

General Full-service Terms and Conditions of Jungheinrich Vertrieb Deutschland AG & Co. KG



Valid from May 1st, 2024

I. Scope

- These Full-service Terms and Conditions apply to all our offers, contracts relating to the full service of trucks, consulting and other contractual services in business dealings. They are exclusive. Conditions which deviate from these Full-service Terms and Conditions are therefore expressly excluded. These Full-service Terms and Conditions shall also apply without reservation when we execute our full services in the knowledge that the Customer has deviating conditions.
- In the event of an ongoing business relationship, these Full-service Terms and Conditions shall also apply to all future full-service agreements with the Customer provided that other conditions are not expressly included in writing.

II. Definitions of terms

AGV: Automated Guided Vehicle, forklift truck with automated navigation technology.

Software support: The software support comprises product-specific care for the individual software components of a logistics system/AGV. This includes the control technology. As a rule, remote hotline support is provided prior to an engineer being dispatched.

III. Operating conditions

- We create an application analysis for each subject of the contract. This analysis is a key constituent part of the contract for as long as the subject of the contract remains in full service. The subject of the contract may only be used in accordance with this application analysis.
- The agreed rate is based on the application analysis. Changes to the place of operation or the operating conditions are to be reported to us immediately and entitle us to an adjustment of the rate in the event of changes to factors which determine wear. We create a separate offer for accessories added or installed at a later date. The additional expenses incurred shall be charged separately. Should no agreement be reached regarding the contractual adjustment, we may terminate the full-service contract with immediate effect.

IV. Scope of services

- The full-service benefits named in the contract shall be compensated for with the agreed flat rate, insofar as we have agreed nothing to the contrary with the Customer. Exclusively our local After Sales Service department shall be instructed to undertake the contract services. The nature and scope of the services to be undertaken shall be at our discretion.
- The Customer shall bear the costs of replacement and/or maintenance as well as repair work and changing of tyres (wheels, rollers, solid tyres) if
 - the Customer has caused these measures due to improper and/or non-contractual use of the truck or
 - this work is due to impact and/or accidental damage, insofar as no machine breakage lump sum has been agreed with us.
- We document the support calls made by the Customer. This also serves as proof of performance for chargeable services.
- Unless otherwise agreed, the software support is restricted to the software created by Jungheinrich. Individual contractual arrangements must be made for the integration of third-party products into those (e.g. operating systems, databases etc.).

V. Hourmeter

The Customer shall fit the trucks covered by the contract with hourmeters. They are the basis for the calculation of the costs per operating hour. The Customer shall notify us of any failure, damage or manipulation of the hourmeter(s) immediately. Should the failure of an hourmeter be more than one week after the reading, the number of operating hours calculated for this period is proportionate plus 10%.

VI. Participation and technical assistance provided by the Customer

- The cleaning and daily inspection as per the operating instructions of the truck are to be carried out by the Customer and are not included in the full-service benefits. In particular, this includes regular work to maintain the operational readiness of the truck. This also includes the disposal of foreign bodies picked up on wheels and rollers when driving.
- The Customer shall inform us immediately if repairs and work are required on the trucks.
- The Customer shall make available the truck on which the contractual services are to be undertaken on the agreed date. Our service engineers shall be guaranteed unlimited access to the trucks for the duration of the execution of the contractual services.
- With respect to execution of the work at the Customer's premises, it shall ensure that
 - the locations and the equipment for undertaking the work are available at its company. It is obliged, at its own expense, to provide technical assistance, particularly the free and adequate provision of support staff, aids, necessary means of transport as well as electricity, water and other necessary resources, including the appropriate connections for the required period. The support staff are to follow the instructions of the persons appointed by us to supervise the work. We assume no liability for the support staff provided.
 - The Customer shall guarantee that the agreed work may begin immediately after the arrival of our service engineers and be undertaken without delay until acceptance by the Customer.
 - The Customer shall take the necessary measures to ensure the protection of persons and property at the place where the work is being conducted. The Customer shall inform our service engineers of any existing safety regulations, insofar as they are relevant to our engineers.
- Delays caused by the Customer shall be at its expense.
- Should the Customer fail to meet its obligations with respect to Section VI, nos. 1 and 2 above, we shall be entitled but not obliged to undertake the respective measures or to have them undertaken by a third party in its place and at its expense. We reserve the right to assert further claims.
- Software support:** The proper execution of our software support shall require the following cooperation from the Customer in particular.
The Customer must:
 - order the desired software support from us with a lead time of at least six weeks prior to the planned provision.
 - ensure that there is always an appropriately trained German or English-speaking key user on site and available to answer any questions. This key user is able to identify faults and report the required information to us in an appropriate manner. The key user can eliminate minor faults personally or with the aid of our support personnel.

