# S-2e

## SOFiSTiK's Support Terms

### 1. General

1.1 SOFiSTiK AG ("**SOFiSTiK**") develops and markets specialist software for use in the construction industry.

1.2 The following terms apply to all Software Service Agreements concerning the use of support services for the software created by SOFiSTiK and supplied to the customer (the "Software"). SOFiSTiK's License Terms (current as of: 01-07-2015) shall apply where mentioned in these Support Terms.

1.3 Any provisions deviating from, or conflicting with, these Support Terms, in addition to any standard terms and conditions used by the customer, shall not form part of any contract concluded between the customer and SOFiSTiK, unless SOFiSTiK expressly agrees to such terms.

### 2. Support Services

2.1 SOFiSTiK shall provide the following support services:

SOFiSTiK shall advise the customer in response to individual questions relating to the installation and utilisation of the Software. For support purposes, SOFiSTiK shall be available to the customer at the following times on the following days (with the exception of statutory holidays):

| | | | | |
|---|---|---|---|---|
| **Monday to Thursday** | between | **09:00** | and | **12:00** |
| | and between | **14:00** | and | **17:00** |
| **Friday** | between | **09:00** | and | **12:00** |
| | and between | **14:00** | and | **16:00** |

The times mentioned above refer to Central European Time (CET).

2.2 Support shall be given by email.

2.3 The advice given by SOFiSTiK shall be restricted to replying to individual questions. General explanations concerning the operation of the Software (individual training) do not form part of the service provided.

2.4 The support shall be restricted to the current versions of the Software. The current versions of the Software are the versions of the Software which are available to download from SOFiSTiK's update server on the day on which the individual question is received by SOFiSTiK.

### 3. Customer's Obligation to Cooperate

3.1 The customer shall assist SOFiSTiK, to a reasonable extent, in the fulfilment of SOFiSTiK's contractual obligations.

3.2 In the event of the customer encountering problems in the installation or utilisation of the Software, the customer shall, to the best of its abilities, assist SOFiSTiK in the analysis of the problem, in particular by monitoring any symptoms as well as providing detailed observations relating to the hardware and system environment and describing the problem to SOFiSTiK by providing the appropriate information.

3.3 The customer's obligation to cooperate with SOFiSTiK as mentioned above constitutes a material contractual obligation.

## 4. Service Fee; Adjustment of the Service Fee

4.1 The customer shall pay the monthly service fee agreed in the Software Service Agreement for the support services specified in section 2 of these Support Terms.

4.2 Expenses incurred by SOFiSTiK in connection with the installation of the Software on another computer or operating system, in the provision of additional documentation, in examining the accuracy of calculations conducted by the customer using the Software, as well as any travel costs and other expenses which may arise in association with such actions, are not included in the service fee. These expenses are to be borne by the customer and shall be paid for separately.

4.3 If SOFiSTiK raises or reduces the usual license fees charged for the Software in general, SOFiSTiK shall be entitled to raise or reduce the monthly license fee payable by the customer following a notice period of three months to the end of a calendar quarter. The customer shall remain entitled to terminate the Software Service Agreement after receiving notice of the adjustment of fees by giving the necessary notice of termination in accordance with section 7.2 of these Support Terms.

4.4 Unless agreed otherwise, all prices relating to SOFiSTiK's support services are exclusive of value added tax (VAT).

## 5. Warranty

5.1 Unless agreed otherwise, SOFiSTiK shall be liable for defects in the supplied support services in accordance with the statutory provisions concerning service contracts (Section 611 et seq. of the German Civil Code)

5.2 In the event that a defect is not remedied within a reasonable amount of time, the customer shall be entitled to grant SOFiSTiK a reasonable and fixed period of time within which to remedy the defect. If the defect is not remedied within the fixed period, the customer shall be entitled either to a reduction in the service fee or to terminate the Software Service Agreement without notice.

5.3 All claims relating to defects shall be subject to a limitation period of one year (the warranty period).

## 6. Liability

With regard to the liability of SOFiSTiK, the terms set forth under section 13 of SOFiSTiK's License Terms shall apply accordingly.

## 7. Duration of the Contract; Termination

7.1 Unless otherwise agreed between the parties the obligation to provide the support services shall commence with the conclusion of the relevant Software Service Agreement and shall continue for an indefinite time. In case the parties agreed on a limited contractual term (Limited Term), the Update Services shall terminate automatically at the end of the limited contractual period. The right to ordinary termination of the Support Services is excluded for both parties.

7.2 In case the contract is concluded for an indefinite time either party may terminate the Software Service Agreement by giving the relevant notice. For the purposes of this section, the relevant notice period to be provided by the customer shall be six weeks to the end of a calendar quarter; and the relevant notice period to be provided by SOFiSTiK shall be three months to the end of a calendar quarter. In case the Software Service Agreement specifies a minimum duration of the contract (Minimum Term), the termination may not take place prior to the expiry of such a period.

7.3 Each party's right to terminate the Software Service Agreement for cause without notice for a compelling reason remains unaffected. In particular, SOFiSTiK shall be entitled to terminate the agreement for cause without notice for a compelling reason if the customer is in sustained breach of its obligation to cooperate in accordance with section 3 of these Support Terms and to require SOFiSTiK's continued adherence to the contract would be unreasonable. The same entitlement shall arise in the event that the customer fails to pay the service fee in accordance with section 4 of these Support Terms and remains in default of payment following two reminders.

7.4 In case the customer makes use of the support services for Software which is licensed to him on a temporary basis (software rental) in accordance with section 4.2 of SOFiSTiK's License Terms, the Software Service Agreement shall only be terminated together with the License Agreement concerning the relevant Software. The provisions of section 5 of SOFiSTiK's License Terms apply to the termination of the Software License Agreement.

7.5 In the event that several software products form the subject matter of the Software Service Agreement, either party may terminate the Software Service Agreement to the extent that it relates to an individual software product (partial termination).

7.6 Any notice of termination must be in writing.

**8. Miscellaneous**

8.1 If the customer is dealing as a business, the legal venue for all disputes arising from or in connection with these Support Terms is Munich/Germany.

8.2 If the customer is dealing as a business, the place of performance for all duties and obligations arising from contracts between SOFiSTiK and the customer shall be the registered office of SOFiSTiK.

8.3 Agreements between SOFiSTiK and the customer shall be exclusively governed by German law, the UN Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

8.4 If any provision of these Support Terms is, or later becomes, invalid, the validity of the remaining provisions shall remain unaffected.