

Terms of Service

I. Scope

1. The following terms and conditions of EBRO ARMATUREN Gebr. Bröer GmbH - herein-after referred to as "EBRO" - apply to all repair, maintenance, inspection and service activities of EBRO vis-à-vis companies within the meaning of § 14 German Civil Code (*BGB*) - hereinafter referred to as "Customer". All - including future - legal relationships between EBRO and the Customer which relate to the above-mentioned service activities of EBRO shall be governed by the present EBRO Terms of Service in the form valid at the time of conclusion of the respective repair, maintenance, inspection and/or service contract (hereinafter referred to collectively as "Service Contract") or at any rate in the version most recently notified to the Customer in text form, unless expressly agreed otherwise. These service conditions shall apply to future legal relationships between EBRO and the Customer in particular even if they are not expressly agreed again. If the services also include the supply of maintenance and spare parts for compressed air systems, the current version of EBRO's terms and conditions of delivery, which can be downloaded and printed at www.ebro-armaturen.com/downloads/agb, shall apply supplementarily and subordinately unless otherwise stated in these terms and conditions.
2. Any deviating terms and conditions of the Customer, even if they are used by the Customer at a later date, shall only become part of the contract without the written consent of EBRO to the extent that they do not contradict these service conditions.
3. The service agreements concluded between EBRO and the Customer as well as any framework agreements concluded for this purpose shall take precedence over the service conditions. In the case of follow-up orders by the Customer to existing service agreements, the provisions of the original agreement shall always apply unless new agreements have been agreed.

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II. Conclusion of the Contract

1. EBRO's offers for services are always subject to confirmation unless they have been expressly designated as binding.

Orders of the Customer are considered as a binding contract offer, which EBRO can accept within 6 weeks after receipt.

Unless otherwise agreed, all EBRO service contracts shall only come into effect upon EBRO's written order confirmation.

2. EBRO's ownership and copyrights to the price quotations, drawings and drafts prepared by EBRO as well as their mathematical basis are reserved by EBRO. These documents may not be reproduced or made accessible to third parties without the written consent of EBRO. If the order is not placed, they must be returned to EBRO immediately.

III. EBRO Services

1. EBRO provides the services listed in the respective service contract for the products registered there in accordance with the type of service specified in the order. Side agreements and amendments require the written confirmation of EBRO.
2. EBRO is entitled to make changes at any time, in particular of a technical nature, insofar as they serve to improve the services.
3. The service includes, as far as nothing else is regulated in the service contract:
 - the agreed inspection, maintenance, retrofitting and conversion work,
 - the elimination of plant faults with the aid of teleservice, insofar as the relevant equipment is available at the contracting entity, and
 - if necessary, the repair or replacement of complete product units on site by EBRO technicians and the provision of maintenance, wear and spare parts as well as operating materials.

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4. According to the type of service selected in the underlying service contract, the following EBRO service times apply:

Standard working hours:

The services are provided by appointment during EBRO's business hours (Mondays to Fridays 7.00 a.m. to 5.00 p.m.) without overtime surcharge.

5. Unless otherwise agreed in the underlying service contract, the service price does not include:

- Dismantling and assembly services, such as pipe installations, electrical and mechanical connections, dismantling of ventilation ducts, etc.,
- Disposal of old parts, waste and operating materials,
- Periodic inspections and replacement documentation, e.g. butterfly valves,
- Other aids and parts worn due to wear and tear,
- Provision of media, such as electricity, water, etc.,
- Safety briefings at the site of the plant,
- Services provided by experts,
- Travels (to and fro) as well as exchange services and
- Costs for the storage / interim storage of plants and parts.

Services which are not included in the service price will be invoiced separately. Unless otherwise agreed, the service charge rates and list prices of EBRO valid at the time of the respective service performance shall apply.

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IV. Execution Deadlines and Delays

