

# General Terms and Conditions of Maintenance and Service



## 1. Scope of application, carrying out works

**a.** These conditions shall apply for all works carried out by our service personnel. Any different, conflicting or supplementary general conditions of business shall not become an element of the contract, even if they are known, unless we have expressly consented in writing to their applicability.

**b.** Service works shall be carried out by our company's service staff or by qualified third parties engaged by us in our name.

If the safety of our staff is not guaranteed or success of the works to be carried out is not expected, we reserve the right not to accept this contract or to terminate it.

## 2. Cooperation of the client

The client must support the service personnel at their own cost as far as possible to carry out the works. The client must take necessary measures to protect persons and objects at the place of work. The client must provide technical assistance at their own expense. This relates to the following in particular:

- Provision of necessary assistants. Assistants must comply with instructions from the service personnel. We accept no liability for any errors made by assistants unless they are caused by incorrect instructions from our service personnel;
- Punctual termination of all necessary construction and installation works;
- Provision of heating, lighting, power and water including necessary connections;
- Provision of necessary equipment and heavy tools;
- Provision of appropriate washing facilities as well as lockable spaces for keeping tools and clothing of service personnel;
- Transport of equipment to the installation site, protection of all parts and materials against harmful influences of any type.

The client's technical assistance must guarantee that works can commence immediately after arrival of the service personnel and can be carried out without delay until the time of acceptance by the client. Any delay due to inadequate cooperation by the client shall be at the expense of the client.

**If works are carried out at our place of business, the client must make sure that the supplied equipment is delivered to us free of any chemical residues or other contamination. If this requirement is not complied with, we shall carry out the cleaning works ourselves and charge our customary hourly rates in accordance with Section 4 of these conditions.**

## 3. Working time

Our service works are normally carried out from Monday to Friday between 8:00 a.m. and 4:00 p.m. Normal working time is 8 hours/day. From the start of the 9th hour, overtime allowances shall be charged.

## 4. Prices and surcharges

Insofar as nothing to the contrary is expressly regulated, the prices stated below are net amounts per hour. The applicable VAT for these prices shall be charged additionally.

### a. Travel, preparation and waiting times

These shall be charged at €82.00/h with surcharges in accordance with c) below.

### b. Hourly rate

- Service technician EURO 82.00/h
- Engineers and software specialists: billing by agreement

### c. Surcharges for overtime hours and work on Saturdays, Sundays and public holidays

- Surcharge for the first two overtime hours per day +25%
- Surcharge for further overtime hours +50%
- Surcharge for work on Saturdays
- Hourly rate for normal working times +50%
- Surcharge for overtime hours on Saturdays +100%

cc) Surcharge for work on Sundays and public holidays Hourly rate for normal working times +75% Surcharge for overtime hours on Sundays and public holidays +150%

**d.** Where components are exchanged as part of maintenance and service work, the rights of the relevant purchase agreement shall apply for the acquisition of these components. Our General Sales and Delivery Conditions shall apply in this respect.

Official public holidays in Baden-Württemberg and in the federal state in which the works are carried out count as public holidays.

## 5. Processing fee / other costs

The amounts stated are net amounts on which the applicable VAT is additionally charged.

### a. Processing fee

**For preparation of a repair charges estimation we shall charge, in respect of every order for maintenance or repair, a processing fee which applies for every unit to be maintained and repaired. The processing fee shall be:**

- for cards and assemblies EURO 120.00 each
- for devices and cabinets EURO 230.00 each

### b. Allowance

In the case of absence of our service personnel from our headquarters above:

- 8 up to 24 hours: EURO 12.00
- 24 hours: EURO 24.00 per day

For works abroad, billing shall be based on separate agreement. Insofar as no such agreement is made, the foreign flat rate shall be charged in accordance with the Reisekostenverordnung (travel cost regulation) LStR 9.6 (3), 9.7 (3).

### c. Overnight costs

Overnight costs shall be charged at the amount actually spent.

