

Service Conditions

§ 1 General

- 1) The present Service Conditions apply in addition to the Sales and Delivery Conditions of LEANTECHNIK AG (hereinafter referred to as "Contractor"). If any conditions should not be expressly specified in the Service Conditions, refer to the Sales and Delivery Conditions of LEANTECHNIK AG. The purchaser will hereinafter be referred to as "Customer".
- 2) The following conditions apply to services (in particular staff deployment) delivered by the Contractor, like e. g. repairs, modifications, reconditioning, commissioning (unless not already included in the services subject to a purchase agreement between the Contractor and the Customer), maintenance and repair works, retrofitting of machines and plants and replacement of devices. Deliveries will be performed solely based on the respective order confirmation, eventual special written agreements and complementary to the following conditions. Any other conditions and in particular purchase and ordering conditions of the Customer or third parties (e. g. final customer) shall not apply unless expressly accepted by the Contractor in writing.
- 3) Offers submitted by the Contractor are non-binding. A contract shall be established only after the written order confirmation issued by the Contractor.
- 4) If the object, for which the service is delivered (hereinafter referred to as "object of service") is not delivered by the Contractor, the Customer shall indicate the existing intellectual property rights pertaining to the object of service. Except in case of a default of the Contractor, the Customer will exempt the Contractor from any third-party claims resulting from intellectual property rights.
- 5) If the service to be delivered by the Contractor and in particular resulting modifications, extensions, updates, etc. of a plant or machine affect the respective country-specific operating licence, the Customer shall take or have taken all required measures to re-obtain the respective operating licence. The Contractor shall bear the responsibility and the costs.
- 6) The replacement and/or modification of individual components or equipment of a machine or plant identified with a CE label according to the 2006/42/EU equipment directive can require a check, whether all safety-relevant requirements and specifications are still met. The Customer shall be responsible for these checks and the eventual restoration of conformity. An assumption of this responsibility by the Contractor requires an expressive written agreement that precisely defines the responsibilities to be assumed.
- 7) The contractual service scope refers to the machine, plant or component delivered by the Contractor, even if such machine, plant or component is integrated in the overall plant of the Customer. The Customer will grant the Contractor full access to the delivered machine, plant or component at the Customer's cost. Costs incurred by the Contractor due to waiting times, for which the Customer is accountable, shall be borne by the Customer.

- 8) Our staff may only be deployed for works on machines and plants delivered by us and within the limits of a service order issued in writing, as a general rule. Any activities exceeding the agreed scope of work are subject to our prior written permission.
- 9) The Contractor shall be entitled to reject service deliveries requested by the Customer, if such services are not within the scope of the Contractor's trade. The Customer warrants the Contractor in this case to waive any right of recourse in this regard. Excluded services of the Contractor are indicated separately in the offer or order confirmation.
- 10) The Contractor is entitled to deploy subcontractors for all kinds of service deliveries.
- 11) These conditions apply to all future service deliveries until new service conditions apply. By placing an order and/or accepting the services delivered by the Contractor, the Customer accepts our conditions. The Contractor generally does not accept general terms and conditions or purchase conditions of the Customer or third parties (e. g. final customer), unless the Contractor has expressly accepted such conditions in writing. The Contractor's service deliveries and offers are based exclusively on the following conditions, even if an order cannot be confirmed in exceptional cases. Any individual clause of these contractual conditions that is legally invalid does not affect the legal validity of the remaining clauses. The Contractor's Service Conditions shall also apply in case where the Contractor delivers the service without reservation while being aware of conditions of the Customer deviating from or conflicting with the Contractor's Service Conditions.

