

Conditions for Providing Services Abroad B2B as of May 2009

Scope of Application

- 1.1 The Conditions for Providing Services Abroad B2B ("CSA") shall apply to orders by the Customer to the Supplier in reference to services (e.g. assembly, putting into operation, maintenance and similar services) which based on a contract between Customer and Supplier ("Contract") must be provided outside the Federal Republic of Germany ("Services").
- 1.2 Any other conditions than the CSA, in particular, Terms and Conditions of the Customer shall be excluded.
- 1.3 The CSA shall also be applicable for Supplier's vicarious agents ("Erfüllungsgehilfe").

Obligations of the Supplier

The Supplier shall perform the Services diligently and in time and shall use qualified personnel.

Work Time

- 3.1 Regular work time shall be between 8 a.m. and 5 p.m. The time at the site of services ("Site of Services") shall be applicable.
- 3.2 Sundays and public holidays of the Site of Services shall be applicable.
- 3.3 The date for performance of Services shall be agreed between Supplier and Customer and noted in the Contract.

Charging of Personnel Costs

- 4.1 For Services during regular work time Supplier's charge rates, valid at the time of performance, shall apply, for Services outside regular work time Supplier's additional charges, valid at the time of performance. Basis for charging shall be the records of Supplier's employees.
- 4.2 Travel time, time to get to and away from the Site of Services and waiting time shall be calculated with Supplier's charge rates and additional charges, valid at the time of performance.
- 4.3 Travel costs to and from as well as in the country of Services shall be calculated based on expenditure including auxiliary costs e.g. shipping, import and export of luggage, passport and visa fees, immigration, residence and work permits.
- 4.4 Additional costs for delays or subsequent amendments to the content or scope of the agreed Services that are caused by the Customer or any other reasons Supplier is not responsible for shall be borne by the Customer. Extra costs comprise waiting time and other personnel costs.

Charging of Material Costs

Material Costs shall be calculated at Supplier's prices valid at the time of performance.

Payment Security

Upon demand and choice of the Supplier, the Customer shall either pay in advance or alternatively secure payment differently, e.g. by provision of an irrevocable letter of credit or an irrevocable bank guarantee on first demand of a major European bank.

Taxes, Fees and Contributions

Taxes, fees, social and other contributions raised against the Supplier or its employees in the country of Services and in connection with the performance of Services shall be borne by the Customer.

Co-operation Obligation of the Customer

- 8.1 The Customer shall ensure that the Supplier is able to provide Services timely and without interruption and any hindrances.
- 8.2 At the time of ordering Customer shall nominate a person in charge, who – at all times during performance of the Services – is able to provide the Supplier with binding information and binding decisions.
- 8.3 The Customer shall provide to the Supplier free of charge:
 - 8.3.1 free and unhindered access to the units and devices.
 - 8.3.2 electricity and water at the Site of Services, heating and lighting, and insofar as necessary, air conditioning and ventilation
 - 8.3.3 any necessary protective devices and protective clothing
 - 8.3.4 suitable means of transport for moving employees, tools, devices and materials
 - 8.3.5 necessary permits for import and export of tools, equipment, and material
 - 8.3.6 any necessary or information requested by Supplier (specifications, technical data sheets, operation manuals) and drawings (e.g. power, gas and water lines) about the Site of Services and the circumstances prevailing there
 - 8.3.7 any necessary skilled and non-skilled workers for the performance of the Services including an interpreter
 - 8.3.8 sufficient security of the Site of Services against theft, damage, destruction or other detrimental effects. Lost or damaged materials shall be substituted or repaired at Customer's expense.

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- 8.4 Customer shall provide free of charge suitable accommodation for the Supplier's employees as well as for storage, work, sanitary and social facilities. When selecting accommodation, the Customer shall do its best to provide suitable hotels (at least higher middle class) or similar accommodation.
- 8.5 Work and social facilities shall be dry, sufficiently lighted and protected against weather. Danger to the health of the employees shall be excluded. The sanitary facilities shall be clean and working and must be kept that way. In hot and tropical climates, the accommodations must contain air conditioning and refrigerator.
- 8.6 In the event that the Customer does not or does not meet in due time its obligation to co-operate, the Supplier shall be entitled – upon unsuccessful warning – to provide the necessary measures itself or by third parties at the Customers expense.
- 8.7 In the event that as a consequence of such circumstances it becomes clear that the intended success of the Services is out of reach or that the performance of the Service has become unacceptable to the Supplier, the Supplier shall be entitled to terminate the Contract with immediate effect and the Customer must then reimburse the Supplier for any and all expenditures and Services performed until the time of termination.

