

ads-tec Energy Service GmbH

Supplemental Terms on Services of ads-tec Energy Service GmbH

Supplemental Terms of Service



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1 Definitions

- 1.1. **"Order"** refers to any agreement entered into with the Service Customer regarding the performance of Services, including agreements for the sale and supply of Spare and Wear Parts by ADS-TEC ("**Purchase Orders**") and agreements regarding other Physical Services and Digital Services.
- 1.2. **"Digital Services"** refers to all Services involving the transmission or retrieval of digital data from a Serviced Item, or the deployment of such data, as well as any alterations to the Software or its sequence logic, including Remote Commissioning and Remote Service.
- 1.3. **"Physical Services"** means the supply of Spare and Wear Parts for a Serviced Item and all Services involving a physical examination of a Serviced Item or physical intervention in its hardware, including Commissioning On-Site at the installation site of the Serviced Item, Inspection, Maintenance and Repair.

2 General Provisions for Orders

2.1 Incorporation and Exclusive Application of GTC

Any of ADS-TEC's deliveries, performances and offers relating to Services shall be governed exclusively by the Service GTC and these Supplemental Terms of Service. The terms and conditions of the Service Customer or any third party shall not apply, even if ADS-TEC fails to raise separate objection to their incorporation in any given instance. Similarly, any mere reference by ADS-TEC to a mailing incorporating or referring to any terms and conditions of the Service Customer or a third party shall not be construed as an agreement as to the application of those terms and conditions.

2.2 Offer and Execution of Agreement

- 2.2.1 All offers submitted by ADS-TEC in relation to Services are subject to amendment and non-binding, unless they are expressly labelled as binding or incorporate a specific acceptance period. ADS-TEC may execute Orders within 14 days following receipt of a related request ("offer") submitted by the Service Client.
- 2.2.2 The binding terms established between ADS-TEC and the Service Customer shall be governed exclusively by their written statements made in the executed Order, supplemented by these Supplemental Terms of Service and the Service GTC. These constitute the complete and exclusive statement of the agreements between the parties related to the subject matter of the Agreement. No oral statements made by ADS-TEC prior to the execution of the Order shall be binding upon it and any prior oral arrangements between the parties shall be superseded by the executed Order unless expressly agreed to the contrary between the parties.

- 2.2.3 Modifications of and amendments to the binding agreements, including these Supplemental Terms of Service, shall not be binding except as agreed by both parties by an executed written amendment. Except for managing directors (*Geschäftsführer*) or authorised signatories (*Prokuristen*), none of ADS-TEC's personnel are empowered to enter into oral arrangements that deviate from the written statements.
- 2.2.4 Offers and quotations submitted by ADS-TEC as well as drawings, illustrations, calculations, brochures, catalogues, price lists, models, tools and other documents and aids provided to the Service Customer are Confidential Information of ADS-TEC within the meaning of the Service GTC.

2.3 Diminished Credit Standing of Service Customer

ADS-TEC shall be entitled to demand prepayment or the provision of collateral prior to the supply of any outstanding deliveries and performances if, after the execution of the written Order, ADS-TEC becomes aware of circumstances which are capable of significantly diminishing the credit standing of the Service Customer and which compromise the payment of any unsettled receivables owed by the Service Customer to ADS-TEC under the respective terms of Agreement (including from other Orders).

2.4 Incapability and Delays

- 2.4.1 ADS-TEC shall not be liable for incapability to deliver or to perform or for delays in delivery or performance if these are the result of force majeure or other events unforeseeable upon execution of the written Order (e.g. operational disruptions of any kind, obstacles in procuring materials or energy, transport delays, strikes, lawful lockouts, shortage of labour, energy or raw materials, obstacles in obtaining required governmental or administrative permits, unexpected pandemics or epidemics, governmental or administrative interventions or failure of the Manufacturer's sub-suppliers to make any supply at all, or in due manner and time, despite a concurring hedging transaction entered into - also by the Manufacturer), for which neither the Manufacturer nor ADS-TEC can be held accountable. If such events significantly impede or prevent ADS-TEC from delivery or performance (including when they occur at the Manufacturer's sub-suppliers) and provided that the impediment is not only of a temporary kind, ADS-TEC shall be entitled to rescind the Order. In the event of impediments of a temporary kind, the delivery/performance deadlines shall be extended or the delivery/performance dates shall be postponed by the period of the impediment increased by a reasonable ramp-up period. If the Service Customer cannot reasonably be expected to acquiesce in the delivery or performance as a result of the extension/postponement, it may rescind the Order by immediate written notice delivered to ADS-TEC.

2.4.2 If ADS-TEC defaults on a delivery or performance or becomes incapable of supplying such for whatever reason, ADS-TEC's liability - subject to clause 2.4.1 - to compensate for damages and futile expenses shall be limited to 10 % of the net order value of the Order concerned. In the case of Subscribed Services with a continuous obligation, the default value shall be the Annual Fee.

2.5 Failure to Agree on Remuneration

ADS-TEC's Services shall always be subject to remuneration, even if no remuneration has been agreed, unless the supply of Services has been expressly agreed exempt from remuneration under exceptional circumstances. If the parties failed to agree on the remuneration of a Service which the Service Customer could only expect to receive for a remuneration, the Service Customer shall pay the customary remuneration for this Service. In case of doubt, the remuneration rates specified by ADS-TEC in the Order or alternatively in its general price lists shall be deemed customary.

