

Terms of Assembly and Repair Services for the Domestic and Foreign Markets – Status January 2018

I. Scope of application

1. These Terms of Assembly and Repair Services for the Domestic and Foreign Markets apply to assembly, service, commissioning and retrofitting. They supplement the General Terms of Sale and Delivery for the Domestic and International Markets of Hasytec Electronics GmbH unless agreed otherwise. The specific assembly services are listed in a separate specification. Side agreements and changes require the written form.
2. These terms apply in relation to other entrepreneurs. In relation to consumers, the statutory provisions shall apply, if these terms are opposed by statutory provisions. The client is a consumer in the definition of Sec. 13 BGB [German Civil Code] if the purpose of the ordered deliveries and services cannot be primarily attributed to his commercial or self-employed professional activity. An entrepreneur, in contrast, according to Sec. 14 BGB, is any natural person or legal entity or partnership with legal capacity, acting in exercise of its commercial or self-employed professional activity on the conclusion of the contract.

II. Assembly price

1. The service will be charged by time and expense unless explicitly agreed otherwise. The current assembly cost rates apply.
2. The agreed amounts are understood without value added taxes or comparable local sales taxes that are to be compensated in the respective statutory amount in addition.
3. The holiday rules and other rules regarding work on holidays and Sundays are determined according to the calendar of Schleswig-Holstein.
4. The agreed daily allowance is not only payable for each working day but also for such days on which the service technician must stay at the assembly site for reasons related to his work. Any potential hospitalisations at the place of assembly, however, will reduce the daily allowance by 70%, plus any costs of accommodation that might have to continue to be paid.
5. Travel costs will be charged for the round trip to and from the assembly site on the basis of the respectively most efficient means of travel (e.g. railway, plane, car, ship, etc.) Should the trip to the respective place of work not be taken on time for reasons that are outside of the responsibility of Hasytec Electronics GmbH, for example, due to flight delays, flight cancellations, weather conditions or traffic problems, and if the assembly work must be postponed in consequence thereof, the costs for this will be invoiced to the client. Likewise, freight payments for assembly tools and other ancillary costs and cash expenses related to the trip to the assembly site (insurance, baggage storage, taxi, etc.) will be charged in appropriate amounts. If the service technician cannot be accommodated near the assembly site, additional costs for drives between the assembly site and the accommodation will be invoiced by us and these shall be compensated in the appropriate amount.
6. Any costs caused by accidents or sickness at the assembly site including any costs for the trip back home shall be borne by the client. The time for the doctor's visit including waiting time at the assembly site will be calculated as working time.

7. The assembly hours and daily allowances will be invoiced after the completion of the assembly. If it is requested that the worked hours be monitored, our service technician shall be informed thereof and a corresponding form shall be made available.
8. The quoted prices are based on the expected expenses for travel and installation times. However, if the duration of the assembly is extended for any reason whatsoever or if additional expense is required that is outside of the client's or its contractor's responsibility, and if this causes an interruption or prolongation of the service personnel's work, waiting times or additional working time, the entire costs for room and board, and any incurred additional travel costs of the service personnel will be invoiced.

III. Service personnel

1. The number, classification and composition of the service personnel will be adjusted by us according to the respective requirements.
2. Our service technicians are not authorised to provide and accept any statements of intent for Hasytec Electronics GmbH. For this reason, agreements will be valid only if they are confirmed by an employee of Hasytec Electronics GmbH who has power of representation.
3. Any orders placed verbally with the service technicians for material or requirements of additional personnel shall only be binding on us if they have been notified to us by the client and confirmed by us in writing.

IV. Working conditions

1. The client shall take the necessary special measures for the protection of personnel and property. A contact shall be appointed, who will keep in touch with the service technicians during the implementation of current work and coordinates the work. The client shall also inform the contractor's service technicians on existing special safety regulations, insofar as these are relevant for our service technicians. It shall inform the contractor about violations of such safety regulations by its service personnel. The contractor must point out special risks to the client, which can result from the implementation of the assembly work.
2. The unobstructed implementation of the assembly requires that all areas required for the installation are freely accessible and not blocked by other work.

V. Technical assistance; client's cooperation duties

1. The technical assistance by the client must ensure that the assembly can be started directly upon the arrival of the service personnel and be conducted without delay.
2. The client is obligated to provide technical assistance and to cooperate at its own cost. It shall in particular ensure that transport routes directly up to the assembly site are freely accessible and that all required assisting work is concluded. This includes:
 - a) provision of a power supply 220V/16A in the form of a junction box and a possibility for connection in the perimeter of 5m;
 - b) fasteners for the product;

- c) tool storage spaces that are not accessible to anyone;
- d) operating power for the required machines.

This does not apply if agreed otherwise in the quote. The contractor does not accept any liability for the personnel provided by the client or for the fulfilment of the assisting work.

