

BRAND GMBH + CO KG General Terms and Conditions for Liquid Handling Station (LHS) Services

1. General

- 1.1 These General Terms and Conditions (GTC) are only intended for use in commercial transactions between businesses.
- 1.2 These GTC shall apply for inspection and maintenance services as well as other works and services (hereinafter: "Services"), which BRAND GMBH + CO KG („BRAND“) carries out as part of service contracts or on the basis of individual orders by the customer in connection with the LHS.
- 1.3 These GTC for LHS Services as well as the BRAND GMBH + CO KG General Terms and Conditions (<https://www.brand.de/en/terms-and-conditions>) shall apply in addition and subordinate to the respective service offer and any special contractual agreements with BRAND. In the event of conflicts between these GTC for LHS Services and the BRAND GMBH + CO KG General Terms and Conditions, the GTC for LHS Services shall have priority.
- 1.4 Other terms shall not become part of the contract even if BRAND does not explicitly oppose them. The customer may only appeal to subsidiary agreements before or at the time of the contract conclusion with an immediate written confirmation. Amendments to and changes of the contract must be in written form. The waiver of the written form requirement is only possible in writing. This shall not apply to individual contractual agreements. The language of the contract shall be German or English. In the event of a conflict between the German language version of these GTC or the service contract and a version in any language, the German language version shall prevail.

2. Conclusion of contract

- 2.1 A service contract which contains regularly recurring Services ("Service Package") arises either with BRAND and the customer signing a corresponding service contract or with a written order by the customer and the receipt by the customer of a corresponding written order confirmation from BRAND.
- 2.2 Services which are not included in a Service Package shall be ordered separately by the customer through a written order ("Individual Order"). A binding conclusion of contract shall only arise, however, following receipt of an order confirmation from BRAND by the customer. If additional services are ordered as part of service work, the performance of a service shall be equivalent to an order confirmation from BRAND.

3. Service scope

3.1 Service Packages

In the case of service packages, the content and scope of the service shall be determined by the BRAND service data sheets applicable to the service package (e.g., work protocols, replacement lists), any existing additional terms and conditions, and these GTC for Services LHS, which are part of the service package. Services or spare part deliveries which are offered by BRAND, but which lie outside the service scope of the Service Package which has been purchased, shall be performed additionally at the request of the customer and on the basis of the BRAND price lists which are applicable at the time of the Service or the replacement.

- 3.2 The service package includes the monitoring and control of the functionality and operational safety of the device specified in the contract/service certificate, the free replacement of the wearing parts listed in the corresponding Annex to the contract/service certificate, and the free replacement of the defective components listed in the corresponding Annex to the contract/service certificate as well as any service interventions required to restore the operational readiness of the device specified in the contract/service certificate in the event of a malfunction (repair services/factory service). The maintenance shall usually take place each year by appointment on the customer's premises. A case of failure shall be if the primary functions of the device are significantly limited despite proper use. The service remuneration covers the costs of the components necessary for this if these are listed in the corresponding annex to the contract/service record. Unless otherwise agreed in the respective contract/service certificate, other repair and service work shall not be included in the scope of services.
- 3.3 If the Service Package includes a "Collect + Return Service", the device shall be collected from the customer and transported to a qualified service point (service partner or repair centre). The Collect + Return Service may vary depending on the country. There are two possibilities for the collection, which BRAND shall decide on:
 - Collection by a logistics service provider deployed by BRAND for Services. The device shall be collected at the customer's address (at the main entrance, unless otherwise agreed). The customer must suitably package the defective device before collection unless he is informed by BRAND that the logistics service provider will transport the device in its own shipping boxes.
 - Issuing a consignment note/prepaid parcel label for the customer who shall then organise the collection himself. The customer must suitably package the device before collection. The device shall be returned to the customer's location when the services have been completed.
- 3.4 Unless expressly included in the service package, travel and, if applicable, overnight expenses of BRAND service staff are not covered by the respective agreed service fee and shall be charged in accordance with the respective current price list "Installation and Service Costs" of BRAND. This shall not apply for any use as part of the warranty.