2.6 Quote of Estimated Costs

- 2.6.1 If the Service Customer wishes to receive a quote of estimated costs before the Service is supplied, it is required to advise ADS-TEC thereof no later than when submitting the Order. An Order shall then only be deemed executed once the Service Customer agrees to ADS-TEC's offer accompanied by a quote of estimated costs or if the parties reach another agreement.
- 2.6.2 Unless expressly agreed otherwise between the parties, a quote of estimated costs shall be non-binding. The quote of estimated costs shall be remunerated by the Service Customer.
- 2.6.3 If a binding quote of estimated costs has been agreed and it becomes apparent during the supply of the Service that the quote will be exceeded by more than 10%, ADS-TEC shall provide notice thereof and may only (continue to) supply the Service only after obtaining the Service Customer's approval, except in emergency cases.

2.7 Performance and Time of Performance

- 2.7.1 The parties shall jointly determine the schedule for the performance of the Services. The deadlines and dates agreed in writing for the performance of Services shall be binding upon both parties and may only be modified as agreed by both parties by an executed written amendment. With regard to the deadlines and dates for deliveries, the specific provisions for Purchase Orders under Clause 3 shall apply.
- 2.7.2 Unless otherwise agreed, Services shall only be performed from Monday to Friday between 08:00 a.m. and 04:00 p.m. CE(S)T, excluding public holidays at ADS-TEC's registered office and/or at the installation site of the Serviced Item, and in the case of on-site Services at the installation site, be performed with ten (10) days' prior notice.

- 2.7.3 If the Service Customer fails to request the ordered Services from ADS-TEC or fails to request them at the agreed date (Clause 2.7.1), ADS-TEC shall be entitled to invoice the Service Customer for the ordered Services after the expiry of a reasonable period of at least 14 days set in writing. ADS-TEC shall then perform the actual Services at a later date at its own reasonable discretion; in this case, initially agreed dates shall cease to be binding.
- 2.7.4 ADS-TEC may - without prejudice to its rights arising from default of the Service Customer - require the Service Customer to extend performance deadlines or to postpone performance dates by the period during which the Service Customer fails to comply with its contractual obligations vis-à-vis ADS-TEC.
- 2.7.5 If a bindingly fixed date is exceeded for reasons for which ADS-TEC is solely and directly responsible, the Service Customer shall first request ADS-TEC in writing to perform the Service owed and grant ADS-TEC a reasonable period of at least ten (10) business days. ADS-TEC shall only be deemed defaulting after such period has expired to no avail.

3 General Provisions regarding Purchase Orders for Spare and Wear Parts

3.1 Special Definitions

- 3.1.1 "**Spare Part**" means any unit of the Serviced Item (parts, assemblies or complete products) which pursuant to the Manufacturer's reasonable discretion is intended to replace a damaged, worn or missing unit, including those of identical condition ("**Original Spare Part**"), of factory-refurbished condition ("**Refurbished Spare Part**") or of condition equivalent in form, fit and functional requirements ("**Successor Spare Part**"). Spare Parts do not include lubricants and consumables.
- 3.1.2 "**Wear part**" means any Spare Part that is subject to operational wear and is intended to be replaced regularly in order to prevent a wear-related functional failure of another unit of the Serviced Item or a risk to operational safety.

3.2 Supplies and Quotations

Supplies of Spare and Wear Parts and related quotations by ADS-TEC are on its own behalf, also when procured from the Manufacturer, unless expressly stated otherwise in the Purchase Order.

3.3 Prices for Spare and Wear Parts

- 3.3.1 The prices applying to the supply of Spare and Wear Parts shall be those specified in the Spare and Wear Parts Price List effective at the date of Service Customer's request ("offer") relating to a Purchase Order, unless ADS-TEC has offered deviating prices that are expressly

labelled as binding or are contingent upon a specific acceptance period. Except for managing directors (*Geschäftsführer*) or authorised signatories (*Prokuristen*), none of ADS-TEC's personnel are empowered to offer prices that deviate from the Spare and Wear Parts Price List effective from time to time. Prices are quoted in EUR ex works plus packaging, Taxes and Customs Duty for export deliveries.

- 3.3.2 Refurbished Spare Parts are offered and supplied at the price applicable to Original Spare Parts. If the Service Customer transfers title in a removed part or a removed assembly of the same type as the Original Spare Part onto ADS-TEC and delivers it to ADS-TEC at its own expense and risk, the price payable by the Service Customer shall be reduced to the amount specified in the Spare and Wear Parts Price List as "Refurbished" item of identical type.
- 3.3.3 ADS-TEC shall notify of any amendments to its Spare and Wear Parts Price List by email delivered to the Service Customer's Primary Contact at least 45 days prior to their application and shall grant the Service Customer a last call to order such Spare and Wear Parts whose prices increase. However, if delivery is to be performed later than four months following the Purchase Order's written execution, the increased prices shall apply as notified.

3.4 Delivery and Time of Delivery

- 3.4.1 Deliveries shall be effected from the location specified by ADS-TEC in the offer (e.g. warehouse of ADS-TEC or warehouse/plant of the Manufacturer or a sub-supplier) and be effected to the Service Customer or to the third party designated by it (consignee of goods).
- 3.4.2 Deadlines and dates for deliveries quoted by ADS-TEC shall always be approximate only, unless a fixed deadline or fixed date has been expressly accepted or agreed. If shipment has been agreed, delivery deadlines and delivery dates refer to the time of handover to the freight forwarder, carrier or other third party commissioned with the carriage, unless expressly stated otherwise by ADS-TEC.
- 3.4.3 Other than upon approval by the Service Customer, ADS-TEC may also supply partial deliveries, provided that
- a) the partial delivery serves the contractual purpose intended by the Service Customer,
 - b) the delivery of the remaining Spare and Wear Parts ordered is ensured and no significant additional efforts or expenses will result for the Service Customer (unless ADS-TEC agrees to bear such expenses).

