



AKASOL AG (“AKASOL”) GENERAL TERMS AND CONDITIONS OF SERVICE

1. General Information / Scope

1.1 These General Terms and Conditions of Service (“**Terms and Conditions**”) apply to all future contracts between AKASOL and the Client concerning the provision of service operations (“**Services**” and “**Maintenance work**”) by AKASOL. Unless otherwise agreed, service works within the meaning of these Terms and Conditions does not mean service contract work. All services are provided on the basis of these Terms and Conditions. Conflicting Terms and Conditions or Terms and Conditions that deviate from or supplement these Terms and Conditions shall be excluded and apply only if and to the extent that AKASOL has expressly agreed to these in writing. This applies also when AKASOL has not expressly objected to the validity of such conflicting or deviating Terms and Conditions or has carried out Services without reservation.

1.2 These Terms and Conditions apply to business transactions with companies within the meaning of S. 14 BGB (German Civil Code), with legal entities under public law, or with special funds under public law, as well as to consumers within the meaning of S. 13 BGB (German Civil Code) (“**Client**”).

1.3 Within the context of an ongoing business relationship, these Terms and Conditions also apply to all future business dealings relating to services between AKASOL and the Client.

1.4 AKASOL reserves the right to amend the Terms and Conditions which have become an integral part of the contract. Any amendment to the Terms and Conditions shall become an integral part of the contracts concluded between AKASOL and the Client, when (i) AKASOL notifies the Client of the amendment; and (ii) the Client does not object in writing to the notification of change in writing within two weeks of receiving the notification of change, whereby AKASOL shall point out the legal consequences of the failure to object to the notification of change.

2. Formation of Contract

2.1 All quotations provided by AKASOL are subject to alteration and are non-binding, unless they are expressly marked as binding.

2.2 The conclusion of the contract requires a written declaration by AKASOL. The requirement for the written form is deemed to have been met if the declaration is made by electronic data transmission (e.g. EDI), by SAP document or by email as a PDF document. This requirement for the written form also applies to post-contractual verbal and other agreements.

2.3 Individual agreements made with the Client on a case-by-case basis (including collateral agreements, supplements, and amendments) shall, in any event, take precedence over these Terms and Conditions. A written contract or written confirmation from AKASOL is decisive for the contents of such agreements.

2.4 Legally relevant declarations and notifications to be made by the Client to AKASOL after conclusion of the contract (e.g. setting of deadlines, reminders, declarations of withdrawal) must be made in writing to be effective.

2.5 If an order by the Client is to be qualified as an offer, AKASOL can accept it within two weeks after its submission. Up to the expiry of this period, the order is binding for the Client. Silence on the part of AKASOL does not constitute reliance on the conclusion of a contract. If AKASOL’s order confirmation is received late by the Client, the latter shall notify AKASOL of this immediately.

2.6 Insofar as the order by the Client substantively differs from the offer made by AKASOL, the Client must specifically highlight this in the order; such deviations only become a term of the Contract if AKASOL accepts these in writing.


2.7 The service staff of AKASOL is not authorised to provide legally binding declarations or promises for delivery dates; further, the service staff is not authorised to carry out technical modifications required by the Client to the object of maintenance. This may only be deviated from if AKASOL gives express written permission; likewise, deviations from this requirement for the written form may only be made in writing.

2.8 AKASOL reserves ownership and, provided they are protected under copyright law, copyright to illustrations, cost estimates, drawings, calculations, and other documentation. The Client requires the express prior consent of AKASOL before making any disclosure to third parties.

3. Unfeasible Maintenance

3.1 The preliminary work carried out to submit a cost estimate, as well as further expenses incurred and to be verified (troubleshooting time equals working time) shall be charged to the Client if the maintenance cannot be carried out due to reasons for which AKASOL is not responsible, in particular, because

- (i) replacement parts cannot be procured;
- (ii) the Client has culpably missed the agreed deadline;

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(iii) the contract was terminated while the work was being carried out.