Work Rules

- 9.1 The Supplier shall observe work rules disclosed by Customer insofar as the performance of Service does not necessitate deviation.
- 9.2 Customer and Supplier only have authority rights towards their own employees.

Accident Protection

- 10.1 The Customer shall comply with any legal and other necessary measures to prevent accidents at the site of Services. The Customer shall inform the Supplier's employees in writing about any applicable security provisions and shall inform the Supplier about special dangerous issues.
- 10.2 The regulations for accident prevention applicable in Germany shall be binding for the Supplier. In the event that the Supplier is partially or completely unable to provide Services because of such regulations, he shall not be responsible.

Assistance of Employees

- 11.1 Upon request of the Supplier, the Customer shall obtain all necessary permits required for immigration, residence and work. It shall inform the Supplier's employees in time about all necessary duties (registration etc.) relating to local authorities and it shall support the employees in dealing with the authorities. Further, the Customer shall ensure all necessary confirmations necessary for the return journey of the employees and their personal belongings.
- 11.2 In the event of accidents and illnesses, the Customer shall provide all necessary support, and – shall at its own cost – in particular, obtain first aid and care by a physician as well as suitable transport for immediate transfer to a hospital.

Change of Employees

The Supplier shall be entitled at its own cost to substitute its employees during performance of Services with adequate employees. In the event an employee must be substituted because the Customer finds this employee unacceptable, the Supplier shall use its best efforts to substitute such employee.

Time of Services, Delay

- 13.1. Compliance with the agreed time of Services necessitates timely receipt of all documents which the Customer must supply as well as any necessary permits and releases, especially concerning plans and observing the agreed payment conditions and other obligations by the Customer. In the event that such preconditions are not met on time the deadlines shall be extended appropriately; this does not apply if the Supplier is responsible for the delay. The time of Services shall be deemed kept even if minor subsequent work still is required as long as readiness for operation is not affected.
- 13.2 In the event that Services are not performed for reasons Supplier is not responsible for, the time of Services shall be reasonably extended.
- 13.3 In the event that the Supplier is in delay, the Customer may, insofar as it can show credibly that it suffered damage, claim liquidated damages for each complete week of delay in an amount of 0.5%, however, up to a maximum of 5% of the net price of that part of Supplies which could not be used by the Customer due to the delay.
- 13.4 Claims for damages of the Customer due to delay as well as for damages in lieu of performance, which exceed the limits stated in 13.3, as well as other claims shall be excluded in all cases of delay, even upon expiry of an additional deadline for Services set by the Customer. This shall not apply in cases of mandatory liability for intent or gross negligence. The above provisions do not imply a change in the burden of proof to the detriment of the Customer.
- 13.5 Upon Supplier's request, the Customer shall declare within a reasonable deadline if it - notwithstanding of the delay - insists on Services and/or which of the claims and rights it is entitled to it will assert.

Impossibility

- 14.1 To the extent that Services are impossible, the Customer shall be entitled to request damages unless the Supplier is not responsible for impossibility. However, the Customer's claim for damages shall be limited to 10% of the value of that part of the Services that due to the impossibility cannot be put in operation. This limitation shall not apply in cases of

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mandatory liability for intent and gross negligence. The Customer's right to rescind from the Contract shall remain unaffected.

14.2 In cases of temporary impossibility 13. shall apply.

Force Majeure, Contract Adaption

15.1 Supplier shall not be responsible for any cases of force majeure or similar circumstances that are outside its sphere of influence. Such circumstances are, in particular, fire, flood, earthquake, mobilization, war (declared or not), uproar, requisition, labour disputes, limitations to currency transfers, embargo, delay and/or non-granting of import permits, limitation of granting entry or exit permits for employees, limitations to transport, general lack in raw materials and supply goods and limitation of power supply.

15.2 To the extent that circumstances of 15.1 severely change the economic meaning or the content of the Services or severely affect the Supplier's operation, the Contract shall be reasonably adapted by observing the principle of good faith. Insofar as this is economically unreasonable, the Supplier shall be entitled to rescind from the Contract. If the Supplier intends to rescind from the Contract it shall - upon realizing the reach of such circumstances - immediately inform the Customer. It will also do so even if initially an extension of the delivery period was agreed.

Transfer of Risk

16.1 The risk of accidental destruction and accidental deterioration of Services in whole or in autonomous parts shall transfer to Customer as soon as the Supplier has informed the Customer about finishing the Services. In the event that a trial run and/or acceptance is agreed in writing, the risk shall transfer to the Customer upon conclusion of the trial run and/or acceptance.

16.2 The risk of accidental destruction and accidental deterioration for objects and materials provided by the Customer shall remain with the Customer.