3.5 Place of Performance and Transfer of Risk

- 3.5.1 Unless otherwise agreed, the place of performance for all obligations arising from the Purchase Order shall be ADS-TEC's registered office. If any installation is to be performed by

ADS-TEC as well, the place of performance shall be the site where the installation is to be performed.

3.5.2 If shipment of Spare and Wear Parts has been agreed and except where ADS-TEC has agreed to perform carriage or installation, the risk shall pass to the Service Customer no later than at the time of handover (whereby commencement of loading shall be authoritative) to the freight forwarder, carrier or other third party designated to perform the carriage. If dispatch or handover is delayed due to a circumstance caused by the Service Customer, the risk shall pass to the Service Customer from the day on which the delivery item is ready for dispatch and ADS-TEC has notified the Service Customer thereof. As soon as dispatch or handover can be effected and provided that ADS-TEC has agreed to perform carriage or installation, the risk shall revert to ADS-TEC vis-à-vis the Service Customer.

3.5.3 Storage expenses incurred after transfer of risk shall be for account of the Service Customer. If ADS-TEC stores the goods, the storage costs shall amount to 8 % of the invoice value of the delivery items to be stored per completed week. All rights to assert and prove additional or lesser storage costs remain reserved.

3.5.4 Only at the express request and expense of the Service Customer will ADS-TEC insure the consignment against theft, breakage, transport, fire and water damage or other insurable risks.

3.5.5 If acceptance is required, the Spare and Wear Parts shall be deemed to have been accepted if

- a) the delivery and, insofar as ADS-TEC also undertakes the installation, the installation has been completed,
- b) ADS-TEC has notified the Service Customer thereof under reference to the deemed acceptance according to this Clause 3.5.5 and has requested acceptance,
- c) 20 (twenty) business days have elapsed since delivery or installation or the Service Customer has commenced use of the delivery item (e.g. has brought the Serviced Item into operation with the supplied Spare and Wear Parts) and in this case ten (10) business days have elapsed since delivery or installation and

the Service Customer has not accepted the delivery item within this deadline for a reason other than a defect notified to ADS-TEC which renders the use of the delivery item impossible or significantly impairs it.

3.6 Obligation to Examine and to Notify Defects

Immediately after delivery to the Service Customer or to a third party designated by the Service Customer, the delivered Spare and Wear Parts shall be carefully examined. With regard to apparent

defects or other defects which would have been detectable in the course of an immediate and careful examination, the Service Customer shall be deemed to have accepted the supply if ADS-TEC does not receive a written notice of defects within five (5) business days after delivery. With regard to other defects, the delivered Spare and Wear Parts shall be deemed approved by the Service Customer if ADS-TEC does not receive the notice of defects within five (5) business days after the time at which the defect became apparent; however, if the defect was already apparent at an earlier time during normal use, this earlier time shall be decisive for the commencement of the notice period. At ADS-TEC's request, a rejected delivery item shall be returned carriage paid to ADS-TEC, the Manufacturer or a sub-supplier for inspection; ADS-TEC will assert this request within 20 (twenty) business days after receipt of the written notice of defects. In the event of a justified notice of defects, ADS-TEC shall reimburse the costs of the most favourable shipping route; this shall not apply if the costs increase because the delivered Spare and Wear Parts are located at a place other than the place of intended use.

3.7 Retention of Title

ADS-TEC retains title in the Spare and Wear Parts delivered until the purchase price has been paid in full, unless the Service Customer has already acquired such title by law or by separate agreement.

3.8 Details to be Provided by the Service Customer

When submitting Purchase Orders or accepting quotations for the sale and delivery of Spare and Wear Parts, the Service Customer shall provide the following details and all details otherwise reasonably requested by ADS-TEC in a prompt, accurate and complete manner, else any delays in the processing of Purchase Orders shall inure to the Service Customer's account.

3.8.1 Details of the purchaser

- a) Company name, type of corporation
- b) Address (street, no. / postcode, city / country)
- c) Purchase Order number at ADS-TEC (if already assigned)
- d) Customer number at ADS-TEC (if already assigned)
- e) Responsible contact person of the purchaser (name, telephone number, e-mail address)
- f) Article number(s) / article description(s)
- g) Price per item according to the Spare and Wear Part Price List effective from time to time or according to ADS-TEC's quotation
- h) Number of units per item
- i) Desired delivery date

3.8.2 Details of the consignee (including ultimate consignee, if different from the consignee)

- a) Company name, type of corporation
- b) Address (street, no. / postcode, city / country)
- c) Receiving centre / department of the consignee
- d) Responsible contact person of the consignee (name, telephone number, e-mail address)

4 General Provisions regarding Physical Services

4.1 Special Definitions

4.1.1 **"Repair"** means those Physical Services that are performed to maintain the proper functioning of a Serviced Item or to return a defective unit of a Serviced Item to full working order, in particular through the use of lubricants and consumables or by replacing Spare Parts, including Wear parts such as filters and seals.

4.1.2 **"Inspection"** means the determination and assessment of the actual condition of a unit of the Serviced Item (parts, assemblies or complete products) that is subject to the warranty or guarantee of the Manufacturer or a sub-supplier, including the determination of the cause of its damage or wear and tear and the derivation of consequences for the Service Customer's claims in accordance with the relevant warranty or guarantee terms and conditions and/or the necessary consequences for future use.