1. Information from EBRO on the duration of work is generally non-binding, as this is initially based on estimates and empirical values. The Customer can only demand the agreement of a binding deadline, which must be in writing and designated as binding, once all commercial and technical details of the contract, including the scope of the work for EBRO, have been conclusively and precisely established and the Customer has fulfilled all obligations incumbent on him, such as cooperation actions, provisions or down payments.
2. If the work is delayed due to the occurrence of circumstances such as force majeure, industrial disputes, in particular strikes and lock-outs, delays on the part of the supplier including such on the part of the Customer as well as other events for which EBRO is not responsible, an appropriate extension of the execution period shall be granted. EBRO shall notify the Customer of the occurrence and expected duration of such events. The same applies to additional and extension orders placed by the Customer or to necessary additional work which EBRO could not have foreseen at first. The reasonable extension of the deadline shall also apply if the circumstances justifying the extension only occur after EBRO has already fallen behind with the execution / completion of work.
3. If EBRO has prepared a cost estimation before providing the services, the contract shall initially be limited to the services specified therein in detail and the use of materials. Should it become apparent during the execution of the work that additional work and materials not included in the cost estimation are necessary for the performance of the service, EBRO shall only be obliged to carry out the work further if the Customer expressly commissions the further work. If it should turn out during the execution of the work that these are not feasible for actual and / or legal reasons, e.g. because of
 - the defect complained about did not occur again during the inspection,
 - spare parts necessary for carrying out the work can no longer be procured, or
 - the contract was terminated during execution, etc.,

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EBRO only needs to return the machine or machine component to its original condition at the express request of the Customer against reimbursement of the costs.

V. Cooperation of the Customer / Acceptance

1. In the event of work outside EBRO's site, the Customer shall, at EBRO's request, support EBRO with personnel and technical assistance. The Customer's technical assistance must ensure that the work can be started immediately after the arrival of EBRO's personnel and carried out without delay until acceptance by the Customer.

Insofar as plans and / or instructions of the Customer are required, the Customer shall make them available to EBRO in good time and free of charge. EBRO accepts no liability for the auxiliary staff provided by the Customer.

Customer's duties to cooperate to be carried out for EBRO free of charge include in particular

- a) Ensuring that the subject matter of the contract is at the free disposal of EBRO during the work and does not have to be used for production work,
- b) Provision of the necessary auxiliary personnel, lifting and transport tools,
- c) Execution of all construction, bedding and scaffolding work including procurement of the necessary components,
- d) To take all special measures necessary for the protection of persons and property on site,
- e) Informing EBRO of current and future safety regulations where these are relevant to the provision of the services,
- f) Provision of heating, lighting, operating power, water and electricity including the necessary connections,
- g) if required, the provision of dry, lockable rooms for the storage of the tools required by EBRO,
- h) Protection of the repair/assembly site and the required materials against harmful influences of any kind,
- i) Provision of suitable lounges and work rooms (incl. washing facilities, sanitary facilities) for EBRO staff,
- j) Provision of all materials and actions necessary for balancing and trial run,

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- k) Provision of a functioning modem device (telephone socket near the repair station with its own telephone number and trunk line and ISDN adapter for carrying out remote diagnoses), if the Customer wishes to have a remote diagnosis via modem, and
 - l) Ensuring insurance cover for the object of work, in particular against risks such as fire, tap water, storm, machine breakage.
2. If the Customer does not comply with his obligations to cooperate, EBRO shall be entitled, but not obliged, after setting a reasonable deadline, to carry out the actions incumbent on the Customer itself or have them carried out by third parties in its place and at its expense. Section IV. 2 remains unaffected.
3. The Customer is obliged to accept the work as soon as he has been notified of its completion. If there are no material defects, the Customer may not refuse acceptance. The acceptance is confirmed on documents from EBRO (e.g. on the service contract).

If the Customer does not comply with his acceptance obligation despite setting a reasonable grace period, acceptance shall be deemed to have taken place upon the expiry of the grace period without result, unless the Customer is entitled to refuse acceptance due to material defects in the service and has notified EBRO in writing of known defects at the latest at the time the grace period expires. Irrespective of this, acceptance can also be effected by conclusive behaviour on the part of the Customer - e.g. by using repaired or serviced machines and / or their components. If, due to the nature of the work, acceptance is excluded, completion of the work shall take the place of acceptance.

VI. Prices and Terms of Payment

1. Unless expressly agreed otherwise, the Customer is obliged to pay the amounts invoiced by EBRO for the services rendered within 14 days of the invoice date without deductions or discounts. The fee for the individual services is based on the service agreements concluded. If the remuneration is not expressly regulated by contract,

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the EBRO list prices valid at the time the service is performed and the usual remuneration for the delivery of materials and the deployment of the necessary personnel shall be decisive for the calculation of services. The costs estimated before the work is carried out are not binding. If the Customer requests a binding cost estimate, EBRO shall be entitled to charge the Customer separately for the costs of this, which shall be set off against the fee to be paid by the Customer in the event of subsequent commissioning in favour of the Customer.

