

TERMS OF SERVICE



I. Scope of application

1. KEB Automation KG (hereinafter: KEB) provides SERVICES for their products exclusively based on these General Terms of Service.
2. SERVICES refers to all KEB product-related support, repair, servicing, and maintenance services, such as repairs and MAINTENANCE.
3. SERIAL DEVICES are KEB products that are offered in the current KEB sales program.
4. SERVICE DEVICES are KEB products that are no longer available in the current KEB sales program, but still sold by KEB service.
5. OLD DEVICES are KEB products that are no longer available in the current KEB sales program and are only sold by KEB service on request after individual case examination.
6. REPLACEMENT DEVICES can be SERIAL or SERVICE DEVICES
7. SPARE PARTS are only individual parts of SERIAL, SERVICE and OLD DEVICES which are not used in the electrical power range (e.g. fans).
8. RETROFIT SOLUTIONS are KEB products that provide a complete update of an OLD or SERVICE DEVICE to a SERIAL DEVICE.
9. MAINTENANCE is a service on SERIAL and SERVICE DEVICES, which include the preventive exchange of individual parts of KEB products.

II. Preparation and cooperation obligations of the Ordering Party

1. The Ordering Party must prepare the service/repair location in compliance with the respectively applicable accident prevention regulations and other official safety provisions in such a way that on the arrival of KEB Service, the service can be commenced immediately. If protection provisions of a particular kind are to be observed at the service location, then the Ordering Party shall expressly inform the KEB Service Personnel thereof. All information required for the execution of the order is to be issued to KEB in good time before the work commences.
2. Assembly or installation work, required outside of the KEB product must be carried out by the Ordering Party independently, in compliance with the respectively applicable regulations of the responsible power supply companies and all other official regulations.
3. If the Ordering Party does not comply with its preparatory and collaboration obligations, KEB is entitled, although not obligated, to carry out the actions in its stead, and at its expense after prior notification.

III. Service and repair times

Service and repair times agreed as binding shall be extended in the case of force majeure and other events for which KEB is not responsible, such as operational disruptions of all kinds, difficulties in procuring materials, strikes and lockouts, by the period of the duration of the hindrance plus a reasonable start-up period. This also applies if the Ordering Party fails to comply with its preparatory and collaboration obligations. The costs incurred by the delay shall be borne by the Ordering Party in all cases.

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IV. Acceptance/documentation

1. If work services are provided in accordance with the BGB (German Civil Code), the Ordering Party is obligated to accept the service as soon as it has been notified of its completion.
2. The Ordering Party may not refuse acceptance if a defect it has complained about is not significant and we expressly acknowledge the obligation to remedy it.
3. If the acceptance is delayed for reasons not attributable to KEB then acceptance shall be deemed to have occurred after 2 calendar weeks have passed from the completion of the service.
4. The Ordering Party certifies that the KEB service staff uses working and waiting times as a basis for calculation. In case of doubt, the records of the KEB service staff also apply as a basis for calculation. Travel time can only be determined after the KEB service staff have returned and will be calculated according to the time actually incurred. The Ordering Party or its representative shall confirm each completed SERVICE in the presence of the KEB service staff.

V. Working time and remuneration

1. The services rendered are calculated according to time spent on the basis of the respectively valid hourly rates, unless otherwise agreed in writing. Working time is from Monday to Friday inclusive. Normal working time amounts to 7 hours/day as part of a 35-hour week. The preparation, waiting and post-processing times of our staff are calculated as working time.
2. Travel times are calculated separately. Supplements for overtime and work performed on Sundays and public holidays are calculated in accordance with the respectively applicable collective agreement provisions. Spare parts and other material are invoiced separately.
3. All travel and remuneration rates are net plus statutory VAT.
4. The KEB service staff usually arrive by vehicle. For the use of company vehicles, the respectively valid mileage allowance shall be charged to the Ordering Party. Public transport can also be used at the discretion of KEB. The transport costs and all ancillary costs incurred in connection with the execution of the order shall be borne by the Ordering Party. Any overnight stays necessary are invoiced in the amount proven by supporting documents or according to the respectively valid KEB flat rate.
5. Travel expense rates for SERVICES SUPPORT:
 - Return journey for vehicle use amounts according to valid price list
 - Journeys using other means of transport
 - Aircraft (Business class for flights of over eight hours)
 - National railway 1st Class
 - International railway 1st Class
 - Loaned car Medium class

are calculated as per receipt, minus VAT.

6. The allowance (expense allowance) includes hotel costs and meals of the traveling KEB service staff (for each travel day commenced). The billing of the costs for meals is based on the respectively applicable maximum rates as per tax law. Plus any hotel costs (4 star for central European standard) as per receipt, minus VAT.

The invoices issued on completion of the work by KEB are due without deduction after ten (10) calendar days. The Ordering Party is entitled to offset and assert rights of retention only to the extent that the counterclaim is legally established, acknowledged by KEB or is undisputed by KEB.