3.5 Individual Orders

For individual orders, the service content and scope is determined according to the offer and/or the order confirmation from BRAND, the applicable BRAND price lists and these General Terms and Conditions for Services. Additional conditions for the contractually agreed Service may result from additional documents which become part of the respective individual order as an annex or through a reference in the offer or the order confirmation from BRAND.

4. Exclusions

- 4.1 Unless anything to the contrary is expressly agreed, the following services are not a component of Service Packages, but may be ordered in addition as part of individual orders:
 - a. The supply of consumables;
 - b. The maintenance and cleaning of the contractual object according to the operating manual;
 - c. The removal of faults and damage caused by improper handling, maintenance, cleaning or other use on the part of the customer, by the influence of third parties or by force majeure. The same shall apply for faults and damage caused by environmental conditions at the installation site, through errors or a failure of the power supply, omissions with respect to maintenance and care works which are the responsibility of the customer (see section 4.1.b) or other effects which are not the fault of BRAND;
 - d. Maintenance work which results from operating errors or intentional or negligent damage or alterations to programs or data by the customer shall be charged on the basis of BRAND's hourly rates which were generally applicable at the time of placing the order according to the respective expenditure involved;
 - e. Induction and training of customer personnel; or
 - f. Services outside of the agreed intervals or service times.

5. Services by BRAND

- 5.1 Services shall be performed by BRAND between Mondays and Fridays from 8 am to 5 pm (except for public holidays at the registered office of the company). Any inspection, maintenance and/or repair requests made by the customer during the above times shall be answered within twenty-four (24) hours ("Response Time").
- 5.2 Service, maintenance and/or repair requests must be reported to the given service number or an email to support-ah@brand.de.
- 5.3 If the implementation of the Services is not possible on the agreed date due to circumstances lying inside of the customer's area of risk, the customer shall disclose these circumstances to BRAND at least two (2) working days beforehand. In the event of a delayed notification by the customer which is his responsibility, the additional costs resulting for BRAND shall be invoiced to the customer according to the applicable "Rates for installation and commissioning services".
- 5.4 BRAND may, at its discretion, replace or repair defective wear parts and components.

6. Customer's cooperation obligations

- 6.1 The customer must assist BRAND in being able to begin the Services promptly and perform them without any hindrance or disruption by fulfilling the following cooperation obligations.
- 6.2 The customer shall ensure that the device named in the contract/service record is freely accessible and in a clean and decontaminated state before performing the Services. Any maintenance and service or repair action requires the issue of a corresponding clearance declaration on the absence of health hazards (<https://www.brand.de/en/service-support/maintenance-and-calibration-service>) by the customer.
- 6.3 If necessary, the customer shall provide utilities such as power and water free of charge.
- 6.4 The customer shall take all measures to protect the service personnel deployed by BRAND and to secure their property and the property of BRAND.
- 6.5 The customer shall inform the service personnel deployed by BRAND of any existing safety risks and/or provisions.
- 6.6 If the customer does not comply with his cooperation obligations despite a request and a deadline set by BRAND, BRAND shall either not be obligated to perform, it may procure the necessary materials itself, it may call on the assistance of a third party or it may perform the services itself. BRAND shall have discretion in this matter.
- 6.7 The customer shall ensure that the service personnel deployed by BRAND have a direct contact person on site, or alternatively by telephone, in order to quickly clarify and resolve the extent or process of the repairs.
- 6.8 Costs and waiting times which arise for BRAND due to a breach of the aforementioned obligations by the customer shall be charged by BRAND according to BRAND's applicable "Rates for installation and commissioning services".

7. Prices and terms of payment

- 7.1 The service remuneration to be paid for Services shall be determined according to the terms of payment noted in the contract/service record. Additional costs, such as travel costs and spare parts costs shall be determined according to the applicable BRAND price lists.

