

Additional Conditions for Services

1. GENERAL

1.1 For orders for the provision of services (e.g. planning, commissioning, installation, maintenance or operation) the following Additional Conditions for Services shall apply.

1.2 As far as the following provisions do not expressly state anything to the contrary, these Additional Conditions apply in conjunction with the Delivery Conditions and complement rather than replace them.

2. EXECUTION OF SERVICE ORDERS

2.1 We shall execute the ordered services carefully with qualified personnel and in accordance with the current state of technology with our best efforts.

2.2 As far as nothing else has been agreed, we may subcontract the performance of services to competent third parties.

2.3 We reserve the right to recall employees executing the order at any time and replace them by equally qualified employees at our expense.

2.4 Regular working hours shall be determined in accordance with the legal and collective bargaining agreement regulations applicable to the employees performing the services ordered.

2.5 As far as possible under the applicable legal and collective bargaining regulations the employees performing the ordered services shall conform to the working hours regulations in force at our customer.

2.6 In case deviations from regular working hours applicable to the personnel performing the services become necessary, then the customer shall inform us about such requirements and together with the customer we shall find an agreement concerning the terms and conditions regarding work outside the regular working hours, if necessary after having obtained any required permit or consent.

2.7 The customer shall inform us on a weekly basis about the time spent by our personnel in order to perform the ordered services and shall promptly confirm completion of installation, commissioning or any other services once they have been rendered.

2.8 It shall be the responsibility of the customer to adhere to all safety regulations for the avoidance of accidents on its sites and to take all necessary measures for the avoidance of accidents. The customer shall inform the personnel charged with executing the services ordered about any safety regulations and measures in operation on its sites. In case safety measures on sites are inadequate the personnel charged with the execution of the ordered services may refuse to start work until the lack of safety measures shall be remedied.

2.9 In case the execution of the ordered services is delayed for reasons not attributable to us, then the customer shall bear any cost for waiting times or additional travelling of our personnel caused through the delay.

2.10 In case the customer should ask us to perform services which did not form part of the offer, then such services shall be invoiced in accordance with the price for time and materials as set out in Section 8.2. of these conditions, unless something else has been agreed.

3. CO-OPERATION OBLIGATIONS

3.1 Before the execution of the order the customer shall at its own expense complete all measures and preparations necessary for the execution of the order on his part.

3.2 In particular the customer shall provide the following at its expense and in a timely manner:

- All civil and earth works as well as all other ancillary works not part of the scope of the order, including all skilled and unskilled labour, materials and tools required for such works;
- the ancillary materials and articles, such as scaffolding, lifting tools (e.g. hoist, crane) and such like, fuel and lubricants;
- energy and water at the point of usage including connections, heating and lighting;
- at the installation site, sufficiently large, suitable, dry and lockable rooms for the storage of machine parts, tools and materials and for the installation personnel appropriate working and resting rooms, including sanitation facilities appropriate to the conditions; the customer shall also take such measures for the protection of our personnel as well as our property on the installation site as it would for its own personnel and material.
- Protective clothing and protection equipment required due to specific conditions prevailing at the installation site.

3.3 Before the start of the works the customer shall provide to us without having to be prompted any necessary information about hidden electricity and gas lines, water mains and other hidden supply lines as well as information regarding structural stability.

3.4 All of the objects which are to be made available by the customer shall be at the installation site prior to the start of the execution of the order. Prior to the start of work by us all preparatory work to be performed by the customer must have progressed to such a stage that the ordered services may be commenced as agreed and be executed continuously. Approach paths, place for setting up as well as installation site must be accessible without any obstruction (i.e. levelled and cleared).

3.5 Obtaining of official permits and consents which may potentially be required shall be at the cost and risk of the customer.

3.6 The customer shall inform us without being prompted about any and all legal, official or other rules and regulations or any other circumstances which must be taken into account when executing the order or which may lead to additional burdens when executing the order.

3.7 In case the execution of the order should be delayed or complicated due to the customer's non-compliance with its co-operation obligations, then the customer shall be liable for any additional cost or expense this causes.

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4. DEADLINES, FORCE MAJEURE, DELAY

The following Sections 4.1 and 4.2 shall apply to service orders instead of Section 4.1 and 4.2 of the General Terms and Conditions of Supply. In addition Sections 4.3 through 4.6 of the Delivery Conditions shall also apply to service orders.

- 4.1 Any dates given by us shall not be treated as fixed dates within the sense of §§ 361 BGB (German Civil Code) and 376 HBG (German Commercial Code), unless they should be expressly identified as guaranteed fix dates.
- 4.2 Timely performance of the ordered services shall be conditional upon complete and proper fulfillment of the co-operation obligations of the customer. In case such co-operation obligations should not have been properly fulfilled, the agreed deadlines shall be extended appropriately.

5. ACCEPTANCE

- 5.1 Our services shall not be subject to an acceptance procedure unless the customer and we have agreed in writing that a formal acceptance shall be required.
- 5.2 In case a (partial) acceptance for our services has been agreed upon we shall inform the customer in writing about the readiness for acceptance. Acceptance shall then occur within 7 (seven) days from the declaration of readiness for acceptance.
- 5.3 Acceptance may not be withheld for minor defects.
- 5.4 In case the customer should refuse to accept the services the customer shall provide reasons for refusal of acceptance within 14 (fourteen) days of declaration of readiness for acceptance in writing. In case of a justified refusal we shall remedy any defects in the performed services in an appropriate time and shall render the services in an acceptable manner.
- 5.5 Acceptance shall be deemed to have occurred within 14 (fourteen) days from the declaration of readiness for acceptance unless the customer grants the acceptance within that timeframe or provides a written justification of its refusal to accept the services.
- 5.6 Should the customer start to use the services (or the work product of the services) without making any reservations, then the services shall be deemed to be accepted.
- 5.7 The customer shall bear any cost of acceptance.

