the maintenance fee.

5. Payment terms

5.1 The maintenance fee in the first contract year shall be charged in advance for the remainder of the calendar year. Thereafter the fee shall be charged in advance at the beginning of each calendar year. The maintenance fee shall be payable strictly net within 14 days of invoice receipt.

6. End of the agreement

6.1 The agreement can be terminated by either party 3 months before the end of the year – however, not before 2 years have passed. If the agreement is not terminated, then it shall be implicitly extended by an additional contract year and can then be terminated 3 months before the end of the year.

6.2 Individual contract products can be terminated by either party subject to the periods listed in Section 6.1. The remaining contract products shall remain part of the agreement as before.

6.3 UTAX DocForms may terminate the agreement for good reason. In particular, a good reason shall be deemed given if the client repeatedly fails to comply with the obligations set forth in this agreement, the software licence and usage provisions of the manufacturer are violated or bankruptcy proceedings or judicial or extrajudicial settlement proceedings have been filed.

7. Liability and other provisions

7.1 UTAX DocForms shall be notified in writing within 8 days of any complaints regarding services provided in the course of software maintenance or support. In the case of justifiable complaints, UTAX DocForms shall perform subsequent improvement.

7.2 The client alone shall be responsible under all circumstances for updating and backing up his databases. If the employees of UTAX DocForms carry out work on the contract products listed in the agreement, it shall be assumed that up-to-date backups of the databases exist. This shall also apply to databases that are not stored directly in the system (e.g., stored locally on optical data carriers or in computer networks).

8. Final provisions

8.1 UTAX DocForms may transfer the rights and obligations set forth in this agreement to an authorised third party either temporarily or permanently.

8.2 These contract terms and conditions shall be exclusively binding regardless of any deviation in the business terms and conditions of the client.

8.3 The place of jurisdiction for both parties shall be Dortmund, Germany. The law of the Federal Republic of Germany shall apply exclusively.

8.4 Amendments, supplements or cancellation notices pertaining to this agreement must be submitted in written form. This written form requirement may only be waived if agreed in writing.

8.5 In the event that individual provisions of this agreement are or become invalid, then the validity of the remaining provisions shall not be affected thereby. The invalid provision shall be reinterpreted, reformulated or replaced by another provision so as to achieve the intended purpose of the original provision. This shall also apply to any omissions found in the contract terms and conditions.