- 7.2 BRAND is authorized to adjust the service remuneration applicable for Service Packages through a written notification with a notice period of four (4) months in the event of changing market conditions, significant changes to procurement or wage costs, changes in VAT, procurement prices etc. In the event of price increases, the customer shall have the right to terminate the Service Package concerned with a notice period of one (1) month to the end of the month within (4) weeks of receiving the notification of the increase.
- 7.3 The service remuneration and the prices given in the price lists are net prices excluding VAT, unless otherwise agreed. VAT shall be added to the invoice at the VAT rate applicable at the time at which the services are performed.
- 7.4 Invoices shall be due immediately or by the date stated, without a deduction. The determinant factor shall be the receipt of payment. Bills of exchange and cheques shall only be accepted on account of performance and at the cost of the customer.
- 7.5 Should the customer be in arrears with payment, all claims from BRAND against him shall be due immediately and BRAND shall not be obligated to make any further deliveries based on current delivery contracts.
- 7.6 If payment is delayed, BRAND shall charge – notwithstanding further damage compensation claims – interest on arrears at the statutory rate.
- 7.7 BRAND may offset amounts payable to the customer (e.g. from credit notes) against its open claims against the customer.
- 7.8 A set-off by the customer shall not be permitted unless the counterclaims are undisputed or legally established, or pecuniary counterclaims arising from the right to refuse payment pursuant to Section 320 Bürgerliches Gesetzbuch (BGB) (German Civil Code).

8. Warranty

- 8.1 BRAND shall fulfill the services agreed as part of this contract with the diligence of a prudent businessman.
- 8.2 For repair services carried out by BRAND or on behalf of BRAND, the warranty period shall be one year and starts with the acceptance of the work; if this is excluded or has not taken place, this shall be with the completion of this work. The same shall apply for claims for damages, irrespective of their legal basis. The limitation periods of Section 438 Para 1 Nos. 1 and 2 and Section 634a Para. 1 No. 2 of the BGB (German Civil Code) shall remain unaffected. The restriction of the limitation period shall not apply for claims based on the fraudulent concealment of a defect, for claims under the Produkthaftungsgesetz (German Product Liability Act) or for damages resulting from injury to life, limb or health and other damages based on intent or gross negligence.
- 8.3 If a notice of defect is justified, BRAND shall initially only be required to provide supplementary performance. Supplementary performance shall be, at the discretion of BRAND, either rectification of the defect or delivery of goods free of defects. BRAND has the right to repeat the supplementary performance.
- 8.4 The right of the customer to request damages or compensation for expenses incurred in vain is restricted according to the provisions of section 10.
- 8.5 Defect claims are excluded,
 - for the consequences of improper handling or operation by the customer or persons commissioned by the customer;
 - for defects caused by the installation or connection of components (hardware or software) which did not come from BRAND or were not approved by BRAND in writing;
 - for damages caused by the use of unsuitable or incompatible materials during operation or cleaning.
- 8.6 The warranty period for installed or replaced (spare) parts amounts to twelve (12) months and is determined according to the provisions of the BRAND GMBH + CO KG General Terms and Conditions (<https://www.brand.de/en/terms-and-conditions/brand-gmbh-co-kg-general-terms-and-conditions-for-orders-from-outside-shopbrandde>).

