General Terms and Conditions for the Deployment of ABI Service or Installation Technician

ABI Maschinenfabrik und Vertriebsgesellschaft mbH, Am Knückel 4, 63843 Niedernberg

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1. Scope of Application

These General Terms and Conditions shall apply to all installation and repair services performed by our customer service personnel outside our business premises.

2. Test Runs and Trial Operations

By placing the order, the client shall be deemed to have granted permission for test runs and trial operations.

3. Deadlines

We shall endeavor to meet delivery dates and performance specified by us in good faith. Such dates shall, however, be binding only if expressly agreed in writing as fixed deadlines. Under no circumstances shall we be liable for delays resulting from spare part delivery times or delays attributable to third parties.

4. Allocation of Risk; Deployment of Personnel

The client shall bear the full risk associated with any installation. The client is furthermore responsible for compliance with all applicable statutory and regulatory requirements, in particular occupational health and safety and accident prevention regulations at the workplace or construction site.

The client assumes all risks relating to spare parts supplied by the client. The transport risk for spare parts brought to the workplace shall likewise be borne by the client.

It is agreed that our service or installation technicians shall act as vicarious agents or auxiliary persons of the client within the meaning of Sections 278 and 831 of the German Civil Code (BGB) and shall follow the client's instructions. Our technicians shall, however, be entitled to refuse any instructions that conflict with proper installation practice, generally accepted technical standards, or applicable legal provisions, without thereby assuming responsibility for the correctness or legality of such instructions.

5. Claims for Defects

Where installation services are defective, the client shall be entitled to assert statutory defect claims. Such claims shall not apply if the defect is attributable to improper use or handling, overloading, normal wear and tear, unsuitable operating materials, non compliance with technical specifications issued by us, incorrect installation or commissioning without our consent, modifications, repairs or maintenance performed by persons unauthorized by us, unsuitable ground conditions, physical, chemical, electrochemical or electrical influences beyond our control, or the use of components or accessories not approved by us.

The replacement of components or the rectification of defects shall not result in any extension or renewal of warranty agreements or defect claims for the equipment. The installation contract and the client's obligation to pay remuneration shall remain unaffected by the existence or scope of any warranty or defect claims against the manufacturer. Our personnel are not authorized to provide information or make binding representations in this regard.

6. Limitation Period

All claims by the client, on whatever legal grounds, are subject to a limitation period of 12 months. This shall not apply to claims under the German Product Liability Act (Produkthaftungsgesetz), nor to claims arising from injury to life, limb or health, or from gross negligence or willful misconduct, for which the statutory limitation periods shall apply.

7. Liability

We shall be liable for damages not affecting the installation object itself, regardless of the legal basis, only in the event of:

a) willful misconduct;

b) gross negligence on the part of our legal representatives or senior management (in each case limited to the typical, reasonably foreseeable contractual damage);

c) culpable injury to life, limb or health;

d) defects fraudulently concealed or the absence of which was expressly warranted;

e) culpable breach of essential contractual obligations (cardinal obligations), including gross negligence by non executive employees or slight negligence, in which case liability shall be limited to the typical, reasonably foreseeable contractual damage.

Essential contractual obligations are those obligations whose performance is indispensable for the proper execution of the contract and on the fulfillment of which the client regularly relies on and may reasonably rely.

Where liability arises from delay, our liability shall likewise be limited to the typical, reasonably foreseeable contractual damage, provided no culpable injury to life, body or limb has occurred. Liability under the Product Liability Act shall remain unaffected. Any further claims exceeding the scope defined above are excluded.

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8. Remuneration and Cost Calculation

Remuneration for installation and repair services shall be calculated based on the hourly installation rates, surcharges, travel expenses, allowances, ancillary costs and material usage applicable on the date the services are performed. Current rates may be requested at the time the order is placed.

The client's signature on the service report shall constitute acceptance of scope of services rendered. We are not obliged to verify the authority of the signatory. Any costs incurred due to late cancellation of our service or installation technicians shall be borne entirely by the client. Deployment shall be at our discretion either from our premises or from the technician's location. The client shall bear all costs resulting from complaints that are subsequently determined to be unfounded.

9. Performance of Installation and Repair Services

At our request, the client shall provide suitable auxiliary personnel and equipment to ensure proper and expeditious performance. Waiting times caused by delays at the construction site or workplace shall be remunerated as working time.

10. Payment Terms

We reserve the right to require advance payment. Invoices shall be payable immediately and without deduction. The client may assert rights of off-set or retention only with respect to claims that have been acknowledged in writing or legally established by final court decision.

11. Place of Performance and Jurisdiction

The place of jurisdiction shall be Aschaffenburg, Germany. We shall, however, also be entitled to bring actions against the client at its general location of jurisdiction. Unless otherwise stated in the order confirmation, our registered office shall be the place of performance.

12. General Provisions

Should any provision of these terms or of the underlying contract be or become wholly or partially invalid or unenforceable, this shall not affect the validity or enforceability of the remaining provisions. The laws of the Federal Republic of Germany shall apply. We use electronic data processing systems and store data within the legally permissible scope. The provisions of the General Data Protection Regulation (GDPR) shall be complied with.

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