3. If we take on the transport up to the assembly site as part of the assembly, or unloading or placing the materials constituting the object of assembly into storage, these services will be performed on account and at the risk of the client.
4. The client shall be liable for physical injury and property damages that are caused by its personnel, the unskilled workers provided by it or by third parties. It shall furthermore bear the full responsibility for accidents, the consequences of accidents and property damages that are caused by a culpable breach of the client's cooperation duties.
5. If the client fails to fulfil its duties, the contractor shall be entitled but not obligated, upon announcement and lapse of an appropriate period set for fulfilment, to execute the actions that are within the client's obligation in substitution and at the latter's expense. For the rest, the contractor's legal rights and claims shall remain unaffected, in particular, the costs arising in consequence (e.g. waiting period, return trip) shall be at the client's expense.
6. It is the client's responsibility to expressly inform our service personnel on time if consideration in any way must be paid to the client's operations.

VI. Personnel insurance / disability

1. Our personnel is insured at the assembly sites. The unskilled workers to be provided by the client are not included in this insurance cover.
2. In the case of disability and accidents, the client will see to taking all measures for the care and restoration of health of workers on disability or workers who suffered from accidents, in particular the consultation of a doctor and – if necessary – transport to a hospital that operates in line with modern principles. We must be informed immediately of such incidents. The costs for medical treatment becoming necessary will be refunded by our insurance. Any rights of the insurance to recourse remain unaffected. All costs associated with the deployment of a substitute technician shall be at the client's expense.

VII. Acceptance tests

1. At the end of the assembly, our service technicians will be instructed to conduct an acceptance in attendance of the client. The client undertakes to provide a person for the technician on the agreed date, who has authorisations to confirm the proper assembly and commissioning in the client's name in the form of an acceptance protocol with the result and date of the acceptance.
2. If defects are found in the acceptance test, we shall correct them within the scope of our contractual obligations. Upon correction of the defects, we shall be entitled and, on the client's request, obligated to repeat the acceptance test.
3. Insignificant defects shall not release the client from its obligation for acceptance and issuance of an acceptance protocol; but they shall be noted on the protocol and justify the client to claim the rights of warranty that are in its entitlement according to the contract. If

there are insignificant defects and reworking, the client can demand a repetition of the acceptance test.

4. If the client prevents that the acceptance test is conducted, contrary to its duty, or if the acceptance test cannot be conducted for other reasons outside of our responsibility, the acceptance of the machine shall be deemed conducted after expiration of two weeks as of the assembly completion notification.

VIII. Assembly period

1. If an assembly period has been agreed, it shall apply only subject to the condition of an unobstructed assembly workflow. This presupposes that the conditions defined in these Terms for Assembly and Repair Work have been provided.
2. If assembly or repair work or the acceptance test is delayed or interrupted at none of our fault, the client shall bear the additional costs caused by this, in particular for the waiting period, prolonged working time and also the travel costs in the case that our personnel must be recalled.
3. If the implementation of the work is complicated due to force majeure, which also includes strike and lockout, the assembly period will prolong for an appropriate period if the aforementioned conditions are given. We reserve the conclusion of new agreements with the client, which are adjusted to the changed conditions. If implementing the work becomes impossible, we will be released from the obligations accepted, but we shall retain our right to compensation for the services performed until such time and against compensation of the expense incurred up to such time.

IX. Claims of defects

1. If there is a defect in the assembly, we shall be obligated at our own choice to provide either subsequent fulfilment in the form of the correction of defects or performance of a new assembly service without defects. The obligation for reworking applies only with regard to such defects that are notified to us in writing without delay directly upon their discovery.
2. The client must grant us the required time and ample opportunity to implement the correction of a defect or subsequent fulfilment. Otherwise, we shall be exempted from liability for the consequences arising from this.
3. If we are not willing or not able to provide subsequent fulfilment, in particular if such is delayed beyond appropriate periods for reasons within our responsibility or if the subsequent fulfilment fails in any other way or if the kind of subsequent fulfilment is not acceptable to the client, the client shall be entitled at its choice to withdraw from the contract or to demand a reduction of remuneration. If only an insignificant defect is present, the client shall merely have a right to a reduction of the remuneration. If the client has incurred a loss due to defects on the objects delivered by us or if it has spent useless expenses, our liability for such shall be determined according to Sec. X.

4. If the client or a third party reworks the delivered product improperly by order of the client, we will not be liable for any resulting consequences. The same applies to any modifications of the object of delivery that are made without our prior consent and which have led to a defect or damage.
5. If defects on our services are found, which cannot be repaired immediately at none of our fault, merely such expenses will be at our cost that would have been incurred in the case of immediate repair. If the client prevents us from correcting discovered defects, it shall bear the costs for the damages, waiting time and other expenses caused thereby.