- notify us of any software-related system fault immediately via the defined communication channels and media in German or English in order to ensure completion of the work within the agreed response time
- allow us remote access to the logistics system if required. The hardware and software-related requirements for remote diagnosis and support must be provided by the Customer.
- inform us about changes in the dial-up routines which are necessary for remote access.
- undertake to inform us when adjustments, additions and changes are made to the software and IT infrastructure, insofar as these influence remote access or the systems supported by Jungheinrich.
- allow our personnel on site access to the system via LAN or WLAN.
- be responsible for maintaining an appropriate data backup system

VII. Time of performance, delay

- With the exception of repairs that are provided at the request of the Customer, we shall determine the specific time at which the contractual full-service benefits are executed. Information on dates and deadlines for the implementation of contractual full-service benefits is based on estimates and is therefore not binding insofar as nothing else is agreed to the contrary.
- Should the Customer award us additional and extension orders, or should additional work be necessary, the period for implementation of the contractual full-service benefits shall be extended accordingly.
- In the event of unforeseen operational circumstances, such as strikes, work absences due to illness of employees, difficulties in the procurement of spare parts, delay in delivery or performance by suppliers, government intervention, the action of force majeure (e.g. Corona virus or other epidemics) or in the event of industrial disputes, we shall also be entitled to have binding deadlines extended for a reasonable period.
- Should we be in default, for each completed week of delay, the Customer shall be entitled to claim lump sum compensation for the damage it has incurred as a result of the delay amounting to 0.5% of the agreed fee for the defaulting service, up to a maximum of 5% of the agreed fee. This restriction shall not apply in the event of grossly negligent behaviour, intent or mandatory statutory liability for delay. A defective service shall not be considered a delayed service.
- In the event of delay in delivery where the Customer grants us a fair and reasonable period of grace, with the express written stipulation in text form (section 126 b German Civil Code) that it shall decline acceptance after expiry of this period of grace, and where we fail to comply with the period of grace, the Customer shall then be entitled to withdraw from the contract within the statutory requirements for cancellation of the contract. It is not necessary to grant a grace period unless required to do so by law. At our request, the Customer shall declare within a reasonable period whether it intends to exercise its right to withdraw from the contract. In the event of only a minor deviation from the agreed or usual nature or usefulness, no defect claims shall exist.
- Subject to the regulations in section XIII, the Customer shall not be entitled to further rights due to the delay, in particular claims for damages.
- There is no entitlement to software support outside of the contractually agreed performance times.

VIII. Risk assumption and transport

- Upon notification of the Customer regarding completion of the contractual full-service benefits, the risk shall transfer to it.
- The trucks and machines handed over by the Customer for fulfilment of the contractual full-service benefits are not insured by us against fire, theft, transport or storage damage, etc. These risks are to be covered by the Customer, unless we purchase corresponding insurance coverage at the express request and expense of the Customer.

IX. Acceptance of contractual performance

- We shall inform the Customer of the completion of the contractual services. Sending of the invoice shall also be deemed appropriate communication. Acceptance must take place within two weeks of this communication.
- Should the Customer have not expressly objected to the contractual service in writing during acceptance, or if acceptance has not taken place within the prescribed period, the contractual service shall be considered to have been properly accepted.
- Should we stop our full-service benefits at the Customer's request, it shall be obliged to pay for the services rendered up to this point less any payments already made within four weeks of the issue of the invoice.
- Following completion of the work, our service engineers are to submit a daily account of their work hours for work lasting longer, insofar as this work is not included in the full-service scope in the sense of Section IV. This account is to be signed off by the Customer.
- Should the Customer be in default regarding return of the trucks and machinery, we shall be entitled to charge a reasonable amount for storage.

