

General Terms

for Maintenance of Automation Machines



This document
has been written in
plain language.

These General Terms and Conditions are valid for all CONTRACTS about the maintenance of automation machines that a STIWA company concludes with a CUSTOMER.

1. Performances of STIWA

1.1. Scope of the Maintenance

STIWA carries out the maintenance at the agreed automation machines to the agreed date of implementation. The service is carried out in the following steps:

- In the **first step**, STIWA performs a stock-check of the respective automation machine. With this, the cycle time, the relation of okay (OK) and not okay (NOK) parts and the change of the condition since the inspection of the automation machine are recorded and documented.
- In the **second step**, STIWA installs the ordered components according to the ware and spare parts list and the agreed additional components on the automation machine. Optionally, it can be also agreed to install a new version of the Manufacturing Software.
- In the **third step**, the configuration with the new installed components and the new connected version of the Manufacturing Software as well as new start-up of the automation machine takes place. This is done via the jointly defined main types of the machine. STIWA refers to this as "re-commissioning of the Main Types". The goal of the re-commissioning is that the automation machine functions with the new components and the new version of Manufacturing Software as it did at the time of the stock-check before maintenance.
- In the **fourth step**, the final acceptance of the maintenance and the final discussion takes place.

1.2. Final Acceptance

Over the course of the final acceptance STIWA will check if the maintenance is "*successfully completed*". With a successful conclusion, the maintenance is considered as accepted.

The maintenance is basically "*successfully completed*" when the cycle time and the relation of OK-NOK with the new components is reached again at the agreed main types on the automation machines. The check is recorded in the assembly report. After successful testing, it is signed by both CONTRACTING PARTIES.

If the maintenance "*can not be completed*" at the agreed time, the further procedure depends on whether STIWA or solely the CUSTOMER is responsible for the open points.

- If STIWA is responsible for the reason, STIWA shall inform about what is still necessary for a successful conclusion and until when this will be done.
- It is possible that the check or maintenance "*cannot be completed*" only because the CUSTOMER or a third-party attributable to them is responsible for the reason (for example, the network of the CUSTOMER is not available). In this case, STIWA will inform the CUSTOMER about the open points and about what is required to be done by the CUSTOMER or a third-party attributable to them in order to be able to rectify them. The CUSTOMER has 14 days from this notification to perform the required cooperation. STIWA will then complete the maintenance within further 14 days. This rework process may only be repeated once. If, after these deadlines, it is still not possible to perform a complete check or no successful conclusion of the maintenance is possible and the reason is still the CUSTOMER or a third-party attributable to them, then the maintenance is considered as "*successfully completed*" after receiving the completion message. In this case, it is enough that only STIWA signs the assembly report. In the completion message, STIWA explains why a completion message is done in regard to the specific CONTRACT and transfers the assembly report with comments to the open points. The CUSTOMER shall confirm the receipt of the message within 10 days.

1.3. Warranty

1.3.1. Liability for Defects

STIWA is only liable to the CUSTOMER for defects in the work performance within the scope of the warranty if

- the result deviates from what has been agreed due to a demonstrable and reproducible error of STIWA,
- this error already existed at the time of the final acceptance, and (if applicable)
- the work performance therefore does not function as agreed.

STIWA shall not be held liable for defects

- that are irrelevant,
- that do only slightly interfere with the function,
- which did not yet exist in the legal sense at the time of final acceptance.

1.3.2. Duration and consequences of the warranty

The warranty is valid for a period of 24 months. This is calculated from the date of handover or final acceptance. Should a defect occur within this period, the CUSTOMER shall inform the technical support team of STIWA about it in written form within the warranty period. The CUSTOMER must comply with the obligation to inspect and give notice of defects in point 3.1.

1.3.3. Consequences of the warranty

In the event of an alleged defect, STIWA shall check whether a defect subject to warranty exists and shall inform the CUSTOMER about the result. If the time required for this inspection threatens to cause irreparable damage, the CUSTOMER may instruct STIWA in written form to repair the defect without further delay.

Should appear that no defect subject to warranty existed, the CUSTOMER shall bear the costs incurred by STIWA for the inspection and the repair of the defect.

In the event of a defect subject to warranty, STIWA shall rectify this defect (at its discretion) either by correction or replacement. STIWA will do so within a reasonable period of time. If the CUSTOMER informs STIWA that there is a loss of production or production downtime, STIWA will act as soon as possible.

