

GENERAL TERMS AND CONDITIONS OF SERVICE of ROVEMA GmbH for New Machines and Used Machines

I. Object of these Terms and Conditions of Service

These General Terms of Service (hereinafter: "GTS") of ROVEMA GmbH, Industriestraße 1, 35463 Fernwald and Bersröder Straße 23, 35447 Reiskirchen (hereinafter "ROVEMA") shall govern all services provided, in particular in relation to the assembly, installation, putting into operation, repair, inspection or maintenance of new and/or used ROVEMA machines (hereinafter: "Services"). They shall apply to all Services provided in Germany and abroad.

II. Scope of application

(1) These GTS shall apply to only apply if the customer is an entrepreneur within the meaning of § 14 BGB (German Civil Code), a legal entity under public law or a special fund under public law.

(2) These GTS shall apply in their respective version as a framework agreement also for future services with the same Customer without ROVEMA having to refer to them again in each individual case; ROVEMA shall inform the Customer immediately of any changes to these GTS.

(3) These GTS apply exclusively. Contradictory, supplementary or deviating terms and conditions of the customer shall not be recognised unless their validity is expressly agreed in text form. Any deviating terms and conditions of the customer are hereby expressly rejected.

(4) These GTS shall also apply if ROVEMA carries out the services at the customer's premises without reservation in the knowledge of terms and conditions of the customer that contradict or deviate from these ASB.

III. Commission and conclusion of the contract

(1) The order for the service by the customer is a binding offer of contract. Unless otherwise stated in the order, ROVEMA is entitled to accept this contractual offer within 4 weeks after its receipt by ROVEMA.

(2) Acceptance of the Customer's contractual offer shall generally be effected by ROVEMA's order confirmation. ROVEMA is also entitled to accept the customer's order implicitly by commencing the service.

(3) Commissioning, orders as well as their amendments and supplements shall be made in text form. This shall also apply to amendments and additions to concluded contracts. Transmission by fax or e-mail shall be sufficient for compliance with the text form.

IV. Contents and performance of the services

When the customer places an order for a service from ROVEMA, the customer accepts the following conditions at the same time:

(1) The services shall be performed by an employee of ROVEMA (hereinafter referred to as "service technician") under the technical authority of ROVEMA. ROVEMA undertakes to have the service performed properly and by qualified personnel. ROVEMA retains the exclusive right to give directions to the service technicians, including for the period in which the Services are performed.

(2) ROVEMA reserves the right to use third parties it has authorised (service technicians) to provide the Services at the customer's premises. The following passages shall therefore also apply where a third party is used.

(3) Any advance statement made by ROVEMA concerning the duration of the Services is based on an up-front estimate. ROVEMA shall have the right to exceed the originally stated duration of the Services by up to 15 %. If, during the performance of the Services, ROVEMA sees that the completion of the services will require a period exceeding the originally stated period by more than 15 %, ROVEMA shall inform the customer of this without undue delay.

(4) If the customer wishes to have other work performed while the ROVEMA service technician is present, this shall require the previous consent of ROVEMA in text form.

(5) The service technician is not authorised to make legally binding declarations or enter into agreements on behalf of ROVEMA that provide for a scope of services different from the one agreed in the contract. Any potentially necessary changes in the scope of the services that become apparent at the place of performance shall require a legally binding confirmation by ROVEMA in accordance with Sect. III of these GTS.

(6) As a rule, the Services shall not cover services on machines not produced by or bought from ROVEMA, unless such works have been expressly ordered. The service technicians will only perform services on machines not produced by or bought from ROVEMA, if such work is expressly included in the service contract in accordance with Sect. III of these GTS.

V. Customer's obligation to cooperate

(1) The customer shall take all measures required to enable the technician to begin the services on time and to perform the work without obstructions or interruptions. The service technician shall not be called in before the entire preparatory work has been completed. The customer shall provide at the due time, at the customer's own cost and risk, the following:

i. The foundations including anchor screws/bolts. The foundations must be loadable at the beginning of the Services. The anchorages in the building shall be provided by the customer and will not be installed by the service technician.

ii. Skilled workers and support staff including at least one experienced staff member to whom the subsequent monitoring of the machine can be entrusted. ROVEMA shall not be liable for such personnel provided by the customer, nor for their actions or omissions.

iii. The equipment and consumables required for the Services (such as lifting gear, assembly wood, ropes, chains, supports, sealing material, lubricants and incidentals for the assembly, etc.).

iv. The connections to the installed machines (supply lines for electricity, water, air, etc.).

v. A dry room that can be locked to store valuable machine parts and tools for the duration of the Services.

vi. A suitable room with light where the service technician can spend his/her breaks including sufficient space to store his/her clothing and a washing facility.

(2) For security reasons, a staff member of the customer must be present when the service technician performs services outside of the customer's business hours. At least the statutorily required accident prevention measures have to be taken.

(3) Where special account must be taken of the customer's operation or where relevant provisions apply, the customer shall inform the service technician accordingly.

(4) The customer shall ensure that the service technician may perform his/her services safely and without taking health risks. The service technician may refuse to perform work if he/she deems that his/her safety is not ensured.

