

To make sure that you always work with the latest version of our programs and have the latest component data available, we recommend that you take advantage of our Software Maintenance Agreement. If you would like us to provide this service please complete and sign two copies of the Agreement and send them to us. We will check your order immediately. The Software Maintenance Agreement is finalized as soon as we return one of the two signed copies to you.

## SOFTWARE MAINTENANCE AGREEMENT

between **Dr. Valentin EnergieSoftware GmbH**

Stralauer Platz 34  
10243 Berlin  
Germany

- in the following referred to as the Provider -

and

Company \_\_\_\_\_  
Address \_\_\_\_\_  
Country \_\_\_\_\_  
Contact Person \_\_\_\_\_  
Customer No. \_\_\_\_\_

- in the following referred to as the Maintenance Customer -

*(Note: Maintenance Customers can only be companies or legal persons under public law or public assets.)*

### § 1 Object of Agreement

The Provider will provide software maintenance for the Maintenance Customer for the following software program/s:

\_\_\_\_\_  
\_\_\_\_\_

*(Note: please enter the exact name of each software program (e.g. T\*SOL®), the program level (e.g. Pro), and the program version, i.e. the first two digits of the program number (e.g. 4.5), as well as the type and quantity of licenses (e.g. two single licenses).  
The contract can only be finalized for current program versions.)*

The subject of the software maintenance is the most recent program version of the software program/s released by the Provider and supplied to the Maintenance Customer.

With the subsequent acquisition of:

- Upgrades i.e. fee-charged program changes to a higher program level (e.g. from Express to Pro) or
- Additional modules, i.e. fee-charged program enhancements that can be purchased in addition to the basic versions

the scope of the Software Maintenance Agreement will be automatically extended accordingly.

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The software maintenance always refers to all of the program levels of the software program named by the Maintenance Customer; the Maintenance Customer must always have full maintenance for all of the named program levels of the software, or terminate the maintenance completely; partial terminations are inadmissible. Additional licenses of the same program level of the software that are purchased at a later stage are automatically included in the existing Agreement at the corresponding fee rate.

## **§ 2 Scope of Maintenance**

- I. The software maintenance shall update the software named in § 1 to the latest released version.
- II. The software maintenance covers:
  - The electronic delivery of updates, i.e. program changes within a program level of the software program to a higher version of the program, where delivery is made by activation: the Provider makes the updates available in a network and notifies the customer of the serial number required for activation.
  - The ability to access new component data, i.e. updated data records for the software program (e.g. solar module, inverter and collector data).
  - Responding to general questions regarding delivery, serial numbers and activation of the software program/s and updates, as well as the ability to access component data.

If there are changes to the legal rules and standards that are of importance to the software program/s referred to in § 1, the Provider is not obligated to provide such updates.

- III. The software maintenance does not cover:
  - the purchase of upgrades or additional modules,
  - the installation of updates, upgrades and new software,
  - The removal of defects to the software programs named in § 1 outside of defect claims in respect of updates and component data according to § 3,
  - training and general as well as special consulting for questions and problems in respect of the use of the software program/s named in § 1.

Upgrades and additional modules as well as the service hotline can be ordered at the list price as part of a separate agreement.

## **§ 3 Rights of Use, Defect Claims, Maintenance Customer's Obligations**

For the contractual services, particularly for the right of use of updates and component data and for the respective defect claims, the general terms and conditions of Dr. Valentin EnergieSoftware GmbH, as of September 2010, apply. These can be found on <http://www.valentin.de>. We would be pleased to send you a copy of these should you wish. The Maintenance Customer will assist the Provider in fulfilling the services contained in the Agreement at their own expense; for example, the Provider should be informed immediately by telephone, or by any another suitable means, of any defects in the updates and component data.

## **§ 4 Maintenance Fees**

- I. The annual maintenance fee is 18% of the current list price for each software program named in § 1 above, plus the legally applicable value added tax (you will find the current price lists on [www.valentin.de](http://www.valentin.de), we would be pleased to send you a copy should you wish). The fee is increased accordingly if upgrades, additional modules or additional licenses are purchased, either immediately or at a later stage.

II. The maintenance fees are due annually in advance, for the first time on conclusion of this Agreement. The maintenance fees are due upon receipt of the invoice and should be transferred to the Provider's bank account within 14 days.

**§ 5 Agreement Period**

- I. The Agreement commences on the day of receipt by the Provider of the Software Maintenance Agreement signed by the Maintenance Customer and is valid in the first instance for one contractual year. Thereafter it is extended for a further contractual year, if it is not terminated with a period of three months to the end of a contractual year by a contracting party.
- II. The right of extraordinary termination remains unaffected. In the case of an extraordinary termination by the Provider, the Provider retains its claim to the portion of the maintenance fee resulting up to the termination and may make an immediately payable claim to liquidated damages equal to 50% of the fee incurred up to the date that the Maintenance Customer could have properly terminated the contract. Proof of lower damages remains reserved for the Maintenance Customer.
- III. Each notice must be given in the written form to be effective. A statement made by e-mail is not sufficient as the written form.
- IV. It is possible to give notice for any of the program levels of a software program listed under § 1 above independently of each other. Notice given for one of the program levels does not affect the validity of the Agreement in respect of the others.

**§ 6 General**

- I. Only the law of the Federal Republic of Germany is valid. The UN Sales Law (CISG) is excluded.
- II. No supplementary agreements have been made. Changes to this Agreement must be made in writing. The annulment of this written form clause also requires the written form.
- III. The exclusive place of jurisdiction and performance is Berlin, Germany.
- IV. The General Terms and Conditions of Dr. Valentin EnergieSoftware GmbH apply (date: September 2010; we would be pleased to send you a copy should you wish).

Berlin,

\_\_\_\_\_

*Date*

\_\_\_\_\_

*Place, Date*

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Dr. Valentin EnergieSoftware GmbH

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Maintenance Customer