3.2 The expenses incurred and proven by AKASOL must be borne by the Client if the defect could not be found even in compliance with generally accepted engineering practice. Furthermore, the costs incurred by AKASOL must be borne by the Client if diagnosis of the fault requires the use of test equipment which can only be used at AKASOL's business premises/laboratory; the same also applies to any transport costs that may be incurred if faults/damage identified cannot be rectified onsite, but only at AKASOL's business premises/laboratory.

3.3 The object of maintenance need only be returned to its original condition at the express request of the Client against reimbursement of the costs, unless the work carried out was not necessary.

4. Cost Details and Cost Estimate

4.1 Where possible, AKASOL endeavours to notify the Client of the estimated price for maintenance at the conclusion of the contract. Otherwise, the maintenance works shall be invoiced by AKASOL on the basis of the actual expenditure.

4.2 If a cost estimate with binding price quotation is requested before the Maintenance is carried out, this must be expressly requested by the Client. Unless otherwise agreed, such a cost estimate is only binding if it is submitted in writing (text form or electronic form are sufficient). The preliminary work carried out to submit the cost estimate shall not be charged to the Client, insofar as it can be utilised when the maintenance work is carried out.

5. Price, Payment, Working Hours, Board and Lodging

5.1 AKASOL has the right to request a reasonable advance payment upon completion of the contract.

5.2 Unless stated otherwise, prices are always subject to value added tax at the statutory rate. If the Client is a consumer, however, the quoted prices shall be the final prices and include the statutory value added tax.

5.3 Payment is to be made without discount within 14 days of acceptance and hand-over or sending the invoice.

5.4 If the Client is a business, it shall only have the right to offsetting and retention if the Client's counterclaims are legally determined, ready for a decision in court proceedings, undisputed or accepted by AKASOL.

5.5 In the SEPA direct debit procedure, the notice period for a pending direct debit is reduced to one (1) day. The collection of recurrent payments of equal amounts needs to be notified by AKASOL only once a year.

5.6 For the avoidance of doubt, AKASOL points out that invoices are issued only to the company or in the name of the Client; invoices to third parties that are not identical to the Client are not issued.

5.7 The assignment of claims arising from the underlying contractual relationship of the Client to third parties is only permitted after prior written (also in text form) consent by AKASOL; S. 354 (a) HGB (German Commercial Code) remains unaffected.

5.8 The working hours, expenses, surcharges, and travel times to be taken as a basis when carrying out the service work are set out in the "Annex to the General Terms and Conditions of Service" attached as an Annex.

5.9 The Client must sign an activity report submitted by the service personnel of AKASOL with the activities carried out, working hours and travel time recorded therein. The Client thereby also acknowledges the services performed by AKASOL at the specified times. These activity reports serve as basis for invoicing to the Client.

6. Cooperation and technical assistance of the Client for maintenance outside AKASOL's plant if the Client is a business

6.1 The Client shall, at its own expense, support the maintenance personnel of AKASOL in carrying out the maintenance outside the AKASOL's plant and, in particular, ensure access.

6.2 The Client shall take the necessary measures to protect people and property at the maintenance site. He shall also inform the Maintenance Manager of AKASOL of existing special safety regulations insofar as these are relevant for the maintenance staff. He shall notify AKASOL of breaches of these safety regulations by maintenance staff. In case of serious breaches he may, in agreement with the maintenance manager, refuse the member of staff in breach of the regulations access to the maintenance site.

6.3 The Client is obliged to provide technical assistance at his own expense, in particular through

(i) provision of the necessary qualified auxiliary staff in sufficient numbers and for the time required for the maintenance; the auxiliary staff shall follow the instructions of the maintenance manager; AKASOL does not accept any liability for auxiliary staff. If the auxiliary staff has caused a defect or damage due to instructions given by the maintenance manager, the provisions of clauses 11 and 12 shall apply accordingly;

(ii) provision of the required devices and heavy tools;

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- (iii) provision of heating, lighting, operational force, water, including the required connections, as well as air-conditioned, ventilated, fire-protected and dust-free premises;
- (iv) provision of the necessary dry, lockable rooms for storing the tools of the maintenance staff; these tools are stored at the Client's risk;
- (v) protection of the maintenance location and maintenance materials against detrimental influences of any kind, cleaning of the maintenance locations;
- (vi) provision of suitable, theft-proof common rooms and work rooms (with heating, lighting, washing facilities, sanitary facilities) and first aid for maintenance staff;
- (vii) provision of materials and undertaking of all other actions necessary to adjust the object of maintenance and to perform a contractually scheduled test;
- (viii) if the Client is unable to provide German or English-speaking staff, he shall arrange for a suitable interpreter at his own expense.

