

General Terms and Conditions

Selling maintenance and assembly services

March 2023 edition

1. Scope

These assembly General Terms and Conditions apply to assembly, supervision of assembly, commissioning, trial operation and repair work on plant components and/or plants, hereinafter also referred to as 'services', by Axpo Systems AG.

If Axpo Systems AG also performs product delivery in connection with the services to be provided, Axpo Systems AG's General Terms and Conditions of delivery for products valid at the time the order is carried out shall apply to these deliveries unless agreed otherwise.

2. Definitions

Axpo Systems defines Axpo Systems AG in these General Terms and Conditions.

Customer defines the party that enters into a written agreement with Axpo Systems for the provision of a service as described in section 1 in these assembly General Terms and Conditions.

Service describes the services to be provided by Axpo Systems under the agreement. If provision of a service and acceptance is planned in sections, these Terms and Conditions shall apply to the section in question.

Force majeure includes events that Axpo Systems is unable to avert despite exercising the necessary due care, regardless of whether they occur on its premises, on the customer's premises or on a third party's premises. Such events include, for example, epidemics, mobilisation, war, riots, significant operational disruptions, accidents, industrial disputes, delayed or faulty delivery of the necessary materials, official measures or omissions, transport obstacles and natural disasters.

Assembly site is the place where the service is to be provided and includes the adjoining areas required for unloading, intermediate transport and storage of the assembly equipment.

Contract describes the written agreement concluded between the contracting parties to provide the services described therein.

The **subject matter of the contract** comprises the services described in the contract or the order, including the provision of small parts and consumables, insofar as they form part of the scope of services.

Written form or in writing denotes by means of a document signed by both contracting parties or by means of a letter, a fax, an email or another form agreed by both parties.

3. Conclusion of the contract

3.1. The contract is concluded when the customer receives written confirmation from Axpo Systems indicating that it accepts the order (order confirmation). Quotations that do not contain an acceptance period are not binding.

3.2. These General Terms and Conditions shall apply if they are declared applicable in the quotation or in the order confirmation issued by Axpo Systems. The customer's contradictory terms and conditions shall only be valid if Axpo Systems has expressly accepted them in writing.

3.3. All agreements and legally relevant declarations made by the contracting parties must be in writing to be valid.

4. Scope of the services

4.1. The services to be provided by Axpo Systems are listed conclusively in the contract or in the order confirmation, including any enclosures thereto.

4.2. Modifications or amendments to the contract shall be made in writing and be valid as soon as they are accepted by both parties.

5. Plans and technical documents

5.1. Brochures, catalogues, sample calculations and drafts are not binding unless agreed otherwise. Information contained in technical documents issued by Axpo Systems is only binding if expressly warranted.

5.2. Each contracting party reserves all rights to plans and technical documents that it has handed over to the other party and undertakes to make the plans and technical documents received from the other party accessible to third parties only to the extent necessary for the proper performance of the contract and not to use them except for their intended purpose.

5.3. If the service also includes software, the contract grants the customer the non-exclusive and non-transferable right to use the software for the agreed purpose. If these rights granted hereunder are infringed, the customer shall lose the right to further use and shall be liable vis-à-vis Axpo Systems, particularly for any third-party claims arising from such infringement.

6. Regulations and standards

6.1. The customer must inform Axpo Systems of the regulations and standards to be observed that relate to the performance of the services in good time before the order is carried out.

6.2. Unless expressly agreed otherwise in the contract, the services shall comply with the regulations and standards applicable at the customer's registered office, of which the customer has notified Axpo Systems in accordance with section 6.1.

6.3. If reference is not made to the regulations and standards to be observed in accordance with sections 6.1 or 6.2, the services shall comply with the regulations and standards applicable at Axpo Systems' registered office at the time the services are provided.

7. Axpo Systems' obligations

Axpo Systems undertakes to provide the service professionally, on time and with qualified personnel. The customer authorises Axpo Systems to consult third parties selected by Axpo Systems to meet its contractual obligations.