X. Liability

1. We shall be liable to the client and third parties for damages or useless expenses – regardless of the legal reason – only if the damage or the useless expenses have been caused by us or our vicarious agents through culpable breach of such a duty the fulfilment of which makes the proper implementation of the contract possible in the first place and the fulfilment of which the client may regularly rely upon (“essential contractual duty”) or if the damage is due to gross negligent or intentional breach of duty by us or our vicarious agents.
2. If we are liable according to Section X.1 for the breach of an essential contractual duty without gross negligence or intent being established, the liability for damage compensation shall be limited to the predictable, typically occurring damage. In that case, we shall in particular not be liable for the client's lost profit and unpredictable indirect consequential damages. The liability limitations according to clauses 1 and 2 shall apply equally for damages that are caused due to gross negligence or intent by our employees or representatives, provided that these are not members of our Board of Directors or executive staff.
3. The liability limitations specified above in Sec. X.1 and 2 shall not apply if the liability is compulsory on the basis of the provisions of the Product Liability Act or if claims are brought against us for an injury to life, body or health. If a service performed by us is missing an assured property and condition, we shall be liable only for such damages the avoidance of which was the subject of the assurance.
4. Any further liability for damage compensation than that provided for in Sec. XI. 1-3 shall be excluded regardless of the legal nature of the claim asserted. This shall apply in particular also to damage compensation claims arising from fault in conclusion of a contract, positive breach of contract or for claims based on tortious act.
5. Insofar as our liability for damage compensation to the client or third parties is excluded or limited pursuant to Sec. XI.1-4, this shall also apply with regard to the personal liability for damage compensation of our employees, workers, staff, representatives and vicarious agents.

XI. Limitation

1. Claims of the client for defects due to services performed by us contrary to our duty – including damage compensation claims and claims for compensation of useless expenses – shall lapse by limitation within one year, unless stated otherwise in the following Sec. XII.2 and 3. The limitation period for claims by the client in the definition of clause 1 shall begin on the acceptance and, in all other cases, on the statutory start of the limitation period.

2. For defects on an object of delivery that are used according for their regular purpose of use and which have caused the deficiency, the client's claims shall lapse by limitation within 5 years starting from acceptance or, in all other cases, on the statutory start of the limitation period.
3. If we have failed, contrary to our duty, to perform consultation and/or information that is not to be remunerated separately, without us having performed the have the connection with the information or consulting and without the consulting or information contrary to duty representing a defect of the service performed, any claims against us based thereon shall lapse by limitation within one year as of the statutory start of the limitation period. Insofar as the consulting or information contrary to duty represents a defect of the services performed by us in connection with the information or consulting, the provisions agreed in Sec. 1, 2 and 3 shall apply for the limitation of the rights derived from such.
4. The provisions agreed in Sec. 1 to 4 shall not apply to the limitation of claims for the injury to life, body or health nor to the limitation of claims according to the Product Liability Act nor legal defects of the services performed by us, which are constituted in the right in rem of a third party, based on which the surrender of the services performed by us can be demanded. They furthermore do not apply for the limitation of the client's claims that are based on us having maliciously concealed defects on the performed services. In the cases under this Sec. XI.4, the statutory limitation periods shall apply to the limitation of the claims.

XII. General clauses

1. The client may not engage the contractor's personnel without its prior written approval for the performance of work that does not fall under the contract. When engaging the contractor's service technicians, the client shall observe the work restrictions according to the respectively applicable legal regulations.
2. The service technicians are not permitted to execute work on third-party machinery or equipment. The contractor therefore does not accept any liability for such work, even if it is related to the assembly of a product delivered to by the contractor. The service technicians are not authorised to make agreements with the client in the name of the contractor.
3. Any information provided by the contractor in advance as to the duration of the assembly is approximated according to the respective state of knowledge and therefore not binding. The client undertakes to neither offer nor conclude an employment contract with the employees seconded to it without the contractor's agreement.
4. Should a provision of these Terms be fully or partly invalid in the present or the future, the validity of the remaining provisions will not be affected thereby. Instead of the invalid provisions, the statutory provisions shall apply. If this was to represent unacceptable hardship for one of the Parties, the contract on the whole shall become invalid however.

XIII. Applicable law; place of jurisdiction

1. Exclusively German law governs the contractual relations to the exclusion of the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
2. The exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is the place of our registered office. However, we are also entitled to file suit at the place of the client's headquarters.

XIV. Additional provisions

In supplementation and insofar as the present “General Terms of Assembly and Service for the Domestic and International Markets” do not contain a deviating provision, our “General Terms of Sale and Delivery for the Domestic and International Markets” apply.

Only the original German-language version of these Terms and Conditions are legally binding.