



Service- and Maintenance Agreement No.

between

(hereinafter referred to as „Buyer“)

and

Sprecher Automation GmbH, Franckstrasse 51, A-4018 Linz/Austria
(hereinafter referred to as „Sprecher“)

(both collectively also referred to as „Partner“)

for

- Support by Telephone / Support by Remote Control
- On-site service
- Spare Part stock for Sprecher Products
- Preventive Maintenance
- Special Agreements

In case of any malfunction please contact the service department from Sprecher:



+43/(0)732 6908-358



+43/(0)732 6908-278



service@sprecher-automation.com

**To fulfil your request rapidly and satisfying,
our service-department need following information:**

- **company, name, telephone number and number of the service- and maintenance agreement**
- **type/place of operational fault (device, component, (part of)plant, serial/machine number**
- **service required**

Start of Agreement:

Termination of Agreement:

This Agreement shall be renewed automatically, unless terminated by either Partner subject to a notice period of three months before the expiration of the Agreement by means of registered mail.

The following chapters, Annexes and General Terms and Conditions shall form integral parts of this Agreement.





1. Buyer:	Installation Address Place of Performance	Invoicing Address
Name (registered company name) Street, no.: zip code and Location: Contact person: E-Mail: Tel-No.: No. of this Agreement:		

2. Systemconfiguration devices, components respectively (part of)plants inclusive spare parts according Annex 1 and General Terms and Conditions)	System Value
"SPRECON®-xxx"	
"SPREPOWER-xxx"	
electrical system including electrical installation and drives	
	Stand-by-service fee resp. Maintenance fee per year in Euro
for "SPRECON®-xxx"	
for "SPREPOWER-xxx"	
for electrical system including electrical installation and drives	

3. Scope of Supply and Service (informations-, material- and/or personnel) and Times:

3.1 Support by Telephone / Support by Remote Control (according General Terms and Conditions Clause 3.)	Stand-by-service fee per year in Euro (net)
<input type="checkbox"/> Basis T1 during normal work hours	
<input type="checkbox"/> T2 on workingdays from 06:00 a.m. until 07:00 p.m.	
<input type="checkbox"/> T3 day and night (24h accessibility)	
<input type="checkbox"/> T4 additional special agreements for	
<input type="checkbox"/> MO-FR from [] until [] o'clock	
<input type="checkbox"/> SA from [] until [] o'clock	
<input type="checkbox"/> SO and public holiday from [] until [] o'clock	



3.2. On-Site-Service (according General Terms and Conditions Clause 3.)	Stand-by-service fee per year in Euro (net)
<input type="checkbox"/> Basis within 3 workingdays	
<input type="checkbox"/> S1 + T1 during normal work hours	
<input type="checkbox"/> within 2 workingdays	
<input type="checkbox"/> 24 hours	
<input type="checkbox"/> 12 hours	
<input type="checkbox"/> S2 + T2 on workingdays from 6:00 a.m to 07:00 p.m.	
<input type="checkbox"/> within 2 workingdays	
<input type="checkbox"/> 24 hours	
<input type="checkbox"/> 12 hours	
<input type="checkbox"/> S3 + T3 night and day (24h)	
<input type="checkbox"/> within 4 hours	
<input type="checkbox"/> within 8 hours	
<input type="checkbox"/> within 12 hours	
<input type="checkbox"/> S4 + T4 special agreements for	
<input type="checkbox"/> Mo-Fr from [] until [] o'clock, within = [] h	
<input type="checkbox"/> Sa from [] until [] o'clock, within = [] h	
<input type="checkbox"/> So and public holidays from [] until [] o'clock within = [] h	
<input type="checkbox"/> special agreements: []	
[]	

3.3 Spare Part Stock for Sprecher Products (according General Terms and Conditions Clause 3 and Annex 1)	Stand-by-service fee per year in Euro (net)
value of the spare part stock	
<input type="checkbox"/> Basis within 5 workingdays ready for delivery	
<input type="checkbox"/> E1 within 2 workingdays ready for delivery	
<input type="checkbox"/> E2 within 24 hours ready for delivery on workingdays	
<input type="checkbox"/> E3 within 12 hours ready for delivery on workingdays	
<input type="checkbox"/> E4 within 12 hours ready for delivery (ready for collection!) day & night	
<input type="checkbox"/> []	



3.3 Preventive Maintenance (according General Terms and Conditions Clause 3 and Annex 1)	Maintenance fee per year in Euro (net)
<input type="checkbox"/> annual preventive maintenance up to max. .3. days on-site	
<input type="checkbox"/> incl. material, working and travel time, allowance, ... (except consumables, for example laser ...)	
<input type="checkbox"/> on a time and material basis <input type="text"/> <input type="text"/>	