9. Duration of Service Packages /Termination

- 9.1 The term of the contract shall begin with the transfer of the device named in the contract/service record. If the customer is already in possession of the device, the contractual term shall begin on the day on which the Service Package is concluded – unless the contracting parties have expressly agreed an alternate date – and it shall have a minimum term of twenty-four (24) months. The contract will then be automatically extended by a further twelve (12) months if it is not terminated in writing one (1) month prior to the expiry of the current contractual term.
- 9.2 In the event that the customer transfers his ownership of the device named in the contract/service record to a third party or if the device is decommissioned during the term of the service contract, this must be immediately reported to BRAND and proven in an appropriate manner. The contract shall then end at the close of the quarter following the notification. Service remuneration which has already been paid shall be reimbursed pro rata in these cases.
- 9.3 Each contracting party is authorized to terminate a service contract for good cause and without a notice period if the respective other party does not or does not properly fulfill an essential contractual obligation – even after the expiry of a reasonable grace period. Insignificant breaches of duty shall not justify an extraordinary termination.
- 9.4 For BRAND, good cause to terminate a service contract shall exist in particular if
 - there has been a significant deterioration in the customer's financial situation which places the fulfillment of the contract at risk or
 - the customer has outstanding arrears of more than 30 days and fails to pay despite a grace period being set or
 - additional service expenditure (time and/or materials expenses) mean that changes have been made to the device being serviced without the prior approval of BRAND, components which have not been approved by BRAND or incompatible components were used or a change of location has taken place.
- 9.5 Notice of termination must be given in writing.
- 9.6 In the event of a termination, the customer is obligated to pay for the Services which were carried out up until the termination of the contract and for any delivered parts and any other costs (e.g. travel costs, waiting times).

10. Liability

- 10.1 BRAND shall be liable without limitation for intention and gross negligence.
- 10.2 In the event of ordinary negligence, BRAND shall only be liable – except for damages caused to life, limb or health – for damages caused through breaching an essential contractual obligation whose fulfillment is a prerequisite for enabling the proper fulfillment of the contract in the first place and upon the fulfillment of which the contracting party usually relies and can rely (cardinal obligations). The liability of BRAND is limited to damage whose occurrence BRAND should have anticipated on the basis of the circumstances known to them upon conclusion of the contract.
- 10.3 The liability for indirect and unforeseeable damages, production and system failures, lost profits, loss of savings and financial losses due to claims from third parties is excluded in the case of ordinary negligence, except in the case of injury to life, limb or health.
- 10.4 The liability of BRAND is excluded if the damage was caused
 - as a result of improper handling or operation by the customer or persons commissioned by the customer and/or
 - as a result of the installation or connection of components (hardware or software) which did not come from BRAND or were not approved by BRAND and/or
 - by the use of unsuitable or incompatible materials during operation or cleaning.
- 10.5 Further liability shall be excluded irrespective of the legal nature of the asserted claim. The above liability restrictions and/or exclusions shall not apply, however, for any statutory liability which is irrespective of fault (e.g. according to the Product Liability Act) or the liability from a guarantee which is irrespective of fault.
- 10.6 If the liability according to this clause 10. is excluded or limited, this shall also apply to personal liability on the part of the bodies, employees, staff, representatives and vicarious agents of BRAND.

11. Data processing for own use

The customer agrees to the collection, processing and use of his contact data for the purposes of executing the contract and maintaining the commercial relationships with the customer. Contact data in this sense is all business-related contact information which is disclosed to BRAND by the customer, in particular the name, job title, business address, business telephone and fax numbers and email addresses of employees or third parties.

12. General

- 12.1 The transfer of rights and obligations from Service Packages or Individual Orders by the customer requires the written approval of BRAND.
- 12.2 Unless otherwise agreed, the place of performance is Wertheim (Germany).
- 12.3 The legal relationships of the parties from or in connection with Services is subject to the law of the Federal Republic of Germany, to the exclusion of the conflict of laws rules of private international law and the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 12.4 The place of jurisdiction shall be the competent court in Frankfurt am Main. BRAND shall also be entitled to appeal to the court responsible for the head office of the customer. BRAND shall, furthermore, as plaintiff have the right to invoke the Arbitration Court at the Chamber of Commerce and Industry in Frankfurt am Main, Germany. The Arbitration Court shall, in this case, make the final judgment in accordance with the Rules of Arbitration of the Chamber of Commerce and Industry in Frankfurt am Main without recourse to the ordinary courts of law.

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