

1. Scope of Application

Unless expressly otherwise agreed, these terms and conditions shall apply to repair work, maintenance work, inspections and improvements undertaken by Erbe Elektromedizin GmbH (hereinafter „Erbe“) and to modifications and other ancillary services for Erbe products ("Services"). The Services are intended to restore or maintain operability; however, it may not always be possible to prevent an interruption to operability. Erbe Elektromedizin GmbH's General Terms and Conditions of Sale and Supply shall also apply. Terms and conditions of the customer shall only apply if Erbe has given its express written consent.

2. Services and place of performance

Erbe shall perform Services ordered by the customer to a professional standard. Unless the scope of such Services is otherwise agreed in the contract the Services shall include whatever measures are necessary to restore and preserve operability and availability of the product. Repair work cannot be carried out if this is precluded by the product design or if Erbe has officially stopped maintenance work for a product in whole or in parts. Services will be carried out at an Erbe service center. Erbe's field service team may also carry out Services on site where available and technically feasible. Erbe will create a written record of the Services performed and the material used. This record will be provided either in paper or in electronic form.

3. Remuneration and payment

The remuneration payable for the Services is as set out in the Erbe service price list applicable at the time the Services are performed. Any parts required and any carriage and packaging costs will be charged separately. All Services will be charged after they have been rendered. Invoices for Services, including both material and work, shall be payable net within 30 days after invoicing.

4. Cost Estimates

Erbe will provide a cost estimate at the request of the customer or if the expected cost of repair is likely to exceed the current value of the product. If the customer requests an estimate and subsequently decides against the repair to be carried out or continued Erbe may charge for any costs which have incurred thus far.

5. Repair times and service dates

As soon as the technical and the commercial aspects of the contract are clear Erbe will commence repair work within a reasonable period. If a binding date has been agreed this shall be deemed to be the date on which the Services begin. The average time for repair work which is carried out on standard products in the Tübingen service center can be expected to be around one calendar week. If circumstances such as force majeure, strike, lock-out, operating disruptions, shortages or material and energy delay impair Erbe in fulfilling its obligation to perform the work the time for completing the Services might be extended. If the customer cannot be reasonably expected to accept this extension, an equivalent product on a loan basis as a temporary solution (temporary replacement product) can be requested.

6. Customer's duty to cooperate

The customer shall send the product to Erbe's service center or make it directly available to Erbe on site at a pre-arranged time so that Erbe can perform the Services. The customer shall beforehand provide Erbe's service personnel with unsolicited information on the problems which might have occurred and any features specific to the product concerned. The customer shall inform the Erbe field service personnel of any safety and other regulations in force at the customer's premises before the Services are carried out and shall provide sufficient explanations. If Erbe has considerable idle (waiting) periods before starting or while working on the Services on site for reasons which Erbe is not responsible for, Erbe reserves the right to charge for such periods as working time. For each case of service or service order, especially when the product needs to be sent to a service center, Erbe issues a unique number as a case reference and return authorization. This number must be quoted in all the related correspondence and referenced in all shipments by the customer.

7. Acceptance

Once the product has been returned to the customer after Service, the customer shall issue acceptance of properly carried out Services without undue delay in as far as acceptance has been agreed or is prescribed by statute. The Services shall be deemed to have been accepted if the customer does not issue notice of refusal of acceptance to Erbe within 30 days.

8. Warranty on Services

The warranty period for Erbe's Services shall be 12 months from the time when the Services are rendered or, if so agreed or provided for by statute, from acceptance. Warranty shall comprise remedying defective Services and remedying or replacing defective material free of charge. If the customer cannot be reasonably expected to accept remedy or if the attempt to remedy the defect fails definitively the customer may reduce the remuneration or revoke the contract. Any problems which arise with a product which Erbe has repaired or inspected which are not attributable to inadequate performance on the part of Erbe, including but not limited to problems resulting from natural wear and tear, improper usage or other external influences, are not covered by this warranty. If the customer asserts claims owing to inadequate Service performance it shall notify Erbe of such claims without undue delay after the problem has been discovered. The customer shall assert claims for damage caused in transport with the forwarder or parcel service without undue delay after the customer has received the product. To prevent or mitigate any loss it is important that the product concerned may not be used any further and must be made available promptly to Erbe so that Erbe can meet its obligations to remedy any problems or defects. The warranty period shall not start to run from zero again following remedy except in cases of intent or gross negligence of Erbe. If the inspection of the defect reported shows that the alleged defects are not covered by warranty, Erbe may charge for the inspection in as far as the customer is at fault.