If STIWA is unable to repair a defect by correction or replacement even after two attempts, then the CUSTOMER may instead request a reasonable reduction in price or the withdrawal from the CONTRACT.

1.4. Liability for Compensation

If the CUSTOMER discovers a defect, he/she shall inform STIWA about it, complying with the requirements in point 3.1 ["*Duty to Inspect and Give Notice of Defects*"].

- If STIWA has caused damage through slight negligence, it shall only compensate for the damage to work itself (= defect damage).
- If STIWA has caused damage through gross negligence, it shall compensate for the damage up to a maximum amount of EUR 150,000; damages that are non-typical for the CONTRACT and unforeseeable ones shall be excluded in any case.
- If STIWA causes damage intentionally, STIWA shall provide compensation for the damage to the extent provided for by law.
- If STIWA has culpably caused injury to a person, STIWA shall provide compensation for the damage to the extent provided for by law.

The CUSTOMER shall assert damage claims against STIWA by judicial process within one year from the date of knowledge of the damage. Regardless of noticing the damage, the client can assert his claim in court only within 10 years from the time of handover or final acceptance. If one of the two periods expires, the claim is time-barred.

The CUSTOMER shall provide evidence for the alleged degree of fault.

2. Maintenance Requirements

2.1. General Information on Requirements and Responsibilities of Collaboration

In order to ensure that the collaboration between STIWA and the CUSTOMER functions in the best way possible, STIWA needs the support and cooperation of the CUSTOMER. Therefore, the CUSTOMER will perform the necessary collaboration described in the CONTRACT and provide the required conditions. This is to be done at his/her own expense and risk.

If the CUSTOMER does not fulfill his/her duties to collaborate in time or does not provide the required conditions in time, STIWA may temporarily suspend its works until the CUSTOMER has fulfilled the relevant duties to cooperate. If this results in delays of the schedule, it will be to the expense of the CUSTOMER. The CUSTOMER also has to reimburse any additional expenses that may occur for STIWA due to this. The originally agreed dates have to be arranged together and adjusted according to the cooperation of the CUSTOMER.

2.2. Access to the Plant and the Automation Machine

Maintenance is done on site. Therefore, STIWA needs access to the CUSTOMER's plant and the concerned automation machines on the days of maintenance. Furthermore, the automation machine must be freely accessible from all sides.

2.3. Machine Ready for Operation and Production

For the maintenance by STIWA, the machine must be fully ready for operation and production. At proper maintenance, it must be possible to guide the machine through all operating states. Furthermore, sufficient check parts must be provided. During this time, production is severely restricted.

2.4. Permission for Picture Documentation

For careful implementation of the maintenance, picture documentation is required. The CUSTOMER must expressly consent to this in the offer. STIWA ensures that this data as a rule is no personal data and no production or product quality data. STIWA will exclusively use this data for maintenance service under strict compliance with the agreed confidentiality clause under point 5.2 ["Confidentiality"]. The CUSTOMER has the option to view the pictures at STIWA any time or to revoke his permission. If comprehensive permission is not desired by the CUSTOMER, the CONTRACTING PARTIES can alternatively agree in the offer that the picture documentation of the release is reserved to an employee of the CUSTOMER or completely prohibited.

2.5. Necessary Spare and Wear Parts

The CUSTOMER purchased those spare and wear parts that are necessary for the implementation of maintenance on the automation machine(s).

2.6. Rights of use at the software to be connected

In case of the option to connect a new software version, the CUSTOMER purchased the license(s) for Manufacturing Software that are necessary for implementing the connection to automation machine(s).

3. Customer's Responsibilities for Collaboration

3.1. Duty to Inspect and Give Notice of Defects

The CONTRACTING PARTIES wish to ascertain as soon as possible whether the service has been duly provided by STIWA. Therefore, the CUSTOMER will carefully check the service immediately after provision. Moreover, he/she must inform the technical support team of STIWA via e-mail within an appropriate period of time about any emerging defects or damages (also subsequently). A period of 14 calendar days from potential knowledge of the defect or damage is agreed as a reasonable period. If the CUSTOMER does not communicate the message in time, he/she loses the relevant claims from the title of warranty, compensation for damages and avoidance on account of mistake.

The CUSTOMER must provide a brief and plausible description of the error pattern and indicate what they consider to be the possible causes of the error or damage. For this purpose, the notice given by the CUSTOMER shall include at least the following points:

- Detailed description of the error or damage. In particular, the process with which the error can be reproduced.

- Description of the possible causes of the error or damage from the CUSTOMER's point of view.
- Photos and
- Disclosure of all software systems involved including versions (for example operating systems).