8. The customer's obligations

- 8.1. The customer must take all necessary steps to ensure that Axpo Systems' work can be started on time and carried out without hindrance or interruption. The customer may not use the personnel provided by Axpo Systems for the provision of services before all preparatory work has been completed.
- 8.2. The customer must ensure that the assembly site is in a condition that allows Axpo Systems to start work. In addition, the customer must ensure that unhindered access to the workplace is guaranteed.
- 8.3. The customer must carry out all preparatory work competently, at their own expense and under their own responsibility in accordance with any documentation supplied by Axpo Systems.
- 8.4. The customer must take all necessary accident prevention measures at their own expense. They must expressly notify Axpo Systems if special consideration must be given to work carried out by the customer and/or other suppliers. The customer must also inform Axpo Systems in good time of any regulations that the latter must observe during its work. Axpo Systems shall be entitled to refuse to carry out work or stop any work if it believes the safety of its personnel is not guaranteed.
- 8.5. The customer shall provide Axpo Systems, free of charge, with suitable premises in which the materials supplied and to be assembled by Axpo Systems can be stored in such a way that they are protected against theft, damage and deterioration. Prior to assembly work starting, the customer must check the materials to be assembled in the presence of Axpo Systems' personnel to ensure that they are complete and have not been damaged. If any items are lost or damaged during storage, they must be replaced or repaired at the customer's expense.
- 8.6. The customer must provide the following at their own expense and in good time in accordance with the requirements set down by Axpo Systems or the work programme:
 - 8.6.1. A qualified workforce with the necessary tools and equipment. This workforce must follow the work instructions issued by Axpo Systems, but nevertheless remain employees of the customer and remain subordinate to and accountable to the customer.
 - 8.6.2. Suitable cranes and other lifting equipment in good working order, with the associated personnel, particularly at the time of material delivery and for intermediate transport from the storage location to the assembly site.
 - 8.6.3. The necessary consumables and installation materials and various small items required during the work, unless they are included in Axpo Systems' scope of delivery.
 - 8.6.4. Heating, lighting, operating power, water, including the necessary connections.
 - 8.6.5. Necessary, dry and lockable rooms for storage of the assembly personnel's tools.
 - 8.6.6. Transport of the assembly parts at the assembly site, protection of the assembly site and materials against all kinds of harmful influences, cleaning of the assembly site, disposal of packaging material and waste.

8.6.7. Suitable, theft-proof recreation and work rooms (with heating, lighting, washing facilities, sanitary facilities and first aid supplies) for the assembly personnel.

8.6.8. Materials, energy and performance of all other actions necessary to adjust the item to be assembled and to carry out a contractually agreed test and acceptance.

8.7. The customer must ensure that the future operating personnel are present on site during the assembly phase so they can familiarise themselves with the methods and techniques of the plant to be assembled. Axpo Systems is prepared to provide technical training for the aforementioned operating personnel based on a separate agreement.

8.8. If the customer does not meet their obligations, is incapable of doing so, or only meets or is only capable of meeting them in part, they must inform Axpo Systems to this effect immediately. The consequential costs that Axpo Systems incurs as a result of this shall be paid by the customer. The customer must also indemnify Axpo Systems for any liability vis-à-vis third parties.

8.9. If the personnel employed by Axpo Systems encounter hazards or are significantly impeded in performing the work for any reason beyond their control, Axpo Systems is permitted to remove its personnel from the assembly site. In such cases, and even if personnel are kept back after the work has been completed, the corresponding time shall be charged as waiting time, plus travel expenses and daily allowance rates.

9. Working hours

9.1. The normal weekly working hours are generally spread over five working days. If shorter working hours have to be observed for reasons beyond Axpo Systems' control, the normal working hours shall be charged. The working hours of the personnel provided by Axpo Systems are to be distributed according to the customer's requirements and the local conditions. Working hours between 6:00 am and 8:00 pm that exceed eight hours, between 8:00 pm and 6:00 am, and on Saturdays, Sundays and public holidays, shall be considered overtime.

