

Terms and conditions for the provision of service engineers and other specialized personnel

The above personnel shall be supplied by us in accordance with the following terms and conditions only:

General matters

1. We reserve the right to select the personnel; the selection shall be done with due care and diligence. We bear liability, under exclusion of all other claims against us, only for proper assembly, repair, overhaul etc. of systems and parts supplied by us, in such a manner that we, at our discretion, modify or re-execute the assembly, repair, etc. We shall not accept any liability for any damage that may arise either directly or indirectly in connection with trial or test runs, nor shall we accept any liability for damage caused by interference on the part of the customer/operator.

Defects covered by warranty may not be remedied by other persons than ourselves unless we have given our explicit consent. Our liability to pay damages is limited to those costs that would be incurred if the necessary reworking is carried out in our own workshop, however, without expenses for transportation of replacement parts, and shall exclude costs for labour, travel, food and accommodation for our field service staff.

We shall not accept responsibility for any damage caused by any modification or repair work carried out improperly by the customer or by third parties without our prior approval.

Any defects discovered must be notified to us without delay. Our service engineers are not authorised to receive claims or declarations of any kind, or to make any declarations of intent. The right of the customer to lodge claims for warranty defects shall terminate latest upon expiry of the warranty period for the product referred to the main contract.

If, contrary to expectations, any reworking becomes necessary due to work defects caused by one of our personnel, we must be notified in writing without delay. Our liability in this regard shall end six weeks after the original work has been completed. In such cases, we shall perform the reworking provided that the customer provides us the necessary time and opportunity for such rework and provides the necessary technical assistance to the extent required and at its own expense. If the reworking costs exceed the amount charged for deploying our own personnel, the excess amount shall be borne by the customer.

No claims may be lodged against us if we are not notified of the complaint in time and in writing, or if the repairs are carried out without our authorisation, or if we are not granted the necessary time and opportunity for rework. Claims of whatever nature relating to breakdowns resulting from reworking, in particular for compensation for direct or indirect damages, for diminution, for compensation in respect of consequential damages, and claims to reimbursement of transport, assembly and dismantling costs are expressly excluded.

2. The customer shall grant us, at no charge, the necessary time, opportunity and assistance necessary to carry out any modifications and repairs we deem necessary as well as for supplying any replacement parts required, and shall provide us at our request with the complained parts at his own expense to the places we specify. If the customer fails to honour his responsibilities, we shall be released from our warranty obligations.

The delivery and warranty terms agreed upon for the original scope of supply shall also apply accordingly to any replacement parts, reworking, etc., with the exception that no compensation for delay shall be payable in any event, and any liability shall only exist until the end of the liability period for the original scope supply.

Any parts replaced are and shall remain our property and shall be transported to our address by the customer at no charge.

The customer shall have no additional rights and claims against us other than those specified in the subject terms and conditions, and specifically no claims for rescission, diminution or compensation for damages that have not occurred to the scope of supply.

If used parts are wholly or partially overhauled by us per customer's instruction, or if certain undertakings as of qualities have been granted by us, our warranty shall be limited under exclusion of all further claims only to those parts overhauled by us per customer's instruction and to the undertakings as of qualities, but not to claims which are not lodged after one week after the part was delivered to the location specified by the customer – at the latest after four weeks have expired since the transfer of risk.

The customer shall accept or provide, at its own expense:

- a) assistant teams, skilled workers, technical aids, supplies, tools and auxiliary items such as hydraulic oil, compressed air, power, light, etc. in the numbers or quantities deemed by us or our personnel to be necessary,
- b) services for unloading of the transport vehicles and transportation of the parts from the unloading site to the destination.

3. The customer shall bear the transport risk in respect of any supplied parts, tools, etc. associated with the work being performed. Any damage or injury occurring to us or our personnel as a result of fire, loss, theft, etc. of items shall be borne by the customer. Before the date for installation, repair, etc., the installation/repair site must be prepared by the customer in such a way that work can begin immediately without risk to human life or assets and that the work can be carried out without interruption. Waiting time and travelling that arise or prove necessary due to premature departure of our personnel or due to a work interruption not caused by ourselves shall be charged as normal working hours and/or travel.

4. The usual location of our personnel shall be deemed the starting point and destination of return travel with regards to payment of travel expenses (travelling hours and travel expenses). If our personnel commences a journey from a different location with our consent, said location shall be deemed the starting point, with the destination being, at our discretion, either the location of our head office or the location from which the actual journey commenced. If inspection tours are made in a specific region, we shall charge the travel expenses proportionally.

5. The supplier shall ensure that his personnel, upon completion of work, present to the customer or his authorised representative for checking a computation of hours worked, spare parts required, etc., and that a copy of said computation is left with the customer or his authorised representative. By signing said computation, the customer or his authorised representative shall confirm the correctness of the calculation as binding for the final invoice. If the signature is not provided, regardless for what reason, then complaints can only be acknowledged if they are made in writing immediately after the supplier's personnel has departed.

The customer shall be obliged to the aforementioned duties even if, in specific cases, the work is carried out at our own expense.

6. Our personnel shall report to the customer immediately on arrival, if the time of day permits.

7. Our invoices for the provision of service engineers and other specialised personnel are payable without deductions immediately upon receipt. For late payments our standard surcharges shall be applied.

Final provisions

Our rates and conditions for the provision of service engineers and other specialised personnel are deemed to be accepted by the customer even if no written order or confirmation of order has been issued.

The place of performance and exclusive place of jurisdiction for all disputes arising from the provision of service engineers and other specialised personnel is the registered address of our company.

Non-severability

Should any of the provisions of this Agreement be or become invalid or void, this shall have no effect on the validity of the remaining provisions. The parties shall replace the invalid provision by a provision which comes closest to the intended purpose of the Agreement.