4.1.3 **"Maintenance"** means all Physical Services which, at the reasonable discretion of the Manufacturer, are intended to observe and detect at an early stage the signs of wear and tear to be expected on a Serviced Item in the course of its intended use, so that repairs can ideally be carried out before the occurrence of a functional failure due to wear and tear or a risk to operational safety, including the performance of cleaning work, restoring the operation of components, checking settings and recording measured values.

4.2 Application of Law of Sale

If the Physical Services focus on the provision of Spare Parts including Wear Parts and/or materials such as lubricants and consumables, so that their replacement undertaken by ADS-TEC is less important and only represents an ancillary service, the law of sale shall apply with the modifications regulated in Clause 3. Acceptance shall then not take place.

4.3 Remuneration

4.3.1 Other Physical Services (other than the sale and delivery of Spare and Wear parts) shall be remunerated based on the time and effort spent, except to the extent that they are already

included in the Annual Fee for the Bundled Service pursuant to the Master Agreement. Materials used, such as lubricants and consumables or cleaning fluids, shall always be remunerated separately based on expenditure.

- 4.3.2 The sale and delivery of Spare and Wear Parts required for Repair by ADS-TEC shall always be governed by the provisions of Clause 3. If ADS-TEC has agreed to perform their carriage, carriage costs shall be charged according to actual time and material spent.
- 4.3.3 The Service Customer shall reimburse all expenses incurred subject to proof, such as travel and accommodation costs, out-of-pocket expenses and third-party claims for payment incurred in connection with the completion of the Order, the latter increased by a surcharge of 15 %. The first hour of work commenced on site shall always be charged in full. Waiting times on site for which ADS-TEC itself is not responsible shall be duly documented by ADS-TEC and invoiced to the Service Customer subject to proof. Travelling and transit times shall be remunerated. Travel expenses shall be charged per kilometre travelled. If it is possible to travel from several locations, ADS-TEC shall elect the most convenient route for the completion of the Order, if required also from the most distant location. No charge shall be effected for expenses incurred in the course of Curing warranty claims.
- 4.3.4 The rates applying to the invoicing of a remuneration based on the time and effort spent shall be those specified by ADS-TEC in its Price List effective at the date of ADS-TEC's quotation. Remuneration rates quoted in the Price List are in EUR plus Taxes.
- 4.3.5 ADS-TEC may modify the remuneration rates at its reasonable discretion (Section 315 German Civil Code) and shall notify of any amendments to its Price List by email delivered to the Service Customer's Primary Contact at reasonable notice prior to their application.
- 4.3.6 ADS-TEC shall remedy defects in its Services free of charge. If a Repair performance supplied by ADS-TEC demonstrably results from a product warranty breach that occurred in the Serviced Item within the Manufacturer's product warranty term and is to be cured by the Manufacturer at no charge, ADS-TEC shall assert the warranty claims to which the Service Customer is entitled vis-à-vis the Manufacturer for the account of the Service Customer provided that the remuneration is attributable to the cure of the product warranty breach supplied as part of the Repair.

4.4 Place of Performance and Transfer of Risk

- 4.4.1 The place of performance for all other Physical Services shall be the respective site where the Serviced Item is installed, unless otherwise agreed. Unless expressly agreed otherwise between the parties, any inbound and outbound carriage of the Serviced Item or parts thereof - including any packaging and loading - requested by the Service Customer shall be

performed at the Service Customer's expense. Risk of loss of or damage to the Serviced Item for which ADS-TEC may not be held accountable shall rest with the Service Customer.

- 4.4.2 Only at the express request and expense of the Service Customer will ADS-TEC insure the carriage against theft, breakage, transport, fire and water damage or other insurable risks.
- 4.4.3 There will be no insurance cover during Repair, Maintenance or Inspection performed at ADS-TEC's premises. The Service Customer shall, at its option, arrange for fire, tap water, storm and machine breakage insurance.

4.5 Obligation to Examine and to Notify Defects

- 4.5.1 The Service Customer shall examine all Physical Services to which the law of sale applies and which are therefore not subject to acceptance (Clause 4.2.), including any amended or supplemented documentation, without culpable delay after they have been supplied, in particular with regard to their completeness as well as their basic functionality and operability.
- 4.5.2 The Service Customer shall without culpable delay notify ADS-TEC in writing of any defect detected thereby, describing it as detailed and specific as possible. Defects which could not be detected within the scope of the described proper examination shall be notified in writing without culpable delay after detection, describing them as detailed and specific as possible. Furthermore, the Service Customer shall grant ADS-TEC a grace period of sufficient extension for any defects detected, allowing ADS-TEC the option to duly complete the performance or to provide remedy in any other manner.
- 4.5.3 If the Service Customer fails to notify defects without culpable delay, it shall be excluded from asserting claims for cure. In such cases, the Service Customer may only claim damages to the extent that the damage is not due to the delayed complaint.

4.6 Acceptance

- 4.6.1 If a Physical Service is a contracted performance (*Werkleistung*) and therefore subject to acceptance, the "Acceptance Report" form provided by ADS-TEC shall generally be used for this purpose. The Service Customer shall ensure that the acceptance report is signed only by personnel who are authorised to do so.
- 4.6.2 ADS-TEC will notify the Service Customer of the completion of the Physical Services.
- 4.6.3 The Service Customer may not refuse acceptance due to insignificant defects.
- 4.6.4 If there is no acceptance or refusal of acceptance expressed explicitly or by conclusive action and if the Service Customer has brought the Physical Services or a part thereof into use (e.g.

has brought the repaired Serviced Item into operation), acceptance shall be deemed to have effected 14 days after commencement of use, unless otherwise agreed.