9.2. If the personnel provided by Axpo Systems are prevented from performing the work for reasons beyond Axpo Systems' control, Axpo Systems shall be entitled to invoice the waiting time as working hours.

10. Travel time and other times equivalent to working hours

10.1. Travel time and a reasonable order-related preparation and processing time after travel shall be deemed to be working hours in accordance with section 9.1. Travel time shall be deemed to be the time required for the outward and return journey to and from the assembly site, as well as the time required for moving into accommodation at the assembly site and for official registration and deregistration formalities.

10.2. If suitable accommodation and catering facilities cannot be found in the vicinity of the workplace, the daily time required for the journey between the accommodation or catering facility and the workplace that exceeds half an hour for a one-way journey (travel time) shall be charged as working hours. All expenses incurred in this respect, plus the costs for the necessary use of appropriate means of transport or a rental car, shall be borne by the customer.

10.3 If Axpo Systems' personnel are prevented from carrying out their work for reasons that are beyond Axpo Systems' control, or if they are held back for any reason after the work has been completed, Axpo Systems shall be entitled to invoice the waiting time as working hours. All other related costs shall also be borne by the customer. The same shall apply to other downtimes that are not attributable to the contractor, such as public holidays at the assembly site.

11. Prices

11.1. Principle

The services provided by Axpo Systems shall be invoiced based on the cost rates applicable at the time of performance of assembly on a time and material basis (according to work reports), unless a fixed price (flat rate) has been agreed in writing.

11.2. Services are charged as follows:

11.2.1. Time and labour

On presentation of the work reports, the customer shall confirm the work carried out by Axpo Systems' personnel by way of their signature. If confirmation is not provided by the customer within a reasonable period of time, the entries made by the personnel provided by Axpo Systems shall serve as a basis for calculation. The respective rates stated in the order confirmation shall apply to working hours, overtime, work performed overnight, on Sundays and on public holidays, and travel and other times that are considered equivalent to working hours.

If work is particularly dirty or to be carried out under difficult conditions (e.g. at great heights or depths) or if special protective suits or breathing apparatus have to be worn, an allowance for difficult working conditions per working hour shall be charged in addition to the contractor's generally applicable cost rates and the accommodation costs.

11.2.2. Travel costs

The customer shall be charged the costs for the means of transport that Axpo Systems chooses. Unless special circumstances require use of another class, the following shall be invoiced:

For air travel: business class

For travel by train and boat: first class

For use of passenger cars: an allowance per kilometre or actual car rental costs.

The customer shall be charged ancillary costs (such as insurance, freight, customs, baggage, passport and visa fees, the issuing of entry, residence and work permits, the medical examination on outward and return journeys and vaccinations for Axpo Systems' personnel) on a time and material basis.

11.2.3. Costs of board and lodgings (per diem allowance)

The per diem allowances stated in the order confirmation shall be charged to cover the costs of board and lodgings that are not paid directly by the customer. This shall also apply to the additional costs for drinks, laundry, etc. Axpo Systems reserves the right to adjust the per diem allowances.

11.3. Work at flat rates

11.3.1. The flat-rate price covers the services to be provided by Axpo Systems and agreed in writing. The price is based on the condition that all preparatory work is carried out and completed by the customer in good time so that assembly can be carried out without difficulty and is not hindered by circumstances beyond Axpo Systems' control.

11.3.2. The customer shall be invoiced for additional work that Axpo Systems must carry out for reasons beyond its control (such as subsequent changes to the content or scope of the agreed work, waiting times, rework and additional travel) in accordance with section 11.2.

11.4. The customer shall be charged for any taxes, fees, charges, insurance premiums and the like that have to be paid by Axpo Systems or its personnel in direct connection with the contract.

11.5. The prices do not include value-added tax, which is shown separately at the rates applicable at the time of invoicing.