3.2. Contact Person of the Customer

The CUSTOMER shall appoint a central contact person for handling the maintenance.

3.3. Workspaces, Auxiliary and Machinery material

The CUSTOMER shall provide the workspaces and other auxiliary and machinery material required for maintenance.

3.4. Provision of the Automation Machine

The CUSTOMER shall fully provide the automation machine for maintenance within the CONTRACT year in order to be able to perform the maintenance. The CUSTOMER must also create time capacities which are required for maintenance.

3.5. Auxiliary Personnel and Decision Maker

The CUSTOMER shall provide auxiliary personnel that is required for the maintenance at his/her own expense. Furthermore, a contact person of the CUSTOMER must be announced who is authorized to make machine-related decisions.

3.6. Adherence to Deadlines

Together with STIWA, the CUSTOMER shall comply with specific and defined deadlines and only postpone or cancel due to an important reason. STIWA can separately charge the CUSTOMER for any additional costs that occur due to postponement or cancellation by the CUSTOMER.

3.7. Reject Parts

To ensure proper maintenance, it may also necessary to produce reject parts ("Not OK parts" or "NOK parts") in the scope of the maintenance. All reject parts required for provoking the breakdown scenario shall be provided by the CUSTOMER for free.

3.8. Special Provisions by the CUSTOMER

The CUSTOMER shall provide all supply energy required for the performance of maintenance to his/her own expense. Any required special protective clothing or special work equipment (e.g. clothing for working in a clean room, clothing for working in extreme heat or cold, special tools) shall be provided by the CUSTOMER.

3.9. Special Instructions

The CUSTOMER shall comprehensively inform the inspection personnel about the house rules at the respective plant and disclose any circumstances relevant to employee protection.

3.10. Data and Data Restore

The CUSTOMER is responsible for proper and ongoing data backups and data restores. In any case, the CUSTOMER shall back up their data in such a way that they can be restored with reasonable effort in the event of an unintended alteration or deletion. The CUSTOMER shall perform adequate data backups before the maintenance by STIWA.

3.11. Other Cooperation Responsibilities

Due to the individual maintenance situation, the CONTRACTING PARTIES can agree on further cooperation or specify the existing ones in the offer.

4. Customer Duties

4.1. General Information on Prices

Unless STIWA expressly states otherwise, all prices quoted are net prices. In addition, there are any statutory sales tax and other applicable charges of any kind (for example taxes, duties, fees).

4.2. Hourly Rate According To Effort

The CUSTOMER shall pay an hourly rate according to effort for maintenance. The expenditure recording happens every 15 minutes. The agreed hourly rate can be viewed in the current offer.

4.3. Travel Allowance

If a regulation regarding travel allowance already exists, it shall apply. Otherwise travel expenses (especially mileage allowance, flight and cab costs, additions, accommodation costs) are charged at cost.

4.4. Tax Clause

4.4.1. Fees

Fees charged to the CUSTOMER for the provision of services within the meaning of this Contract, are without deduction of taxes or other charges which may be levied in the CUSTOMER's state of residence and occur due to the laws of the CUSTOMER's state of residence including tax and charge laws of the regulations and administrative instructions.

4.4.2. Reduction of Fees

When a tax or other charge is actually levied in the CUSTOMER's state of residence within the meaning of point 4.4.1, the CUSTOMER is obligated to economically bear this, so the fee of the CONTRACT is not reduced due to these taxes or other charges ("tax gross-up").

4.4.3. Documentation of Tax Status

The CUSTOMER's obligation to economically bear the taxes or other charges designated in point 4.4.1 is not limited to taxes and charges which are to be withheld at the source as part of deduction and directly paid to the tax authorities. If a tax or other charge that is to be carried by the CUSTOMER can be removed or reduced by documenting the tax status of STIWA, it agrees on providing the CUSTOMER with appropriate and reasonable documentation. This also applies for applications to an authority. However, providing such a documentation and filing applications is unacceptable for STIWA, especially when this leads to a departure of its previously practiced business policy.

4.5. Prohibition of Set-Off

The CUSTOMER may not set off claims of STIWA with his/her own counterclaims of any kind.

