

General Terms and Conditions of Joh. Heinr. Bornemann GmbH (hereinafter “Contractor”) for the Maintenance of Machines and Equipment (hereinafter “Maintenance Conditions”)

For use in business transactions with:

- persons acting, with the conclusion of the contract, in the exercise of a commercial or independent professional occupation (business persons);
- legal persons of public law or a public law special fund (hereinafter “Customer”).

I. Conclusion of Contract, General

1. All maintenance services by the Contractor shall be subject to these Maintenance Conditions of the Contractor as well as any separate contractual agreements. Contrary general purchase or business conditions of the Customer are objected to by the Contractor; such purchase or business conditions of the Customer shall not become part of the contract even upon acceptance of the order and shall apply only if confirmed in writing by the Contractor.

2. These Maintenance Conditions shall apply in their respectively current version also to all subsequent business transactions, without such fact having to be expressly stated or agreed upon at the conclusion of such subsequent business transactions.

3. In the absence of separate agreement, a contract shall come into full force and effect only upon written order confirmation by the Contractor. Offers by the Contractor made previously are, in principle, subject to change without notice. If a written order confirmation has been issued and it has not been objected to, such order confirmation shall be authoritative for the content of the maintenance contract and the scope of the maintenance.

4. All agreements between the Contractor and the Customer regarding the performance of the contract have been made in writing, including within these Maintenance Conditions. The written contract shall resemble the complete understanding between the parties regarding the contract matter. Oral statements by the Contractor prior to the conclusion of the contract shall not be considered binding and oral understandings between the parties shall be replaced by the written contract between the parties, insofar it is not expressly agreed that they shall continue to be effective.

II. Maintenance Work

1. The Contractor agrees to perform maintenance and repair work on the maintenance item within the framework of the contractual agreement.

2. Maintenance work is to be performed at the contractually agreed dates or, respectively, in the contractually agreed intervals. Unless otherwise agreed, the maintenance work shall comprise:

- examination of the condition of the maintenance item,
- functional testing,
- adjustments,
- procurement and exchange of wear and tear parts,
- cleaning and necessary lubrication.

3. Repair work is to be performed for the purpose of the elimination of malfunctions of the maintenance item. They are to be commenced at the contractually agreed dates. Unless otherwise agreed, the repair work shall comprise:

- diagnosis of faults,
- correction of faults,
- procurement and exchange of wear and tear parts,
- functional testing.

4. Maintenance Report by the Contractor

The Contractor shall prepare a written maintenance report about its observations and the measures undertaken and shall provide a copy thereof to the Customer after conclusion of each maintenance work. Unless otherwise agreed, the report is to be drafted in the contract language.

5. Use of Original Parts

Unless otherwise agreed, the Contractor and the Customer during the performance of the maintenance work or the daily maintenance work on the maintenance item shall exclusively use spare parts by the manufacturer of the original equipment or parts of similar quality.

6. Daily Maintenance Work by the Customer, Minute Book

The Customer shall undertake the necessary daily maintenance of the maintenance item. Insofar as agreed to by contract, the Customer in addition shall keep an operations and maintenance minute book with regard to the maintenance item.

7. Exclusive Right of the Contractor

Unless otherwise provided for within these Maintenance Conditions, the Customer shall not be permitted, without the approval of the Contractor, to undertake such maintenance work itself or to have such performed by third parties incumbent upon the Contractor pursuant to this contract. Should the Customer undertake such work nonetheless, the liability of the Contractor shall be cancelled for previous maintenance work insofar as the result of the maintenance

work is immaterial for the measures undertaken by the Customer.

8. Alterations to the Maintenance Item

The Customer shall notify the Contractor without undue delay and in writing of all alterations with regard to the maintenance item, its operation or other measures undertaken by the Customer which could affect the contractual obligations of the Contractor. Should these alterations or measures substantially affect the obligations of the Contractor and should the Parties not agree on a respective adjustment, the Contractor may terminate the contract by written notification to the Customer without observation of a notification period and may claim damages.