X. Full-service instalments, price adjustments

- The agreed full-service instalments and other prices apply without prejudice to the provision in Section X no. 2 for a year, insofar as we have agreed nothing to the contrary with the Customer.
- Within this period of validity, we may request price adjustments in the event of changes to the contractually agreed operating conditions, general cost increases and/or increased maintenance of older trucks.
- Should no agreement be reached with the Customer regarding a price adjustment in accordance with the aforementioned conditions, we shall be entitled to terminate the contract with a notice period of one month to the end of the month.
- Should we agree nothing to the contrary with the Customer, price adjustments to the monthly instalments per truck shall take place: From the 2nd to 6th contractual year of 3% per year From 7th contractual year of 5% per year
- The respective previous year's monthly instalment shall form the basis for price adjustments from the 2nd contractual year. Separate conditions shall apply to trucks that are older than 15 years or reach this age during the contract period.

XI. Payment conditions, late payment, SEPA direct debit scheme

- Unless otherwise agreed, the full-service instalments are to be paid monthly on the first of the month from the beginning of the contract. Our currently valid service price list shall apply for services not covered by the full-service agreement. Invoices are payable net within ten days of receipt of the invoice or on the date specified in the invoice, insofar as nothing has been agreed to the contrary.

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2. Any objections regarding invoices must be made in writing and within seven calendar days of the invoice date.
 3. In the event of default by the Customer, we shall be entitled to receive default interest at the rate of nine percentage points above the base interest rate (section 288 subs. 2 German Civil Code) until full payment is received.
 4. This shall not affect our rights in case of default and other changes in the economic and business circumstances of the Customer, which indicate its lack of capacity to demand collateral in accordance with statutory provisions, at our discretion, for existing claims, to refuse to fulfill the contract to a proportionate amount (e.g. withdraw by suspension of deliveries and/or other services), or to withdraw from the contract.
 5. Should the Customer agree to make payments via the SEPA direct debit scheme, the Customer shall provide us with the required SEPA direct debit mandate, stating information about its credit institution and the relevant bank details (IBAN and BIC). The Customer shall provide the required coverage for its bank account. The Customer shall bear any costs relating to return debits.
 6. We shall inform the Customer about the forthcoming debit including information on the amount, due date, creditor identification number and mandate reference before submission of a SEPA direct debit (advance notification). This advance notification shall take place at the latest five calendar days before the due date. If no SEPA direct debit scheme has been agreed, outstanding invoices are to be settled by transfer to the Jungheinrich account named by us.
 7. The Customer may only be entitled to a right of retention against our claims if its counterclaims are undisputed, recognised by us or established in law.
 8. The Customer's offsetting against our claims shall be limited to counterclaims resulting from the same contractual relationship or arising from other legal relationships which are undisputed, legally established or recognised by us.
 10. Payments may only be made direct to our head office in Hamburg, and not to our subsidiaries or our sales representatives and agents. In each case, payment shall only be deemed effected upon receipt by our head office.
- XII. Claims for material defects**
- In the event of full service being deficient, we shall guarantee the following:
1. We are to be notified immediately of an established defect in writing with an exact description.
 2. All full-service benefits already defective on acceptance shall at our discretion either be improved without cost to you or undertaken again. The Customer shall grant us sufficient time and opportunity to rectify errors. Within the framework of the statutory provisions, we are exempt from the obligation for supplementary performance. In the event of only a minor deviation from the agreed or usual nature or usefulness, no defect claims shall exist.
 3. Of the costs incurred by supplementary performance, we shall bear the cost of spare parts including shipment and reasonable costs for removal and installation. Further costs shall be borne by the Customer.
