

I. Scope

- (1) These terms shall apply to all business transactions with companies. They also apply for future services within the framework of an on-going business-relationship.
- (2) Additionally our general terms and conditions apply at their given version. We provide these to our customers on request. Furthermore they may be seen at our website.
- (3) By usage of our services the client acknowledges our terms of service, as well as our general terms and conditions.

II. Charge rates

- (1) Hourly service-rates, regular working time (Monday – Friday 08:00 – 17:00):

For work, waiting, travelling and walk hours the following hourly rates apply:

Service technician	80,00 EURO/hour
Engineer	110,00 EURO/hour

a) Hourly rates beyond regular working times (1st & 2nd overtime):

Service technician	100,00 EURO/hour
Engineer	137,50 EURO/hour

b) Hourly rates beyond regular working times (from the 3rd overtime onwards):

Service technician	120,00 EURO/hour
Engineer	165,00 EURO/hour

c) Work on Saturdays (within regular working times):

Service technician	120,00 EURO/hour
Engineer	137,50 EURO/hour

d) Work on Saturdays beyond regular working time (1st & 2nd overtime):

Service technician	150,00 EURO/hour
Engineer	171,88 EURO/hour

e) Work on Saturdays beyond regular working time (from the 3rd overtime onwards):

Service technician	180,00 EURO/hour
Engineer	206,25 EURO/hour

f) Work on Sundays and/or bank holidays (within regular working time):

Service technician	160,00 EURO/hour
Engineer	220,00 EURO/hour

g) Work on Sundays and/or bank holidays beyond regular working time (1st & 2nd overtime):

Service technician	200,00 EURO/hour
Engineer	275,00 EURO/hour

h) Work on Sundays and/or bank holidays beyond regular working time (from the 3rd overtime onwards):

Service technician	240,00 EURO/hour
Engineer	330,00 EURO/hour

III. Travel expenses

- (1) Travel costs (including costs of transport and insurance of personal luggage, as well as carried and shipped tools) of the service personnel are charged at cost with regard to the following conditions. Travel costs shall include the costs of journeys home during installation in accordance with the applicable collective union agreement, as well as journeys with public transport or cars at place of service. Phone calls and Telegrams shall be borne by the client.
- (2) For journeys with car the following rate will be charged per driven km: 1,00 EURO/km.
- (3) For journeys with public transport the standard tariff rate will be charged:
 - a) Up to 200 km 2. class
 - b) More than 200 km and night journeys 1. class
 - c) Night journeys (sleeper compartment) 1. class
- (4) For air travel the standard tariff costs apply plus any applicable airport or other fees will be charged to the client.
- (5) In case the service technician or engineer visits several service locations, the costs will be charged pro rata.

IV. Board and lodging

Inland

- (1) Daily allowance
Service technician and engineer 70,00 Euro/day
- (2) Accommodation expenses are charged at costs.

Abroad

- (1) The costs comply with the arising expenses at place of service. However, at least the fiscal lump sums according to German law are to be reimbursed.

V. Value added tax (VAT)

The amounts mentioned at these terms of service are to be deemed as exclusive of any VAT which may apply.

VI. Payments

- (1) Our invoices have to be paid immediately after receipt without any cash discount. Invoicing of our services is made at our discretion weekly, monthly or after finished work.
- (2) Retention and offset are only permitted with counterclaims which are not disputed, recognized or finally established by us.
- (3) Our headquarters at Dresden, Germany shall be deemed as place of performance for all payments.

VII. Disruption of performance

- (1) If our service is interrupted at the initiative of the client, costs incurred up to that date are invoiced. Furthermore we reserve the right of charging the additional expenditure caused by the interruption.
- (2) If the interruption lasts for more than 5 weeks, we are entitled to withdraw from the contract and claim damage of service in the amount of 50 % of the remaining costs to completion. The customer will have the right to prove lower damage, whilst SmartPac Verpackungsmaschinen GmbH may furnish evidence that damage is higher.
- (3) If several trips to the client (to and from) of the service personnel are necessary because of order-related reasons, client has to bear the arising costs.

VIII. Involvement of the customer

- (1) The client has to ensure that our performance may begin right after arrival and carried out up to completion without any delay. The client has to initiate the necessary action.
- (2) In particular the client has to take the necessary precautions to protect people and property at the place of performance, ensure proper working conditions as well as to provide necessary auxiliary personnel and material.
- (3) If our service personnel observes any safety-related shortcomings, it is entitled to immediately stop all work. Correspondingly section VII applies. Our service personnel will inform the contact person at place of performance about the shortcomings as far as possible.
- (4) If the client, despite the demand, does not fulfill its duties, we are entitled but not obliged to proceed with the actions for which the customer is responsible, in its stead and at its expense.

IX. Service personnel's duties

- (1) The order given to us is the basis of the work of our service personnel. The service personnel is entitled but not obliged to carry out additional orders of the client.
- (2) Our staff is required to ask the client for certification of services performed at the service report after completion, but at least once per week. A copy has to be provided to the client. Such service reports are basis of the invoicing.
- (3) Our service personnel is ineligible to giving any legally binding declarations. This applies as well for the commitment of dates and periods.

X. Execution of performance

- (1) The client is obliged to verify the proper performance after completion as well as to verify it at the service report provided by the service personnel. Any complaints must be mentioned by the client at the service report.
- (2) The customer cannot invoke to claims according to section 1 which are not stated at the service report.

XI. Contractual object, customer's rights in the event of deficiencies

- (1) Unless agreed otherwise or where it can be inferred by the circumstances, we owe to the customer our performance, but not any specific performance success.
- (2) Independently of the legal nature of the contract, due to claimed deficiencies of our performance or complaints about our activities, the client has first to grant the chance of rectification within a reasonable time, as long as rectification is not excluded or unacceptable.
- (3) In the exceptional event that we owe a certain performance success, the regulations of section IX apply for the rights of the customer in accordance with our general terms and conditions.

XII. Liability

- (1) As long as nothing else results of these terms of service, all kinds of claims of damages and claims of reimbursement of the client, regardless of the legal grounds (in the following overall claims of damage) excluded. Therefore we in particular do not accept liability for loss of profits or other financial losses of the client.
- (2) The exemption from liability according to section 1 does not apply for damages
 - For injury to life, physical injury or damage to health caused by at least to negligent breach of duty by us,
 - For which we are mandatory liable according to product liability law, or
 - Which are based on at least grossly negligent breach of duty by us.

- (3) The exemption from liability does furthermore not apply for damages, based on at least negligent breach of a material contractual obligation caused by us but by endangering the achievement of the purpose of the contractual objective. In the event of breach of a material contractual obligation our liability is limited to foreseeable damage typical of the contract insofar as no intent or gross negligence exists or damages result of at least negligent harm to life, body or health.
- (4) As long as our liability is excluded or limited, this also applies for personal liability of our employees, workforce, staff members, representatives and vicarious agents.

XIII. Applicable law and jurisdiction

- (1) Even if rendered abroad, German law applies for our services. The applicability of foreign law is excluded.
- (2) For business transactions with merchants, place of jurisdiction for all disputes is our registered office. This jurisdiction also applies if the customer does not have a general place of jurisdiction in Germany. We are however entitled to bring suit against the client in the jurisdiction of his seat as well.