

# General terms and conditions of installation

## I. General

- These general terms and conditions of installation, repair and other contract work (hereinafter GTCI) shall apply, unless the contracting parties have agreed otherwise in writing, to all installation services and inspection, repair, overhaul, modification and other contract work between MABEG Systems GmbH (referred hereinafter as 'MABEG') and the customer (referred hereinafter as the 'Orderer') insofar as the Orderer is an entrepreneur (Section 14 of the German Civil Code (BGB)), a public law entity or a special fund under public law in accordance with Section 310 (1) BGB.
- These GTCI shall apply exclusively. Conflicting or deviating terms and conditions of the Orderer shall not become part of the contract either due to unreserved acceptance of the order or due to failure to expressly object to them. They shall apply equally if the Orderer receives the services from MABEG or if the Orderer provides the services itself.
- These GTCI shall also apply to all future transactions with the Orderer, even if they are not separately agreed again.

## II. Offer and contract completion

- All offers and quotations are non-binding.
- Information provided by MABEG concerning the object of the services (e.g. technical documents, weights, dimensions, operating costs etc.) are merely descriptive in character and shall only be binding if this is expressly stated.
- The legal relationships between MABEG and the Orderer shall be governed solely by the contract concluded in writing, including these GTCI and supplemented by the GTCD (general terms and conditions of delivery). Verbal assurances given prior to the conclusion of the contract shall not be legally binding and shall be replaced by the written contract unless expressly agreed otherwise between the contracting parties in each case.
- Additions and amendments to the agreements concluded, including to these terms and conditions, must be made in writing in order to be valid.
- MABEG shall retain ownership and copyright for all submitted offers and quotations as well as documents and aids made available to the Orderer (drawings, illustrations, calculations, models, quotations etc.); these shall not be made accessible to third parties and shall be returned immediately on request or if an order is not placed.

## III. Scope of services

- The scope of services shall be defined by the written order confirmation from MABEG, including any release drawings or installation plans. Ancillary agreements shall require written confirmation.
- MABEG reserves the right to make changes to the technical design to the extent that this appears necessary in order to fulfil the intended contract purpose.

## IV. Prices

- The prices shall apply to the scope of services listed in the quotations, offers or order confirmations. Additional or special services shall be billed separately.
- Prices are stated in EUR and are subject to VAT at the applicable rate.
- The prices are calculated on the cost basis of the offer. We reserve the right to adjust prices in the event of changes to material costs, wages, freight or other cost factors. However, this shall only apply to services provided four months or more after contract completion and in which the price adjustment does not exceed 10% of the original price. In the case of higher rates, a new price agreement between the parties shall be required. If no such agreement is forthcoming, both parties shall have the right to withdraw from the contract in writing within 14 days.

## V. Works that cannot be performed

- The services provided in order to submit a quotation, as well as any other additional time and effort incurred (e.g. time for troubleshooting, which is treated as working time), will be billed to the Orderer if the service cannot be performed for reasons for which MABEG cannot be held responsible, in particular because:
  - a fault that is the subject of a complaint cannot be replicated during the inspection or during the ground check,
  - the Orderer has culpably failed to be present on the agreed date,
  - spare parts cannot be procured, or
  - the contract is terminated during performance.

- If the service cannot be performed then the object to be repaired is only required to be restored to its original condition if expressly requested to do so by the Orderer, unless the work carried out was not required; the costs associated with doing this shall be reimbursed.
- If the service cannot be performed then MABEG is not liable for damage to the object to be repaired as part of the contract work. This also applies in cases where contractual accessory obligations are violated and for damage or losses incurred not directly on the object to be repaired, regardless of the legal basis on which the Orderer bases its claim. Otherwise, the rulings for liability are set out in section XI.

## VI. Terms and conditions of payment

- Payments shall be made in full and with no discounts whatsoever by bank transfer after receipt of the invoice to one of MABEG's accounts on the agreed dates. The VAT shall be due for payment when the invoice is issued; in the case of taxable advance payments, it shall be due on a pro rata basis on the agreed payment dates. Any agreed acceptance of bills of exchange shall take place for the purpose of performance.
- MABEG is entitled to demand that the Orderer makes an appropriate advance payment before the departure of the assigned staff, or that it opens in the Federal Republic of Germany a letter of credit for an appropriate amount that is irrevocable, recoverable in partial amounts, confirmed and free of charges.
- Offsetting or a right of retention can only be asserted in the case of counterclaims that have been established by a court or are undisputed.
- If the Orderer fails to pay on the due date, the outstanding amounts shall be subject to interest from the due date in accordance with the applicable provisions; this shall have no bearing on the assertion of higher interest and further damages in the event of default.
- If the Orderer fails to meet its payment obligations, if its financial circumstances deteriorate significantly or if it ceases to make payments, the entire remaining debt shall become due even if bills of exchange with a later maturity date are ongoing.
- On request from MABEG, advance payments shall be made to the assigned staff, which are then offset as payments against the accruing overall costs.