 4. Should the supplementary performance fail and/or should we fail to comply with the reasonable deadline set for us by the Customer, then the Customer shall be entitled to either reduce the remuneration or to withdraw from the contract. At our request, the Customer shall inform us within a reasonable period which right it wishes to exercise.
 5. The limitation period for deficient full-service benefits is twelve months from acceptance, with the exception of the instances specified in Section XII no. 2, for which the statutory limitation period shall apply.
 6. Should the Customer or a third party undertake improper work, modifications or repairs to the truck without our prior express consent, then no defect claims shall exist for such work and the resulting consequences. The same shall apply should the Customer request that repair-prone parts are not replaced.
 7. Further claims by the Customer for or in connection with defects and consequential damages, regardless of the legal reason, shall exist only in accordance with the provisions contained in Section XIII.
 8. As a matter of principle, we do not give durability warranties or other guarantees for our full-service benefits. As a consequence, none of our descriptions, representations or other statements – either before or during the execution of the contract – shall have the nature of a guarantee. Excluded from this are guarantees expressly agreed in individual contracts (such as Jungheinrich Li-ion battery guarantees).
 9. Should any of our statements, either intentionally or unintentionally, take on the nature of a guarantee, we shall be liable only to the extent to which the precise intention of the guarantee was to secure the Customer against the loss or damage sustained.
 10. If the truck is damaged in our possession by the Customer or a third party commissioned by it and as a result people are injured and/or our property and/or that of third parties is damaged, the Customer shall be liable for this. Likewise, it shall be liable for damages, including any consequential damages caused by the concealment of defects.
- XIII. Liability**
1. The following provisions shall apply to claims for damages because of, ancillary to and in lieu of performance, irrespective of legal grounds (in particular due to consulting errors, breach of contractual obligations, defects, torts), as well as claims for reimbursement of expenses and indemnification (hereinafter claims for compensation). The regulations in the event of delay (Section VII nos. 4 – 7) shall take precedence.
 2. We shall not be liable for compensation claims against us, in particular for consequential damages such as lost profit, damages due to an interruption to business, loss of production and use, as well as for indirect damages. This limitation shall not apply in the following cases:
 - In the event of intent
 - In case of gross negligence
 - Within the scope of a warranty commitment, where the liability is limited to the extent to which the warranty was intended to protect the Customer against the damage incurred
 - In the event of death, physical injury or damage to health
 - In the event of claims under the German Product Liability Act
 - In the event of a culpable violation of a material contractual obligation. In the event of slight negligence, the liability shall however be limited to reimbursement of foreseeable damage typical to the contract, as long as the liability is not due to death, physical injury or damage to health. Essential contractual obligations are those obligations which protect the essential legal position of the Customer under the contract, which guarantee the contract in respect of its contents and purpose; other essential obligations under the contract are those the fulfilment of which enables the proper execution of the contract and on whose compliance the Customer can rely.
 - In other cases of mandatory statutory liability.
3. A reversal of the burden of proof is not associated with the above regulations.
 4. Further claims, in particular claims for indemnification on first request, shall be excluded.
- XIV. Disposal of old parts and consumables**
- The Customer shall be responsible for the proper disposal of all old parts and oils as well as other consumables used within the framework of execution of the contract, insofar as nothing has been agreed to the contrary in individual cases. Insofar as statutory regulations have been issued which stipulate an alternative action, the Customer shall be obliged to make an appropriate arrangement with us regarding the disposal. In doing so, it is assumed that the contractual partners shall employ third parties to fulfil the disposal requirement.
- XV. Term of the agreement / termination of the agreement**
1. Full-service contracts shall come into force upon signature and are valid for twelve months insofar as nothing is agreed to the contrary with the Customer in individual cases.