VI. Non-compliance with the obligation to cooperate

(1) Where the customer fails to comply with the obligation to cooperate as specified in Sect. V in whole or in part, ROVEMA will notify the customer of the non-compliance with the obligation to cooperate and set an appropriate deadline for compliance therewith. If the customer continues to fail, in whole or in part, to comply with the obligation to cooperate until the deadline set by ROVEMA has expired, and if it is possible for ROVEMA to fulfil the relevant obligations, ROVEMA shall have the right to fulfil these obligations or have them fulfilled by a third party. The costs resulting from the customer's non-compliance shall be borne by the customer.

(2) If the beginning or the performance of the Services is delayed as a result of the customer's non-compliance with the obligation to cooperate pursuant to Sect. V, the resulting costs (including, but not limited to, the costs for an additional waiting period and/or for a return journey of the service technician) shall also be borne by the customer, and they will be invoiced at the rate of working hours. Where, due to waiting periods attributable to the customer, a service technician has to travel to the customer's premises again, the customer shall bear the additional costs arising from such travel.

VII. Liability

(1) ROVEMA shall be liable within the scope of the statutory provisions for all damages directly caused to the Customer's legal assets in the performance of the services. ROVEMA shall only be liable for intent and gross negligence. Liability for slight negligence is excluded.

(2) ROVEMA shall not be liable for loss of profit, such as loss of benefits of use, failed expenses, consequential damages, useless time, loss of production, loss of use, loss of business opportunities or other lost opportunities, costs for loading cranes and heavy equipment, financing costs or replacement costs.

(3) Liability under the Product Liability Act or for damages arising from injury to life, limb or health shall remain unaffected.

(4) The above provisions shall also apply where an obligation was breached by a legal representative, employee or agent of ROVEMA. The above liability limitations shall also apply to claims for the reimbursement of expenses made by the customer. Such claims shall be limited to the amount of the interest the customer has in the performance of the contract.

VIII. Work record

On a weekly basis, the customer shall confirm the working hours and the work performed that the service technician has recorded on a document provided by ROVEMA. On request, the customer shall receive a copy of the document. Since the confirmed document serves as the basis for the subsequent calculation, it is in the customer's interest to verify the correctness of the record. Later objections to the record will not be accepted by ROVEMA.

IX. Acceptance of the Services

(1) The customer shall declare the acceptance of the Services as soon as the customer has been notified that the Services have been completed and, where contractually agreed, the proper function has been demonstrated. If the Services do not comply with the contract due to a significant defect, ROVEMA shall have the right to remedy the defect or to deliver a replacement and then declare again that the Services are ready for acceptance. This shall not apply where the defect, having regard to the customer's interests, is insignificant, or where the defect results from circumstances that are attributable to the customer. Where the defect is insignificant, the customer may not refuse the acceptance.

(2) With the acceptance, the Services shall be deemed approved, unless the defect was not discernible at the time of the acceptance. The customer's warranty claims concerning approved Services shall be excluded, unless the customer has reserved the right to raise claims with regard to a specific defect in writing. The customer's warranty claims shall prevail after the acceptance if ROVEMA has fraudulently failed to disclose the defect.

X. Payment conditions

(1) The Services shall be invoiced on the basis of the time calculation in accordance with the ROVEMA service and assembly rates valid on the date of conclusion of the contract, unless a fixed or lump-sum price has been expressly agreed in writing or the contract was concluded based on a cost estimate marked as binding.

(2) ROVEMA shall invoice the Services after the services has been completed. In the event that Services have been performed for more than four weeks, ROVEMA reserves the right to issue an interim invoice. The amount invoiced shall be due immediately, unless otherwise agreed in writing.

(3) ROVEMA may request advance payments. This will be subject to special provisions contained in ROVEMA's confirmation of the order. Any costs incurred during the provision of the Services that exceed the advance payment will be invoiced in a final invoice after the Services have been completed. Invoiced amounts shall be paid within 14 days of receipt of the invoice.

(4) Value added tax (or similar local taxes) shall be added to the amount payable by the customer at the applicable statutory rate.

XI. Offsetting, Retention

The customer may only exercise rights of retention or set-off rights where the customer's counterclaims have been confirmed in an incontestable judgement, are undisputed or have been accepted by ROVEMA. Furthermore, the customer may only exercise a right of retention insofar as the counterclaim is based on the same contractual relationship.

XII. Lump-sum services

The statutory provisions governing the contractor's working hours that are applicable in the respective country shall apply to the Services. Where, due to circumstances that cannot be attributed to ROVEMA, the lump-sum Services agreed in the contract are exceeded, the additional costs shall be invoiced in accordance with the current ROVEMA service and assembly rates. This shall include, e. g., waiting periods, multiple travels, production-related adaptations resulting from other plant components, requested production support in multiple-shift operation, etc.

XIII. Form, applicable law, jurisdiction, language version

(1) No oral ancillary agreements have been made. Amendments to these GTS shall only be valid if they have been agreed in writing. The written form requirement may also be complied with by e-mail or fax. However, where individual agreements have been made between the parties, these shall take priority.

(2) This GTS and the contracts/agreements concluded with these GTS shall be governed exclusively by the law of the Federal Republic of Germany. The UN Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

(3) The place of jurisdiction for any disputes arising from the contractual relation between ROVEMA and the customer shall be ROVEMA's place of business in Fernwald. However, ROVEMA may also bring proceedings before the Court that is competent for the customer. Mandatory statutory provisions governing the exclusive jurisdiction of specific Courts shall remain unaffected by this clause.

(4) These GTS and the contracts concluded with these GTS will sometimes also be used in an English translation, in addition to the German version. Only the German language version shall be binding, the English version is provided for convenience only.