VI. Warranty/liability

1. In the case of a defective service, the defects are rectified at KEB's discretion by subsequent improvement or by the provision of a replacement service. KEB shall bear all expenses required for supplementary performance, in particular transport, travel, work and material costs, up to the amount of costs for the SERVICE provided.
2. If the supplementary performance fails twice, the Ordering Party is entitled to demand withdrawal or reduction.
3. Insofar as SERVICES represent contractual, purchase or replacement services, the warranty period for the services of KEB is six months after handover or acceptance, as contractually agreed.
4. This does not apply insofar as the law stipulates, in accordance with §§ 309 No. 8 Letter b Letters ff, 438 Para. 1 No. 2 and 634a Para. 1 No. 2 BGB, longer periods of at least a year, and in cases of personal injury, intent, fraudulent concealment of the defect, non-compliance with a quality guarantee and gross negligence by KEB.
5. If a third party makes a claim against KEB for damages that the Ordering Party has to bear, KEB can demand that the Ordering Party release KEB from the liability towards the third party. KEB may not accept or satisfy this claim asserted by the third party without having given the Ordering Party an opportunity to comment.

VII. Software (including parametrizations)

1. If KEB supports the Ordering Party in the creation/adaptation of customer-specific software, KEB must follow its appropriate instructions and is not responsible for the success of the programming work. The responsibility for the care and maintenance as well as ongoing support and the results – especially towards third parties – remains exclusively with the Ordering Party.
2. If, as a result, the Ordering Party's end customers assert claims for damages against KEB due to faulty software, in particular from product liability, the Ordering Party shall indemnify KEB from all claims related thereto. KEB is not allowed to acknowledge or satisfy this claim of the end customer without having given the Ordering Party an opportunity to comment.
3. If KEB takes over the creation of the software in individual cases, the parties will conclude a separate software creation contract; in the absence of such, the provisions of the General Terms and Conditions of Sale of KEB apply accordingly.
4. If KEB transfers contents of the Ordering Party's own and transmitted data media to electronic storage media, in particular hard drives, the Ordering Party is solely responsible for ensuring that the contents are accurate, complete and error-free; for the performance of KEB, the provisions for general SERVICES in these conditions apply in this case.

VIII. Miscellaneous

1. KEB shall retain its proprietary rights and exploitation rights under copyright law to the drawings and documents; access to third parties is only permitted after prior written approval by KEB. Any information issued in written form shall be returned to KEB upon request if the order is not issued to KEB or this information is not to be given on a permanent basis within the framework of the contractual purpose.
2. The Ordering Party grants KEB and its affiliated companies the worldwide unrestricted right, for an indefinite period, to store, copy, modify, analyze, provide or otherwise process and use the data that is collected in connection with or during the provision of the SERVICES or provided by the Ordering Party, also as far as they are contained in reports, for the purposes of the provision of SERVICES, for the improvement or extension of other general services of KEB and for the preparation of individual offers for the Ordering Party, or to have them used by third parties for the named purposes. However, this right of use does not apply with regard to registered property rights of the Ordering Party.
3. With the proviso that KEB is the “Supplier” and the Ordering Party is the “Purchaser” (with the exception of §§1, 2, 3 and 4 on the first two pages), the General Conditions of Sale of KEB, including the General Conditions of Delivery for Products and Services of the Electrical Industry with the exception of Article I No. 1, Article II, III, VI No. 5 and 6, as well as Article XIII and the Software Clause for the Provision of Standard Software shall apply accordingly and additionally as part of deliveries of the Electrical Industry of the German Electrical and Electronic Manufacturers’ Association (Zentralverband Elektrotechnik- und Elektronikindustrie). These General Terms and Conditions of Business are available at www.keb-automation.com or are made available to the Ordering Party on request.
4. The Ordering Party continues to observe that some products of KEB are subject to export restrictions. It is important to note that special export versions exist that differ according to the type of software. In the delivery of all KEB products and replacement parts outside the Federal Republic of Germany, the Ordering Party is solely responsible for complying with customs regulations, proper handling and creation of export and import documents, and for complying with all applicable legal provisions for export and import, in particular the observance of the War Weapons Control Act, embargo provisions, etc.
5. Place of fulfillment and place of jurisdiction
The place of fulfillment is Barntrup. In all disputes arising from the contractual relationship, if the Ordering Party is a registered trader, a legal person under public law or a public-law special fund, the sole place of jurisdiction is the District/Country court of Detmold. However, KEB is also entitled to sue at the registered office of the Ordering Party.
6. German law shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG), even if the Ordering Party has its registered office abroad. In the case of inconsistencies in the interpretation of the present provisions and the German wording or the English and the German meaning of legal terms, the latter applies.
7. Forwarding of the service order
KEB reserves the right to forward the service order within the framework of its global service network in the interest of the Ordering Party to a locally and appropriately qualified service partner. In such a case, the service order of KEB will be forwarded to the service partner. The Ordering Party agrees to this forwarding in advance. Contract processing as well as invoicing are then carried out by the service partner.
8. Use of third-party services (subcontractors)
KEB reserves the right to have the service contract carried out with the aid of third parties.