

Software Maintenance Service Level

for **smart FIX**

This Appendix forms an integral part of the Sale, Service, Sale and Service, or Lease and Service Contract and/or Software Licence and Maintenance Contract and/or Software Maintenance Contract (hereinafter referred to in general as the “**individual contract**”) concluded between GRAPHAX AG (hereinafter referred to as “**GRAPHAX**”) and the CUSTOMER.

1. Purpose and content

The CUSTOMER may agree the provision by GRAPHAX of special maintenance and support services for the **smart FIX software** listed in the individual contract (hereinafter also referred to in general as “**smart FIX software maintenance**”).

This Appendix sets out the contractually agreed software maintenance and support services to be provided by GRAPHAX based on the CUSTOMER's chosen service level for the smart FIX software (in accordance with Sections 3 and 4 below).

If a fault arises (in accordance with the definition in Section 2 below), GRAPHAX shall provide the maintenance and support services based on the provisions below.

2. Faults

A **fault** requiring intervention by GRAPHAX under the smart FIX software maintenance terms arises if all or part of the smart FIX software becomes incapable of use due to a software error or incorrect setting or configuration of the smart FIX software, or if a smart FIX software fault causes any affected GRAPHAX devices (hereinafter referred to as the “**hardware**”) to be incapable of use, or only capable of limited use. Faults are classified by Graphax as Critical, Major and Non-Classified Incidents and processed in accordance with the service level defined below.

- A **Critical Incident** is defined as an incident during which more than 50% of users are no longer able to use the product, data in a database caused by a malfunction is modified, or if another business critical workflow specified in the solution description can no longer be used, or if there is suspicion that confidential information has been made accessible to unauthorised persons.
- A **Major Incident** is defined as a fault that concerns several users or as the interruption or unavailability of a core functionality provided by the software.
- A **Non-Classified Incident** describes a fault that is not identified as Critical or Major.

3. Service level for the smart FIX software

In the individual contract for software (= Software Licence and Maintenance Contract or Software Maintenance Contract) for the smart FIX software, GRAPHAX and the CUSTOMER have agreed a service level (hereinafter referred to as the “**smart FIX Service Level**”). In these cases, the service level that applies to the smart FIX software is the same as that agreed in the Software Licence and Maintenance Contract or Software Maintenance Contract (Hardware Service Level ≠ smart FIX Service Level).

GRAPHAX provides the selected smart FIX Service Level only in the event of a mutually signed solution description or acceptance report.

The relevant applicable hours of availability, reaction times and intervention times for the selected smart FIX Service Level, and the definition of terms, are specified in Section 4 below.

4. Definition of the smart FIX Service Level / Definition of Terms

4.1 Definition of the smart FIX Service Level

Fault	Hours of availability	Reaction time	Intervention time
Critical Incidents	Hours of availability: Monday – Friday, from 07.30 - 12.00 and 13.00 - 17.00 hrs. This does not include statutory public holidays at the location of the software.	2 hours	Next working day at the latest
Major Incidents		4 hours	Within the next 3 working days
Non Classified Incidents		Next working day	At the latest when Bug Fix is available

4.2 Definition of terms

Hours of availability: The CUSTOMER may report faults during office hours, Monday – Friday, from 07.30 - 12.00 and 13.00 - 17.00 hrs., except for statutory public holidays at the location where the software is installed. Faults must be reported by telephone to the GRAPHAX Service Centre; the telephone number is shown on a sticker on the device. A fault notification is deemed to have been received by GRAPHAX when a service representative has accepted the telephone call.

Reaction time: Return call by a GRAPHAX service representative following receipt of a fault notification, to offer telephone troubleshooting/assistance and/or to arrange an appointment.

Intervention time: The intervention time is the period between the return call by the service representative and the time at which GRAPHAX provides “On-system Support”. This support may be remote or on-site.

5. smart FIX software maintenance

5.1 General

The CUSTOMER is aware that the smart FIX software, in respect of which maintenance and support services are provided, is software produced by a third party (hereinafter referred to as the “**software manufacturer**”). Any warranties and guarantees by the software manufacturer regarding the functionality of the smart FIX software are governed by the contract between the CUSTOMER and the software manufacturer. GRAPHAX offers no warranty and does not guarantee the fault-free functionality of the smart FIX software and does not accept liability beyond the maintenance and support services listed below for the rectification of faults with the smart FIX software.

