



## General Service Terms

### I. General

1. The following are the General Service Terms and Conditions (hereafter "GST"), under which we provide Services to our Customers. The term "Services" shall include all repairs and service works carried out by us in connection with machines supplied by Eisbär Trockentechnik GmbH (with the exception of services due to existing warranty obligations for delivered machinery and parts). For the avoidance of doubt, the mere supply of spare parts is not within the scope of these GST.
2. Our quotations shall constitute an invitation for an offer by our Customer, always subject to change. No order shall be binding until accepted and acknowledged by us. All orders will be accepted by us subject exclusively to these terms and conditions as well as any special terms referred to in our quotation, if any. In case of any inconsistencies between these GST and any other terms referred to in our quotation, the terms providing a more specific regulatory content shall prevail over the more general terms. We will not accept any terms and conditions of Customer 's order inconsistent herewith.
3. The parties agree that an individual service agreement ("SA") may come into effect either by exchange of written declarations (including mail, fax or electronic mail) or by actual supply of Service, always subject to the terms and conditions of these GST.

### II. Scope

1. Unless a different scope of work has been agreed upon in writing, our Services cover the performance of such Service (including spare parts) that are required to comply with the Customer's request (a) on the basis of the details the Customer provided us, (b) on the basis of our examination of the Equipment, and/or (c) upon the findings arising in connection with the works actually carried out under the respective SA.
2. In case of repair works our Services will typically include error tracing, remedying of the defect, provision and replacement of spare parts, functional check and testing.

### III. Time

1. We will provide Services as soon as reasonably possible; any time quoted for the execution of Services shall be expressly conditioned on (i) the current availability of technicians and spare parts and (ii). Customers' compliance with its obligations to cooperate as hereinafter set forth. We will use reasonable endeavours to provide the Services in accordance with the time schedule agreed upon. Each party shall inform the other if it becomes aware of any potential delay to the performance of the Services and the parties will work together to seek to minimise the effect of such delay. For the avoidance of doubt, time shall not be of the essence in relation to Services.
2. Services will be provided subject to our respective Service Tariffs in the current version (updated every January 1<sup>st</sup>), which will be made available to our Customer upon request.

### IV. Cost estimates and cancellation

1. Upon request we will provide Customer with a price estimate after error tracing or on the basis of the details the Customer provided us. We will inform Customer when it becomes apparent that the final price will exceed the estimate by more than 25 percent; should we fail to inform Customer of such exceedance, Customer shall not be obliged to pay more than 125% of the estimated amount.



2. Customer may at any time cancel the individual SA and shall pay the work already performed until such cancellation notice receives us at our current rates, including error tracing, costs for price estimate and other costs incurred in performing and terminating the Service (including cancellation fees for orders of spare parts, if any).

#### **V. Testing**

1. Upon completion of Services at the premises of Customer (in particular repair work) we will notify Customer and will thereafter, as the case may be, assist Customer, to carry out such tests as are reasonably required in order to ascertain that the Services has been successfully completed.

#### **VI. Warranty**

1. Customer shall without undue delay notify us in writing of any defect, which appears in the work performed, or the parts provided by us under a SA. We will remedy any defect or nonconformity in relation to Services and will replace or repair, at our option and free of charge any part that was supplied, repaired or replaced under a SA, which, in our reasonable opinion, proves to be defective in material or workmanship under normal usage conditions in accordance with our operating instructions within twelve (12) months from the completion of such Services. The results of ordinary wear and tear, improper operation or maintenance, or use of corrosive or abrasive materials are excluded from warranty. If Customer fails to give notice of a defect without undue delay it shall lose its rights in respect of the defect.

#### **VII. Conformity**

1. The Customer shall be herewith advised that not only retrofitting but also the replacement of parts may require reevaluation of machinery safety and/or recertification under the respective jurisdiction applicable at site. Unless otherwise instructed and expressly assigned by the Customer in writing, we will neither check the status of machinery safety nor will we carry out any recertification (e.g. CE, UL, ANSI) as may be required under applicable laws.

#### **VIII. Payment**

1. Unless otherwise expressly agreed upon by the parties, the Service shall be carried out on a time and material basis. The charges shall be in accordance with the respective Service Tariff in the current version.

#### **IX. Customer's Obligation to cooperate**

1. Where the Services are to be carried out at the premises of Customer, Customer shall ensure that the following conditions are satisfied before the agreed date for the commencement of the Service:
  - a) Before work is started Customer shall inform us of all relevant safety regulations in force at its premises. All the necessary safety and precautionary measures shall have been taken before work is started and shall be maintained during the repair work. Unless otherwise agreed, Customer shall further ensure that our personnel are able to start work in accordance with the agreed time schedule and to work during normal working hours and Customer shall make available to us free of charge at the proper time on the installation site all necessary cranes, lifting equipment and equipment for transport on the site, auxiliary tools, machinery, materials and supplies (including fuel, oils, grease and other materials, gas, water, electricity, steam, compressed air, heating, lighting, etc.), as well as the measuring and testing instruments of Customer available on the installation site. Customer shall compensate any extra costs (as per the current rates for Eisbär service technicians) incurred by us due to a breach of Customer's obligations to cooperate. Customer shall provide skilled personnel required for the operation of the equipment that shall carry out auxiliary works. Customer shall make available free of charge necessary storage facilities, providing protection against theft and deterioration of the tools and repair equipment.

