

General Terms and Conditions for Services of HOPPECKE Service GmbH & Co. KG
(as of July 2021)

1. General, scope of application, contract conclusion

- 1.1 These General Terms and Conditions for Services ("GTC-S") apply to all – also future – servicing, maintenance and repair services as well as for any other services (hereinafter collectively referred to as "Services") provided by us ("Service Provider"). These GTC-S only apply if the customer ("Service Recipient") is an entrepreneur (§ 14 BGB – German Civil Code), a legal entity under public law or a special fund under public law ("*öffentlich-rechtliches Sondervermögen*"). With respect to spare parts or replacement parts which may be required for the execution of the Services, the respective current version of the "General Terms and Conditions of Delivery and Assembly" of Service Provider shall apply, which are available at <https://www.hoppecke.com/en/general-terms-and-conditions/>.
- 1.2 These GTC-S apply exclusively. Deviating, conflicting or supplementary general terms and conditions of business of Service Recipient only become part of the contract if and to the extent that Service Provider has explicitly consented to their application. Such consent is required in any case, for instance even if Service Provider – even though being aware of Service Recipient's general terms and conditions of business – performs the Services for Service Recipient without reservation.
- 1.3 The legal relationships between Service Provider and Service Recipient are exclusively and conclusively governed by the written contract concluded by them, including these GTC-S. The contract contains the entire agreement between the parties regarding the subject matter of the contract. Oral commitments, if any, made by Service Provider before contract conclusion are not binding in legal respect and all oral agreements made between the contracting parties are superseded by the written contract unless it is expressly agreed that the oral arrangements shall continue to be effective and binding.
- 1.4 Changes and amendments to the agreements made between the contracting parties, including to these GTC-S must be in writing ("*Schriftform*") to be valid. Our employees other than our managing directors or Prokuristen¹ are not entitled to enter into oral agreements contrary to the aforesaid requirement. Product guarantees as well as representations and warranties must be expressly referred to as such and confirmed by us in writing.
- 1.5 In all cases, the offers issued by Service Provider are without engagement and subject to change. Any purchase order issued by Service Recipient for Services to be performed by Service Provider shall be deemed to constitute a binding offer for contract conclusion. Unless otherwise stated in the purchase order, Service Provider is entitled to accept the offer for contract conclusion within 14 days from receipt ("*Zugang*"²). Acceptance can be declared by order confirmation in writing or text form ("*Textform*" acc. to § 126b BGB – German Civil Code) (e.g. by letter, email, fax) or implied by execution of the Services.
- 1.6 Drawings, illustrations, technical data, specifications of weight, dimensions and performance are only approximate unless the contractually agreed purpose of use requires absolute conformity. In particular, they expressly do not constitute specifically agreed or warranted qualities. Service Provider reserves all property rights and copyrights in these documents; they must not be disclosed or made available to third parties without the written consent by Service Provider. Any statements or specifications contained in product descriptions, technical information or data sheets or other general information that is publicly available are only binding if Service Provider explicitly confirms their binding character.
- 1.7 Legally binding declarations and notifications to be made to Service Provider by Service Recipient after contract conclusion (e.g. fixing of time limits, notice of defects, declaration of withdrawal or reduction of the purchase price) must be made in writing ("*Schriftform*") or text form ("*Textform*") to be valid (e.g. by letter, email, fax).

2. Cooperation and technical support and assistance by Service Recipient

- 2.1 Service Recipient, prior to the commencement of service provision, shall provide Service Provider with detailed information about the conditions and circumstances on site and draw Service

Provider's attention to any local, spatial and infrastructural particularities which might hinder proper service provision according to the contract.