4.7 Lien

ADS-TEC and the Service Customer agree that ADS-TEC shall have a lien (*Pfandrecht*) on items owned by the Service Customer and brought into its possession for Repair, Maintenance or Inspection. The lien may also be asserted for claims arising from previously performed work, Spare Parts deliveries and other performances, provided that they are related to the Serviced Item concerned. The lien shall only apply to other claims arising from the business relationship provided that these are undisputed or established by final adjudication.

5 Service Customer Dependencies and Assistance for Physical Services

5.1 The Service Customer is responsible for ensuring that

5.1.1 ADS-TEC is granted unrestricted access to the premises of the installation site and sufficient physical access to the Serviced Item, in particular by

- a) deactivating all control, signalling and alarm systems (including fire signalling systems) or granting appropriate authorisations for these systems;
- b) opening the maintenance doors or handing over the relevant keys;
- c) keeping control keys plugged or handing them over;
- d) keeping clear any vehicle access tracks and manoeuvring areas for at least one service vehicle and providing parking spaces available free of charge; and
- e) the charging function and other applications of the Serviced Item are interrupted; and

5.1.2 ADS-TEC is assisted when performing the Physical Services, for example by providing electricity, water and waste water connections as well as work and communication facilities, to the extent required for supplying performance.

5.2 The Service Customer is aware that the performance of Physical Services on site at the installation location requires particularly close cooperation between the Service Customer and ADS-TEC due to the complexity of the Serviced Items. Both parties are therefore obliged to ensure mutual consideration, comprehensive information, precautionary warning of risks and protection against disruptive influences, including from third parties.

5.2.1 In particular, the Service Customer shall be responsible for ensuring that all information and documents required for the performance of the Physical Services (in particular all functional processes and plans) are made available to ADS-TEC without request, in a timely manner and

without charge to ADS-TEC, and that ADS-TEC is advised about all processes and circumstances that are directly or indirectly relevant for its Physical Services. This also applies to documents, information, processes and circumstances that only become known during ADS-TEC's activities.

- 5.2.2 The Service Customer shall ensure that ADS-TEC receives the necessary work safety instructions to work on the premises of the installation site.
- 5.3 The Service Customer warrants that parts and assemblies of Serviced Items which pursuant to separate agreement shall pass into the ownership of ADS-TEC after their removal will remain at the installation site or another agreed location and will appropriately and compliantly be stored and kept in safe custody there by the Service Customer until their carriage to ADS-TEC. In particular, the Service Customer shall comply with the applicable specific regulations for damaged or defective lithium-ion batteries.
- 5.4 The Service Customer shall provide any dependency performances (*Mitwirkungsleistungen*) and comply with any assistance obligations (*Mitwirkungspflichten*) at its own expense. If the Service Customer fails to provide its dependency performances or is in default with its assistance obligations, those of ADS-TEC's performance obligations which in the absence of such action cannot be complied with or can only be complied with at disproportionate additional effort shall be suspended for the duration of such failure or default. ADS-TEC shall be reimbursed by the Service Customer for any additional expenses incurred as a result thereof in addition to the agreed remuneration. Any statutory right of ADS-TEC to serve notice of termination shall remain unaffected.

6 Specific Provisions for Commissioning (On Site)

- 6.1 Pursuant to an Order for Physical Commissioning ADS-TEC will perform the following Services once per Serviced Item on site at its installation location:
- a) Review of the documentation of completed installation submitted by the Service Customer (e.g. by means of the completed and signed "Installation Checklist") to ensure that readiness for commissioning is given;
 - b) Mounting the lithium-ion batteries required for the intended use of the Serviced Item, which are supplied by the Manufacturer as an exchangeable storage medium (battery module) for or together with the Serviced Item;
 - c) Insertion of the SIM card(s) procured by the Service Customer to establish a mobile connection via LTE for the IRF router(s) (up to 3 depending on the product range);

- d) Connecting a notebook to the LAN interface of the Serviced Item and establishing a network connection with the local service interface; retrieving system information and diagnostic data; and
 - e) Execution of the Services as for Remote Commissioning Orders (see Clause 11.1).
- 6.2 A one-off remuneration is payable for commissioning (on-site). Unless otherwise stated, the one-off remuneration includes travelling and accommodation costs, out-of-pocket expenses and third-party claims for payment incurred in connection with the completion of commissioning. Where the one-off remuneration is quoted as a bundle price for two or three units of a product series of Serviced Items, this bundle price shall only apply to commissioning assignments that can be completed by ADS-TEC within one (1) calendar week and with one (1) journey to and from the installation site. Any additional costs of commissioning assignments which due to the failure of the Service Customer to provide dependency performances have to be completed in a later calendar week and/or with more than one journey to and from the installation site and which ADS-TEC cannot be held accountable for may be charged to the Service Customer in addition to the bundle price.
- 6.3 The installation of the Serviced Item must be fully completed at the time of Physical Commissioning. In particular, the performances for Physical Commissioning do not include
- a) Preparation of the floor space and construction of the foundation for the installation of the Serviced Item;
 - b) Transport, interim storage and installation of the Serviced Item including the battery modules; mounting on the foundation;
 - c) Establishing on-site supply connections and installing the electrical connections (including cable feed-through, earthing connection, AC power connection and communication connection);
 - d) Temperature equalisation for stored battery modules; drying of interior moisture; and
 - e) Maintenance and Repair, e.g. to rectify faults and other defects resulting from installation work carried out by the Service Customer or third parties.
- 6.4 If ADS-TEC detects missing or faulty dependency and assistance performances of the Service Customer, ADS-TEC shall notify the Service Customer in writing within a reasonable period of time. Provided that they hinder the Physical Commissioning Services, the Service Customer shall furthermore be granted the option to duly provide its dependency and assistance performances or to provide remedy in any other manner.
- 6.5 Any missing or faulty dependency or assistance performances of the Service Customer, which were not detectable for ADS-TEC in the course of the proper examination described above,

shall be notified in writing to the Service Customer within a reasonable period of time after detection.