## VII. Performance period

- All information about the start, duration and end of the services is non-binding.
- In the event that the services are delayed due to measures for which MABEG is not responsible, in particular in the event of force majeure (e.g. labour disputes, strikes etc.), then insofar as such impediments have a demonstrable impact on the completion of the services the performance period shall be extended appropriately. This also applies if any such circumstances occur after MABEG has fallen behind schedule and has defaulted on delivery.
- If a delay in the services occurs due to measures for which MABEG cannot be held responsible, then the Orderer shall bear all resulting additional costs, in particular costs for waiting times, repeat deployment of personnel, as well as storage and contingency costs.
- In the event that the Orderer demonstrably incurs losses due to a delay for which MABEG can be held responsible, then the default claims shall be based on the provisions set out in law. In each case, however, the Orderer shall be required to send a reminder. If MABEG defaults on delivery then the Orderer shall be entitled, subject to the exclusion of further default claims, to claim compensation for each completed calendar week amounting to 0.5% of the net price (order value); however, the combined compensation amount for all delays shall not exceed a maximum of 5% of the total performance price of the delayed performance. The compensation to be paid by MABEG in accordance with this shall be settled in the final invoice.
- MABEG shall have the right to prove lower damages.

## VIII. Services to be provided by the Orderer

- The Orderer shall, at its own cost and in good time, create the conditions required for swift service provision by MABEG. Depending on the object of the service, this includes in particular the provision of skilled workers and support staff, equipment, energy, work equipment and operating resources, plus the preparation and performance of all earthworks, foundation work, construction work and

scaffolding work, including the provision of required building materials and parts to be installed/mounted, at the site of use. Access routes and the assembly site must be levelled at floor height and offer suitable load-bearing capacity, and the foundations must be completely dry and set.

- At the place of performance, the Orderer shall make available suitable rooms for storage of objects and for staff to use.
- The Orderer shall put in place the measures required for protection of persons and objects at the place of performance and shall provide instruction on safety rules that are in place in the facility of the Orderer and are to be followed by personnel.
- If the Orderer is unable to effect individual preparatory works and services or to make available necessary equipment, then these can – to the extent possible – be carried out and/or made available by MABEG, with any costs arising as a result being billed to the Orderer.
- In the case of services provided in countries outside of the Federal Republic of Germany, all visas, work permits and other authorisations shall be procured by the Orderer at its own expense.
- All official charges and taxes (e.g. taxes, fees, customs duties) arising from or in connection with the conclusion or execution of the services described here outside of the Federal Republic of Germany shall be borne by the Orderer.
- The Orderer shall, in good time, inform MABEG and the personnel deployed to render the services about legal and other requirements that apply at the place of performance.
- On request from MABEG the Orderer shall take care of arranging suitable accommodation for deployed personnel. If it is not possible to procure accommodation near to the place of performance, MABEG shall be entitled to bill the travel time between the place of accommodation and the place of performance as working time if the distance is more than 5 km. If the personnel use public transport then the arising costs shall be borne by the Orderer. The same applies to the transportation of equipment.
- If personnel are required to stay overnight in connection with the service visit then such overnight expenses shall be billed at the choice of the personnel either as a fixed amount that is permissible for tax purposes or based on actual expense determined via the gross amount shown on the hotel bill. Travel times between the accommodation and the place of deployment will be billed in accordance with the "Terms and Conditions for the Deployment of Field Staff" of MABEG.
- In cases where deployed staff fall ill or in the event of accidents the Orderer shall ensure that the deployed staff are properly looked after, in particular that they receive the necessary medical care and treatment. Arrangements for working hours shall be agreed between the Orderer and the deployed staff, and the hours worked shall be certified at least on a weekly basis.
- The costs for special equipment taken along are included in the basic prices. If other large equipment is required such as cranes, lifting equipment and handling equipment for unloading and transporting the machine etc. then this will be offered and billed separately if the Orderer is unable to supply such equipment.
- Outlay for phone bills as well as the time and costs of procuring visas and passports in connection with the deployment will also be billed.

## IX. Performance, acceptance

Notwithstanding any further deployment of personnel for the purpose of performing adjustments or monitoring work, the contractual performance of MABEG shall deem to have been fulfilled and accepted with completion of the service, even if commissioning cannot take place on the originally planned or contractually agreed date for reasons for which MABEG is not responsible.

## X. Warranty, material defects

- For the services rendered and under exclusion of further claims, MABEG shall offer a warranty in the form that any services that are required in order to remedy any defects for which MABEG can be held responsible will be rendered again free of charge with appropriate, suitably qualified personnel. This shall also apply to defects and damage to equipment and machines of the Orderer caused by demonstrably inadequate performance of services. Any expenses arising in the process (e.g. travelling expenses) shall be borne by MABEG.

## General terms and conditions of installation

2. The warranty obligations arising from clause 1 above start with the fulfillment (section IX) and end after 12 months. In all other cases, in particular in cases of intent or fraudulent concealment, the statutory limitation periods shall apply.
3. The Orderer can only assert a warranty claim against MABEG if
  - a) the discovery of a defect covered by the warranty is reported to MABEG immediately in writing;
  - b) no remedial work has been carried out without the consent of MABEG.
4. The Orderer only has the right to remedy the defect itself or to have such work carried out by a third party in urgent cases where operational safety is at risk or to protect itself against disproportionately high losses, whereby prior approval must be obtained from MABEG.