6.4 The technical assistance or the cooperation of the Client must ensure that maintenance can be started immediately upon arrival of the maintenance personnel and can be carried out without delay until acceptance by the Client. Unobstructed access to the object to be maintained must be guaranteed by the Client during service work. If hindrances or other interruptions occur for which AKASOL is not responsible, AKASOL reserves the right to claim corresponding additional costs (e.g. due to waiting times etc.) from the Client. Insofar as special plans or instructions from AKASOL are required, the latter shall place them at the Client's disposal in good time.

6.5 The Client has a duty to report and document all malfunctions and damage of which he becomes aware without delay. In the event of damage to the battery, the Client shall hand over the already dismantled battery to AKASOL free of charge if it is to be repaired by AKASOL.

6.6 If the Client does not fulfil his obligations, AKASOL is entitled, but not obliged, after setting a deadline, to carry out the actions incumbent on the Client in his place and at his expense. The legal rights and claims of AKASOL remain otherwise unaffected.

7. Transport and insurance during maintenance in AKASOL's plant

7.1 Unless otherwise agreed in writing, any transport of the object of maintenance to and from the place of installation carried out at the Customer's request, including any packaging and loading, shall be undertaken at the Client's expense, otherwise the maintenance object shall be delivered to AKASOL by the Client at his expense, and after the maintenance has been carried out at AKASOL's plant, it shall be picked up again by the Client.

7.2 The Client shall bear the transport risk.

7.3 At the request of the Client, made in writing or in text form, the outward and, if applicable, return transport shall be insured at the Client's expense against all insurable transport risks, e.g. theft, breakage, and fire.

7.4 There is no insurance cover during the period of maintenance in AKASOL's plant. The Client shall ensure that the existing insurance cover for the object of maintenance is maintained, e.g. with regard to insurance for fire, mains water, storm, and machine breakdown. Insurance cover for these risks can only be obtained at the express request of the Client in writing or in text form, and at the Client's expense.

7.5 If the Client delays acceptance, AKASOL may charge fees for storage in its plant. The object of maintenance may also be stored otherwise at the discretion of AKASOL. The costs and risks of the storage shall be borne by the Client.

8. Period of Maintenance and Maintenance Delay

8.1 The specifications on maintenance periods are based on estimates and are therefore not binding.

8.2 An agreement for a binding maintenance period, which must be described as binding, can be requested by the Client only when the extent of the works has been established in detail.

8.3 The binding maintenance period shall be deemed observed if the object of maintenance is ready for acceptance by the Client by its expiry or, in the case of a contractually scheduled test, if it is ready to be carried out.

8.4 In the case of additional and supplementary orders placed at a later date or in the case of necessary additional maintenance work, the agreed maintenance period shall be extended appropriately.

8.5 If maintenance is delayed by measures taken during industrial disputes and the occurrence of circumstances for which AKASOL is not responsible, an appropriate extension of the maintenance period shall come into effect if such obstacles demonstrably have a considerable influence on the completion of the maintenance.

8.6 If, after the due date and taking into account the legal exceptions, the Client gives AKASOL a reasonable deadline for performing the Service, and if the deadline is not complied with, the Client is then justified to withdraw from the contract within the scope of the statutory provisions. At the request of AKASOL, he undertakes to declare within a reasonable period of time whether he shall exercise his right of withdrawal.

Further claims due to default are determined exclusively in accordance with clause 12.3 of these Terms and Conditions.