2. All payments shall first be credited against interest and costs and then against EBRO's oldest accounts receivable, irrespective of any other dispositions by the Customer.
3. The delivery and removal of the service item (including packaging and loading etc.) shall be at the expense of the Customer, unless otherwise stipulated in the service contract or the Customer organises the transport at its own risk and expense.
4. In the event of overdue payments, default interest shall be charged at the statutory rate. The assertion of further damages is not excluded. EBRO's accounts receivable against merchants for the commercial interest on maturity (§ 353 German Commercial Code (*HGB*)) remains unaffected.
5. In the event of the Customer's delay in taking over the service item located at EBRO's site, EBRO shall be entitled, at its own discretion, to store the service item on its own site or with third parties or to have it stored. The costs incurred by storage, but in the case of storage at EBRO's site at least 0.5% of the invoice amount for each month commenced, and the risk of storage in this case shall be borne by the Customer. EBRO is entitled, after setting and fruitless expiry of a reasonable grace period, to dispose otherwise of the service item and/or to supply the Customer with a reasonably extended grace period. The Customer is entitled to prove that EBRO has incurred no loss or a substantially lower loss than the above flat rate.

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6. The Customer shall only be entitled to withhold payments or offset them against counterclaims if and to the extent that his rights / counterclaims are undisputed or have been finally and conclusively established.

VII. Retention of Title / Extended Lien

1. EBRO retains title to all accessories, spare parts, replacement and retrofit units used until the invoices issued have been settled in full. Should the ownership of the components supplied by EBRO nevertheless pass prematurely into the ownership of the Customer before the complete invoice settlement by way of connection and/or commingling, EBRO shall acquire co-ownership of the processed object at this point in time in such proportion as the value of the contractual object without replacement of the defective parts and/or the rendered services stands to the value of the components/spare parts used and the work performance. The Customer must inform EBRO immediately if an application for the opening of insolvency proceedings has been filed or if access by third parties (e.g. seizures) is made to objects also belonging to EBRO.
2. If the subject matter of the contract comes into the possession of EBRO for processing purposes, EBRO shall be entitled to a lien on the subject matter of the contract due to outstanding claims arising from the contractual relationship. The right of lien may also be asserted in respect of claims arising from work carried out earlier, deliveries of spare parts and other services, insofar as they are connected with the subject matter of the contract.

VIII. Warranty for Defects

1. In the event of a defect justified to be covered by warranty, EBRO shall initially be entitled, at its own discretion, to remedy the defect by rectification and / or replacement of defective components. If either two attempts by EBRO to remedy the defect fail or if EBRO is more than three weeks in arrears with the remedial work owed, the Customer shall be entitled to reduce the consideration in the case of insignificant defects or, otherwise, to withdraw from the contract.

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2. The Customer must notify EBRO in writing of obvious defects immediately, and hidden defects immediately after their discovery. For defects for which the Customer does not reserve the warranty at the time of acceptance, the warranty obligation expires. The objection of delayed notification of defects remains unaffected.
3. Furthermore, warranty claims for defects shall lapse if changes or repairs have been made to the subject matter of the contract without the written consent of EBRO. This does not apply if the Customer proves that the defect is not based on such change or repair. Finally, EBRO does not assume any liability for such defects which are exclusively due to wear and tear. EBRO keeps replaced parts for two weeks after acceptance of the work. If within this period no ownership is asserted by the Customer are asserted, the parts become the property of EBRO. EBRO warrants subsequent performance or rectification to the same extent as for the original work, unless such work was carried out on a purely goodwill basis without recognition of the defect.
4. The warranty period for service work is 12 months, beginning on the day of acceptance. The statutory warranty period applies to service work on a building.
5. Any existing warranty claims under the sales contract with regard to the object of service remain unaffected by this.

IX. Liability

1. EBRO shall be liable for intent, gross negligence or culpable breach of essential contractual obligations by EBRO in accordance with the statutory provisions.
2. In the event of simple negligence on the part of EBRO, EBRO shall only be liable for
 - a) damages resulting from injury to life, limb or health;
 - b) damages resulting from the violation of an essential contractual obligation, limited to the compensation of the foreseeable, typically occurring damage. Essential contractual obligations are obligations the fulfilment of which is essential for the

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proper performance of the contract and on the observance of which the contractual partner regularly relies and may rely.

