

§ 1 Scope of Support Terms and Conditions, Order of Precedence of Regulations

- (1) All of ACROSS Systems GmbH's (hereinafter called 'ACROSS') business relations that are based on the provision of support services regarding standard software developed or programmed by ACROSS, are subject to the following Support Terms and Conditions.
- (2) The latest version of these Support Terms and Conditions can be viewed and printed at ftp://ftp.across.net/legals/support_en.pdf. The latest version of ACROSS' Support Terms and Conditions as of the date of contract apply.
- (3) ACROSS' General Terms and Conditions (T&C), which can be viewed and printed at <http://www.across.net/en/terms-of-trade.aspx>, always apply in conjunction with these Support Terms and Conditions. If these Support Terms and Conditions do not include certain regulations or fail to address a certain issue in full, ACROSS' T&C apply. The latest version of ACROSS' T&C as of the date of contract apply.
- (4) Any terms and regulations of the software license buyer (hereinafter called 'Purchasing Partner') that diverge, are hereby expressly rejected; other terms and conditions shall neither become the subject matter of this contract, even if ACROSS fails to expressly reject them.
- (5) All agreements between ACROSS and the Purchasing Partner shall apply in the following order of precedence, with respect to which the respective former document(s) shall take precedence over that/those listed subsequently:
 - * Individual modifications and/or supplements to contractual agreements;
 - * Individual-contractual agreements and especially ACROSS' offer;
 - * ACROSS' special conditions (e.g. support, update, and license conditions (End User License Agreement - (EULA)));
 - * ACROSS' General Terms and Conditions;
 - * System requirements defined by ACROSS;
 - * Standards / DIN standards;
 - * Legal rules.

§ 2 Fees, Invoicing Period, Due Dates

The fees due for the support services provided by ACROSS depend on the particular software purchased by Purchasing Partner. All fees are based on the non-discounted list price of the purchased software as advertised. A limitation to individual licenses or program parts is not possible.

- (1) The annual fee amounts to 9% of the list price valid at the time of purchase. Additional licenses purchased after taking out a support agreement are subject to an additional fee.
- (2) ACROSS also offers its software as ASP and SaaS solutions (Application Service Providing and Software as a Service respectively). Unless agreed otherwise, the monthly fee for SaaS solution already includes the support service fee.
- (3) The prices as of the date of order apply. These prices are subject to VAT at the prevailing rate, which is 19% at present, or as indicated in the provisions of the respective state law. There are no discounts.
- (4) The billing period shall constitute one (1) year and the fee is payable in advance. Fees are payable by transfer onto the account designated by ACROSS within 14 days of invoice receipt for the corresponding period.
- (5) ACROSS has the right to alter the fees at the end of the period of validity, provided it announces the alteration at least three months before the end of the period of validity. In this case, the Purchasing Partner shall be entitled to terminate the agreement by giving one month notice at the end of the validity period.
- (6) All offers and advertisements clearly state the fees and how they are calculated.
- (7) All payment particulars are governed by ACROSS' T&C which can be viewed and printed at <http://www.across.net/en/terms-of-trade.aspx>.

§ 3 Scope of Support Services

Support services in terms of these Terms and Conditions comprise only those kinds of services ACROSS does not provide under statutory warranty law. These latter services are always provided free of charge by ACROSS to the Purchasing Partner.

- (1) ACROSS' support services comprise the provision of guidance, help and advice regarding the use and operation of ACROSS' software by e-mail and, in exceptional cases, over the phone.
- (2) ACROSS' support services are provided only with reference to ACROSS product licenses purchased by Purchasing Partner. Third-party products (e.g., trade products designated as such and/or products from other vendors) are excluded from support services under this agreement. Where applicable, support services for such products can be obtained from their relevant manufacturers.
- (3) Across reserves the right to delegate support services to authorized third parties who shall perform the due services on behalf of Across.
- (4) Support services are provided only for those Purchasing Partner locations to which the software license purchased by Purchasing Partner applies and for the country and language version used at those locations. Any support service performed at other business locations, or for other country or language versions of the software require inclusion in the scope of support and shall be additionally remunerated. It is not possible to limit the support to single licenses within an installation or to single parts of the program.
- (5) ACROSS reserves the right to limit support services to technical employees previously named by the Purchasing Partner ("named support").
- (6) ACROSS reserves the right to refrain from providing support other than referring to existing documents or sources of information (e.g. existing documentation, help files/documents, FAQs and other help resources) in response to support queries that clearly relate to information that can be obtained from other ACROSS-provided resources (e.g. such as frequent software operating mistakes).
- (7) The support service is available in the languages German or English on request.
- (8) ACROSS' support services do not include the provision of support for non-ACROSS products and for ACROSS development licenses (SDK). ACROSS' support services exclude support services relating to any ACROSS product API interfaces. In these cases, separate agreements can be made between the Purchasing Partner and ACROSS.
- (9) Purchasing Partners with valid support agreements can obtain support from the ACROSS customer department by e-mailing support@across.net. In the event of operational stand-still and in exceptional situations, the support desk can be contacted by phone under **+49 (0)7248 925 425**.
- (10) The ACROSS support department is available from Monday to Friday from 9 a.m. to 4 p.m. (Central European Time).
- (11) In the case of a production breakdown, ACROSS (or authorized agents) shall give a qualified answer to Purchasing Partner queries as soon as possible, but definitely within a period of 48 hours (not including weekends and public holidays) of the query being registered. In general, the query must be made in writing (text) and contain an exact description of the error. Other Purchasing Partner queries shall be answered as soon as possible and at the latest within 5 working days of being received.
- (12) All support queries must be as concise as possible and clearly state the kind of support required.