5.2 Maintenance and support services included

By agreeing to maintenance of the smart FIX software in the individual contract, GRAPHAX undertakes solely to carry out the maintenance and support services to the smart FIX software listed in this Subsection. The price for the smart FIX software maintenance is agreed in the individual contract.

The full range of maintenance and support services provided by GRAPHAX in the case of a fault as covered by the agreed smart FIX Service Level are:

- The supply of patches or bug fixes, on physical media or online, for the rectification of program errors;
- The supply of service packs, on physical media or online, for the extended rectification of errors;
- Product-related maintenance and support services, provided the fault was not caused by the CUSTOMER:
 - The analysis and isolation of problems (GRAPHAX checks whether there is a fault and whether this relates to hardware or software)
 - Action for the rectification of faults (GRAPHAX attempts to rectify the fault)
 - Escalation management to the software manufacturer (if GRAPHAX is unable to rectify the fault, GRAPHAX will coordinate with the software manufacturer and organise the rectification of the fault by the software manufacturer, or clarify the situation with the software manufacturer on behalf of the CUSTOMER, as necessary)

The full range of maintenance and support services provided by GRAPHAX regardless of the existence of a fault as covered by the agreed smart FIX Service Level are:

- The supply of minor-release updates (e.g. from Version 2.4 to 2.5), on physical media or online;
- The supply of major-release upgrades (e.g. from Version 2.4 to 3.0), on physical media or online
- The provision of updates to the software documentation in electronic format.

5.3 Maintenance and support services not included

The maintenance and support services not included in the GRAPHAX obligations relating to the smart FIX software maintenance, and therefore not included in the price for this software maintenance, include:

- Maintenance and support services that are necessary because the CUSTOMER has failed to observe any of the manufacturer's instructions or recommendations when installing or using the software (e.g. modification of the IT infrastructure in contravention of the software manufacturer's specifications) or because the CUSTOMER has caused the fault;
- Maintenance and support services that are necessary because of an intervention in the software program code or as a result of changes to the system settings;
- The programming and implementation of new software functions at the CUSTOMER's request;
- The implementation or checking of backups;
- End user support on the CUSTOMER's premises;
- Configuration support;
- Support for new installations;
- The installation of updates and upgrades;
- Supply and advice services;
- Instruction and training.

6. General provisions

- a. The CUSTOMER shall be invoiced separately for answering queries over the telephone that are not connected with a fault or not connected with included services (see Section 2 and Subsection 5.3). The CUSTOMER is therefore expressly recommended to consult the software data sheet or the software manufacturer's instructions before contacting the GRAPHAX Service Centre.
- b. The CUSTOMER is obliged to nominate and notify GRAPHAX of two in-house competent contacts, who will be available in the case of faults for the exchange of the necessary information between the CUSTOMER and GRAPHAX, and who are authorised to notify GRAPHAX of defects and request maintenance and support services from GRAPHAX.
- c. The CUSTOMER is obliged to describe any faults that occur truthfully, giving the correct details, and to make every reasonable effort to assist the Service Centre representative with giving troubleshooting and fault rectification instructions over the telephone (e.g. by stating the error code displayed on the device).
- d. The cost of unnecessary interventions by GRAPHAX for the provision of maintenance and support services based on incorrect information from the CUSTOMER, or for other reasons attributable to the CUSTOMER, shall be invoiced separately plus travelling expenses at cost.
- e. GRAPHAX does not guarantee to the CUSTOMER a specific period within which a fault will be rectified by GRAPHAX (repair time).
- f. GRAPHAX may provide the maintenance and support services remotely or on-site. If the CUSTOMER refuses remote intervention by GRAPHAX, GRAPHAX shall be entitled to invoice the CUSTOMER with the additional expenditure incurred by providing on-site support.
- g. Maintenance and support services outside the specified service hours, agreed with the CUSTOMER in individual cases, shall be invoiced to the CUSTOMER separately (labour and travel expenses).
- h. The CUSTOMER does not have a claim to replacements during the repair period.
- i. Unless specified to the contrary, maintenance and support services shall only be provided at the agreed location for the equipment covered by the service agreement, as shown in the individual contract.
- j. Where the CUSTOMER agrees to the provision of maintenance and support services, he also agrees that these services will be provided only on a whole-installation basis (e.g. for all integrated devices, for all users, for all client and server facilities, etc.).