9. Acceptance

9.1 The Client has an obligation to accept the Services as soon as he has been notified of their completion and any contractually scheduled testing has been carried out on the object of maintenance. If the maintenance proves not to have been carried out in accordance with the contract, AKASOL has an obligation to remedy the defect. This shall not apply if the defect is irrelevant to the interests of the Client or if it is due to a circumstance attributable to the Client.

If there is an insignificant defect, the Client may not refuse acceptance.

9.2 If the acceptance is delayed without fault of AKASOL, acceptance shall be deemed to have taken place after the expiry of 10 working days following notification of completion of the Service.

9.3 Upon acceptance, AKASOL's liability for recognised defects will cease to exist unless the Client has reserved the right to assert a specific defect.

10. Retention of Title and Extended Lien

10.1 AKASOL retains ownership to all accessories, spare parts and replacement components used until receipt of all payments under the maintenance contract. Further security agreements may be concluded.

10.2 Due to its claim arising from the maintenance contract, AKASOL is entitled to a lien on the Client's maintenance object which has come into its possession on the basis of the contract. If the Client is a business, the following provisions also apply: the lien may also be exercised due to receivables resulting from work carried out earlier, spare part deliveries and other services, insofar as these are connected with the object of maintenance. The lien only applies to other claims arising from the business relationship insofar as they are undisputed or legally established.

10.3 If the object of maintenance is combined with spare parts and the like provided by AKASOL, and if the object of maintenance is to be regarded as the main object, the Client shall transfer proportionate co-ownership to AKASOL until full payment has been made, provided the object of maintenance belongs to him. The Client shall hold the co-ownership for AKASOL.

10.4 In the event of co-ownership in accordance with the above clause 10.3, pledging or transfer of the object of maintenance by the Client by way of security is not permitted. In the event of seizure, confiscation or other dispositions or interventions by third parties in the object of maintenance, the Client must notify AKASOL immediately.

11. Claims for Defects

11.1 After acceptance of the Service, AKASOL shall be conclusively liable for defects in the maintenance to the exclusion of all other claims by the Client, notwithstanding Sections 11.4 and 12, in such a way that it must remedy the defects. If the Client is a business, he must immediately notify AKASOL of the defect identified in writing or in text form.

11.2 No liability shall exist on the part of AKASOL if the defect is irrelevant to the interests of the Client or if it is due to a circumstance attributable to the Client or a third party.

11.3 In the event of any modifications or repair work carried out improperly by the Client or third parties without the prior consent of AKASOL, liability on the part of AKASOL for the resulting consequences shall be excluded. Only in urgent cases where operational safety is endangered and to prevent disproportionately large damage, in which case AKASOL must be notified immediately, or if AKASOL, taking into account the statutory exceptions, has allowed a reasonable deadline set for its company to rectify the defect to expire without success, shall the Client have the right within the scope of the statutory provisions to rectify the defect himself or have it rectified by third parties and to demand reimbursement of the costs from AKASOL in the amount of the contractually agreed maintenance price.

11.4 If the Client is a business and AKASOL allows, taking into account the statutory exceptions, a reasonable deadline set for the company to rectify the defect to expire without success, the Client shall have the right to a reduction in price, within the scope of the legal provisions, after two failed attempts at rectification. Only if the Service is demonstrably of no interest to the Client, despite the reduction, may the Client withdraw from the Contract. Further claims due to default are determined exclusively in accordance with clause 12.3 of these contractual terms.

12. Liability on the Part of AKASOL, Exclusion of Liability

12.1 If parts of the object of maintenance are damaged due to the fault of AKASOL, then AKASOL must repair or replace them at its discretion and expense. Regardless of clause 12.3, the obligation to pay compensation is limited to the amount of the contractual price of maintenance.

12.2 If, due to the fault of AKASOL, the object of maintenance cannot be used by the Client in accordance with the contract as a result of failure to follow or faulty execution of suggestions and advice made before or after conclusion of the contract, or of any other ancillary contractual obligations, in particular instructions for operation and maintenance of the object of maintenance, the provisions of clauses 11., 12.1 and 12.3 shall apply to the exclusion of further claims by the Client.