§ 4 Services that are not included

The following services are not included in these Support Terms and Conditions and shall be separately invoiced according to an individual quotation, insofar as they are not included in the number of hours ordered as part of a standard quota:

- * Consultations, provision of training or instruction to Purchasing Partner employees;
- * Troubleshooting on-site;
- * Repair of secondary failures or damage, irrespective of cause;
- * Correction of program errors not caused by ACROSS;
- * Individual customization/programming that improves or extends the standard range of the software.

§ 5 Limitations, Obligations to Cooperate

- (1) Purchasing Partner must ensure that ACROSS' minimum environment and hardware and software requirements - as specified - are being met and are adhered to. ACROSS only provides its software support services provided it is and remains compatible with Purchasing Partner's other programs, system software and hardware. Purchasing Partner must contact ACROSS before installing software or hardware other than specified by ACROSS or as recommended in the relevant ACROSS software documentation.
- (2) ACROSS is only obliged to remedy errors reproducible on the basis of the system requirements recommended for each particular program version (particularly with regard to hardware, database and operating systems).
- (3) At the discretion of ACROSS, technical solutions regarding the program shall be implemented either through the provision of data media, via download from a website or by giving instructions to Purchasing Partner employees on how to enter changes to the program or to program parameters.
- (4) Releases and program versions shall continue to be supported for a minimum of one year after the subsequent program version has become available. Older versions of the program shall be discontinued at regular intervals and the information regarding discontinuation shall be publicized on the following website: www.across.net. Discontinued versions shall no longer be supported by ACROSS.
- (5) The Purchasing Partner shall fulfill the technical requirements to enable ACROSS, when necessary, to obtain remote access (e.g. WinVNC) to the servers or computers in question in order to carry out remote maintenance.

§ 6 Validity Period

Support Service Agreements are purchased respectively for a period of 12 months ('validity period').

- (1) Upon expiry of the 12-month term, the validity period shall automatically be extended by another 12 months, subject to the same conditions, unless the agreement is terminated in writing one month prior to the end of the term. ACROSS reserves the right to change the type and scope of any support conditions, and any other special additional agreements, with respect to their subsequent validity period by giving three months notice prior to their expiry.
- (2) If Purchasing Partner receives ACROSS' support services as part of an ASP/SaaS/Hosted service package, the support service agreement's validity period expires simultaneously with that of the hosting service, and will not require separate notice.
- (3) These terms and conditions do not affect the right to termination without prior notice for good cause. Both of the parties to this agreement are entitled to extraordinary termination at any time for important reasons. Important reasons with respect to ACROSS comprise in particular:
 - * Approval of an application for the opening of insolvency proceedings on the Purchasing Partner's assets by the insolvency court;
 - * The opening of insolvency proceedings on the Purchasing Partner's assets or rejection of opening insolvency proceedings for insufficiency of assets;
 - * Purchasing Partner's failure to meet his payment obligations in full or part during two consecutive calendar months, or more than twice during one agreement year, or following expiry of an additional reasonable period of grace (usually ten (10) days).
- (4) The Purchasing Partner shall not be entitled to extraordinary termination of this agreement without notice if he is prevented from using or deprived the use of the subject of the contract in whole or part as stipulated by agreement in due time (§543 Paragraph 2, Clause 1 BGB (German Civil Code)).
- (5) Should ACROSS terminate the agreement for an important reason that falls under the Purchasing Partner's responsibility, Purchasing Partner shall have to reimburse ACROSS all of the costs, losses, expenses or damage generated as a result of this early termination. The above reimbursement must be paid within seven (7) days of the agreement's termination date and applies irrespective of any other legal or contractual claims.

§ 7 Changes to these Support Terms and Conditions

ACROSS reserves the right to change these Support Terms and Conditions. As part of its recurring obligations, ACROSS will inform the Purchasing Partner of any changes and notify him of the – highlighted – changed provisions. The Purchasing Partner will be deemed to have silently accepted the changes from which time the contractual relationship will be deemed subject to the new version, if he does not advise within six weeks after being notified that he does not accept the new version. In all other cases, the contractual relationship will be continued subject to the unchanged version of the Support Terms and Conditions. ACROSS assumes the duty to specifically inform the Purchasing Partner regarding the desired changes and the significance that they have as to his conduct.

§ 8 Severability Clause and Binding Language Version

- (1) The remaining provisions will remain unaffected if one of the provisions included in these Support Terms and Conditions is deemed or becomes invalid, or should a provision be found to contain a void.
- (2) Even if these Support Terms and Conditions are made available in different language versions, only the German version is legally binding.