§ 2 Unfeasible Service Deliveries

- 1) The services delivered for the submission of a quotation or offer, as well as any other expenditures incurred and to be evidenced (troubleshooting time equals work time), incurred travel and ancillary travel costs, out-of-pocket expenses and accommodation costs will be invoiced to the Customer, if the service delivery cannot be performed due to reasons for which the Contractor is not accountable and in particular:
 - a) If the claimed defect cannot be identified during the inspection;
 - b) If no defective service delivery by the Contractor (in particular deliveries and services with regards to machines, plants and components) can be demonstrated;
 - c) If spare parts cannot be procured;
 - d) If the Customer has failed to meet an agreed due date;
 - e) If the contract has been cancelled during the performance; or
 - f) If the Customer has failed to cancel the order in due time and such failure has resulted in costs and expenditures for the Contractor.
- 2) In these cases, the object of service must only be restored to the original condition upon the Customer's expressive request and subject to the reimbursement of the related costs, unless the performed work was not necessary.

§ 3 Prices, Cost Information, Quotation

- 1) Unless agreed otherwise, the service deliveries will be invoiced based on the time and material effort. The Customer can inquire the prices from the Contractor.
- 2) The Contractor will indicate the estimated prices for the service deliveries upon contract conclusion, if possible. The Contractor reserves the right to invoice any additional incurred costs and expenditures that were not foreseeable at the time of the offer submission to the Customer.
- 3) Additional waiting times occurring without the Contractor's default will be charged to the Customer based on the Contractor's applicable hourly rates.
- 4) The Contractor will invoice every working hour within a weekly working time of 40 hours with regards to the deployment of the Contractor's staff to the Customer based on the then applicable hourly rate. In case of service orders performed for a fixed price, additional deliveries exceeding the agreed service scope will be invoiced based on the actual expenditure.
- 5) Working hours exceeding the daily working time of 8 hours shall be deemed as overtime and will be invoiced with a surcharge. The surcharge amount can be inquired from the Contractor. Due to labour law prescriptions, the daily working time of the Contractor's staff must not exceed 10 hours.
- 6) Work performed on Saturdays is subject to a surcharge. Work performed on Sundays and public holidays, as well as during night-time hours (8.00 pm to 6.00 am) is subject to a surcharge. Overtime work will be invoiced with additional surcharge according to § 3.5.
- 7) Overtime work and work on Saturdays, Sundays and public holidays may only be performed with the prior written permission of the Contractor.
- 8) Each started working hour is considered as a full working hour and will be invoiced accordingly.
- 9) Unless agreed otherwise, the Customer shall bear the travel and ancillary travel costs, out-of-pocket expenses and accommodation costs of the Contractor.
- 10) The travel time of the Contractor's staff shall be deemed as working time. If the place of departure and arrival is located in the Contractor's country, the travel hours will be invoiced based on the applicable hourly rate.
- 11) In case of a journey abroad, the Contractor is entitled at its own discretion to deploy appropriate transport means for the Contractor's staff. The costs will be invoiced to the Customer. In addition, the Contractor will invoice all required ancillary travel costs (passport and visa fees, tool and baggage transport and customs clearance, examination by a physician specialised in tropical medicine, vaccination costs, etc.) and the expenses related to the service (e. g. fees for business communication, local transport, incl. rental car).
- 12) All fees, taxes and other duties related to the service deliveries incurred outside of the Federal Republic of Germany shall be borne by the Customer.
- 13) The Contractor is entitled to request a reasonable advance payment upon the contract conclusion.
- 14) The applicable legal value-added tax will be charged to the Customer in addition to the indicated prices.

- 15) In case of service deliveries into other countries of the European Union, the Customer shall notify its value-added tax identification number to the Contractor when placing an order. If the Contractor has not received a valid value-added tax identification number from the Customer until the invoicing date, the legal value-added tax will be charged.
- 16) The Contractor will usually provide a work/performance note indicating the performed services and material expenditures to the Customer. The Contractor is however not obligated to provide such notice. Work/performance notes submitted by the Contractor's staff to the Customer shall be deemed as served, even if they are not signed off by the Customer.
- 17) If the Contractor should become aware of significant deterioration of the Customer's financial situation after the submission of an order confirmation, the claims shall become due and payable immediately. The Contractor shall also be entitled to perform the outstanding service deliveries, even in derogation from the order confirmation, against an advance payment only and to withdraw from the contract after a reasonable grace period, unless the Customer provides a guarantee. This does apply in case of a failure to fulfil the payment terms, even if such failure concerns other orders resulting from the mutual business relationship.