3. The above limitations of liability shall also apply to the personal liability of the employees, representatives and organs of EBRO and their vicarious agents.
4. Insofar as EBRO provides technical information or acts in an advisory capacity and this information or advice is not part of the contractually agreed scope of services owed by EBRO, this shall be done free of charge and under exclusion of any liability.
5. The above limitations of liability shall not apply if EBRO has fraudulently concealed a defect in the work or has assumed a guarantee for the quality of the work or in the case of liability in accordance with the provisions of the Product Liability Act.
6. In the case of services including maintenance, repair and retrofitting and conversion work on machines or machine components not manufactured by EBRO, EBRO shall not be liable and shall not assume any warranty if the manufacturer, quasi-manufacturer or third parties assert infringements of industrial property rights due to the work carried out by EBRO. It is the sole responsibility of the Customer to ensure that the work commissioned and to be carried out by EBRO does not lead to infringements of industrial property rights by means of research into industrial property rights, limitation of the content of the service order or by means of licence agreements with the respective entitled parties. In particular, the Customer must ensure through his own conduct that no infringements of property rights occur (e.g. by not reselling the machines or machine components processed, modified or retrofitted by EBRO in the course of business, etc.).
7. Should EBRO be held liable by third parties due to culpable non-compliance of Customer with the above obligations to cooperate, the Customer is obliged to indemnify EBRO against all claims, including the costs of legal proceedings.

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X. Secrecy

1. The contracting parties mutually undertake to maintain secrecy regarding the contracting party's business secrets and confidential information. This obligation shall apply for a period of 2 years from the date on which the confidential information becomes known.
2. Confidential information is all information and documents of the respective other contracting party which are marked as confidential or are to be regarded as confidential due to the circumstances, in particular information about operational processes, business relationships and know-how as well as work results.
3. Such confidential information is excluded from the duty of confidentiality pursuant to Section X.1,
 - a) which were demonstrably already known to the recipient when the service contract was concluded or which subsequently become known by third parties without this resulting in a confidentiality agreement, including this Section X., legal regulations or official orders being violated;
 - b) which are publicly known at the time of conclusion of the contract or are made publicly known thereafter, unless this is based on a breach of this contract;
 - c) which must be disclosed due to statutory or other provisions, by order of a court or administrative authority or due to applicable regulations of a stock exchange. To the extent permitted and possible, the recipient subject to the disclosure obligation will give the other party prior notice and the opportunity to take action against the disclosure.

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4. The Parties shall grant access to confidential information only to consultants who are bound by professional confidentiality obligations or who have previously been required to comply with confidentiality obligations comparable to this agreement. Furthermore, the parties will disclose confidential information only to those employees who are required to know it in order to perform this agreement or and who are required to maintain the confidentiality of employees to the extent permitted by labor law, including for the period after they leave the Company.

XI. Extraordinary Termination

1. Irrespective of the grounds for ordinary termination laid down in the underlying service contract, each contracting party shall be entitled to terminate the contract extraordinarily and without notice if
 - a) the respective other contracting party violates serious contractual obligations and does not remedy the violation within a reasonable grace period;
 - b) the respective other party liquidates its business or composition or insolvency proceedings in respect of its assets are applied for or opened;
2. If the contractual obligations of both contracting parties cannot be fulfilled due to force majeure, both contracting parties shall be entitled to terminate the contract extraordinarily and without notice 6 weeks after the occurrence of the breach of contract.
3. Notices of termination must be in writing to be effective.

XII. Legal Succession

The contracting parties undertake to agree with any legal successors to assume the rights and obligations under this contract.

XIII. Data Protection

EBRO hereby notifies the Customer in accordance with the requirements of the General Data Protection Regulation (GDPR) as well as the Federal Data Protection Act (BDSG) that the Customer data collected from this business relationship is also

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stored by EBRO for its own purposes, e.g. for the purpose of advertising by EBRO. The Customer hereby agrees to the collection and storage of his data. He can at any time informally object to the storage of his data at EBRO.

XIV. Place of Jurisdiction / Applicable law / Miscellaneous

1. The place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be the court responsible for the registered office of EBRO, even if repairs, deliveries or services have been carried out by a branch of EBRO which does not have its registered office there. However, EBRO is entitled to also sue the Customer at other courts with local and functional jurisdiction in accordance with the statutory provisions. Mandatory legal provisions, in particular regarding exclusive jurisdiction, remain unaffected.
2. The law of the Federal Republic of Germany shall apply exclusively, under exclusion of its conflicts of law provisions and of the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
3. Side agreements have not been made. Amendments and/or supplements to these service conditions, as well as to the service contracts, must be made in writing in order to be effective. This also applies to this written form requirement.
4. The transfer of rights or obligations of the Customer from the service contract requires EBRO's written consent.
5. Should one or more of the provisions of these EBRO Terms of Service be or become invalid or unenforceable in whole or in part, the validity of the remaining Terms of Service shall not be affected. The contracting parties shall be obliged to replace the invalid provision with a valid provision that comes as close as possible to the economic purpose of the invalid provision. The same applies in the event of a contractual gap.