III. Unfeasible Maintenance Work

1. Any services performed to provide a cost estimate as well as additionally accruing time expenditures to be proved (fault localization time period equals work hours) shall be invoiced to the Customer if maintenance cannot be performed by the Contractor for reasons which are not its fault, in particular, because

- the fault objected to did not appear during the inspection,
- spare parts cannot be procured,
- the Customer culpably failed to meet the agreed due date,
- the contract is terminated during the performance unless the Customer terminated justifiably for cause.

2. The maintenance item only has to be put back in original condition at the express request of the Customer and against reimbursement of costs, unless the work undertaken was unnecessary.

IV. Specifications of Costs, Estimate of Costs

1. Insofar as possible, the foreseeable maintenance price shall be specified to the Customer at the conclusion of the contract. Otherwise, the Customer may set cost limits.

If the maintenance work cannot be performed at these costs or if the Contractor deems the performance of additional work necessary during the maintenance work, the Customer's agreement thereto is to be obtained if the stipulated costs would be exceeded by more than 15 %.

2. If a cost estimate with binding price rates is desired prior to performance of the maintenance, such shall be expressly requested by the Customer. Insofar as not otherwise agreed, such cost estimate is only binding if made in writing. It shall be remunerated. Services performed to provide the cost estimate shall not be invoiced to the Customer insofar as these can be used with the carrying out of the maintenance.

3. In the case of repair work, the Contractor shall, upon the request of the Customer, after a fault diagnosis but before the commencement of additional measures, provide a cost estimate. The cost estimate shall be non-binding; however, the Contractor shall notify the Customer without undue delay if it is apparent that the final price shall exceed the cost estimate by more than 10 %. Should the Customer decide, after receipt of the cost estimate or the afore-mentioned notification, not to take further steps, it shall nevertheless be obligated to compensate the Contractor for work already performed.

V. Prices and Payment Terms

1. The Contractor shall be entitled to request a reasonable advance payment at conclusion of the contract. Unless otherwise agreed, payments shall be made for the maintenance work prior to the commencement of the respective part of the contract.

2. Maintenance Work

Unless otherwise agreed, regarding maintenance work the Customer shall pay for all work performed by the Contractor as well as the costs for parts subject to wear and tear, travel time and expenses, accommodation, board and transport. Should it be required that the Contractor's personnel work outside normal work hours or if they must undertake maintenance on the basis of circumstances for which the Customer is responsible, the costs here fore shall be invoiced separately pursuant to the standard rates of the Contractor.

3. Repair Work

Unless otherwise agreed, repair work performed by the Contractor shall be invoiced based upon hours spent. The invoice of the Contractor for repair work shall separately state the following positions:

- work hours spent,
 - time and costs for travel, accommodation, board and transport,
 - payments advanced for spare parts,
 - payments advanced for other materials,
 - waiting times and overtime caused by the Customer.
- The invoice amounts for each position shall correspond to the standard rates and the price lists of the Contractor.

4. Should maintenance work or repair work be performed on the basis of a binding cost estimate, reference to the cost estimate shall be sufficient, whereby only deviations in the scope of performance are to be listed separately.

5. Value added tax in the respective statutory amount shall be invoiced in addition and charged to the Customer.

6. Any correction of an invoice by the Contractor and any objection by the Customer must be made in writing at the latest four weeks after receipt of the invoice.

7. Payment without deduction is to be made immediately upon acceptance and hand delivery or dispatch of the invoice.

8. Payment shall be deemed to have been made upon receipt by the Contractor; in case of checks only after encashment. Should the Customer fail to effect payment as per the due date, the outstanding amounts shall accrue interest at 8% p.a. over the respective base lending rate of the European Central Bank; the possibility to claim higher interest and additional damages in cases of default shall remain unaffected. In addition, the Contractor may after respective notification to the Customer, discontinue the performance of the contract until the receipt of the payments. The Customer shall then reimburse the Contractor for all additional costs with the recommencement of the maintenance work.

9. The Customer shall only be entitled to retain payments or to set-off such with counterclaims insofar as its counterclaims are undisputed or have final, res judicata effect.

VI. Cooperation and Technical Assistance by the Customer with Maintenance outside the Contractor's Works Premises

1. The Customer shall provide support at its own cost to the maintenance personnel during the performance of the maintenance.