12. Terms of payment

12.1. Unless agreed otherwise, the pro-rata price for the service provided and the additional costs shall be invoiced on a monthly basis and are to be paid by the customer in free Swiss francs within 30 days of the invoice date. Axpo Systems reserves the right to demand full or partial advance payment of the presumed amount. The customer must make payments to the bank account specified by Axpo Systems without any kind of deductions (discounts, expenses, taxes, fees, etc.).

12.2. The customer is not permitted to withhold or reduce payments as a result of complaints or claims or counterclaims not acknowledged by Axpo Systems. Payments must also be made if the work is delayed or rendered impossible for reasons beyond Axpo Systems' control.

12.3. If the customer fails to make payment on the agreed dates, they shall pay interest on the amounts due from the due date subject to any other rights claimed and without formal notice. This is based on the interest rates customary at the customer's place of domicile, but is at least 4% above the Swiss National Bank's relevant discount rate. Payment of interest for delayed services does not release the customer from paying the amounts due in accordance with the terms of the contract.

13. Duration of assembly, delay

13.1. A target date for the completion of the assembly work is only binding if it has been accepted in writing by Axpo Systems. The assembly period shall commence when all prerequisites for starting work have been met. It shall be deemed to have been duly complied with if the assembled plant components or plants are ready for acceptance when it elapses. A target date shall be considered to have been met if the plant components or plants can be operated without hindrance, even if parts are still missing or readjustments have to be made.

13.2. The assembly duration shall be appropriately extended:

13.2.1. If the customer does not provide the instructions that Axpo Systems requires to carry out the assembly work in good time or if the customer subsequently changes these instructions; or

13.2.2. If the customer fails to meet their contractual obligations, particularly the terms of payment in accordance with section 12 or the obligations in accordance with section 8, or if other parties commissioned by the customer are behind schedule with their work and Axpo Systems is thereby impeded in its work; or

13.2.3. In the event of force majeure.

13.3. If an interruption in accordance with section 13.2 lasts longer than three months, or if it is already foreseeable that it shall be impossible to continue the service still to be provided at the time of such a circumstance occurring, Axpo Systems shall be entitled to withdraw from the contract. In this case, the customer shall owe Axpo Systems the outstanding amount for services already provided and costs already incurred but not yet paid for.

13.4. Compensation for delay in the provision of the service requires a special written agreement. It may only be asserted if the delay was demonstrably caused by Axpo Systems and the customer can prove that the delay caused damage.

If the customer is helped out by means of replacement services, they shall lose their claim to compensation for delayed services.

Any compensation for delayed services shall not exceed 0.5% for each full week of delay, but shall not exceed 5% in total, calculated on the sales price of the delayed part of the service.

Once the maximum amount of compensation for delayed services has been reached, the customer must set Axpo Systems a reasonable grace period in writing. If this grace period is not complied with for reasons that are attributable to Axpo Systems, the customer shall be entitled to refuse to accept the delayed part of the service if there is no longer a reasonable prospect of performance. If a delay that is attributable to Axpo Systems and that exceeds the grace period leads to an economically unreasonable situation for the customer, the customer shall be entitled to withdraw from the contract. In this case, the customer shall owe Axpo Systems the outstanding amount for services already provided but not yet paid for.

3.1. If deliveries are delayed for reasons that are solely attributable to Axpo Systems, the customer may not assert any rights and claims other than those expressly mentioned in section 13.4. This restriction does not apply to unlawful intent or gross negligence on the part of Axpo Systems, except in the case of its auxiliary personnel.

14. Risk of damage or loss

14.1. While the work is being performed, the customer shall bear the risk of loss of or damage to the materials, equipment and tools that they provide. If items, plants and similar items that work has been carried out on by Axpo Systems are destroyed or damaged for reasons beyond Axpo Systems' control, Axpo Systems shall nevertheless be entitled to demand payment of the contractually agreed price.

14.2. The customer shall also bear the risk of damage, loss or destruction of the tools, equipment and materials provided by Axpo Systems for reasons beyond Axpo Systems' control.

