

ENGEL *e-factory*

MAINTENANCE TERMS

1 Validity

The Customer has commissioned us with the granting of software licences from the *e-factory* series, together with maintenance. These terms are part of the order and regulate the content and scope of the maintenance contract for the *e-factory* product that is the object of the contract. Unless otherwise expressly indicated in writing, the following maintenance terms are subordinate to the text of our order confirmation and take precedence over our sales and delivery terms. General terms and conditions of business or forms of the Customer shall by no means be accepted or become part of the contract, independent of whether we knew them or not, whether we have contradicted their validity or not and irrespective of whether they are in opposition to these maintenance terms or not.

2. Subject of the contract

We accept the software maintenance for the *e-factory* product for the duration of the maintenance contract. This may consist - depending on the scope of the order - of the following individual components:

- e-factory.Access
- e-factory.Data
- e-factory.Monitor
- e-factory.Report
- e-factory.Support
- e-factory.Prolog
- e-factory.XData

2 Validity Period

- 2.1 The maintenance contract will take effect from the day the software is installed.
- 2.2 This maintenance contract is concluded for an indefinite period of time and can be terminated by either side, with 30 days' notice to be given before the end of any year.
- 2.3 Every party shall be entitled to extraordinary termination of this contract for an important reason, due to which a party cannot be expected to adhere to the maintenance contract any longer.
This is especially the case if the Customer stops payments, or insolvency proceedings regarding their assets are initiated or if a corresponding application is refused due to foreseeable lack of coverage of the cost of proceedings.

3 Scope of services

3.1 *e-factory* - Hotline

During the workday hours indicated below, we will make available technical support engineers for the provision of technical information and support in troubleshooting. These services will be available via the phone as well as e-mail. The languages of communication shall be German and English.

Monday to Thursday: 8.00 a.m. to 5.00 p.m. CET

Friday: 8.00 a.m. to 3.00 p.m. CET

We reserve the right to carry out the services in paragraph 3.1 with our own personnel or technical support engineers provided by an partner company commissioned by us.

3.2 Updates and upgrades

We will furnish to the Customer upgrades and updates created within the context of constant product improvement of the *e-factory* for free of charge download from the Internet.

3.3 Training

The Customer is entitled to send an employee to participate once a year in an *e-factory* Administrator Seminar which is free of charge. The time and place of participation will be established in consultation between the parties on the basis of the our current seminar programme.

3.4 Configuration of new machines

We will support the Customer regarding *e-factory* configuration when new ENGEL machines are connected.

3.5 Connection of new machine types

In the case of new models of ENGEL injection moulding machines*, we will provide a free *e-factory* update for those components required for including this machine type in the *e-factory* system.

4 Requirements

The above services shall be provided on condition that there is a functional online data connection to the respective computers of the Customer. The necessary facilities

* This regulation applies to all machine types whose scope of options includes connection to *e-factory*.

for this purpose, i.e. Internet access for the computers to be maintained, will be provided by the Customer.

The Customer will be informed before the contract is concluded about the minimum technical requirements with regard to Internet access.

All telecommunication costs incurred within the scope of remote maintenance for the Customer will be solely borne by the Customer.

5 Support limitations

5.1 Hardware and OS support

Support services rendered by us in connection with hardware, operating system or network problems will be charged separately.

5.2 On-site support

Where service circumstances requires the presence on-site of one of our experts, the Customer can request this service in return for payment of all travel costs.

6 Contacts

The Customer will designate a system administrator and a backup who have both received appropriate training by us. The services to be rendered by us under this agreement can only be requested by these two individuals.

7 Remuneration

7.1 Maintenance fees

For services listed in the maintenance contract, we will charge an annual lump sum, invoiced in advance and payable within 30 days without deductions.

7.2 Fee rates

The maintenance fee per year is 15% of the product sale price. The product sale price specified in this paragraph is the total price of all machine connection licences, plus the sale price for the e-factory software modules that are the subject of the contract.

7.3 Index clause

The maintenance fee is indexed and can be adjusted on an annual basis. It shall be calculated according to the consumer price index published for Austria by the Austrian National Bank. The basis is the index number of the month in which the respective maintenance contract comes into force (paragraph 2.1).

7.4 Changes in fees

In the event that the Customer changes to a different fee bracket, as per paragraph 7.2, during the term of this agreement as the result of a change in the number of connected machines, this shall have no effect on the fees payable during the current contract year. The new fees payable pursuant to paragraph 7.2 will take effect in the following contract year.

8 Investment protection guarantee

In the case of an MES* system expansion with software components from the MES manufacturer T.I.G., we agree on the following services:

- Replacement of *e-factory.Monitor* by T.I.G. Monitoring Assistant
- Replacement of *e-factory.Data* by T.I.G. Setup Assistant
- Replacement of *e-factory.Report* by the T.I.G. Basic Quality Assistant.

The replacement of the listed *e-factory* components by the applicable T.I.G. components with the same scope of function will be implemented, free of charge, under the following prerequisites:

- The system expansion occurs within 3 years from the first installation of the *e-factory* system
- The system expansion includes the T.I.G. component "Planning Assistant"
- A maintenance contract with T.I.G. is agreed upon for the T.I.G. components. The costs for the maintenance contract amount to 15% of the list price for the software modules used and the customer-specific software provided.

First installation as specified in this point also includes the update of an existing Engel Monitoring System to an *e-factory* system.

Costs for installation and training of the T.I.G. system, plus travel costs, will be invoiced on a time and material basis according to the applicable hourly rates of the T.I.G. company.

* MES = Manufacturing Execution System

9 Warranty and liability

Our services are carried out with the best available technology. We do not however accept liability for the results of the service work or for the correction of all program errors.

We are not responsible for errors or damage resulting from incorrect operation or the actions of computer viruses or the use of unsuitable data carriers and components.

Apart from damage to persons, we are only liable - regardless of any cause in law - if the Customer can prove malicious intent or culpable negligence. Any liability for financial losses and consequential losses, (e.g. loss of profits, damages due to loss of production or use) is also excluded where legally allowed.

10 Other provisions

The place of fulfilment for services and return services is the headquarters of our company.

Any offset against our claims is strictly excluded. The Customer is also not entitled to withhold payments due to any counterclaims, unless this has been acknowledged by us in writing or previously legally specified.

It is agreed that jurisdiction for any and all disputes arising from or related to this maintenance contract, must be evaluated on the basis of substantive Austrian property law, excluding conflict of laws and the Uniform Law on the International Sale of Goods, and shall rest with the competent court for such matters in the City of Linz, Austria. Independent thereof, we are also permitted to bring action against the Customer at the competent court of law at his domicile, headquarters or usual abode.