2. The Customer shall undertake any special measures necessary for the protection of persons and objects at the maintenance site. It shall also notify the maintenance manager with regard to existing special safety regulations, insofar as these are of significance for the maintenance personnel. It shall notify the Contractor regarding violations by the maintenance personnel against such safety regulations. In cases of serious violations, in consultation with the maintenance manager, it may refuse access to the maintenance site to the person acting in violation. The Customer shall ensure that the maintenance work does not occur under dangerous or conditions hazardous to health and it shall take all necessary measures to protect the personnel of the Contractor against safety or health risks.

3. The Customer is obligated to give technical assistance at its own cost, in particular, by:

- providing the necessary and suitable support staff in the number necessary for the maintenance and for the necessary time period; the support staff shall follow the instructions of the maintenance manager. The Contractor shall assume no liability for the support staff unless the support staff has caused a defect or damage due to actions undertaken on the instructions of the maintenance manager. In such case, Sections XI. and XII. hereof shall apply accordingly,
- undertaking all construction, bedding and scaffolding work including the procurement of the necessary building materials,
- providing the necessary apparatus and heavy tools as well as the necessary commodities and materials,
- providing heating, lighting, fuel, water, including the necessary connections,
- providing necessary dry and lockable rooms for the storage of tools of the maintenance personnel,
- protecting the maintenance site and materials against damaging influences of all kinds, cleaning of the maintenance site,
- providing suitable, theft-proof common rooms and workrooms (with heating, lighting, washing facilities, sanitary facilities) and first-aid for the maintenance personnel,
- providing materials and undertaking of other actions necessary for the adjustment of the maintenance item and performance of a contractually foreseen testing,
- providing the technical documentation in its possession (e.g. current drawings, specifications, schedules and instructions) necessary for the performance of the agreed maintenance work as well as the minute book.

4. The technical assistance by the Customer must guarantee that the maintenance may be commenced without undue delay after arrival of the maintenance personnel and may be carried out without delay until acceptance by the Customer, in particular, that the Contractor has access to the maintenance item on the agreed or, respectively, notified maintenance date. Unless otherwise agreed to, the maintenance work shall be performed during normal work hours of the Contractor. Insofar as special plans or instructions by the Contractor are necessary, the Contractor shall provide these to the Customer in due time.

5. Coordination of Maintenance Work and Repairs Work
Should repair work be performed shortly before the next maintenance work is due, the Contractor may upon agreement with the Customer, also already perform the maintenance work

on this date. In the case of such coordinated maintenance work, the Contractor shall not be entitled to invoice costs to the Customer which have been paid already with the agreed fee for the maintenance work. If the respective date of the maintenance work is agreed in the contract, this stipulation shall otherwise continue in effect without change with the exception of the above deviation.

6. Should the Customer fail to meet its obligations, the Contractor shall be entitled but not obligated, after the unsuccessful expiration of a reasonable deadline set for the Customer to perform its obligations, to undertake the actions incumbent upon the Customer in its stead and at its cost. Otherwise, the statutory rights and claims of the Contractor shall remain unaffected.

VII. Transport and Insurance with Maintenance on the Contractor's Works Premises

Insofar as it is agreed in writing that the maintenance work should be performed on the works premises of the Contractor, the following shall apply:

1. If not otherwise agreed in writing, the shipping and return shipping of the maintenance item to the works premises of the Contractor undertaken upon the request of the Customer – including any packaging and loading – shall be performed on its account. Otherwise, the maintenance item shall be delivered by the Customer at its cost to the Contractor and again picked up by the Customer at the Contractor's works premises after performance of the maintenance.

2. The Customer shall bear the transport risk.

3. At the request of the Customer, shipping and, if applicable, return shipment shall be insured at its cost against such transport risks which may be subject to insurance, such as theft, breakage, fire.

4. No insurance protection shall exist during the maintenance period on the Contractor's works premises. The Customer shall take the responsibility to maintain the existing insurance protection for the maintenance item, e.g. with regard to damage caused by fire, water, storm and machinery breakdown. Insurance protection for these risks shall be obtained only upon the express request and at the cost of the Customer.