Conclusion of, changes to, additions to or termination of the contract shall require the written form or electronic form to be effective; to safeguard the electronic form it is sufficient to sign using an advanced electronic signature generated in RSign, or comparable software, or a comparable procedure within the meaning of Article 3 No. 11 eIDAS regulation (EU No. 910/2014). The same shall apply to the revocation of this form requirement. Jungheinrich has published the RSign data privacy policy at <https://www.jungheinrich.com/data-privacy-policy-rsign-795376>
 2. Should the full-service contract be terminated by neither contractual partner with a notice period of three months to the end of the respective contract year, it shall be extended tacitly for a further twelve months; the rules in accordance with Section X these Full-service Terms and Conditions shall apply for the price calculation.
 3. This shall not affect the right of either contractual partner to extraordinary termination for good cause.
 4. We shall be entitled to extraordinary right of termination in particular if
 - the Customer makes two consecutive late full-service instalment payments;
 - the Customer fails to meet its contractual obligations or does not perform them adequately;
 - the Customer relinquishes the truck to a third party without our prior approval and/or changes have been made to the respective truck.
 5. Termination must be made in writing (in accordance with section 126 of the German Civil Code). The determining factor for whether a deadline is met is receipt by the relevant contractual partner.
- XVI. Compensation for damages in the event of premature contract termination**
1. Should we cancel a full-service contract with the Customer due to the reasons specified in Section XV nos. 3 or 4 without notice, we shall be entitled to demand 25% of the latest applicable monthly instalment payments that would have accrued through the agreed end of the contract as a lump sum as compensation for damages. The Customer shall remain free to prove to us that the damages should be less than this.
 2. We explicitly reserve the right to any more extensive claims for compensation for damages due to premature termination of contract.
- XVII. Exceeding annual operating hours**
1. Should the annual operating hours per truck stipulated in the full-service contract be exceeded, one percent (1%) of the agreed monthly rate shall be added to the invoice for each additional operating hour.
 2. In principle, billing takes place at the end of the respective contract year, or at the latest upon completion of the contract.
- XVIII. Change in the full-service variant**
- A change in the full-service variant requires the truck to be compliant with accident prevention regulations. The costs resulting from such an inspection and any subsequent costs (repairs in compliance with accident prevention regulations) shall be borne by the Customer.
- XIX. Machine breakage lump sum**
- Should we agree a safeguard against machinery breakdown with the Customer, our General Terms and Conditions of Machine Breakage Lump Sum shall apply.
- XX. Battery lifespan guarantee**
- Should we agree a battery lifespan guarantee with the Customer, our General Terms and Conditions for a Jungheinrich Battery Lifespan Guarantee shall apply.
- XXI. Data protection**
1. Regarding the processing of personal data, the parties shall comply with the requirements of the applicable data protection law, in particular the General Data Protection Regulation.
 2. If fulfilment of the contract involves Jungheinrich processing personal data on behalf of the customer, the parties shall conclude a separate data processing agreement before data processing commences.
- XXII. General provisions**
3. Our service engineers are not authorised to make or accept binding declarations on our behalf.
 4. The customer shall immediately inform us of any change of residence or company headquarters as well as alterations to the legal form and contingencies of its company in writing.
 5. With the conclusion of the respective contract, the permission to test drive and use the service objects shall be deemed to have been granted at the same time.
 6. In the event of the acceptance of services on service objects which have not been supplied by us, we may make the conclusion of the contract dependent on a prior inspection of the service items. The customer shall be invoiced separately for the costs of the prior examination as well as any associated costs.
 7. We shall be entitled to transfer our rights and obligations from the respective service contract third party.
 8. Should any term or condition of this contract be or become invalid, the validity of all other terms and conditions shall remain unaffected.
 9. Should compliance with the written form be required or agreed for declarations and/or notifications of any kind, with the exception of item V. 1 sentence 2ff, text form within the meaning of section 126 b of the German Civil Code shall be necessary, but also sufficient.

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XXIII. Place of performance, place of jurisdiction, applicable law

1. Unless otherwise agreed, the contractual services and/or other contractual provisions shall be performed at the registered office of the customer on conclusion of the contract.
2. The place of jurisdiction for all disputes shall be Hamburg, when the Customer is a registered merchant, a legal entity under public law or a special estate under public law, or when it has no general place of jurisdiction in Germany. The local court of Hamburg-Mitte shall be the place of jurisdiction for disputes which fall under the jurisdiction of local courts.
3. German law shall apply exclusively to all legal relationships between the customer and us, in the same way as for relationships between domestic contractual partners.