7 Specific Provisions for Inspection Orders

- 7.1 ADS-TEC's Inspection performances shall conform to the agreements of the Inspection Order. They will be supplied by ADS-TEC under its own responsibility. ADS-TEC may determine when and how it performs the Inspection, unless otherwise agreed in the Inspection Order.
- 7.2 The purpose of the respective Inspection will be specified in the Inspection Order. ADS-TEC does not assume any responsibility for a certain Inspection result or for certain consequences for the Service Customer's claims in accordance with the relevant warranty or guarantee terms of the Manufacturer or sub-suppliers.

8 Specific Provisions for Maintenance Orders

- 8.1 ADS-TEC's Maintenance performances are specified in particular in the Manufacturer's maintenance instructions, including the related checklists, and shall in all other respects conform to the agreements in the Maintenance Order. They will be supplied by ADS-TEC under its own responsibility. ADS-TEC may determine when and how it performs the Maintenance, unless otherwise agreed in the Maintenance Order.
- 8.2 The purpose of the Maintenance is to preserve the expected functionality of the Serviced Item. ADS-TEC does not assume any responsibility for a certain operating result or a certain availability of the Serviced Item other than under an agreed SLA.
- 8.3 Maintenance shall also include the cost-based Repair of minor damage to the Serviced Item, provided that ADS-TEC is able to perform it with materials and tools usually carried along to a regular Maintenance intervention (so-called Minor Repair), to the extent this is possible without significant expenditure of time and materials, i.e. no more than one (1) hour and EUR 20.00 material costs per Maintenance and Repair intervention.
- 8.4 ADS-TEC shall execute the Maintenance performances in accordance with the accepted technical standards, taking into account the guidelines of the Manufacturer of the entire product and, to the extent known to ADS-TEC, the respective manufacturers of its parts and assemblies. If the parties agree on a specific type of execution of the Maintenance performances, in particular by reference to technical guidelines (e.g. DIN, VDI, VDMA, etc.), these performance descriptions shall determine the accepted technical standards as applicable in the parties' dealings with each other. Accordingly, ADS-TEC shall not be obliged to advise the Service Customer of any deviations of the agreements from the accepted technical standards.

- 8.5 The Maintenance Order shall not release the Service Customer from controls and measures imposed on him by law or other regulations, unless this has been expressly made the subject of the Maintenance performances to be executed by ADS-TEC with reference to the relevant law and other regulations.
- 8.6 Unless otherwise agreed, ADS-TEC's Maintenance performances undertaken under the agreement shall in particular not include:
- a) any regulatory maintenance, i.e. continuous maintenance to ensure compliance with legal, regulatory and trade association requirements;
 - b) the amendment or extension of equipment features or the expected functionality of the Serviced Item (modifications), even if such modifications are already implemented by the Manufacturer in units of newer design and are generally available;
 - c) the partial or general overhaul of the Serviced Item; and
 - d) the customisation of the Service Item to ensure compliance with requirements individually agreed with the Manufacturer.

9 General Provisions for Digital Services

9.1 Special definitions

- 9.1.1 "**Software**" means the entirety of the computer programs (firmware, operating systems and application programs) which, at the Manufacturer's reasonable discretion, are intended to run on the various control, automation and monitoring units of a Serviced Item.
- 9.1.2 "**Software Update**" means a programme version of the Software generally provided by the Manufacturer and intended, in its reasonable discretion, to maintain the proper functioning of a Serviced Item, to restore a defective unit of a Serviced Item or to improve the quality of the Software, to adapt it to changed requirements or to extend its functionality.
- 9.1.3 The "**Current Version**" in relation to the Software means the latest programme version generally provided by the Manufacturer at any given time (e.g. the latest Software Update).
- 9.1.4 "**Remote Service**" refers to such Digital Services that are performed remotely via Big-LinX in order to monitor and maintain the proper functioning of a Serviced Item and to eliminate, avoid or circumvent any errors and defects that may have occurred in the Software. For this purpose, the following access and intervention options may be used:

- a) Data Transmission

Data transmission enables the web-based exchange of data records. This includes (i) in the standard configuration, the transmission of certain basic operating data (including

availability, status and condition) by the Serviced Item and (ii) after a secure bidirectional connection has been established, additionally: the system files of the operating system, application data of the user interface and the freely programmable controller as well as customer-specific data.

b) Remote Control

The remote control allows access to the applications and the operating system of the system computer.

c) Remote Diagnosis

Remote diagnostics can be used to detect errors that are within the access range of the system computer. This includes parts of the freely programmable controller, the user interface and the operating system of the user interface.

d) Remote administration

Remote administration enables faults to be rectified, sub-modules of the freely programmable controller and the user interface to be updated, configurations to be adapted and updated and network configurations to be adapted.

9.2 Scope of Remote Service

9.2.1 Pursuant to a Remote Service Order ADS-TEC shall execute the following performances:

- a) dealing with errors which occur during the proper use of the Software;
- b) Provision of Software Updates including their installation.