5. In case of default by the Customer to take possession of the maintenance item, the Contractor shall be entitled to a storage fee for storage on its premises. The maintenance item may also be stored in another manner at the discretion of the Contractor. The costs and risk of storage shall be borne by the Customer.

VIII. Maintenance Time Period

1. Any statements made regarding the time periods required for maintenance are based on estimates and considered non-binding.

2. Binding maintenance time periods must be agreed upon separately in writing.

3. Any binding maintenance time period is deemed to be complied with if, up to its expiration, the maintenance item is ready to be picked up by the Customer; in the case of a contractually agreed testing, once the maintenance item is ready for the undertaking of the testing.

4. In case of subsequently granted additional or expansion contracts or additional maintenance work necessary, the agreed maintenance time period shall be extended accordingly.

5. Should the maintenance be delayed due to measures within the framework of labor disputes, in particular, strikes and lock-outs, as well as the occurrence of circumstances which are not the fault of the Contractor, insofar as such hindrances can be proved to materially influence the completion of the maintenance, an adequate extension of the maintenance time period shall occur; this shall also apply if such circumstances occur after the Contractor is in default.

6. Should the Customer incur damages as a consequence of the Contractor's default, it shall be entitled to a lump sum compensation, equaling 0.5 % of the maintenance price for each full week of the delay, but in total not exceeding 5 % of the maintenance price for the respective part of the maintenance item which cannot be used in a timely manner as a consequence of the delay.

Should the Customer set a reasonable deadline for performance by the Contractor after the due date – taking into account the statutory exemptions – and should such time period pass without performance, the Customer shall be entitled to rescind the contract within the framework of the statutory provisions. The Customer is obliged to inform the Contractor upon its request within an adequate time period whether it intends to exercise its rescission right. Additional claims due to default are determined exclusively pursuant to Section XI., No. 3 of these Maintenance Conditions.

IX. Acceptance

1. The Customer shall be obligated to accept the maintenance work as soon as it is notified of the completion of

the maintenance and any contractually foreseen testing of the maintenance item has occurred.

Should the maintenance prove not to be in accordance with the contract, the Contractor shall be obligated to remedy the defect. This shall not apply in the case that the defect is immaterial for the interests of the Customer or attributable to the Customer. In case of non-material defects, the Customer shall not be entitled to refuse acceptance.

2. Acceptance shall be deemed to have occurred if the Customer fails to accept the maintenance work within two weeks after notification of the completion of the maintenance despite being obligated to do so.

3. Upon acceptance, the liability of the Contractor for apparent defects is cancelled, insofar as the Customer has not reserved its rights regarding certain defects.

X. Retention of Title, Extended Lien

1. The Contractor retains title to all accessories, spare parts and replacement units up until the receipt of all payments from the maintenance contract. Additional security agreements may be made.

2. In respect of its claims from the maintenance contract, the Contractor shall be entitled to a lien on the maintenance item of the Customer in its possession. The lien may also be claimed due to claims from previous work, spare parts deliveries and other performances, insofar as connected with the maintenance item.

The right of lien shall only exist for other claims from the business relationship insofar as these are undisputed or have final, res judicata effect.

XI. Defect Claims

1. After acceptance of the maintenance work, the Contractor must remedy defects of the maintenance, under exclusion of all other claims of the Customer, but without prejudice to provisions pursuant to Sections XI. No. 4 and XII.. The Customer shall give notice to the Contractor of determined defects without undue delay in writing.

2. The Contractor shall not be liable if the defect is immaterial to the interests of the Customer or attributable to the Customer. In addition, the Contractor shall not be liable if the claimed defect was caused by parts provided by the Customer or by improper alterations or repair work undertaken without the prior consent of the Contractor by the Customer or third parties. Only in urgent cases where operational safety is endangered and to avoid disproportionately large damages (with the Contractor to be notified immediately) or if the Contractor has allowed a reasonable deadline to remedy defects to pass, shall the Customer shall have the right within the statutory provisions to remedy the defect itself or to have such remedied by third parties and to demand the reimbursement of the costs necessary therefor from the Contractor.

