

## **SERVICE AND REPAIR TERMS AND CONDITIONS**

Of the private company with limited liability **CAPTURETECH CORPORATION B.V.**, having its registered office in Nieuw-Vennep, listed at the Chambers of Commerce of Amsterdam under number 28083956, deposited there together with the General Terms and Conditions and also published on [www.capturetech.nl](http://www.capturetech.nl)

### **1. APPLICABILITY AND DEFINITIONS**

1.1. In addition to the General Terms and Conditions of CaptureTech Corporation B.V. (further herein referred to as: "CaptureTech") the following terms and conditions are applicable (further referred to herein as the "Service Terms") to the agreement under which CaptureTech performs service activities with regard to the equipment supplied to the client. Where in the General terms the term 'agreement' is read, this also includes the 'Service and Repair Agreement' and where the term 'consumer' is read this also means the 'client' as mentioned in the Service Terms.

### **2. NATURE OF THE ACTIVITIES**

2.1. The service activities to be carried out by CaptureTech include repairing the equipment such that an uninterrupted, proper operation of the equipment continues to be maintained in accordance with the specifications applicable to this equipment for the duration of the service agreement. These activities are aimed at continuously achieving a normal use of the equipment taking into account the consequences of normal wear and tear and ageing of the equipment.

2.2. CaptureTech is not obliged to repair equipment that has reached its service-end date. The determination of the service-end date of the equipment takes place on commencement of the agreement. However, the equipment might have reached its service-end sooner for instance but not exclusively if required parts are no longer available as well as if the repair costs are no longer in proportion to the book value of the equipment. The latter is the case if the repair costs amount to 75% of the book value of the respective equipment.

2.3. Insofar as the client is entitled to preventive maintenance of the equipment - and this must be explicitly stipulated in a written agreement - this preventive maintenance includes checking, adjusting, tuning and testing the equipment as well as applying the changes deemed necessary by CaptureTech. Subject to the prior consent of the client, these changes should not result in any restrictions of the applications of the equipment.

2.4. After a fault notification by the client, CaptureTech will start the corrective maintenance within the period indicated in the service agreement. This corrective maintenance includes: restoring the equipment in the event of non-operation or reduced operation of the equipment as a result of normal wear and tear or software and/or hardware bugs, all this including spare parts and materials incorporated into the equipment during the activities, except for the consumable items to be mentioned elsewhere and/or parts which in case of replacement will be charged for at the rates then applicable, including labour costs and travel and accommodation costs.

2.5. The corrective maintenance will take place at the client's premises unless CaptureTech or persons entrusted by CaptureTech with the maintenance are of the opinion that for practical reasons corrective maintenance must take place in the workshop of CaptureTech or another workshop to be indicated by them.

2.6. The maintenance does not include the restoration or repair of equipment as a result of:

- Negligent, incompetent or inaccurate use of the equipment;
- The client negligently conducting the daily maintenance or the client not detecting the improper operation of the equipment within due time;
- Damage by fire or water, theft, power cuts, damage by lightning strike, voltage fluctuations and data transmission lines, work strikes and other external causes or force majeure circumstances;
- Damage as a result of repairs or activities, changes or additions to the equipment performed by the client or by third parties;
- Change in the original use of the location and/or connections of the equipment.

In all these cases mentioned above CaptureTech will be entitled to charge for the activities to be performed, the travel and accommodation costs as well as the materials and parts used at the rates then applicable.

2.7. CaptureTech will be entitled to combine a preventive maintenance session as meant in clause 2.3 of these Terms and Conditions with a corrective maintenance session.

2.8. After each maintenance session CaptureTech will provide the consumer with a service report. The contents of this report are assumed to be correct and binding for the parties if the client has not submitted to CaptureTech a written objection to it within eight days after the date indicated on the report.

2.9. In connection with the service activities CaptureTech will - if required - give technical advice on the maintenance or form of maintenance on the equipment.

2.10. The equipment must comply with the following conditions to become eligible for maintenance services by CaptureTech.

- Equipment bought from CaptureTech and which is included in a maintenance contract immediately - or immediately on the expiry of the warranty period - will automatically be accepted.
- CaptureTech offers to service hardware not bought from CaptureTech if it is certified by a service centre recognised by CaptureTech or by a technician of CaptureTech.
- After the expiry of the warranty period or after discontinuation or termination of the contract it should appear from an inspection of the equipment by CaptureTech and to CaptureTech's satisfaction that the equipment is in an acceptable maintenance condition before the service can commence. CaptureTech will carry out this inspection (on the basis of the then current rates) and can propose repairing the equipment or rendering it into a proper condition against reimbursement of time and materials ("T&M") and travel expenses. An inspection must also be bought when a maintenance contract is bought after the warranty period has expired before the respective equipment or installation can be included in a contract.

### **3. OWNERSHIP**

3.1. In the event of replacement of parts by or on behalf of CaptureTech in performing the service activities, the replaced parts remain the property of CaptureTech unless the client is charged separately for the replaced parts and this has been paid to CaptureTech or unless the replacement of parts is included in the contract.

### **4. WORKING HOURS**

4.1. The service activities are usually carried out within the normal working hours applicable at CaptureTech (Mondays to Fridays from 8.30 am until 5.00 pm, except for public national holidays), unless explicitly otherwise agreed.

4.2. CaptureTech is entitled to charge the client separately for the activities performed outside the hours indicated in the previous paragraph at the rates then applicable.

4.3. When the service technician engaged by or on behalf of CaptureTech cannot start the activities promptly at the agreed time due to causes attributable to the client, or the activities must be interrupted, CaptureTech will be entitled to charge the client separately for the waiting periods resulting from this.

### **5. OBLIGATIONS OF THE CLIENT**

5.1. Immediately after a fault occurs in the equipment the client must inform the supplier of this by means of a detailed description of the fault formulated by an expert employee of the client.

5.2. The client is obliged to use the equipment in accordance with the instructions for use provided by CaptureTech and to give it periodic maintenance services, failing which any entitlement to service or warranty will lapse. Moreover, the client is obliged to provide the necessary facilities and work area, possibly in consultation with CaptureTech in order to actually enable CaptureTech to perform the service activities promptly.

5.3. The client is obliged to provide CaptureTech with the necessary information and access to the use of the

equipment, documentation and software as well as the necessary consumable items (insofar as this might be required in order to perform the activities at CaptureTech's discretion).

- 5.4. CaptureTech is entitled to suspend its obligations under the service agreement or to dissolve this agreement without any notice of default or judicial interference being required if the client does not, improperly or not within due time fulfil one or more of its obligations.

## **6. LIABILITY**

- 6.1. CaptureTech accepts liability to the client for any losses suffered as a result of service activities performed in the manner as provided in clause 8 of the General terms and Conditions.
- 6.2. CaptureTech will never be liable for damage caused as a result of force majeure as described in clause 13 of the General Terms and Conditions. In the event of force majeure CaptureTech will be entitled to suspend wholly or partly the performance of the obligations imposed on it for the duration of the force majeure. In such a situation CaptureTech and the client will be entitled after the force majeure has commenced to dissolve the agreement with due observance of a one-month notice period. In that case clause 14 of the General Terms and Conditions will apply accordingly.

## **7. SECRECY**

- 7.1. The client undertakes to impose secrecy on all its members of staff with regard to all business details and confidential information of CaptureTech of which it becomes aware as a result of the activities performed by CaptureTech.
- 7.2. CaptureTech also undertakes to impose secrecy on its members of staff with regard to the business details and confidential information of the client.

**Nieuw-Vennep, June 2009**