3.5. Special Agreement (according Annex 1)	Values per year in Euro (net)

4. Stand-by-service-fee respectively Maintenance fee (according General Terms and Conditions)	Values per year in Euro (net)
annual stand-by-service-fee or maintenance fee	0,00
20 % VAT	0,00
annual stand-by-service-fee or maintenance fee incl. Austrian VAT	0,00
charging quaterly in advance incl. Austrian VAT	0,00

5. Charge Rates (according General Terms and Conditions)	Values per year in Euro (net)
Normal Work Hours (CET)	
Repair at Sprecher	
Kilometre allowance for automobile per km	

All following Annexes and the General Terms and Conditions shall form integral parts of this Agreement.

<p>For</p> <p>date, company stamp and legally binding signature</p>
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<p>For Sprecher Automation GmbH</p> <p>date, company stamp and legally binding signature</p>





DEVICE LIST

LIST for recommended SPARE PART STOCK

MAINTENANCE PLAN:

SPECIMEN



6. General Terms and Conditions for Service and Maintenance

1. Scope and Closure of Agreement

1.1. These General Terms and Conditions govern scope and execution of service and maintenance performances with the Buyer. The General Conditions for Maintenance of Devices, Machines and Plants, edition January 1999 and the Terms and Conditions for Software Transactions, edition February 1998, both issued by the Association of the Austrian Electrical and Electronics Industry (FEEI) shall apply subsidiary. Special agreements shall prevail. Malfunctions are faults in the function, which lower or eliminate operating of devices, components respectively (part of)plant, compared with the functions and performances as agreed. Proposals for amended functions and operator faults and malfunctions caused by Force Majeure are not considered as malfunctions in the meaning of this agreement.

2. Devices, Components, (part of)Plant

Pre-condition for concluding a service and maintenance agreement (hereinafter referred to as "Agreement") is, that the devices, components respectively (part of)plants (hereinafter referred to as „Products“) as covered in the agreement meet the requirements of the respective applicable specification. Sprecher will carry out an initial inspection respectively agree with the Buyer the services, which are necessary to get the Products in a condition conforming with the respective applicable specification, by separate agreement. For those Products, which Sprecher has purchased from sub-contractors and delivered to the Buyer, particularly products of other suppliers (for example PC's, printer etc.), Sprecher will perform service and maintenance according the maintenance instructions of these suppliers. For products not delivered by Sprecher, but included in the Agreement, the Buyer shall make available all necessary maintenance instructions respectively technical documentation, otherwise Sprecher shall be released from all and any liability.

3. Scope of Supply and Services

3.1. **Support by telephone/support by remote control** include support for corrective maintenance by telephone and/or remote control through a service technician of Sprecher. Pre-condition for remote control is a modem or router with network access (respective configuration of the firewall) for all Products as per Agreement. With the stand-by-service-fee a telephone and/or remote support up to 30 minutes per occurrence of malfunction is included.

3.2. On request of the Buyer respectively in case the telephone and/or remote support fails to aim the desired target, and after containment of the fault, an **on-site-service** by a service technician of Sprecher will be arranged. Response time agreed shall be counted from time point of not successful fulfilled remote control and shall be fulfilled

with readiness of travelling ex location Sprecher (excluding travel times).

3.3. Sprecher is responsible for placing the **spare parts** at the disposal of the Buyer in case a spare part stock at Sprecher is agreed. In case a spare part stock at the Buyer is agreed, as per recommended spare part list, the Buyer is responsible for placing the spare parts at the disposal of Sprecher.

3.4. The **preventive maintenance** of the Products (their check-up for maintenance of the proper function) comprises the maintenance as per agreed maintenance plan.

4. Time and Surcharges

Normal Work Hours: (CET)

Monday to Thursday: 06:45 a.m. to 03:30 p.m.

Friday: 06:45 a.m. to 12:15 p.m.

Workingday:

are the days from Monday to Friday, excluding public holiday (excluding the time from December 24th every year until January 6th of the next year).

Surcharges:

outside of the Normal Work Hours: 40 %

for night hours from 07:00 p.m. on: 80 %

for work on Sunday, public holiday: 80 %

Rest-from-Work Law:

According to the regulations of the Rest-from-Work Law, there is an obligation for a rest-from-work period during the week following the time when overtime hours are worked during the prescribed weekly weekend rest period of 36 hours (Saturday 06:45 p.m. – Monday 06:45 a.m.). This rest-from-work period shall be invoiced according to charge rates for normal working hours.

