

General terms of sale (as at 15 Jan. 2016)

for the on-site services of EUROstor GmbH, Hornbergstr. 39, 70794 Filderstadt - hereinafter called EUROstor

1. Registration and validity

- (1) The service period begins at the delivery date of the newly acquired EUROstor System, which was acquired together with an on-site service contract. Please note that a completed register card has to be submitted to EUROstor before any service can be rendered.
- (2) In any case the service contract is only valid in the country for which the contract was signed. The service covers the components included in the system which were delivered by EUROstor.
- (3) Systems, whose functions are deficient at the initial operation („DOA“ – dead on arrival), are not subject to the service contract but are handled as warranty cases instead.
- (4) Service is offered and sold together with the product. A subsequent service contract requires previous functional tests of the system by EUROstor. Payment is effected only once when acquiring the service product. Prices do not include the respective VAT. Invoices are to be paid strictly net immediately after receipt.
- (5) Furthermore EUROstor is entitled to bill any additional cost incurred for a service assignment due to insufficient information, additional expenses as a result of customer-specific security regulations or other restrictions concerning access to the site, or through impediment by defective devices not covered by EUROstor Service. Moreover these impediments may affect commencing time and response time.

2. Fault report

Fault reports are to be communicated to the EUROstor Support at the following phone number: Tel.: +49 711 70709180

Before the fault report the customer must verify whether the device is properly connected and switched on. The following information needs to be produced for the fault report:

- Model and serial number of the affected system
 - Type and scope of the service contract
 - Type and operating system of the computers connected
 - Fault description including all error messages of the system.
- The following applies for „Next Business Day Service“ (NBD): In case of fault reports communicated on workdays until 14.00 hrs (Fridays 13.00 hrs) the service call will take place the next workday. Public holidays in Baden-Württemberg are not considered workdays.

3. Requirements and services

3.1 General:

- (1) The service is rendered by EUROstor itself or by partners which were commissioned and trained by EUROstor. The party rendering the service will hereinafter simply be called „EUROstor“.
- (2) The terms „response time“ and „commencing time“ will be defined as follows:
Response time is the time between the receipt of the fault report at EUROstor and the beginning of the fault tracing by phone.
Commencing time is the time between the determination of a service requirement at EUROstor (by phone) and the arrival of a EUROstor service technician on site. For these time periods target figures are fixed in the contract. In case these target figures are exceeded due to weather conditions, the accessibility of the site or the availability of technicians or hardware due to unforeseen bottle-necks, this has to be accepted by the customer to an appropriate extent.
- (3) Unless otherwise agreed fault report and service times are Monday – Thursday 8:00-18:00 hrs., Friday 8:00-17:00hrs., except on public holidays in Baden-Württemberg. Uncompleted service assignments will be continued the next following workday. As long as it does not constitute an unreasonable demand for the customer, the stipulated service times may be exceeded.

In case the customer asks for service work beyond the stipulated time periods, this will only be carried out against payment of hourly rates agreed upon on site.

- (4) The customer is obliged to grant access to the defective system at the agreed date and time. Waiting times exceeding 15 min. as well as multiple service assignments as a consequence of the customer not granting due access to the system will be billed to the customer.
- (5) The provision of service under this service contract is effected without prejudice to the customer's warranty right concerning the EUROstor system acquired by and ceded to him.

3.2 Conditions for the rendering of services:

- a) Place of performance is the site of the serviced hardware stipulated in the registration. A change of site is to be communicated to EUROstor without any delay. After communication of the change of site a transitional period of up to 14 days is to be allowed during which EUROstor may not be able to comply with the commencing time.
- b) Service will only be provided for those products listed in the service contract. Any add-ons by products of other suppliers will not be serviced; add-ons by EUROstor products will only be serviced if confirmed in writing by EUROstor. EUROstor technicians are not authorized to carry out service assignments on hardware of other manufacturers connected to the EUROstor products (server, network etc.).
- c) The customer is responsible for providing adequate environmental conditions and electric power supply for the hardware. The latter is also to be ensured during the assignment of the technician (see details in the respective operating manuals).
- d) Service requirements of the customer as indicated in the operating manuals are to be complied with by the customer.
- e) Faults caused by the customer's own configuration or by a modification of the product by the customer are not subject to the on-site service agreement.
- f) The customer is to carry out a back-up of data and software daily or in adequate intervals according to the respective applications in such a way which permits data recovery with reasonable time and effort. In case of data loss due to a service assignment, EUROstor is only liable for the time and effort which would have been necessary for data recovery after performing an adequate back-up.
- g) Before the commencement of an assignment the customer is to protect personal data as well as other data subject to non-disclosure in such a way that they are not accessible for EUROstor.

(h) During the assignment a person commissioned by the customer, responsible for supervising the accident prevention regulations, is to be present. Radioactivity, X-rays or any other ionizing radiation have to be pointed out. The customer has to comply with the obligations for radiation protection stipulated by the Radiation Protection Ordinance, the X-ray Ordinance as well as other legal protection ordinances.

