
General Terms and Conditions for Remote Maintenance

1. Scope

- 1.1 The General Terms and Conditions for Remote Maintenance at hand (hereinafter also referred to as "conditions") are the terms and conditions of the AMK Arnold Müller GmbH & Co. KG, Gaußstraße 37-39, 73230 Kirchheim/Teck (subsequently named as "Contractor"). These Conditions are valid for all offers and contracts via hotline service, teleservice, as well as remote maintenance services of the Contractor (named as "services" in the following).
- 1.2 These conditions shall apply exclusively to employers, legal natural persons or legal entities under public law pursuant to § 310 Paragraph 1, Sentence 1 of the German Civil Code.

2. General – applicability

- 2.1 The existing conditions apply exclusively; the Contractor does not accept conditions of the Client deviating from or contrary to these conditions, unless he had expressly agreed to their validity in writing. These conditions shall also apply if he in full knowledge of conflicting terms or conditions deviating from these General Terms and Conditions for Remote Maintenance, renders performance of the service to the Client without any reservation of rights.
- 2.2 These conditions shall also be regarded as a framework agreement for future contracts for the provision of services with the same Client, without the Contractor having to refer to them in each individual case; the Contractor shall inform the Client in advance of any changes to these conditions.
- 2.3 Individual agreements with the Client (including collateral agreements, addenda and amendments) that have been made in the individual case shall always take precedence over these General Terms and Conditions for Remote Maintenance.

3. Duty of cooperation of the Client

- 3.1 The specified technical facilities, as well as the necessary communication connections, must be provided and maintained by the Client at his own expense. Should a transfer of the data be so consistently interrupted the Contractor is not able to perform his services properly, the Client will inform the Contractor immediately in writing.
- 3.2 Any alterations which the Client makes in the technical environment are, insofar as they may have an effect on the agreed services, are to be communicated in written form beforehand in good time and are to be agreed with the Contractor, where appropriate. This applies in particular – but not exclusively – to modifications to the control hardware/software, changes in use, changes in the machine environment, changes in the configuration and modifications/alterations by third parties.
- 3.3 In the case of the determination, containment, reporting and the description of errors, the Client must comply with the instructions given by the Contractor. The Customer must have professionally trained personnel ready. In the case of error messages and questions, the Client will immediately transmit additional information and documents to the Contractor, if there are uncertainties.
- 3.4 The Client undertakes to supply the Contractor with all necessary information in connection with the performance of the service and to actively accompany and support the fault diagnosis and troubleshooting carried out within the framework of remote maintenance. During the entire maintenance process, the Client shall remain continuously present with the drives and controllers and shall remain in constant contact with the Contractor.

4. Safety and supervisory duties

In cases where the online support or the services to be carried out by the Contractor can lead to a risk to persons and property, the Client must make a written declaration that the intended measures can be carried out safely. If the services are not able to be provided on-site, a reliable safeguarding and protection of persons and property shall be undertaken by the Client. In particular, the Client shall ensure that no person is endangered – in whatever form and at whatever stage – in connection with the performance of the service on his premises.

5. Performance, service provision period, delay in performance

- 5.1 If an intended maintenance within the scope of the services can not be carried out or completed by means of telecommunication measures, the Contractor shall inform the Client about this. At the request of the Client, the Contractor will propose further maintenance and repair measures; unless otherwise specified in the scope of this contract, a separate agreement is to be concluded between the parties to this contract.
- 5.2 If the non-compliance of the period of performance is attributable to force majeure, government measures, labor disputes or other events which are outside the Contractor's sphere of influence, the service provision period is extended accordingly. The Contractor shall notify the Client of the beginning and the end of such circumstances as soon as possible. This regulation shall also apply in the case that such events arise with suppliers or subcontractors of the Contractor.
- 5.3 In the event of demonstrable damage, which arises to the Client due to a delay with a contractually agreed service provision period, the Contractor will compensate the Client in the form of a lump-sum delay compensation. For every full week of delay, this is 0.5%, but not more than 5% of the net value of the part of the total service that can not be used in due time or in a non-contractual manner as a result of the delay. There are no further claims for damages in the event of default – irrespective of the circumstances described in Section 7.3 of these conditions.

6. Liability for defects

- 6.1 After performance of the service, the Contractor shall be liable for deficiencies in the performance to the exclusion of all other claims of the Client, without prejudice to Para. 6.5 and Para. 7. in the way that he has to remedy the deficiencies. The Client shall immediately notify the Contractor in writing of any defect discovered.
- 6.2 The liability of the Contractor does not exist if the defect is negligible for the interests of the Client or is based on a circumstance which is attributable to the Client. This shall apply in particular with regard to such parts provided by the customer.
- 6.3 In the case of changes made improperly on the part of the Client or third parties without the prior consent of the Contractor, the Contractor's liability for the resultant consequences shall be nullified.
- 6.4 If, in consideration of the legal exceptions, the Contractor allows a reasonable deadline for rectifying the defect to elapse without success, the Client shall have the right of reduction within the scope of the statutory provisions. Only if it can be proven that the service work despite reduction is not of interest to the Client can the Client declare the withdrawal from the contract.
- 6.5 Further claims are determined exclusively according to Para. 7.3 of these Terms and Conditions.
- 6.6 The Contractor undertakes to perform the services detailed in this contract. There is no promise implied that the contractual services will diagnose and repair all existing damage and defects: nor does it guarantee the operability of the machine or system.

7. Other liability of the Contractor

- 7.1 If parts of the contractual service are damaged by the fault of the Contractor, the Contractor shall, at his discretion, repair or resupply this at his own expense.
- 7.2 If, owing to the fault of the Contractor, the contractual service of the Client is not able to be used due to the failure or faulty execution of suggestions and advice and other contractual subsidiary agreements concluded prior to or after conclusion of the contract – in particular instructions for operation and maintenance of the contractual service – the provisions of Section 6 and 7.1 and 7.3 shall apply.
- 7.3 The Contractor is liable for damage that has not occurred to the contractual service itself – for whatever legal reason – only
- in the case of intentional breach of duty by the Contractor
 - in the case of gross negligent breach of duty by the Contractor or in the case of an intentional or grossly negligent breach of duty by one of its legal representatives or vicarious agents
 - in the event of injury to life, limb or health resulting from a negligent breach of duty by the Contractor or a deliberate or negligent breach of duty by one of its legal representatives or vicarious agents
 - in the event of the culpable violation of essential contractual obligations, insofar as the achievement of the object of the contract is jeopardized, with regard to the contract-typical, foreseeable damage
 - in cases in which liability is assumed for product defects in the case of defects in the supplied item, for personal injury or material damage to privately used items
 - in the case of defects which have been fraudulently concealed or whose absence has been guaranteed by the Contractor.
- Furthermore, further claims for damages are excluded.

8. Limitation period

All claims of the Client – for whatever legal reasons – expire after 12 months. However, statutory periods shall apply to compensation claims pursuant to Section 7.3 of these Conditions; these also apply to deficiencies in a construction or to contractual objects that have been used for a construction in accordance with their normal use and which have caused their defect, as well as in the event of a company recourse pursuant to Sections 478, 479 German Civil Code.

9. Applicable law, jurisdiction

- 9.1 This contract is governed by the laws of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of Goods.
- 9.2 There are no collateral agreements to this contract. Amendments and addenda to the present contract require the written form. This also applies to the modification of this requirement for written form.
- 9.3 If the Client is a merchant, a legal person of public law or a public special fund, the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is the place of business of the Contractor. However, the Contractor is also entitled to bring an action at the General Court of the Client.