15. Acceptance of the assembled plant components and/or plants

15.1. Once assembly is complete, in the absence of any agreement to the contrary, acceptance tests shall be carried out to determine whether the work complies with the contractually agreed provisions. To this end, Axpo Systems shall notify the customer in writing that it is ready to carry out the acceptance test and indicate the acceptance date scheduled for this purpose. Axpo Systems shall bear the costs for its personnel associated with the acceptance test. The customer shall bear all other costs associated with the acceptance test, including the costs of energy, water and other materials and resources required for the acceptance test as well as the costs of the personnel they provide for it. The assembled plant components and/or plants are ready for acceptance if they provide appropriate services. This shall already apply if insignificant parts are missing, if readjustments still have to be made or if the assembled plant components or plants cannot be put into operation for reasons beyond Axpo Systems' control.

15.2. If the customer fails to meet its acceptance obligations despite being notified in due time, or if it prevents acceptance from being carried out for reasons beyond Axpo Systems' control, the acceptance tests shall be deemed to have been successfully carried out on the day that Axpo Systems notified the customer as being the date for the acceptance test.

15.3. In the absence of any agreement to the contrary, the test shall be carried out in accordance with the standards applicable to the installations concerned at the time of performance.

15.4. At the end of the acceptance test, Axpo Systems shall prepare a test report that the customer shall countersign. If the customer does not take part in the acceptance test, they cannot deny the accuracy of the test report.

If the plant exhibits defects during the acceptance tests that do not permit safe and proper commissioning, Axpo Systems undertakes to remedy these defects immediately and to carry out a new acceptance test. Axpo Systems shall bear the costs of this. If the defects are minor, the customer undertakes to accept the plant nevertheless and Axpo Systems shall remedy the existing defects at its own expense within a mutually agreed period of time.

15.5. If the installations are low-voltage installations that fall under the Ordinance on Low-Voltage Electrical Installations (NIV), the responsibility for obtaining the Electrical Installations Safety Certificate (SiNa) lies with the customer.

16. Warranty

16.1. This warranty extends solely to the services provided in accordance with the assembly General Terms and Conditions and not to the products supplied by Axpo Systems in accordance with the delivery General Terms and Conditions. The warranty for these products is regulated exclusively in the delivery General Terms and Conditions.

16.2. The warranty period for the services provided by Axpo Systems is 12 months from the acceptance report date. Once the warranty period has elapsed, all the customer's warranty claims shall be deemed to be time barred. The warranty shall expire prematurely if the customer or third parties carry out improper interventions or, in the event of a defect, if the customer does not immediately take all suitable measures to mitigate the damage and give Axpo Systems the opportunity to remedy the defect. The warranty period for warranty work does not start over again and is limited to the warranty period for the original service.

Once the warranty period has elapsed, all the customer's claims shall be deemed to be time barred. If the work is interrupted for the reasons mentioned in section 13.2, the warranty period for the work completed before the interruption shall commence within no later than three months of the interruption beginning.

- 16.3. Any defects discovered during the warranty period shall be remedied free of charge, provided that Axpo Systems is notified in writing of the defects immediately after they are discovered. Axpo Systems shall only be liable for defects in connection with the work carried out under its supervision by the customer's personnel or that of third parties if it can be proven that such defects are due to the fact that the personnel provided by Axpo Systems were guilty of gross negligence during the instruction or supervision process.
- 16.4. No warranty shall be provided if the customer or a third party performs adjustments or repairs without Axpo Systems' written approval or if the customer does not immediately take appropriate measures to mitigate the potential damage.
- 16.5. Axpo Systems offers a warranty for warranty work to the same extent as for the original work. The warranty period for warranty work does not start over again and is limited to the duration of the warranty period for the original work.
- 16.6. Any claims and rights in connection with defects other than those mentioned in sections 16.1 to 16.5 are excluded.