§ 4 Obligation to Cooperate

- 1) The Customer agrees to assist the Contractor in delivering the services at its own costs.
- 2) The Customer agrees to provide to the Contractor all information and documents required for the proper performance of the services in due time prior to the work start. The Customer shall inform the Contractor in due time about any required specific safety inspections or requirements (e. g. airport, head for heights, etc.). In case of service deliveries abroad, the Contractor shall notify the required travel formalities (visa, invitations, etc.). The Contractor reserves the right to withdraw from the contract in case of official travel warnings. Previously incurred costs, for which the Contractor is not accountable, shall be borne by the Customer and will be invoiced to the Customer.
- 3) The Customer is obligated to inform the Contractor within a reasonable lead time prior to the start of the service delivery about the start date for the delivery.
- 4) The Customer will complete all preparatory work in due time prior to the start of the service delivery, to enable a fast service delivery.
- 5) The Customer shall inform the Contractor duly and comprehensively about all relevant mechanical and electrical interfaces between the overall plant and the machine that are required for the service delivery by the Contractor.
- 6) If the services are delivered outside of the Contractor's operating site, the Customer will provide the Contractor with the required utilities and energy (e. g. electricity, water, pressure air, steam, digital data lines, etc.), including the related connections at the place of delivery free of charge. The rooms in which the services are delivered must be protected from weather impacts, well lighted and properly tempered in order to ensure a seamless perfor-

mance of the services. The Customer agrees to provide the Contractor's staff with sufficient cleaning agents, washing facilities and sanitary facilities and first-aid care in case of emergency. The Customer will provide to the Contractor a dry, lockable storage room for the service equipment of our staff, if so required by the Contractor. In case of extensive service deliveries, the Customer will make available proper common rooms for the Contractor's staff.

- 7) If services are delivered by the Contractor outside of the operating site, the Contractor shall be obligated to provide technical assistance at its own cost and in particular for:
 - a) The provision of the required suitable back staff in sufficient quantities and for the required time. The back staff shall follow the instructions of the Contractor's staff. The Contractor assumes no liability for the back staff. If the back staff causes a defect or damage due to following the instructions of the Contractor's staff, § 8 shall apply.
 - b) Cleaning works at the place of performance of the services
 - c) Delivery of all required construction, foundation and scaffolding works and all required utensils and materials.
 - d) Auxiliary devices, and particular required floorborne vehicles, like e. g. forklift trucks, lift trucks and lifting equipment, like e. g. cranes.
- 8) If the services are delivered by the Contractor outside of the operating site, the Customer shall take all required measures for the protection of staff and goods at the place of performance of the services. The Customer must furthermore inform the Contractor's staff about special safety regulations on the written order and prior to the start of the works on site, to the extent relevant for the staff. This also applies for special regulations and local conventions abroad. The Customer will inform the Contractor about any violations of such safety regulations committed by the Contractor's staff. In case of severe violations, the Customer may reject access of the offender to the place of performance of the services in agreement with the Contractor's contact.
- 9) The Customer is not authorised to instruct the Contractor's staff. The Contractor's staff will not be integrated into the operation of the Customer or the end user.
- 10) If the Customer has granted the Contractor's staff a free accommodation by way of separate agreement, such accommodation must be a single-bed hotel room with restroom and bathroom or shower according to the Western-European standard. The Contractor shall be entitled to request evidence of the suitability of the accommodation for its staff in advance.
- 11) If the Customer fails to meet its obligations, the Contractor shall be entitled but not obligated to perform the work to be delivered by the Customer at the Customer's cost after the expiry of a grace period. All other legal rights and claims of the Contractor shall remain unaffected thereof.

- 12) If the Customer is unable to fulfil the aforementioned obligation to cooperate due to the services being delivered at the Customer's site but rather at a third party's site (e. g. the end user), the Customer shall procure that the aforementioned supporting services are delivered by the third party.