9.2.2 The performances also include dealing with errors or other defects in the Software which become known to ADS-TEC or the Manufacturer independent of its use by the Service Customer. Existing Service Customer's rights in case of defects shall remain unaffected.

9.2.3 Dealing with errors for the purposes of this Clause 9 comprises narrowing down the causes of the error, error diagnostics as well as Services directed towards correcting the error (particularly patches and service packs). ADS-TEC does not assume any responsibility for correction of the error. Services for dealing with errors may, at ADS-TEC's option, also be provided through workarounds, the installation of Software Updates and, after consultation with the Service Customer, through reinstalling the Software.

9.2.4 Remote Service performances only cover the Current Version of the Software. If any previous version of the Software is installed on a Serviced Item, the Remote Service Order shall, subject to Clause 9.3.1. f), always comprise the supply of all required Software Updates, including their installation.

9.2.5 The details of the scope of Services are set out in ADS-TEC's quotation, including the performance description (which may be attached thereto as an appendix).

9.3 Performances not included

9.3.1 In the absence of any additional agreement, the Remote Service Order does not entitle the Service Customer to the following performances:

- a) performances outside the Business Hours of the Help Desk;
- b) performances for continuous monitoring of the proper functioning of a Serviced Item;
- c) performances for the Software, which is not used in accordance with the conditions of use specified by the Manufacturer;
- d) performances for the Software, which has been changed by programming not performed by ADS-TEC or the Manufacturer;
- e) performances for computer programs or parts thereof, which do not form part of the Software;
- f) performances for the Software, where Software Updates or other measures to correct the error, provided by ADS-TEC or the Manufacturer have not been installed and where the reported error would have been cured by such updates or bug fixes, unless the installation thereof is unreasonable for the Service Customer for reasons for which it is not responsible;
- g) performances for the Software at a release version that is no longer generally supported by the Manufacturer;
- h) performances that can be executed at ADS-TEC's registered office but are executed at another location at the request of the Service Customer; and
- i) any backup and/or restoration of configurations and customer-specific data not previously implemented by ADS-TEC, which may be overwritten by the installation of Software Updates or other measures to correct the error.

9.3.2 The list is not exhaustive. The absence of any mention of performances does not imply that these are subject of ADS-TEC's undertakings under an agreement.

9.4 Software Updates

9.4.1 The performance description for Software Updates shall be made available to the Service Customer in the form of an electronic change log. ADS-TEC is not obliged to further adapt the Documentation to the Current Version unless this is necessary to allow the intended use of the Software to the extent described in Section 9.5.1.

- 9.4.2 Software Updates are generally backwards compatible with the units (parts, assemblies or complete products) of legacy Serviced Items and other programme interfaces, else this will be indicated separately in the change log.
- 9.4.3 The Service Customer shall examine the change log immediately upon receipt and notify ADS-TEC of any concerns regarding the installation of the Software Update within a review period of three (3) business days. If ADS-TEC has not been notified of any concerns upon expiry of the review period or if the Service Customer has already prior to its expiry approved the change log, ADS-TEC is entitled and obliged to install the Software Update.

9.5 Rights of use

- 9.5.1 If ADS-TEC makes available Software to the Service Customer as part of the Remote Service, this implies that the Service Customer is granted rights of use thereto to the same extent as was originally granted by the Manufacturer or ADS-TEC with respect to the Software. In order to ensure compliance with this provision, ADS-TEC may take technical precautions to block the use of those improvements incorporated therein, which do not merely remove errors.
- 9.5.2 ADS-TEC agrees to licence the Software in excess of the provisions in clause 9.5.1. at the request of the Service Customer. In such a case, the parties shall enter into negotiations and execute a separate licence agreement.
- 9.5.3 In terms of Software which is independently deployable, the granting of rights to the Service Customer is subject to the condition resolatory (*auflösende Bedingung*) becoming effective as of the date when further versions of the Software are provided. If further versions of the Software are provided, the rights to the preceding versions shall expire; however, ADS-TEC will acquiesce in the use of the preceding version to the extent described in Section 9.5.1. until the Software provided has been installed or, in the event that the Software provided most recently is defective, until such defects have been remedied, provided that the Service Customer's operations would otherwise be impaired due to the defectiveness.
- 9.5.4 The Service Customer shall not continue to use any Software that has become surplus to its requirements a result of Service performance. It is obliged to permanently uninstall such Software and to delete any backup copies.

9.6 Remuneration

- 9.6.1 Performances for Remote Service shall be remunerated based on the time and effort spent, except to the extent that they are already included in the Annual Fee for the Bundled Services pursuant to the Master Agreement. Any Services that contrary to Section 9.3. have been agreed as additionally undertaken shall always be remunerated separately based on the time and effort spent.

- 9.6.2 No charge shall be effected for expenses incurred in the course of Curing warranty claims.
- 9.6.3 The rates applying to the invoicing of a remuneration based on the time and effort spent shall be those specified by ADS-TEC in its Price List effective at the date of ADS-TEC's quotation. Remuneration rates quoted in the Price List are in EUR plus Taxes.
- 9.6.4 ADS-TEC may modify the remuneration rates at its reasonable discretion (Section 315 German Civil Code) and shall notify of any amendments to its Price List by email delivered to the Service Customer's Primary Contact at reasonable notice prior to their application.
- 9.6.5 ADS-TEC shall remedy defects in its Services free of charge. If a Remote Service performance supplied by ADS-TEC demonstrably results from a product warranty breach that occurred in the Serviced Item within the Manufacturer's product warranty term and is to be cured by the Manufacturer at no charge, ADS-TEC shall assert the warranty claims to which the Service Customer is entitled vis-à-vis the Manufacturer for the account of the Service Customer provided that the remuneration is attributable to the cure of the product warranty breach supplied as part of the Remote Service.