5. General Conditions

5.1. Distinguishing from other Services

The following services are **not** included in the maintenance:

- any type integrations and optimizations of the automation machine;
- the performance of data back-ups or data restores;
- the support for automation machines and Manufacturing Software;
- the maintenance of Manufacturing Software;
- the inspection of automation machines;
- the download and installation of new software versions, Service Packs or Hotfixes, unless this is explicitly agreed as option;
- Training of any kind;

5.2. Confidentiality

All information disclosed by one of the CONTRACTING PARTIES in connection with the preparation or implementation of this CONTRACT, or thereby made available to a CONTRACTING PARTY, shall be confidential ("CONFIDENTIAL INFORMATION"). This applies, regardless of whether the Confidential Information is disclosed in written form (for example in e-mails or documents), verbal form (for example in a meeting or on the phone), visual form (for example in a presentation or video), or in any other form (for example electronic data).

The respective receiving CONTRACTING PARTY must keep the Confidential Information secret and may only use it for the compliance of this CONTRACT. This means that he/she may disclose the Confidential Information only to those persons who need this information for their activities in connection with this CONTRACT.

Unless otherwise agreed by the CONTRACTING PARTIES, a CONTRACTING PARTY may only disclose Confidential Information to a third party (e.g. a subcontractor) if this is necessary and expedient for cooperation in the course of this Contract (need-to-know principle). Should these obligations not already exist by virtue of law or an existing (employment) CONTRACT, the disclosing CONTRACTING PARTY shall oblige third parties in written form to maintain CONFIDENTIALITY and to refrain from using the Confidential Information in accordance

with this CONTRACT. A company of a CONTRACTING PARTY affiliated within the group is not deemed a third party if it has been obligated by the affiliated CONTRACTING PARTY to observe the same level of CONFIDENTIALITY.

Information is excluded from the regulations of this point 5.2 ["Confidentiality"]

- information that was already known to the receiving CONTRACTING PARTY before first receiving the information from the disclosing CONTRACTING PARTY;
- information that was explicitly designated or marked as non-confidential at the time of disclosure, or is obviously non-confidential by its nature;
- information that was already public knowledge at the time of disclosure, or became public knowledge as a result of the disclosure, without being due to a breach of a CONFIDENTIALITY obligation by the receiving CONTRACTING PARTY or a third party;
- information that was received in good faith by a CONTRACTING PARTY from a third party who does not have a corresponding CONFIDENTIALITY obligation to the disclosing CONTRACTING PARTY; or
- information that is required to be disclosed by applicable law or the order of a court or governmental authority.

5.3. Data Protection

The CONTRACTING PARTIES undertake to comply with applicable data protection law. Thus, the conclusion of an order processing CONTRACT in accordance with art. 28 GDPR may also be required, for example in the case of the provision of support as part of service. In this case, the data protection managers of the CONTRACTING PARTIES shall agree on this and prepare the necessary documents. Afterwards, the CONTRACTING PARTIES will sign the necessary documents according to data protection.

If STIWA makes use of (sub)contractors, they shall meet the following requirements before doing so:

- STIWA shall obtain the written consent of the CUSTOMER for this purpose.
- STIWA shall thereupon conclude processing contracts with (sub)contractors.
- If a (sub)contractor is located in a third country that does not guarantee an adequate level of data protection, STIWA shall also conclude standard contractual clauses with them in accordance with Art. 46 GDPR.

6. Final Provisions

6.1. Written Form Requirement

If the CONTRACTING PARTIES agree to any change or addition to this CONTRACT or any of its attachments, they shall immediately write it down and sign it for record.

6.2. Severability Clause

If individual rules in this CONTRACT should be judged ineffective or become ineffective due to a change in the law, then the CONTRACT with the remaining rules will still be effective. The CONTRACTING PARTIES should then, as soon as possible, replace the ineffective rule with a new agreement that is effective and best reflects the commercial intent.

6.3. Applicable Law and Dispute Settlement

The CONTRACT and all non-CONTRACTUAL claims, rights and obligations arising therefrom will be governed exclusively by Austrian substantive law. The application of the provisions of the UN Convention on Contracts for the International Sale of Goods (CISG) and the conflict of laws rules of private international law is hereby excluded.

If the CUSTOMER has his headquarter in the EU, all disputes between the CONTRACTING PARTIES arising from or in connection with this CONTRACT shall be settled exclusively by the court having jurisdiction for Attnang-Puchheim, Austria.

If the CUSTOMER has his headquarter outside the EU, all disputes between the CONTRACTING PARTIES arising from or in connection with this CONTRACT shall be settled in accordance with the arbitration rules of the international chamber of commerce (ICC) by one or more arbitrators appointed in accordance to these rules. The language of arbitration is English, the place of arbitration is Vienna, Austria.