#### **X. Subcontracting**

1. We reserve the right to subcontract our performance of the respective order or any portion thereof without limiting our contractual responsibility for such performance. In this case Customer shall be obliged to perform any of its obligations to co-operate also for the benefit of our sub-contractor. The subcontractor will be bound by us to confidentiality.

#### **XI. Coordination at site**

1. We shall be responsible for the adequacy, stability and safety of our operations at site and will comply with the safety regulations applicable at site, of which Customer shall duly inform us on or before our arrival at site. We will take all reasonable precautions to maintain the health and safety of our personnel during the works. Nobody shall be permitted to enter the installation site except for our personnel. If for any reason, Customer requires own personnel or (other) contractor's personnel at site, Customer shall consult our representative and shall, as the case may be, take any additional measures to prevent accidents, such as, but not limited to proper fencing, guarding, issuance of instructions and watching the works. For the avoidance of doubt, we shall not be responsible for the coordination and supervision of any works, which are not within our scope.

#### **XII. Insurance and liability**

1. We promise and covenant to carry out and maintain with a reputable insurer a commercial general liability insurance with a minimum coverage of 5 Mio. EUR any one occurrence and in the annual aggregate for bodily injury and damage to property.
2. Except as expressly provided herein to the contrary, whereupon a party is entitled to receive profit, neither we nor Customer shall be liable to the other by way of indemnity or by reason of any breach of the SA or of statutory duty or by reason of tort (including but not limited to negligence) for any loss of profit, loss of use, loss of production, loss of contracts or for any financial or economic or for any indirect or consequential damage whatsoever that may be suffered by the other. In no circumstances whatsoever shall our liability to the Customer under the respective SA for any one act or default exceeding 50,000 EUR or the corresponding amount in the currency of the Customer's country.



### **XIII. Applicable law and dispute resolution**

1. Any SA formed hereunder shall be governed by the substantive law applicable at our registered office without regard to conflict of law principles thereof; the United Nations Convention on Contracts for the International Sale of Goods shall not apply.
2. The parties agree that any disputes arising out of or relating to the SA, including any issue regarding its existence or validity, shall be submitted to the competent courts having jurisdiction in the area where we have our registered office. The foregoing shall not be construed so as to limit our right to take proceedings against Customer in the courts of any country in which Customer has assets or in any other court of competent jurisdiction nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction (whether concurrently or not) if and to the extent permitted by applicable law.

### **XIV. Data protection and confidentiality**

1. We reserve the right to store, to communicate, to process and delete person-related data of Customer in the framework of our business relations. The foregoing shall include, but not be limited to, data obtained during the service visit in the form of a status report, which will be used for the service itself and as a data pool for troubleshooting and improvements of our products as well. The use of such data for product development will be anonymous, without direct reference to the operator, Customer's product or used material.
2. For a period of three (3) years from the date of disclosure each party shall keep in strict confidence all Confidential Information obtained from the other party in the course of performance of this Contract. Each party shall use Confidential Information only to the extent necessary to perform its obligations under this Contract.
3. "Confidential Information" in this context shall mean any and all technical, financial or commercial information stated by either party to be confidential or confidential in nature, provided, however, that the term "Confidential Information" shall not include any information of which the receiving party can demonstrate that the information
  - a) is generally known to the public at the time of disclosure or becomes generally known or state of the art after this time through no wrongful act on the part of the receiving party; or
  - b) becomes known to the receiving party through a disclosure by sources other than the disclosing party or of one of its affiliates having no duty of confidentiality to the disclosing party, whether direct or indirect, with all respect to such information and having the legal right to disclose such information; or
  - c) has been independently gained and without infringing of a duty of confidentiality.

#### **XV. Miscellaneous**

1. This text shall be construed in accordance with the respective applicable law; the English version is a free translation of the local language (“original text”) and shall serve only for information. Therefore, in the event of any inconsistency between the original text and the English version, only the original text shall apply.
2. Messages sent to us shall be effective only if they are written in German or English. Messages may be transmitted by mail, fax or by electronic mail. They shall become effective at the point in time when they have reached the recipient or would have reached the said under normal circumstances with the type of transmission chosen. Messages which reach us on Saturdays, Sundays or one of our legal public holidays shall become effective only on the next working day.
3. Any SA concluded subject to these GST shall remain effective, even if one of the clauses is null and void or becomes null and void. In such a case, the void or ineffective clause shall be replaced by such a clause which comes closest in an effective manner to the economic purpose of the ineffective clause. The same shall apply to any gap.