6. TRANSFER OF RISK

The following Section 6 shall replace Section 7 of the Delivery Conditions for all Service Orders.

- 6.1 The risk of accidental destruction or degradation shall pass to the customer upon completion of the service by us, unless the service is subject to an acceptance (refer to Section 5). In case of services subject to ac-

ceptance the risk shall pass to the customer upon acceptance (cf. Section 5).

- 6.2 In case the start or the performance of the service (e.g. installation), the taking into operation or any trial operation is delayed for reasons attributable to the customer, or the customer is in delay of acceptance (Annahmeverzug) for any other reason, then the risk shall pass to the customer upon the start of the delay of acceptance.
- 6.3 The risk of accidental destruction or degradation of material provided by the customer shall be borne by the customer.

7. DEFECTS

For service orders the provisions of Section 10 of the Delivery Conditions shall apply with the provision that the term „Products“ shall be replaced by the “ordered service” and the term „Delivery“ shall be replaced by the “performance of the service”.

8. FEES, PRICES

- 8.1 General
- 8.2 Our services are priced either with package prices, by time and materials or by quantities. For all pricing variants the following general rules apply:
- a) For invoices and payments the contractual conditions apply. Commissioning shall be priced separately unless specific other arrangements have been agreed.
 - b) Prices are exclusive of the Value Added Tax applicable by law at the time of invoicing.
 - c) Unless otherwise agreed the customer shall besides the agreed fee be liable for all incidental cost, such as travel cost, cost for transport of necessary tools and personal baggage as well as release fees.
 - d) Any payments made by the customer to our personnel at the job site shall not reduce the debt the customer has against ourselves.
 - e) Mutual provision of goods and materials, as well as performance of services at the job site shall be documented by written receipts.
 - f) Should our personnel not be able to reach the amount of work time required by the applicable collective bargaining agreement due to shortened work hours at the customer's site or due to other circumstances attributable to the sphere of influence of the customer, then the shortfall of work hours shall be invoiced in accordance with the rules for pricing for time and materials as set out in Section 8.2.
 - g) In case we perform services at the request of the customer which were not in the scope of contractually ordered services then these shall be shall be invoiced in accordance with the rules for pricing for time and materials as set out in Section 8.2.
 - h) In case the services are performed with the customer's consent at times which are outside the scope of what was contractually foreseen for reasons which are not attributable to us, then the customer shall reimburse us for any additional cost this may cause to us.
- 8.3 Invoicing for time and materials:
- a) The following items shall be invoiced:

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- The working time employed to perform the service in accordance with our hourly rates applicable at the time the service was performed; waiting times are invoiced as working time; travel time shall be invoiced as working time in accordance with the rules stipulated in the collective bargaining agreements;
 - Costs incurred by us for travel related incidental charges
 - Necessary expenses (e.g. travel costs, transportation of baggage, tools and other incidental materials, etc.);
 - The material used to perform the services at the agreed prices
 - Fee for making certain special tools and measuring equipment available if so contractually agreed, in accordance with the applicable price sheets.
- a) In case the customer demands services to be performed during times for which supplements are applicable under the collective bargaining agreements then we shall invoice such supplements in addition to the applicable hourly rates.
- b) Working hours performed by us shall be certified to us at least every half month by the customer. Such working hour certifications shall form the basis for the invoices.
- 8.4 Invoicing for package prices
- c) A package price shall include the agreed services under the working and other conditions disclosed to us at the time the contract was signed. It is based upon the weekly working time applicable to us, unless something else has been agreed upon.
- d) At our request the customer shall certify, according to its best knowledge and without any binding effect after each half month the time employed by our personnel to perform the agreed services.
- 8.5 Invoicing for services by quantities
Invoicing shall be in accordance with the agreed price per unit.
- 9. PAYMENT TERMS**
- The following payment terms shall replace Section 14 of the Delivery Conditions.
- 9.1 Our services shall be invoiced after the performance of the services, unless the services are subject to a (partial) acceptance (cf. Section 5). Services which are subject to a (partial) acceptance (cf. Section 5), shall be invoiced after having obtained the (partial) acceptance.
- 9.2 Under contracts with long duration or under contracts with duration of more than one month we may invoice all services which are not subject to an acceptance (cf. Section 5) at the end of each calendar month during the duration of the contract.
- 9.3 Payments are due within 30 days after the date of the invoice.
- 9.4 We shall be entitled to apply each payment to the oldest due invoice. In case transfer of money from the country from which payment is due is not possible at the time the payment becomes due, then the customer shall nevertheless have the obligation to remit the equivalent amount of money due to a bank in this country; in case of a currency deterioration of the currency which was not contractually agreed for payments the customer will have to remit any shortfall due to the currency deterioration.
- 9.5 Insofar as our outstanding payment claims appear to be jeopardised due to circumstances occurring subsequent to the conclusion of the contract which lead to a substantial impairment of the customer's financial situation, we shall be entitled to immediately claim all sums due under the service contract independently from the time they would have become due otherwise; this shall also apply to any extensions of payment terms or cheques and bills of change. Under such circumstances we may also demand down payments or the granting of sureties. The legal provisions regarding delay in payment shall remain unaffected by these stipulations.
- 9.6 The customer may only offset undisputed claims or claims finally awarded by a competent court. This shall apply also to making use of a right of retention.
- 9.7 Invoices shall be made out in EUR. The EUR sums shall also govern if the invoices should show any other currency beside the EUR. Incoming payments in currencies other than EUR shall be credited with the sum obtained for the currency in EUR by us.