### d. Travel costs

Service personnel travel costs for outward and return journey including costs of local transport shall be charged. Normally, 1st-class rail costs shall be charged for engineers and 2nd-class rail costs for other personnel, plus surcharges.

Where motor vehicles are used, EURO 0.72 per driven kilometer shall be charged plus VAT.

We reserve the right to choose the relevant means of transport.

### e. Ancillary expenses

In respect of necessary telephone calls etc., the actual costs incurred shall be charged plus VAT.

## 6. Work certificate

The working times of the service personnel must be certified by the customer in writing with a signature, irrespective of whether this relates to works to be paid for by the customer or guarantee/warranty works. If the customer is not willing to comply with this requirement, billing shall be based on the working times recorded by our service personnel. The customer shall not then be entitled to dispute these working times.

## 7. Terms of payment

Our invoices are payable immediately upon receipt without any deduction. This also applies to partial and interim invoices.

## 8. Offsetting, right of retention

**a.** Offsetting with customer's counterclaims shall be permissible only insofar as they are acknowledged by us as existing and due or their validity has been confirmed by a final court decision.

**b.** The customer shall only be entitled to exercise a right of retention insofar as their counterclaim is based on the same contractual relationship.

## 9. Restriction of liability, burden of proof

The following restrictions of liability shall apply even in the case of breaches of duty by our legal representatives or vicarious agents:

**a.** The customer shall bear the burden of proof that the breach of duty is on our side and that we are responsible for it.

**b.** We shall not be liable in the case of breaches of non-essential contractual duties due to minor negligence.

Otherwise, in the case of minor negligence, our liability shall be limited to the direct loss or damage that is foreseeable and typical for the contract in accordance with the type of service; in particular, we shall not be liable for lost profit or other financial loss.

**c.** We shall not be liable in the case of breaches of non-essential contractual duties due to ordinary negligence.

Otherwise, in the case of ordinary negligence, our liability shall be limited to the direct loss or damage that is foreseeable and typical for the contract in accordance with the type of service; in particular, we shall not be liable for lost profit or other financial loss.

**d.** The above liability exclusions/liability restrictions shall not apply to loss or damage due to injury to life, body or health caused by a culpable breach of duty by us or our legal representatives or vicarious agents.

They shall also not apply to other loss or damage due to an intentional or grossly negligent breach of duty by us or an intentional or grossly negligent breach of duty by one of our legal representatives or vicarious agents.

The above liability exclusions/liability restrictions shall likewise not apply in the case of assumption of a guarantee and in the absence of warranted qualities. However, compensation claims may be asserted in these cases only insofar as the warranted quality/guarantee covers the risk of consequential loss or damage and the loss or damage that has actually occurred is due to the absence of the quality or circumstance covered by the guarantee.

Compensation claims under the Produkthaftungsgesetz (Product Liability Act) shall likewise remain unaffected.

## 10. Liability for defects and defect rights

**a.** Where we perform work, and not a service, or where the performance pertains to a purchase agreement, any warranty rights shall expire by limitation in 12 months. In the case of work performed, the limitation period shall begin upon acceptance of the work being performed and in the case of services under a purchase agreement, it shall begin upon delivery of the object of purchase.

**b.** In the cases set out in a., **section §10 of our General Sales and Delivery Conditions shall also apply.**

**c.** For warranty-related claims for damages, the provisions of section 10 below shall also apply, in particular those restricting the limitation of liability in section 10 d.

## 11. Partial invalidity

If one or more provisions in these general conditions of business is/are or becomes/become ineffective, this shall not affect the effectiveness of the other provisions. The fully or partially ineffective regulation must be replaced by a regulation the economic achievement of which reflects the ineffective regulation as closely as possible. The same shall apply in the case of a gap in the regulations.

## 12. Place of jurisdiction, applicable law

**a.** The exclusive place of jurisdiction for all disputes from contracts concluded with us shall be Freiburg im Breisgau, Germany. We shall nevertheless be entitled to bring an action against the customer at the court that has jurisdiction at their place of residence or establishment.

**b.** Only German law shall apply, with exclusion of regulations relating to conflicts of laws.