- 2.2 Service Recipient shall at its sole risk and expense make (the necessary number) of assistants or back staff available (for the time needed) as well as, if so agreed, tools, lifting gears with the necessary operating staff and all material and equipment that is required for the smooth execution of the Services. In addition, Service Recipient shall provide the personnel of Service Provider ("Service Personnel") with a dry lockable room suitable for the safe storage of delivered parts, tools, clothing and other property of the Service Personnel. other property of the service personnel. Service Recipient shall at its sole expense provide Service Provider with any operating materials, supplies and utilities (e.g. electricity, water, compressed air etc.) which are required for executing the ordered Services and Service Recipient also bears any related costs of disposal (e.g. wastewater etc.). Service Recipient shall make sure that its assistants or back staff follow the instructions from Service Provider; however, Service Provider does not accept any responsibility or liability for the assistants or back staff of Service Recipient.
- 2.3 If tools or other equipment provided by Service Provider are damaged or get lost at the place of use, Service Recipient shall replace the tool or equipment concerned if the loss or damage is attributable to Service Provider ("*zu vertreten haben*").
- 2.4 Service Recipient undertakes to ensure a safe work place, compliance with the existing safety regulations and proper working conditions and, in particular, to clean the machinery and facilities which are to be repaired. Service Recipient shall make the Service Personnel aware of any special safety regulations and requirements to be observed on Service Recipient's premises.
- 2.5 Service Recipient has sole responsibility for compliance with the entrepreneurial obligations resulting from the Accident Prevention Regulation "DGUV", Rule No. 3 including but not limited to the obligations laid down in §§ 3 to 5 of the said Regulation.
- 2.6 Service Recipient procures any required internal work permits, access authorisations, badges etc. at its sole expense.

3. Prices and terms of payment

- 3.1 Unless otherwise agreed in writing, the prices and travel expenses, if any, charged by Service Provider are calculated according to the list of prices and services of Service Provider valid upon contract conclusion, which Service Provider shall provide to Service Recipient by post upon request. The value-added tax is charged on top, at the statutory rate valid at the time.
- 3.2 Service Provider is entitled to claim adequate advance payment upon contract conclusion.
- 3.3 Any parts, materials and special services used as well as travel and accommodation costs incurred for the Service Personnel must be stated separately in the invoice. If the Services are provided according to a binding cost estimate, reference to the cost estimate shall be sufficient, in which case only deviations in the scope of performance, if any, have to be stated separately.
- 3.4 The agreed remuneration is calculated on the condition of unhindered access to the place of service provision and proper fulfilment of all cooperation duties of Service Recipient. If there is a delay in service provision due to circumstances not attributable to Service Provider ("*nicht zu vertreten haben*"), Service Recipient shall bear the reasonable cost incurred for the waiting time and additional travels by the Service Personnel which may become necessary.
- 3.5 If Service Recipient is in default of fulfilling its payment obligations ("*Verzug*"), default interest shall be due and payable at the default interest rate valid at the time. Service Provider reserves the right to claim further damages for default. In the relationship with merchants ("*Kaufleute*"), the right of Service Provider to claim interest from the due date ("*Fälligkeit*²") under the German Commercial Code (§ 353 HGB) remains unaffected.
- 3.6 Unless specifically agreed otherwise, payment for the Services shall be made to Service Provider's account within 10 days of receipt of the invoice, without discount.

¹ The „Prokurist“ is the holder of a „Prokura“ which is a special authority granted under § 48 et seq. of the German Commercial Code to act on behalf of the company in respect of all transactions in and out of court within the scope of mercantile trade.

² An offer is deemed received („Zugang“ in terms of German law) if and as soon as it has come into the recipient's sphere in the way that the recipient can reasonably be expected to take note of it.

