1. Application, Definition

1.1. All remote maintenance performed by Sprecher Automation GmbH or an affiliated company of Sprecher (Sprecher) shall exclusively be governed by this General Terms of Use.

1.2. Sprecher will perform remote maintenance, after the Customer has confirmed that he has read and understood this General Terms of Use and accepts it.

1.3. This General Terms of Use shall be amended, modified or replaced by special conditions, e.g. individual agreements, conditions for service and maintenance, license terms, product terms, terms of third parties etc, depending on the kind of usage, which shall be confirmed before remote maintenance, as required.

1.4. In case of contradictions following order of precedence shall apply: (a) special agreements (e.g. Customer contract), if confirmed by Sprecher in writing; (b) this General Terms of Use; (c) non-mandatory provisions of the commercial law and civil law.

1.5. In generally, remote maintenance from Sprecher relates to supplies and services delivered by Sprecher under a Customer contract.

1.6. Third Party shall mean any person, other then the contract partners, even if such third party is related to a partner in any way.

2. Access, Safety

2.1. The Customer shall be solely responsible for establishing a connection for remote maintenance and loading the program TeamViewer on his computer. Before performance of remote maintenance the Customer shall make an actual data back-up of his computer system. Sprecher shall not warrant and shall not be liable for uninterrupted availableness of the server (e.g. maintenance work, server shutdown etc).

2.2. Sprecher points out that, according actual state of the art, certain risks (e.g. viruses etc.) are technically not completely controllable and they are therefore out of the sphere of influence of Sprecher. It shall be for the Customer to make arrangements against technical system risks.

2.3. With establishing the connection for remote maintenance via TeamViewer the Customer agrees, that Sprecher will record and store the remote maintenance including related datas due to security reasons. This shall safeguard, to clear vagueness in case of complaints.

3. Performance

3.1. Sprecher shall decide whether and when remote maintenance will be performed. To enable a remote maintenance with TeamViewer, the Customer has to download the program TeamViewer on his system, a software installation is not necessary. With the program the Customer allows a temporary remote access to the computer system of the Customer for the support staff of Sprecher.

3.2. The execution of TeamViewer allows to transfer the actual content of the screens of two PCs connected via internet, in realtime (so called Desktop-Sharing. The content of the screen of the Customer will be transferred to Sprecher after the Customer has confirmed this General Terms of Use, likewise an interaction is possible. Due to the VPN-connection (Virtual Private Network) and the cryptographic technique it is not possible that Third Parties can view the data.

3.3. During the remote maintenance it is necessary that a staff member from the Customer is available in front of the screen, to follow at every time services are performed from the support staff of Sprecher.

4. Scope and Limitation of Use, Payment

4.1. Generally, performance of remote maintenance is possible during the Normal Work Hours of Sprecher, Monday to Thursday 06:45 a.m. to 03:30 p.m. and Friday 06:45 a.m. to 12:00 p.m.

4.2. Sprecher shall be entitled at any time, to discontinue performance of remote maintenance, totally or partially, especially in case the Customer infringe upon this General Terms of Use, without stating any reasons.

4.3. In general, remote maintenance with the program TeamViewer are services invoiced on actual basis as per actual charge rates of Sprecher, except as otherwise agreed under special conditions.

5. Warranty, Liability, Insurance, Force Majeure

5.1. The Customer shall utilize performance of remote maintenance on his own risk. The Customer is obliged to observe the national and international laws, regulations, examinations, embargo provisions in force, and the general rules about utilization of the internet, which change regularly. Sprecher points out the punishability in case of violence of any provisions.

5.2. Sprecher's liability shall be excluded in case performance of remote maintenance in free of charge. In case payment for performance of remote maintenance is agreed, Sprecher shall be liable, outside the scope of the Product Liability Act, if the damage in question is proved to be due to intentional acts or acts of gross negligence, within the limits of statutory provisions, whereas the liability in case of gross negligence shall be limited to the net value of the remote maintenance. Sprecher shall not be liable for damages due to acts of ordinary negligence nor for consequential damages or damages for pure economic loss, indirect damages, loss of production, financing costs, costs for replacement energy, loss of energy, data or information, loss of profits, loss of savings or interest, or damage resulting from Third Party claims against the Customer.

5.3. Sprecher shall not assume any liability for dysfunctions at the Customer not caused by Sprecher, although they are in timely closeness to performance of remote maintenance. Sprecher shall not assume any liability for interference or failures on the computer system of the user, for loss of data due to technical malfunction, interrupted data communication or other interferences or failures, which can arise by performance of remote maintenance.

5.4. Sprecher warrants adhering to the mandatory provisions of data protection applicable in all those countries, where Sprecher has a registered seat. Personal data will be stored at Sprecher for administrative usage.

5.5. In case of a special risk of any damage at the Customer, which cannot be identified from Sprecher, the Customer shall inform Sprecher and shall keep itself an appropriate insurance coverage.

6. Secrecy

6.1. The Customer undertakes to use all data, drawings, technical specifications, materials provided and documentations of any kind, which he receives in connection with the contract with Sprecher or which he receives or become aware in the course of the contractual co-operation, confidential, not to copy them and not to disclose the same to Third Parties or make them available elsewhere, unless they are generally known or otherwise lawfully known. The Customer shall impose the above obligation on their staff and auxiliary persons accordingly. The secrecy obligation shall continue after termination of the contract.

6.2. The Customer is permitted to refer to the contractual co-operation in marketing material and publication, irrespectively of the kind, only after he has got the expressly written confirmation from Sprecher.

7. Other Provisions

7.1. If individual provisions are or become ineffective or unenforceable, totally or partly, they shall be deemed to be replaced by a provision which comes as close as possible to the economic purpose intended and the effectiveness and enforceability of the remaining provisions shall not be affected thereby. The same shall apply to gaps.

7.2. In order to be effective any and all modifications and amendments including this Clause shall be made in writing and signed by authorized representatives of both partners.

7.3. A transfer of rights and obligations to Third Parties shall require the prior express written consent of Sprecher.

8. Applicable Law, Jurisdiction

8.1. Place of jurisdiction for the Customer, for all disputes, arising out of or in connection with the contract shall be settled exclusively by the court in charge in Linz/Austria. Sprecher shall be entitled, on its own choice, to sue the Customer at any other court, which can be applicable according national or international law.

8.2. All legal transactions, especially contracts concluded under this General Terms of Use, shall exclusively be subject to Austrian Law, the conflict of laws rules shall be expressly excluded, especially the rules of private international law, as far as they refer to the application of foreign law. If the Austrian Law provides, in case of foreign contact, the application of special international rules, applicable also in Austria – e.g. the UN Sales Law (CISG) – they shall be expressly excluded.

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