17. Non-performance and poor performance

- 17.1. In all cases of poor performance or non-performance not expressly set down in these Terms and Conditions, particularly if Axpo Systems, for no reason, starts performance of the services so late that timely completion is no longer foreseeable, if non-contractual performance attributable to culpability on Axpo Systems' part is definitely foreseeable or if services have been performed contrary to the contract due to culpability on Axpo Systems' part, the customer shall be entitled to set Axpo Systems a reasonable grace period for the affected services under threat of withdrawal in the event of non-performance. If this grace period elapses unsuccessfully due to culpability on Axpo Systems' part, the customer may withdraw from the contract with regard to the services that have been performed contrary to the contract or whose performance contrary to the contract is definitely foreseeable, and may demand that the portion of payments already made be returned.
- 17.2. In such a case, the provisions set down in section 18 shall apply with regard to any claim for damages asserted by the customer and the exclusion of further liability, and the claim for damages shall be limited to 10% of the contract price of the services for which the withdrawal is made.

18. Termination of the contract by Axpo Systems

- 18.1. If unforeseen events significantly change the economic significance or the content of the services or have a significant impact on Axpo Systems' work, or if it becomes subsequently impossible to perform the services, the contract shall be adjusted accordingly. If doing so is not economically viable, Axpo Systems has the right to terminate the contract or the affected parts of the contract. If Axpo Systems intends to make use of its right to terminate the contract, it must inform the customer to this effect without delay after becoming aware of the consequences of the event, even if an extension of the deadline for completing the services has initially been agreed. In the event of termination of the contract, Axpo Systems shall be entitled to remuneration for services already provided. Claims for damages asserted by the customer due to such termination of the contract are excluded.

19. Limitation of liability

All cases of breach of contract and the legal consequences of the same, as well as all claims asserted by the customer, regardless of the legal grounds on which they are made, are conclusively regulated in these Terms and Conditions; in particular, all claims for damages, reduction, cancellation of the contract or withdrawal from the contract that are not expressly mentioned are excluded.

Under no circumstances shall the customer be entitled to claim compensation for damages that have not occurred on the assembled object itself (such as loss of production, loss of use, loss of orders, loss of profit, as well as other consequential damages caused by a defect, indirect or direct damages).

This limitation of liability shall not apply in the event of gross negligence or unlawful intent, or if otherwise contrary to mandatory law.

20. Data protection

Axpo Systems strictly adheres to the provisions of federal law on the protection of personal data. This data is treated with the utmost confidentiality and is neither sold nor passed on to third parties. Axpo Systems collects, stores and processes only the data required to fulfil its contractual obligations, to monitor customer relations, to ensure a high quality of service and to carry out billing. Non-personal data of the customer, as a result of the provision of services, may be stored by Axpo Systems on the basis of the technical procedure used and in accordance with the applicable legislation. The customer authorises Axpo Systems to use and process his data internally and in connection with the group's affiliated companies in order to ensure optimum service and to receive information about current offers from Axpo Systems and its affiliated companies.

21. Information transfer

Any information or material sent to us will, unless explicitly stated otherwise, be deemed NOT to be confidential and we will be free to reproduce, publish or otherwise use such information for any purpose. The sender of any information is fully responsible for its content, including its truthfulness, accuracy and non-infringement of the proprietary rights of any other person, entity or company. Personal information provided to us will be handled in accordance with our Privacy Policy. Secure data transmission is ensured by the Data Classification Policy.

22. Final provisions

Any modifications to the contract must be agreed in writing. Should individual provisions prove to be invalid, this shall not affect the validity of the remaining provisions. The parties agree to replace the invalid terms and conditions with new ones that reflect the contract's economic purpose as closely as possible.

23. Applicable law and place of jurisdiction

The contract is subject exclusively to **Swiss law. The place of jurisdiction for the customer and Axpo Systems is 5200 Brugg, Switzerland;** the place of debt collection for customers domiciled abroad is also 5200 Brugg, Switzerland. However, Axpo Systems is also entitled to assert its rights at the customer's place of domicile or before any other competent authority, whereby Swiss law remains exclusively applicable.