- 3.7 Service Recipient is only entitled to setoff and/or retention if its counterclaims are undisputed or have been established by a final non-appealable decision (*res judicata*).
- 3.8 If Service Recipient uses an email address in addition to its postal address for business purposes, Service Provider may send the invoice solely by electronic transmission (by email) except if Service Recipient objects to the electronic transmission of invoices.
- 4. Travel expenses**
- 4.1 The travel expenses incurred by the Service Personnel include, in addition to rail and flight costs, the cost of transport and transport insurance for personal baggage and tools or equipment carried along or shipped and are invoiced to Service Recipient according to actual expenditure. They also include the cost of visas, if any, and of prescribed medical examinations or examinations by public health authorities as well as any charges, duties, collateral and other expenses associated with transboundary shipment.
- 4.2 Travel expenses also include the cost of the Service Personnel's trips home during the period of service provision according to the applicable collective agreement.
- 4.3 For travels made by motor vehicles, mileage allowance is charged at the respective current rates which are made available by Service Provider at any time upon request. Service Provider may choose the transport means to be used in its reasonable discretion.
- 4.4 If the place of accommodation of the Service Personnel is more than 2 km from the place of service provision, the daily travelling expenses and the daily accommodation-to-workplace times are charged as travel time.
- 5. Inexecutable Services**
- 5.1 Any fault diagnosis carried out for the purposes of offer preparation and any additional expenses are also charged to Service Recipient if the Services cannot be executed for reasons not attributable to Service Provider ("*nicht zur vertreten haben*"), including, without limitation, the following cases:
- the fault which was complained about has not occurred during the testing or diagnosis procedure,
 - Service Recipient has culpably missed the agreed date for service provision,
 - the contract was cancelled by Service Recipient during ongoing execution,
 - the required spare parts cannot be procured within a reasonable period,
 - the fault diagnosis result reveals the necessity of another service to be provided (e.g. if not the battery but the charging device is defective).
- 5.2 The item for which the Service was performed ("service item") need only be restored into its initial condition upon explicit request by Service Recipient against reimbursement of the costs associated therewith, except if the work performed was needless.
- 5.3 The cost of an interruption of service provision or of an extension of the execution period beyond an explicitly agreed termination date which is due to circumstances not attributable to Service Provider ("*nicht zu vertreten haben*") shall be borne by Service Recipient.
- 6. Deadlines for service provision and delays in service provision**
- 6.1 Any indicated service periods are mere estimates and non-binding. Service Recipient may only request a binding period for service provision to be agreed when the scope of work has been exactly determined, the presumably required spare parts or replacement parts are available or can be provided by Service Recipient in time, the parties have agreed on the scope of cooperation and assistance by Service Recipient and any required official permissions have been obtained by Service Recipient. The binding period for service provision runs from the day when the parties are agreed that the aforesaid conditions are fulfilled, Service Provider has free access to the place where the services are to be performed, Service Recipient has approved the commencement of service provision and an appropriate report was prepared which states the date of commencement of service provision and was signed by both Service Provider and Service Recipient.
- 6.2 If Service Recipient requests additional or supplementary services to be performed or if additional services become necessary, the period for service provision shall be extended accordingly.
- 6.3 The binding period for service provision shall be deemed complied with if, by the expiry of such period, the service item is ready for take-over by Service Recipient or, if a test run has been agreed under the contract, for the test run.
- 6.4. Service Provider accepts no liability for any impossibility of, or delay in, service provision or for non-performance of the Services if this is due to force majeure or other events which were unforeseeable at the time of contract conclusion (e.g. any kind of operational disturbance, difficulties in material or energy supply, delay in transport, strike, lawful lock-out, labour shortage or shortage of energy of raw material, difficulties in obtaining necessary official permissions, governmental measures or non-supply, improper or late supply by Service Provider's suppliers) and which are not attributable to Service Provider ("*nicht zu vertreten haben*"); the COVID 19 pandemic constitutes a force majeure event within the meaning of this sec. 6.4. If any of the aforementioned events impede or prevent service provision by Service Provider and the impediment is not only temporary, Service Recipient shall be entitled to withdraw from the contract. If the impediment is only temporary, the periods for service provision shall be extended, or the dates for service provision shall be postponed, by the duration of the impediment plus a reasonable start-up period. If acceptance of the delivery or services is unreasonable for Service Recipient due to the delay, Service Recipient shall be entitled to withdraw from the contract by appropriate declaration to Service Provider made without undue delay ("*unverzüglich*").
- 7. Acknowledgement of service completion; approval**
- 7.1 After service completion but no later than by the end of every work week, Service Recipient shall acknowledge the hours which the Service Personnel has spent on service provision on the time sheets submitted by the Service Personnel.
- 7.2 Service Recipient is obliged to inspect the Services for approval as soon as Service Recipient is notified of service completion or, if agreed from time to time, as soon as the contractually agreed test run has taken place. If the Services prove to be non-compliant with the contractual requirements, Service Provider shall rectify the relevant defect. This shall not apply if the defect is due to circumstances attributable to Service Recipient. In the case of a minor defect, Service Recipient shall not be entitled to refuse approval of the services.
- 7.3 If the approval procedure is delayed with no fault of Service Provider, the Services shall be deemed approved upon expiry of 1 week of the notice of service completion but no later than upon commissioning of the service item.
- 7.4 Upon approval of the services, Service Provider shall no longer be liable for defects which could reasonably have been detected during the approval procedure unless Service Recipient has reserved the right to assert claims for a specific defect.
- 8. Liability for defective Services**
- 8.1 Service Recipient's right for defective Services are governed by the statutory provisions unless otherwise agreed hereinafter.
- 8.2 Service Recipient shall notify Service Provider of any detected defect in writing or text form ("*Textform*", e.g. by letter, email or fax) without undue delay ("*unverzüglich*") and grant Service Provider the necessary time and opportunity to rectify the defect.
- 8.3 Service Provider shall not be liable if the defect is due to circumstances attributable to Service Recipient; this shall include, without limitation, cases where Service Recipient has provided parts for the service provision or has improperly carried out modifications or repair work without the prior consent of Service Provider.
- 8.4 If Service Recipient's request for defect rectification proves to be unjustified, Service Provider may claim from Service Recipient reimbursement of the costs incurred by Service Provider as a result of the unjustified complaint except when Service Recipient was reasonably unable to see the non-defectiveness.
- 8.5 Service Provider does not accept any liability for the following:
- Defects caused by damage, wrong connections or improper operation or by non-compliance by Service Recipient with the manufacturer's instructions or information;
 - damage by improper use or use contrary to the intended purpose;
 - damage caused by force majeure (e.g. lightning stroke);
 - defects caused by dirt or wear and tear due to overstraining of mechanical and/or electronic parts;
 - damage caused by extraordinary mechanical, chemical or atmospheric impact.
- 9. Services to be performed at Service Provider's premises**
- 9.1 If the service item needs to be brought to the premises of Service Provider or its subcontractors for the purposes of service