§ 5 Transport and Insurance in Case of a Service Delivery at the Contractor's Operating Site

- 1) Unless agreed otherwise in writing, the delivery or collection of the Subject of Service – including any packaging and loading operations – requested by the Customer shall be performed at the Customer's cost. Otherwise the Customer will deliver the Subject of Service to the Contractor at the Customer's cost and collect the Subject of Service after the service delivery at the Contractor's operating site.
- 2) The Customer shall bear the transport risk.
- 3) The delivery and eventual return transport will be insured against all insurable risks, like e. g. theft, damage, fire at the Customer's cost, if so requested by the Customer.
- 4) No insurance cover will apply during the delivery of the services at the operating site by the Contractor. The Customer shall be responsible for maintaining the existing insurance cover for the Subject of Service e. g. with regards to fire, tap water, storm and machine breakage insurance. An insurance cover for these risks can be procured at the expressive request and cost of the Customer only.
- 5) If the Customer fails to collect the Subject of Service in due time, the Contractor shall be entitled to charge a storage fee for the storage at its operating site. The Contractor shall be entitled to store the Subject of Service at a different site at its own discretion. The Customer shall bear the storage costs and risk.

§ 6 Delivery Time, Inability to Deliver

- 1) The indicated service delivery times are based on estimation and therefore are non-binding.
- 2) The Customer can only request the agreement of a binding delivery time, after the scope of deliveries has been precisely determined.
- 3) The binding delivery time shall be deemed as fulfilled, if the Subject of Service is ready for being collected by the Customer at the expiry of the delivery time by the latest, in case of a contractual test to be performed.
- 4) In case of subsequently placed additional or extension orders or required additional work, the agreed delivery time shall be extended accordingly.
- 5) If the delivery of the services is delayed due to circumstances, like labour disputes and particular strikes and lock-outs, or circumstances, for which the Contractor is not accountable, the delivery time shall be extended accordingly, provided that such hindrances have justifiable significant impact on the delivery of the services.
- 6) If the Customer should incur damages due to the delayed delivery by the Contractor, the Customer shall be entitled to a lump-sum indemnification for late delivery. The indemnification amounts to a total of 0.5 % for every full week of delay but in any case not exceeding 5 % of the service delivery price for

the part of the Subject of Service that cannot be used in due time because of the delay. If the Customer defines a reasonable grace period after the due date for the delivery by the Contractor under consideration of the legal exceptions and the Contractor fails to deliver within the defined grace period, the Customer shall be entitled to withdrawal subject to the legal regulations. The Customer agrees to indicate whether it will exercise its right of withdrawal within a reasonable period upon the Contractor's request. Any other claims related to the delay are exclusively subject to § 8.

- 7) Operational interruptions of any kind, force majeure events, work stoppages, lockouts, etc. at the Contractor or its subcontractors, as well as any other causes or events that prevent receipt, generation or shipment, exempt the Contractor from compliance with any delivery obligations throughout their duration, including any resulting events, and entitle the Contractor, if the details of the conditions require, to completely or partially cancel the delivery obligations without the Customer being entitled to withdraw from the contract in such cases. The Customer can only withdraw from the contract under legal regulations for a delivery delay, if the Contractor is responsible for the delay.

§ 7 Acceptance

- 1) The Customer shall be obligated to accept the service delivery, when the Customer is notified of its completion and a contractual test of the Subject of Service has taken place. If the service delivery is found to not comply with the contract specifications, the Contractor shall be obligated to remove the defect. This does not apply if the defect is of no significance for the Customer's interest or is based on circumstances, for which the Customer is accountable. The Customer is not entitled to reject the acceptance in case of a minor defect.
- 2) If the acceptance is delayed with no fault of the Contractor, the acceptance shall be deemed to have taken place two weeks after the notice of completion of the service delivery.
- 3) The acceptance shall release the Contractor from its liability for visible defects, unless the Customer has reserved the right to assert a certain defect.

§ 8 Retention of Title

The Contractor reserves the title with regards to all used accessories, spare parts and replacement aggregates until the receipt of all payments under the service delivery contract. Additional collateral agreements can be made.