5. Request for Service

Requests for service can be placed at the service department of Sprecher during the agreed times. The Buyer shall inform Sprecher about any malfunctions, otherwise the liability from Sprecher shall be excluded. In case the malfunction occurred because of interacting with different devices, components respectively (part of)plant, which are not within the scope of this Agreement, Sprecher will, on request of the Buyer, participate in the search of the cause of malfunction. As long as Sprecher is contractually obliged for service and maintenance, the Buyer shall not carry out any services by third parties. The date of preventive maintenance will be agreed amicably with the Buyer. The request for service will be confirmed in writing only if desired by the Buyer.





6. Execution of Service and Participation of the Buyer

6.1. **Sprecher** will start with service or maintenance as soon as possible, but at the latest during the agreed response- and assignment time. Sprecher warrants diligent fulfilment of the services through qualified personnel. The manner how the service and maintenance work is carried out shall be defined by Sprecher, taking the commercial interest of the Buyer into account. On request of the Buyer Sprecher will proceed with their services beyond the agreed times. The execution of services beyond the agreed times in the course of a servicing assignment shall not create a precedent to be applied to other servicing assignments. Estimates about the duration of the repair given by Sprecher shall not be binding.

6.2. **The Buyer** shall grant Sprecher the necessary access to the premises, an unhindered performance of the services and adequate power and water supply as well as the necessary access to the data network, free of charge, for the duration of the performance of the services. If required, the storage media (version of software and programming devices) shall be made available for Sprecher. The Buyer shall be responsible to secure the existing data stock sufficiently. The Buyer shall make available all necessary information and documentation, updating of documentation is not included in this Agreement. Sprecher observes the internal regulations of the Buyer as demonstrably informed by the Buyer to Sprecher. The Buyer shall place at the disposal of Sprecher authorised and experienced service personnel, which is familiar with the functions of the devices, components respectively (part of)plant, for smoothly performance of the services, free of charge. Before starting the preventive maintenance the Buyer shall take care that the Products are in use without any functional malfunctions. Existing respectively already known malfunctions are not covered in the preventive maintenance.

6.3. Defect Products shall be sent from the Buyer to Sprecher respectively will be taken along by Sprecher at their service or maintenance on site. After repair the Buyer will get his original Product or an equivalent Product. The Product returned to the Buyer shall become the property of the Buyer, while the Product remaining at Sprecher shall become property of Sprecher. Products can be taken from the spare part stock of the Buyer, if available, until final repair or replacement. In case the Buyer does not have a spare part stock, the Buyer will get a Product from Sprecher, as available respectively within the agreed times, until final repair or replacement. In such case Sprecher reserves the right to invoice a handling fee of 15% of the Product value per week.

6.4. After completion of service- or maintenance Sprecher will issue a time and material sheet (report), showing date, times, kind of malfunction and action taken etc., which will be signed by both Partners. This shall not apply for telephone respectively remote service and repairs.

7. Modification in Scope of Supply and Services

Requested respectively necessary adaptations (extent, deadlines or other issues) shall be subject to modification to be agreed before date of commencement of service. Changes in the place of performance respectively changes made on software or on software parameters on devices, components respectively (part of)plants must be disclosed to Sprecher immediately in writing. Sprecher shall not be responsible for any liability in case of changes not made by Sprecher.

8. Prices and Terms of Payment

8.1. The stand-by-service-fee, the maintenance fee respectively the charges rates including surcharges (Prices) are valid in Euro, excluding VAT. Sprecher reserves the right to change prices and/or these General Terms and Conditions at any time without any advance notice. In any case, the Prices are subject to adjustment by 100% based on the collective arrangement of tariff wages (minimum salary) published by the Austrian electronic industry, occupation group G/basic level, as per their adaptations in May every year.

8.2. With payment of the stand-by-service-fee respectively the maintenance fee the provision of personnel of Sprecher is included, as per availability at Sprecher. Assignments for service and maintenance work are not compensated with the stand-by-service-fee or maintenance fee, they will be invoiced as agreed, according actual expenditure of time as per actual charge rates taking the mentioned surcharges into account. Travel time respectively preparation time for travelling shall be invoiced as per normal working hour rates. The daily allowance is included in the charge rates. Costs for travelling and accommodation (ticket, train, taxi, hotel etc.), costs for transport or any other costs shall be invoiced according actual expenses. Spare parts respectively any Products required shall be invoiced according actual price lists from Sprecher.