provision, Service Recipient bears the cost of transportation to and from Service Provider's or subcontractor's premises.

- 9.2 Service Recipient bears the risk of transport. At Service Recipient's request, Service Provider shall take out transport insurance against any insurable risks of transport, e.g. theft, breakage, fire.
- 9.3 There is no insurance cover during service provision at the premises of Service Provider or its subcontractors. Service Recipient itself is responsible for maintaining insurance cover for the service item against risks such as fire, supply water, storm, machinery breakage. Service Provider will only arrange for insurance against these risks at Service Recipient's explicit request and expense.
- 9.4 If Service Recipient is in default of accepting the returned service item after service provision, Service Provider may charge an adequate storage fee for storage on its premises or the premises of its subcontractor. Service Provider may in its discretion also choose another storage option. The cost and risk of storage is in any case borne by Service Recipient.

10. Service Provider's liability

- 10.1 Unless otherwise stated in these GTC-S including the provisions set out hereinafter, Service Provider shall be liable for breaches of contractual and non-contractual obligations according to the statutory provisions.
- 10.2 Service Provider shall be liable for damages, regardless of the legal basis, only in the case of
- wilful misconduct,
 - gross negligence by the company owner/ executive bodies or executive employees,
 - wilful or negligent injury to life or limb or health,
 - defects which have been fraudulently concealed or the non-existence of which was expressly warranted.

In the case of wilful or negligent breach of essential contractual duties ("*wesentliche Vertragspflichten*" which are duties the fulfilment of which is absolutely indispensable for the proper performance of the contract and on the compliance with which the contractual partner usually relies and is reasonably allowed to rely), Service Provider is also liable for gross negligence by non-executive employees and for slight negligence ("*leichte Fahrlässigkeit*"); in the latter case, the liability is however limited to the typical and reasonably foreseeable damage. Any further claims are excluded.

11. Limitation

- 11.1 The limitation period for contractual and non-contractual claims for defective services is 12 months, running from the time of approval.
- 11.2 Claims of damages according to sec. 10 a) to d) are subject to the statutory periods.
- 11.3 The statutory limitation periods also apply with respect to defects of a construction ("*Bauwerk*") and with respect to services which, according to their regular purpose, were used for a construction and have caused a defect in the construction.

12. Place of jurisdiction and applicable law

- 12.1 If Service Recipient is a merchant ("*Kaufmann*") or a legal entity under public law, the place of jurisdiction is Brilon. The same applies if Service Recipient has no place of general jurisdiction ("*allgemeiner Gerichtsstand*") in the Federal Republic of Germany. Service Provider may however in its discretion also sue Service Recipient at the latter's domicile. However, for actions brought against Service Provider, the exclusive place of jurisdiction is Brilon. This is without prejudice to any mandatory statutory provisions governing exclusive jurisdiction.
- 12.2 All legal relationships between Service Provider and Service Recipient are exclusively subject to the law of the Federal Republic of Germany which governs the legal relationships between domestic parties. The application of UN Sales Law is excluded.

13. Personal data

The processing of personal data is governed by Service Provider's privacy policy which is available at www.hoppecke.com/en/privacy.