§ 9 Claims and Rights in Case of Defects and Liability

- 1) Deviations of dimensions, weights and goods are permissible according to DIN standards. These are considered as reference values.
- 2) In case of work performances, the Customer shall be entitled to demand supplementary performance in case of defects, which the Contractor can fulfil by removing the defect or re-performance of the defective service at its own discretion. The Customer shall

grant the required time and opportunity for such supplementary performance. The Contractor shall not be liable for consequences resulting from modifications or repair works improperly performed by the Customer or third parties without the prior permission of the Contractor. The Customer shall bear the burden of proof for the appropriateness of modifications or repair works. The Customer shall only be entitled to remove or have removed the defect and to request a reimbursement of the required expenses from the Contractor in urgent cases, where the operational safety is at risk and/or to avoid disproportionately higher damages, provided that the Customer notifies the Contractor immediately of such urgent case. Rejected goods or parts may only be returned upon the Contractor's request and in suitable packaging, as applicable, including a packing slip indicating the order number. The Customer must provide a description of the defect.

- 3) Any claims must be presented to us immediately in writing, indicating all necessary details, such as the article, invoice and delivery note numbers and the type of damage. To exercise its warranty rights, the Customer must have properly fulfilled its inspection and complaint obligations according to § 377 of the HGB (German Commercial Code).
- 4) In case of a remedy of defects, the Contractor shall be obligated to bear all expenses required to remedy the defect, and in particular transport, travel, work and material costs, unless such costs are increased by the fact that goods or parts have to be transported to a different place than the place of performance, except in cases, where the transport corresponds to the intended use.
- 5) In case of a failed supplementary performance (§ 440 BGB / German Civil Code) the Customer shall be entitled to reduce the purchase price or withdraw from the contract. Any other damage claims, like e. g. liability for damages caused by the subject of delivery to objects of legal protection of the Customer (damages to other goods, consequential damages, loss of earnings, etc.) are excluded.
- 6) This limitation of damage claims does not apply in case of a grossly negligent violation of the Contractor's obligations or a wilful or grossly negligent violation of such obligations by a legal representative or vicarious agent of the Contractor. This limitation also does not apply to liability for damages arising from injury to life, body, or health due to a breach of duty by the Contractor, or intentional or negligent breach of duty by a legal representative or assignee of the seller.
- 7) The term of expiry for claims and rights due to defects in the supplied goods and services – for any legal reasons whatsoever – and for claims of damages is 1 year.
- 8) Claims and rights due to defects do not refer to merely minor defects, nor to natural wear; this applies in particular to seals and other wear parts.
- 9) Damages that result from the following reasons and with no fault of the Contractor do not give rise to defect liability claims:
Unsuitable or improper use after transfer of risk, in particular excessive stress, incorrect assembly and/or commissioning by the Customer or third parties despite of an available correct assembly instruction – this basically refers to our standard products,

unless specified otherwise –, normal wear and tear, incorrect or negligent handling, unsuitable utilities, replacement materials, defective construction works, non-observance of the operating instructions, unsuitable operating conditions, in particular unsuitable chemical or physical impacts, weather and natural impacts and too high or too low environmental temperatures, delivery items complying with foreign regulations, unless expressly agreed by us.

- 10) The Contractor shall furthermore not be liable, if the Object of Delivery has been created or modified by the service delivery due to the Customer's specifications and in particular drawings, designs and instructions provided by the Customer and the defect of the Object of Delivery is caused by these specifications and/or drawings or due to the solution of a design request of the Customer which complied with the state-of-the-art at the time of realisation.
- 11) If the claim of defect is determined to be unjustified, then the Customer must repay to the Contractor any expenditures that have been incurred by the Contractor.
- 12) In case of gross negligence of a non-senior employee, the liability of the Contractor for physical and financial damages is limited to the contract-typical damage.
- 13) In case of slight negligence, the Contractor's liability is limited to material and financial damages in case of a violation of significant contractual obligations. The Contractor's liability is limited to the contract-typical foreseeable damage also in this case.
- 14) Any indemnification liability exceeding the liability specified in the section above is excluded irrespective of the legal nature of the asserted claims. This applies in particular for unauthorised conduct according to §§ 823, 831 BGB (German Civil Code). Any unlimited liability under the regulations of the German Product Liability Act remains unaffected.
- 15) Any warranty agreement shall only be valid if made in writing. A warranty statement shall only be valid, if such statement clearly describes the duration and geographical area of application of the warranty.