- i) Documentation, software and licenses which are part of the scope of supply, have to be at the disposal of the EUROstor technician during his assignment.

3.3 The following services will be rendered:

- a) Elimination of failures resulting from the breakdown of a product or one of its components delivered by EUROstor and for which a service contract was signed.
- b) Restoration of the system conditions existing at the moment of first delivery.
- c) Providing the necessary spare parts (equivalent or better, at EUROstor's discretion)
- d) Pickup of the defective/exchanged parts.

3.4 The following services will not be rendered:

- a) Elimination of failures which were brought about by force majeure or by externally applied force.
 - b) Inadequate operation, configuration and software errors, intervention of non-authorized persons, non-compliance with the operating manual, operational actions not defined in the specifications and use of not specified accessories.
 - c) Exchange of consumable items and accessories (e.g. media etc.) as well as cosmetic repairs beyond mere functionality.
 - d) Reconfiguration of systems.
 - e) Data back-up as well as reloading of back-ups, data or software to a storage system.
 - f) First and re-installation of hardware, relocations and reconstructions, as well as work at power supply and communication systems.
 - g) Installation and maintenance of software and driver units beyond the delivery status.
- In all these cases EUROstor will be prepared to submit a quotation for a service assignment which has to be paid.

If, during the assignment of the technician, it turns out that the assignment was not substantiated by the conditions of the service contract, or in case it is evident that the failure was not caused by the hardware which has been serviced according to the contract, EUROstor may bill the customer for the respective assignment.

4. Liability

- (1) In case of slightly negligent breaches of duty the liability of EUROstor is restricted to the predictable, immediate average damage typical for the contract and for the type of the goods. This also applies in case of slightly negligent breaches of duty of EUROstor's legal representatives or vicarious agents. EUROstor is not liable in case of slightly negligent breaches of insignificant contractual obligations. EUROstor, however, is liable in the event of a violation of essential contractual legal positions of the customer. Essential contractual legal positions are positions which the contract has to grant to the customer in accordance with the content and purpose of the contract. Moreover, EUROstor is liable in the event of a violation of obligations the fulfillment of which is the very basis for the due execution of the contract and upon the compliance of which the customer may rely on.
 - (2) The above-mentioned limitations of liability do not apply to the customer's claims concerning warranty and/or product liability. Furthermore, the limitations of liability do not apply in case of fraudulent intent, in the event of a violation of essential contractual obligations and in case of damages resulting in physical or bodily injury to the customer's life or health attributable to EUROstor.
 - (3) In case of data loss occurring at the customer due to a service assignment, for which EUROstor is liable on the merits of para. 1 and 2 of this agreement, the liability of EUROstor is limited to the amount which would have been payable for data recovery after performing an adequate and regular data back-up.
- As to the customer's obligation for regular data back-up we refer to clause 6 of the General Terms and Conditions effective for the acquisition of EUROstor systems as well as to clause 3.2e of these General Terms and Conditions.

5. Warranty

- (1) The customer is entitled to a legal warranty right modified in accordance with §§ 5,3 of these General Terms and Conditions.
- (2) In case a defective product was supplied, remediation of the defect or replacement will be granted at EUROstor's discretion.
- (3) In case the supplementary performance fails, the customer, as a matter of principle and at his own discretion, may request the reduction of the purchase price (abatement), cancellation of the contract (rescission) or compensation instead of the service provision. In case of minor defects and taking into consideration the interests of both parties, the customer is not entitled to withdraw from the contract. Instead of claiming compensation instead of performance the customer, in line with § 284 BGB (German Civil Code), may request compensation for futile expenses incurred since he correctly relied upon the reception of the goods. In case the customer chooses compensation for damages instead of service provision, the liability limitations in accordance with § 4 of these General Terms and Conditions will apply.
- (4) The warranty period is 1 year after acceptance. The one-year warranty period does not apply in case of gross negligence on the part of EUROstor; furthermore it does not apply in case of damages resulting in physical or bodily injury to the customer's life or health attributable to EUROstor or in case of a warranty. The liability of EUROstor in accordance with the Product Liability Act will remain unaffected hereof.
- (5) In deviation from para. 5 the regular prescription period will apply in case of fraudulent concealment of a defect on the part of EUROstor.

6. Validity of contract

- (1) For fully qualified merchants Filderstadt is the venue concerning all disputes arising from this contractual relation.
- (2) The contract is subject to the legislation of the country in which the selling EUROstor subsidiary is located, excluding the UN Agreement of Vienna concerning the international purchase of goods.
- (3) If one or several of the provisions of this contract should be or become ineffective, this will not affect the validity of the remaining provisions.
- (4) In case of services exceeding the scope of the service contract, the General Terms and Conditions of EUROstor and its contractual partners will apply.