### XI. Liability

1. MABEG shall be liable:
  - a) in the event of intent and gross negligence on the part of its bodies, legal representatives, employees or other vicarious agents,
  - b) in the event of culpable breach of cardinal contractual duties,
  - c) in the event of culpable injury to life, limb and health,
  - d) in the event of defects that have been fraudulently concealed,
  - e) on assumption of a guarantee for the characteristic of an item,
  - f) if and insofar as liability is borne in accordance with the German Product Liability Act for personal injury or property damage to privately used items.
2. A characteristic/property shall only be regarded as guaranteed within the meaning of the law if it is explicitly referred to as a 'guaranteed characteristic' in the contractual text.
3. Irrespective of this, MABEG shall always be liable to the extent to which MABEG's existing manufacturer's liability insurance provides compensation. The manufacturer's liability insurance is based on the general insurance terms and conditions for liability insurance (AHB).
4. Insofar as MABEG is liable for the breach of cardinal contractual duties, the scope of liability shall be limited to damage caused directly to the service provided itself and the amount to the damage foreseeable at the time of contract completion and typical for the contract.

### XII. Non-transferability of contractual rights

The Orderer is not permitted to transfer its contractual rights to third parties without the express consent of MABEG.

### XIII. Right of MABEG to withdraw from the contract

Notwithstanding any other legal claims or rights, MABEG can withdraw from the contract in full or in part if the Orderer fails to meet an essential obligation, or if unforeseeable events substantially change the commercial significance or the content of the service or if such unforeseen events substantially impair business operations of MABEG and the contract cannot be appropriately adjusted in good faith or if there is a significant deterioration in the economic situation of the Orderer.

### XIV. Right of the Orderer to a price reduction and to withdraw from the contract

1. The Orderer can, insofar as the legal conditions are met, withdraw from the contract through a written declaration if:
  - a) it has become impossible for MABEG to fulfil the contract. In the event of partial impossibility, the right of withdrawal shall only apply if the partial performance of services is verifiably of no interest to the Orderer. Otherwise, the Orderer is obliged to accept the partial performance and can demand an appropriate reduction in the price. If the impossibility is not something for which MABEG can be held responsible then MABEG shall be entitled to a portion of the remuneration corresponding to the amount of work performed.
  - b) if MABEG has defaulted on performance of the agreed services and the Orderer has set MABEG an appropriate grace period after this time with the express declaration that the Orderer will withdraw from the contract if this period passes without resolution, and MABEG then culpably fails to resolve the issues within the grace period offered.

2. If MABEG allows an appropriate grace period for remedying a defect for which MABEG is responsible and which has been acknowledged by MABEG to expire without resolving the issues in question then the Orderer has a right to a price reduction provided the legal requirements for this are met. The right of the Orderer to a price reduction also exists in other cases of failure to provide remedy for defects as well as in cases in which withdrawal from the contract is ruled out based on statutory provisions. The Orderer can only withdraw from the contract if, despite the price reduction, the service provision is demonstrably of no interest.

### XV. Offset clause

1. MABEG shall be entitled to set off claims, whether due or not, including future claims, to which MABEG is entitled from a company in which it has a direct or indirect holding of at least 50% against the Orderer or which the Orderer has against one of the designated companies (if necessary, the Orderer shall be informed of the status of such holdings upon request).
2. The Orderer agrees that all securities provided to MABEG also serve as securities for claims against the Orderer to which the companies stated in the previous paragraph are entitled. Conversely, all securities that the Orderer has provided for these companies also serve as securities for claims directed by MABEG against the Orderer – regardless of the legal grounds on which they have arisen.

### XVI. Concluding provisions

1. The place of jurisdiction for all disputes arising from this contractual relationship shall be Darmstadt. MABEG can also file a lawsuit at the Orderer's registered office.
2. If court of arbitration proceedings are agreed with an Orderer with a registered office outside of the Federal Republic of Germany, all disputes arising from the contract or concerning its validity or the validity of the arbitration agreement shall be finally decided on by a court of arbitration formed in accordance with the rules of conciliation and arbitration of the Paris International Chamber of Commerce by three arbitrators in accordance with these rules subject to the exclusion of ordinary legal recourse. As long as the court of arbitration has not been called upon, the contracting parties shall be free to file a lawsuit at the ordinary court with jurisdiction for the registered office of the defending party.
3. The relationships between MABEG and the Orderer shall be exclusively subject to the law of the Federal Republic of Germany. The UN Convention on Contracts for the International Sale of Goods (CISG) of 11/04/1980 shall not apply.
4. If any part of the contract or of these GTCL is found to be invalid or if the rulings contain gaps then the legally valid rulings that would have been agreed on (if the contracting parties had been aware of the lack of validity or of the gaps in the rulings) by the contracting parties in order to meet the economic objectives of the contract and the purpose of these GTCL shall deem to have been agreed upon. This shall have no bearing on the validity of the other provisions.

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