

**General terms and conditions for maintenance and service contracts by
GEBHARDT Intralogistics Group GmbH & Co. KG
GEBHARDT Fördertechnik GmbH, GEBHARDT Systems GmbH und Next Intralogistics GmbH**

1. General

- 1.1 These general terms and conditions (hereinafter: AGB) shall apply to all maintenance and service contracts between GEBHARDT Intralogistics Group GmbH & Co. KG; GEBHARDT Fördertechnik GmbH, GEBHARDT Systems GmbH and Next Intralogistics GmbH (hereinafter: GIG) and its Client, where the client is an entrepreneur in the sense of § 14 German Civil Code (hereinafter: BGB) – this means, an individual or legally competent partnership acting in execution of its commercial or independent professional activity in conclusion of the legal transaction – a legal entity of public law or public-law special fund.
- 1.2 The entire contractual relationship between GIG and the client shall - subject to other individual agreements - be subject to the law of the Federal Republic of Germany under exclusion of the conflict of laws provisions of international private law.
- 1.3 The place of jurisdiction for any disputes from and in connection with the contract between GIG and the client, as well as any disputes on pre-contractual obligations or the conclusion of the contract shall be the respective factually relevant court at the seat of GIG.
- 1.4 Notwithstanding the provisions under I., 3., GIG shall have the right to also raise a claim before the respective factually relevant court at the main seat of Client according to its unilateral discretion.
- 1.5 All agreements between GIG and Client shall be made in writing. This shall also apply to any side agreements and procurement guarantees, as well as to any subsequent changes to the contract.
- 1.6 The inclusion of general terms and conditions of Client is expressly objected to.
- 1.7 The assignment of any contractual claims of Client against GIG shall be excluded.
- 1.8 Client shall not have any set-off or retention rights regarding claims of GIG except in case of undisputed or finally determined claims.

2. Price and payment

- 2.1 The offers of GIG shall always be subject to confirmation. Prices shall apply ex works, excluding packaging, loading, freight and customs, plus the respective arising statutory VATs. Pricing shall be in Euro. If any other currency has been agreed on, all changes to the exchange rate of the foreign currency and the Euro arising after the date of the order confirmation that are to the detriment of GIG shall be imposed on Client.
- 2.2 Payments shall be made at once after receipt of the respective invoice. The inclusion of bills of exchange and cheques shall require the express prior consent of GIG. It shall only take place in lieu of payment. Discount, bill of exchange, inclusion and bank expenses as well as taxes shall be at the expense of the issuer of the bill of exchange or cheque.
- 2.3 If payment is not made in time, GIG shall have the right to charge default interest at 9 percentage points above the base interest rate. This shall also apply if a payment is being deferred by GIG.
- 2.4 If GIG gains knowledge of any circumstances regarding Client's creditworthiness after conclusion of the contract that considerably endanger implementation of the contract, GIG may refuse the services subject to it until Client pays the compensation or provides collateral.

3. Deadlines and periods

Unforeseen events that are outside of the influence of GIG, e.g. curfews, political riot, terrorist attacks, operational impairment, weather influences, as well as measures of labour disputes such as strike and lockout, shall extend the agreed deadlines and periods accordingly. The above circumstances shall not be due to the fault of GIG even if they occur while default was already present. In important cases, GIG shall report such delays to Client.

4. Warranty claims and damages

GIG shall act as follows in case of defects of material in the service, under exclusion of any other claims and subject to section V, items 2 and 3:

1. Defective parts and services shall be improved or replaced without defects at the choice of GIG. The determination of such defects shall be reported to GIG in writing without delay. Replaced parts shall become the property of GIG. Client shall give GIG the time and opportunity required to perform any improved and replacement deliveries that GIG deems necessary upon coordination with GIG. Otherwise, GIG shall be released from any liability for the resulting consequences.
2. Only in urgent cases of danger to the operational safety or defence against disproportionately severe damage shall Client have the right to remove the defect on his own or have it removed by third parties, and to demand reimbursement for the required expenses from GIG. This shall require that Client has informed GIG without delay.
3. Client shall have a right to rescission of the contract in the scope of the statutory provisions if GIG – under consideration of the statutory exceptions

– lets any appropriate period set to it for improvement or replacement delivery due to a defect of material expire without result.

4. In case of inessential defects, Client shall only have a right to reduction of the contractual price. The right to reduction of the contractual price shall be excluded otherwise.

5. Liability

- 5.1 If the service or the delivered object cannot be used by Client as intended due to fault of GIG as a consequence of omitted or defective execution or suggestions

and consultation before or after conclusion of the contract, or due to violation of other contractual secondary obligations, the rules under section IV and section V, items 2, 3 and 4, shall apply accordingly under exclusion of any other claims of Client.

- 5.2 For damage not arising to the object of the delivery and service directly, no matter the legal reason, GIG shall only be liable

- a) at wilful intent,
- b) at gross negligence of the owner/bodies, executive employees or servants,
- c) for culpable violation of life, body and health,
- d) for defects that GIG has maliciously concealed or the absence of which it represented,
- e) for defects of the object of the delivery, in case of liability for injury or property damage to privately used objects according to the product liability act.

- 5.3 For culpable violation of contractual obligations, including default, the liability of GIG shall be limited to the direct average damage typical for the contract that was foreseeable according to the type of the goods.

- 5.4 Liability of GIG for violations of obligations due to slight negligence of its statutory representatives or servants shall be excluded. This exclusion of liability shall not apply to any liability due to damage from the violation of life, body or health. Furthermore, the exclusion of liability shall not apply if the violation of obligations was due to the violation of any main performance obligation of GIG or any other essential contractual obligations; in this case, liability shall, however, be limited to the foreseeable damage that is typical for the contract. Essential contractual obligations shall be such obligations that characterise performance of the contract and the compliance with which Client may trust in. The exclusion of liability shall further not apply if GIG has maliciously concealed the defect.

6. Dissolution of the contract

- 6.1 The contract may be terminated by either party for cause. Cause shall specifically be present in the following cases:

- For both contracting parties, if an application for opening of insolvency proceedings is filed against the respective other contracting party.
- For GIG, if Client enters default with his payment obligations for more than 14 calendar days in spite of dunning and preceding threat of termination without notice.

- 6.2 Where nothing different is agreed on in the contract, the contract may be properly terminated by written notice with a period of notice of 3 months at the end of each calendar year.

7. Miscellaneous

- 7.1 If Client is subject to the protection of the data privacy act, he consents to processing of his data where required for the purpose of the contract.

- 7.2 Both contracting parties shall be obliged to treating any knowledge gained on the respective other contracting partner in the scope of the contractual relationship confidentially and not to disclose it to any third parties. This obligation to secrecy shall continue after termination of the contractual relationship.

- 7.3 The statutory or similar obligations imposed on Client as operator of a facility shall not be affected by conclusion of the contract.

- 7.4 If any provision in these terms and conditions is or becomes invalid, the remaining provisions shall remain valid. Any invalid provisions shall be replaced by such valid ones that come as close as possible to the economically intended content. This shall apply accordingly where there are any gaps.