8.3. The stand-by-service-fee respectively the maintenance fee shall be invoiced quarterly in advance, the assignment shall be invoiced after their completion. Discounts granted on the charges rates, if any, shall not apply for services not included in the Agreement respectively shall not apply for any modifications of the Agreement.

8.4. Payments shall be made within 30 days from date of invoice, net, without any deductions. Setoff of claims against claims of Sprecher shall not be permissible. The Buyer shall have no right of retention. Sprecher reserves the right, to assign rights to third parties. In case of delay in payment, Sprecher shall be entitled to invoice interest for delay of 14% p.a. and put on hold all further service obligations respectively outstanding





services.

8.5. All Products delivered from Sprecher shall be the sole property of Sprecher until complete fulfilment of all obligations.

9. Deadlines

The partners are in default with deadlines, agreed in the contract as penalty dates, in case of non-compliance, in all other cases after reminder and granting an adequate extension of time. The liability for occasions where liquidated damages are agreed is restricted to the agreed amount. The maximum sum is restricted to 25% of one annual stand-by-service-fee or maintenance fee of the respective Agreement, excluding VAT and such payment shall be in full satisfaction of Buyers respective claims and Buyers sole and exclusive remedy.

10. Liability, Insurance and Force Majeure

SPRECHER shall be liable, out of the Product Liability Law, if the damage in question is originated in the course of their services and is proven to be due to intentional acts or acts of gross negligence of Sprecher personnel respectively their servants, within the limits of statutory provisions, whereas liability for gross negligence shall be limited to the amount of one annual stand-by-service-fee respectively maintenance fee. Liability for ordinary negligence as well as compensation for consequential damage, indirect damages and purely pecuniary losses, e.g. loss of production, cost of idleness, loss of profit, financial losses and damage in the event of interference of third parties against Sprecher shall be expressly excluded. SPRECHER shall bear no responsibility or liability in case the failure or delay is not caused through Sprecher, rests upon unforeseen circumstances, for example all cases of Force Majeure or if such failure or delay is economically not justifiable for Sprecher or their servants.

11. Secrecy

The Partners and their servants shall not use or communicate to others business secrets or trade secrets of the other Partner which were made available to them or of which they obtained knowledge because of their co-operation, during the term and after termination of the Agreement. The confidential obligation shall not apply to demonstrably and obviously or general accessible information and to legal duty of disclosure.

12. Duration of Agreement

12.1. The Agreement shall enter into force upon signing by duly authorised representatives of the Partners. The Agreement shall be renewed automatically, unless terminated by either Partner subject to a notice period of three months before the expiration of the Agreement by

means of registered mail. The termination can also be subject to particular parts of the Agreement. In case devices, components respectively (part of)plants are shut down before expiration of the Agreement, the Buyer shall be entitled to prematurely terminate the Agreement.

12.2. Each Partner shall be entitled to immediately terminate the Agreement for important reason. Such important reason shall be, for example, adherence to a violation of a substantial provision of this Agreement in spite of notice and reminder, violation of the secrecy obligation, if insolvency proceedings are opened over the assets of one Partner or a petition for opening of such proceedings is dismissed for lack of assets to cover the costs or if a material change in the shareholder structure of the other Partner occurs. In case of termination all services and supplies already fulfilled shall be invoiced and payable immediately.

13. Final Provision

In order to be effective any and all modifications of this agreement including this clause shall be made in writing and signed by authorized representatives of both Partners. Oral side agreements shall be ineffective. Statements issued before or with signing of the Agreement or other circumstances of legal relevance shall have no more effect with conclusion of the Agreement, unless not considered in the Agreement. In case individual provisions are ineffective or unenforceable, the ineffective or unenforceable provision shall be deemed replaced by an effective and enforceable provision which comes as close as possible to the economic purpose intended by the Partners and the effectiveness and enforceability of the remaining provisions of the Agreement shall not be affected thereby. Assignment of rights and obligations of the Agreement to third parties, wholly or partly, is only possible after the express written agreement of the other Partner.

14. Jurisdiction/Applicable Law

The Agreement and any agreements concluded hereunder shall exclusively be subject to Austrian law. The conflict of laws rules of private international law and UN Sales Law (CISG) shall hereby be expressly excluded. All disputes arising out of or in connection with this Agreement and/or the agreements concluded hereunder shall be finally settled in accordance with the Rules of Arbitration of the International Chamber of Commerce (Paris) by one or more arbitrators appointed in accordance with the said Rules. The place of arbitration shall be Vienna, the language of the arbitration proceedings shall be English.