16.3 In the event that Services or trial run and/or acceptance are delayed for reasons which the Supplier is not responsible for, the risk of accidental destruction and accidental deterioration shall pass to the Customer for the period of interruption or delay for already performed Services.

Acceptance

17.1 Acceptance shall only take place if such has been expressly agreed on in writing. In such case the Supplier shall notify the Customer in writing about readiness for acceptance. Acceptance shall take place without undue delay. It may not be denied for such defects which would only in a minor way or not at all affect functionality.

17.2 If acceptance does not take place within two work days from notification of readiness for reasons the Supplier is not responsible for, acceptance shall be deemed granted.

17.3 In any event acceptance shall be deemed granted as soon as the Customer puts the contractual object to use.

17.4 Costs for acceptance shall be borne by the Customer.

Material and Legal Defects

The Supplier shall be liable for material and legal defects (together "Defects") as follows:

18.1 Such parts of Services which show a Defect within the period of statute of limitation and without taking into account any operation time, must at Supplier's discretion and free of charge either be repaired, re-delivered or re-performed insofar as the cause of the Defect existed already at transfer of risk.

18.2 Claims for Defects become time barred within 12 months.

18.3 Notification of any Defect must be made in writing.

18.4 In case of notifications of Defects the Customer may only retain payments if a Defect is reprimanded which qualification is undoubted. If the notification of Defect was wrongly done, the Supplier shall be entitled to request from the Customer reimbursement for any expenditure.

18.5 Initially the Supplier must be granted the opportunity of subsequent performance. In the event that subsequent performance fails, the Customer may – irrespective of any claims for damages as set out in 19 – rescind from the Contract or reduce payment.

18.6 Claims for Defects shall not exist for merely insignificant deviations from agreed appearance and workmanship, for minor impairment of usability, for natural wear and tear, or damage that occurred after transfer of risk due to wrong or negligent use, excessive strain, unsuitable equipment or certain external factors not assumed under the Contract neither for non-reproducible software errors. If the Customer performs inappropriate changes or inappropriate repair work, there shall be no claim for Defects for those and the respective consequences.

18.7 Claims of the Customer for expenses necessary for subsequent performance, in particular, expenses for shipping, travel, labour and material shall be excluded to the extent as the expenses are higher because the object of the Services were subsequently brought to a different place than the Site of Services.

18.8 Any exceeding or other claims and rights of the Customer against the Supplier or its vicarious agents based on Defects other than those stipulated in 18. shall be excluded..

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Liability

- 19.1 The Supplier shall be liable for personal damage that it is responsible for without limitation. For direct material damage that the Supplier is responsible for, the Supplier shall be liable
- 19.1.1 per damage event up to the order value of each respective individual order, however, in no event more than EUR 100,000.00
- 19.1.2 for several damage events up to the order value paid for by the Customer in the respective business year (1 April – 31 March), however, in no event more than EUR 1,000,000.00.
- 19.1.3 If data carrier material is damaged the obligation to substitute shall not comprise the effort for restoring lost data and information.
- 19.1.4 The Supplier shall not be liable for damage of serviced objects unless such are covered by the business liability insurance of the Supplier. In such case, however, liability shall be limited to five times of the contract value of the respective individual order as a maximum, in any event no more than EUR 100,000.00.
- 19.2 Further claims for damage or expenditure of the Supplier (in the following: claims for damages) - irrespective of which legal grounds based on-, in particular for violation of duties from the contractual relationship and tort, shall be excluded. This shall also apply to any financial loss, damage due to interruption operation or production and loss of profit.
- 19.3 This does not apply in cases of mandatory liability for intent or gross negligence.
- 19.4 Insofar as the Customer is entitled to claims for damages as set out in this 19., they shall become time barred upon expiry of the statute of limitation applicable to Defects as set out in 18.2. This shall not apply in cases of intent or gross negligence.

Technical Documents

Insofar as nothing to the contrary is agreed, the Customer shall receive a non-exclusive right to use all contractual drawings and documents. The Customer shall not grant third parties access to the above drawings and documents without permission of the Supplier.

Arbitration

- 21.1 All disputes out of or in connection with the current Contract including any questions regarding its existence, validity or termination shall be submitted to the International Court of Arbitration of the International Chamber of Commerce and shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by three arbitrators appointed in accordance with the said Rules.
- 21.2 The place of arbitration shall be Zurich. The procedural law of the place of arbitration shall apply unless said Rules state otherwise.
- 21.3 The language of arbitration shall be German.

Applicable Law

Any disputes are to be decided in accordance with the provisions of the Contract and any additional agreements necessary for its execution, other than that according to Swiss substantial law, without recourse to any other substantial laws, and with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 (CISG).

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