9. Temporary replacement

The purpose of a temporary replacement product is to maintain the product or equipment availability in the event of and for the duration of necessary maintenance work. Temporary replacement products are not provided with instructions for use or accessories such as leads, footswitches, etc. because they are intended solely as a 1:1 replacement for the customer's equipment. They are intended to be used with existing accessories using existing instructions for use and documentation. The parameters for the settings, or software versions, or user defined programs are not always consistent with those used on the customer's own equipment. The customer must therefore check the functioning and the setting parameters before using the temporary replacement. Temporary replacement products must not be passed on to third parties. Any losses or defects and wear-and-tear which have occurred during normal use are covered by the charge set out in the service price list. This also covers the inspection before the temporary replacement product is provided / dispatched and after it has been returned. If the temporary replacement product is returned late Erbe may apply the charge for using such product per week commenced after the scheduled date of return. In some cases the charge for using the temporary replacement product may be waived or reduced if this has been agreed with Erbe before the product is sent (for example in the case of warranty claims). The customer has no right to retain parts or entire temporary replacement products after Erbe has rendered the Services, irrespective of the legal grounds. In the event of loss or damage to the temporary replacement product resulting from improper use or negligence the costs of repair or, if necessary, of replacement shall be charged to the customer.

10. Liability

Erbe shall not be liable for claims for compensation for direct and indirect losses, including concomitant or consequential loss, irrespective of legal grounds. This shall not apply to claims of the customer if (i) the loss is attributable to intent or gross negligence on the part of Erbe, Erbe's legal representatives or vicarious agents, (ii) a culpable breach of duty on the part of Erbe, Erbe's legal representative or vicarious agents led to bodily injury or damage to health, (iii) Erbe fraudulently concealed a legal or quality defect or to the extent that Erbe assumed a guarantee, (iv) Erbe has mandatory liability, for example under the German Product Liability Act (Produkthaftungsgesetz), or (v) the loss was attributable to at least a negligent breach of material contractual duties on the part of Erbe, its legal representative or vicarious agents; material contractual duties are those which are essential for due execution of the contract and on which the contractual partner can reasonably expect to be able to rely ("cardinal duties"). However, in the event of a breach of such cardinal duties owing to simple negligence Erbe's liability is restricted in amount to foreseeable damage typical of this type of contract.

11. Data protection

Erbe is committed to comply with the legal provisions of data protection and to oblige its staff to maintain data confidentiality in accordance with § 5 BDSG (Bundesdatenschutzgesetz). In relation to the customer Erbe owns the rights of all operational data stored inside the serviced equipment as well as the results from

using, processing, exploiting or analyzing such operational data. Operational data are all non-personal data contained in, entered in or recorded by our products. (For example technical records, device properties, error and event lists, technical and performance parameters, program lists, measured values etc.). These rights are irrevocable and not limited by time, geographical region or content. Erbe is entitled to download such operational data as part of its Services and to evaluate these data to facilitate troubleshooting, upgrading and development of products and services and to make recommendations on products, to create algorithms, or to match or connect them with other data. These rights are transferable and licensable. Legal restrictions on the use of the operational data remain unaffected. If Erbe creates databases for the evaluation of such data then Erbe is the manufacturer of this database within the meaning of §87a UrhG (Urhebergesetz).

12. Force Majeure

Force majeure, including but not limited to floods and other acts of nature, fires, explosions, war, unrest, official measures (including embargoes and other governmental actions or regulations that would prohibit either party from performing the Services or other performance obligations) and other external events which have no operational link, are unforeseeable, unavoidable despite the extremely sensible application of due care to be expected shall release the parties from their performance obligations for the period of the disturbance and the scope of their implications. As far as can be reasonably expected, the parties shall provide whatever information is necessary without undue delay and adjust their obligations to the changed circumstances in good faith. If an event of force majeure lasts for more than eight weeks each party is entitled to rescind the contract.

13. Applicable law, place of jurisdiction

The law of the Federal Republic of Germany shall apply excluding the United Nations Convention on Contracts for International Sale of Goods. The exclusive place of jurisdiction for all disputes arising from transactions based on these General Terms and Conditions for Maintenance and Service of Erbe Elektromedizin GmbH shall be Erbe's domicile (Tübingen). However, Erbe may also sue the customer at the court which has jurisdiction for the customer's domicile.

Erbe Elektromedizin GmbH Tübingen

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GENERAL TERMS AND CONDITIONS FOR MAINTENANCE WORK AND SERVICES