12.3 For damage which has not occurred to the object of maintenance itself AKASOL shall be liable, for whatever legal reasons, only in the event of intent;

in the event of gross negligence by senior executives or the Board of Directors, in the event of culpable injury to life, limb or health;

in the event of defects that it has fraudulently concealed, within the scope of a guarantee promise;



insofar as liability exists for bodily injury or material damages to privately used objects according to product liability law; in the event of culpable breach of obligations, the fulfilment of which makes the proper execution of the Contract possible in the first place, and on the fulfilment of which the contractual partner may regularly rely (material contractual obligations), AKASOL shall also be liable in the event of gross negligence on the part of non-managerial staff and, in the case of slight negligence, in the latter case limited to reasonably foreseeable damage typical for the Contract. Further claims for compensation are excluded.

13. Limitation Period

If the client is a business, all its claims, on whatever legal grounds, shall become time-barred in 12 months. For compensation claims in accordance with clause 12.3 (i) - (iv) and (vi), the legal time limits apply. If AKASOL carries out maintenance work on a building and thereby renders it defective, the statutory periods shall also apply.

14. Other Rights and Obligations

14.1 AKASOL shall have the right to instruct third parties to carry out maintenance. In this case, AKASOL shall be responsible to the Client for the quality of the work carried out by these third parties.

14.2 AKASOL is exclusively entitled to inventions made by employees of AKASOL for the duration of performance of the Services. . If employees of the Client or the Client himself are also responsible for at least a 50% share of such inventions, the contracting partners shall agree on the respective property rights; in this case, AKASOL shall always receive a free, non-exclusive right of use that is unlimited in terms of space, time and content.

14.3 AKASOL is entitled to interrupt or suspend the performance of an ongoing Service at short notice if the service personnel deployed are otherwise required for an urgent reason (e.g. due to acute operational disruptions at another customer's premises which must be rectified immediately) and the interruption or suspension does not cause any significant damage to the Client. The resulting additional costs shall be borne by AKASOL to the exclusion of any claims for compensation by the Client.

14.4 AKASOL expressly points out that the Client must be aware of and, if relevant, comply with the provisions of the Battery Law (BattG) as amended or, in any other European country, the national regulations on the basis of EU Directive 2066/66. No service provided by AKASOL is designed in such a way that AKASOL has to comply with the Battery Law (BattG). The Client hereby assures both knowledge of and compliance with BattG or, in any other European country, the national regulations on the basis of EU Directive 2066/66, including through the provision of appropriate work organisation. AKASOL shall therefore not accept any liability for breaches against BattG and shall also not be liable for compliance with BattG in the event that recycling services are arranged by third parties in accordance with BattG on behalf of and at the request of the Client. This is, at most, an agency service by AKASOL, whereby AKASOL is not accountable for compliance with BattG nor, in any other European country, the national regulations on the basis of EU Directive 2066/66, nor for recycling services, their extent, or their performance by the third party. AKASOL does not provide any legal advice on BattG or, in any other European country, on the national regulations on the basis of EU Directive 2066/66.

15. Place of Jurisdiction and Applicable Law

15.1 Should one or more provisions of these Terms and Conditions or parts thereof be or become ineffective, this shall not affect the provisions or their parts.

15.2 Insofar as (i) the requirement for the written form is referred to in these Terms and Conditions text form (letter, fax, email, etc.) shall be sufficient to fulfil the requirement for the written form; (ii) where reference is made to "days" this shall mean calendar days.

15.3 Amendments to this Contract shall not be legally effective unless they are made in writing.

15.4 The contractual relationship between AKASOL and the Supplier is subject exclusively to the law of the Federal Republic of Germany to the exclusion of the UN sales law (United Nations Convention on Contracts for the International Sale of Goods of 11.04.1980).

15.5 If the Client is a tradesman, the exclusive place of jurisdiction for all disputes arising from or in connection with the contractual relationship between AKASOL and the Client is the registered office of AKASOL. AKASOL also has the right to bring a legal action against the Client before the court that has jurisdiction for the Client's registered office or any other competent court. The above provisions do not apply if the law provides an exclusive place of jurisdiction.

As at: June 2020