§ 10 Right of Withdrawal

The Contractor is entitled to withdraw from the contract or any part thereof by written notification, if the Customer becomes insolvent or overindebted, the Customer suspends its payments or an insolvency proceeding has been applied for with regards to the Customer's assets. The Contractor must exercise the right of withdrawal prior to the start of the insolvency proceeding with regards to the Customer's assets. The Customer grants the Contractor with immediate effect access to its business premises during normal business hours to reclaim delivered spare parts, if the aforementioned circumstances occur.

§ 11 Payment Terms

- 1) If no other payment conditions are set forth in our proposal, payments for service deliveries shall be made net immediately upon the invoice date without deduction. Payment shall be made free of charge to our pay office.
- 2) A payment shall be deemed as performed when the invoice amount is available to our disposal.

- 3) The Contractor will generally submit to the Customer a work/performance notice upon completion of the delivered service. Payment shall become due immediately upon the invoice date, even if the work/performance notice is not issued and submitted to the Customer after the completion of the service delivery. The Customer shall not be entitled to request the issue of a work/performance notice unless expressly agreed between the Contractor and the Customer.
- 4) If we should become aware of significant deterioration of the Customer's financial situation after the submission of our order confirmation, the Contractor's claims shall become due and payable immediately. The Contractor shall also be entitled to perform the outstanding deliveries and services, even in derogation from the order confirmation, against an advance payment only and to withdraw from the contract after a reasonable grace period, unless the Customer provides a guarantee. This does apply in case of a failure to fulfil the payment terms, even if such failure concerns other orders resulting from the mutual business relationship.
- 5) The Contractor accepts no credit notes of any kind. The Contractor furthermore is not obligated to accept credit notes.
- 6) In case of late payment, late interest according to § 288, section 2 BGB (German Civil Code) amounting to 9% above the basic interest rate according to § 247 BGB shall be charged. The Contractor expressly reserves the right to claim additional late payment damages.
- 7) The Contractor reserves the right to make deliveries to new customers against advance payment or cash on delivery only.
- 8) Failure to comply with payment conditions, or conditions that are made known to the Contractor after closing and that may affect the creditworthiness of the Customer, result in all payments becoming due immediately. They also entitle the Contractor to make pending deliveries only upon prepayment or provision of security, and to withdraw from the agreement after a suitable extension of time, or to demand payment of damages due to non-fulfilment, without regard to the right of retraction of the goods provided under retention of title, at the cost of the Customer.
- 9) The Customer is entitled to retention and offset only if undisputed or legally enforceable claims thereto are made valid.
- 10) The Contractor reserves the right to send invoices electronically to an email address to be specified by the Customer. The email shall be deemed as served on the transmission date. The Customer shall be responsible for the proper processing of the invoice. The Customer shall be responsible for any delayed processing of invoices by the Customer.

§ 12 Place of Performance, Legal Venue and Applicable Law

- 1) *The place of performance for services, deliveries and payments, as well as all other rights and obligations arising from the business relationship for both parties shall be the Contractor's registered office in Oberhausen. If our contract partner is a businessman, the legal venue for all disputes arising directly or indirectly from the contract relationship is Oberhausen.*
- 2) *The contract is subject exclusively to the law of the Federal Republic of Germany, also in case of deliveries and services provided abroad. The United Nations Convention on Contracts for the International Sale of Goods and the international conflict law are expressly excluded.*
- 3) *Customary trade clauses shall be interpreted according to the Incoterms 2010 as amended.*
- 4) *If any provision of the present Service Conditions should become fully or partially invalid, all remaining provisions and remaining parts of the invalid provision shall remain in full force and effect. The Contractor and the Customer agree to replace the invalid provision with a valid provision fulfilling the economic purpose of the invalid provision to the legally permissible extent.*