9.7 Provisional Granting of Rights

Until full payment of the remuneration owed for the Remote Service Order, the granting of rights of use with respect to Software made available to the Service Customer shall be to the extent as described in Clause 9.5.1., but shall be on a provisional basis only and may be revoked at any time.

10 Service Customer Dependencies and Assistance for Digital Services

- 10.1 The Service Customer is responsible for ensuring that
- 10.1.1 ADS-TEC shall obtain sufficient remote access via Big-LinX to all systems required for the execution of the Digital Services as well as sufficient authorisations for these systems, in particular by enabling all IP and Internet addresses on the data connection required for remote access and by not blocking, suppressing or otherwise preventing them through automatic settings;
- 10.1.2 relevant personnel of the Service Customer are, if and to the extent required, also available in sufficient numbers during the execution of the Digital Services so as to provide the necessary technical and organisational assistance, for example by ensuring that the charging function and other uses of the Serviced Item are interrupted or that the user interface of the Serviced Item can be visually observed and any displays pending on it can be acknowledged;
- 10.1.3 a continuing system management of the customer's system environment to which the Software exhibits programme interfaces (including hardware and software, e.g. of backend connections) is maintained; the Service Customer shall continue the maintenance of its system environment and shall also, after consultation with ADS-TEC, modify or amend it if and to the extent required to execute the performances undertaken under a Remote Service Order; and

- 10.1.4 ADS-TEC shall be made available proper notes, documentation and information required for the execution of the performance, in particular concerning available facilities, equipment, computer programmes and parts of computer programmes, which are intended to interact with the performance to be supplied;
- 10.2 It is the Service Customer's obligation to regularly backup its data with the due care of a prudent businessman. It shall in particular, immediately prior to any installation and/or other intervention by ADS-TEC or third parties mandated by ADS-TEC, take a complete data security backup of all system and application data. The data backup is to be stored in such a way that the recovery of the secured data is possible at any time.
- 10.3 The Service Customer warrants to set up and maintain as an own undertaking a mobile connection via LTE with a data transfer rate of at least 2,000 kbit/s and a monthly data volume of at least 5 GB at its own expense (in particular with regard to SIM card, provider services and network coverage) up to the agreed handover point for remote access via Big-LinX.
- 10.4 The Service Customer shall provide any dependency performances (*Mitwirkungsleistungen*) and comply with any assistance obligations (*Mitwirkungspflichten*) at its own expense. If the Service Customer fails to provide its dependency performances or is in default with its assistance obligations, those of ADS-TEC's performance obligations which in the absence of such action cannot be complied with or can only be complied with at disproportionate additional effort shall be suspended for the duration of such failure or default. ADS-TEC shall be reimbursed by the Service Customer for any additional expenses incurred as a result thereof in addition to the agreed remuneration. Any statutory right of ADS-TEC to serve notice of termination shall remain unaffected.

11 Specific Provisions for Remote Commissioning Orders

- 11.1 Pursuant to an Order for Remote Commissioning ADS-TEC will perform the following Services:
- a) Checking the data connection for remote access via Big-LinX from the agreed handover point; initial establishment of remote access via Big-LinX; support with the initial establishment of any required connection to the customer's system environment, e.g. backend connections
 - b) Installation of all Software Updates necessary for the Current Version of the Software;
 - c) Verification of the basic functionality and operability of the Serviced Item for future Remote Services.
- 11.2 A one-off remuneration is payable for Remote Commissioning, except to the extent that they are already included in the Annual Fee for the Bundled Services pursuant to the Master Agreement.

- 11.3 Performance shall also include the correction of minor errors and of other defects, provided that ADS-TEC is able to perform it with tools usually available at a regular Remote Service session (so-called Minor Bug Fixing), to the extent this is possible without significant expenditure of time, i.e. no more than 0.5 (½) hours. Minor Bug Fixing is chargeable to the Service Customer to the extent it is performed as a result of Service Customer's failure to provide its dependency performances or of Service Customer's default with its assistance obligations.
- 11.4 Prior to requesting performance, the Service Customer is required to provide the following dependency performances no later than by the dates specified for each case:
- a) two weeks prior to the desired date of Remote Commissioning: notification of the desired date to the Help Desk in text form;
 - b) three days (during Business Hours) prior to the Remote Commissioning date confirmed by the Help Desk: submission of the entire documentation of completed installation (e.g. by means of the completed and signed "Installation and Pre-Installation Checklists") with the Help Desk;
 - c) by the Remote Commissioning date: submission of the measurement logs prescribed at the installation site of the Serviced Item with respect to the AC power connection (e.g. VDE-0100- 600 DGUV 3) in electronic form with the Help Desk; and
 - d) by the Remote Commissioning date: Making the Serviced Item available for Remote Commissioning.
- 11.5 If ADS-TEC detects missing or faulty dependency and assistance performances of the Service Customer which cannot be corrected through Minor Bug Fixing, ADS-TEC shall notify the Service Customer in writing without culpable delay. Provided that they hinder the functionality and operability of the Serviced Item for future Remote Services, the Service Customer shall furthermore be granted the option to duly provide its dependency and assistance performances or to provide remedy in any other manner.
- 11.6 Any missing or faulty dependency or assistance performances of the Service Customer, which were not detectable for ADS-TEC in the course of the proper examination described above, shall be notified in writing to the Service Customer without culpable delay after detection.