3. Out of the direct costs accruing from the remedy of the defects, the costs of the replacement item including shipment shall be borne by the Contractor, insofar as the objection is shown to be justified. In addition, the Contractor shall bear the costs for the disassembly and installation as well as the costs for the necessary furnishing of necessary filters and assistants including travel costs, insofar as no unreasonable burden on the Contractor shall occur hereby. The subsequent performance shall occur, at the option of the Contractor, either at its own premises or by means of return shipment of the maintenance item in exchange for reimbursement of the shipment costs or by remedy of the defect at the site of use of the maintenance item.

4. Should the Contractor allow a reasonable deadline period within which to undertake the remedy of the defect to pass – taking into account the statutory exemptions – without remedying the defect, the Customer shall have a right of reduction of the price within the framework of statutory law. Only if the maintenance despite the reduction is verifiably useless for the Customer, the Customer may rescind the contract.

XII. Liability of the Contractor, Preclusion of Liability

1. The liability of the Contractor for damages, regardless of the legal grounds, in particular, due to impossibility of performance, default, defective performance, breach of contract, breach of obligations with contractual negotiations and tort, is excluded.

In addition to direct damages to the maintenance item this exclusion of liability shall also encompass any consequential, incidental or indirect damages, such as in particular, but not limited to damages for loss of use or loss of production due to defects of the maintenance item, lost profits, lost turnover, costs of experts, frustrated expenses (e.g. costs for the disassembly and reassembly caused by a defect of the maintenance), costs for replacements, legal liabilities to pay compensation pursuant to an on-sale of the maintenance item.

2. Insofar as the Contractor gives technical information or acts as adviser and such advice or information is not within the scope of the contractual obligations of the Contractor, this shall occur at no charge and under exclusion of any and all liability.

3. In particular the Contractor shall not be liable according to No. 1 of this Section XII. in case of ordinary negligence of its company organs, statutory representatives, employees or other vicarious agents, insofar as such does not concern damage from the culpable breach of a material contractual obligation. In the

case of culpable breach of a material contractual obligation, the Contractor shall also be liable in the case of gross negligence of non-management employees and with ordinary negligence; in the latter case limited to damage which is typical for this type of contract and reasonably foreseeable.

4. The aforementioned limitations of liability of this Section XII. shall not apply to the liability of the Contractor

- insofar as the Contractor maliciously fails to disclose a defect of quality or assumed a guarantee for the quality,
- or claims according to the German Product Liability Act (*Produkthaftungsgesetz*),
- for damages due to culpable injury to life, limb and human health,
- for damages based on wrongful intent, or
- in the event of gross negligence of its company organs or senior executives.

Further claims by the Customer against the Contractor are excluded.

XIII. Contract Term / Termination

Unless otherwise agreed to in writing, each maintenance contract shall be concluded for a term of one year and shall be extended respectively by one additional year if not terminated in writing at the latest two months prior to expiration of the respective term.

In addition to the afore-mentioned specific termination grounds, each party shall be entitled, in the case of a material breach of contract by the respective other party, to immediate termination of the contract insofar as the breach is not eliminated within a deadline of 30 days after dispatch of a respective written demand therefor. The termination is to be made in writing. The right of termination for cause shall remain unaffected.

XIV. Statute of Limitations

All claims of the Customer – regardless of the legal grounds – shall become time-barred after 12 months. The statutory statute of limitation periods shall apply for damage claims pursuant to Section XII., No. 3 hereof. Should the Contractor perform the

maintenance work on a structure and cause its defectiveness thereby, the statutory statute of limitation periods shall also apply.

XV. Reimbursement by the Customer

Should the equipment or tools on the maintenance site be damaged or lost without the fault of the Contractor during maintenance work outside the premises of the Contractor, the Customer shall be obligated to reimburse such damage. Damages caused by normal wear and tear shall not be taken into account.

XVI. Applicable Law, Jurisdiction

1. All disputes between the Customer and the Contractor arising out of or in connection with these Maintenance Conditions and agreements concluded on the basis thereof shall exclusively be governed by the law of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of Goods dated April 11, 1980 (UN Sales Law, CISG).

2. The place of jurisdiction for all disputes arising out of or in connection with these Maintenance Conditions shall be – as far as legally permissible – the court responsible at the registered office of the Contractor. The Contractor shall be entitled, however, to file actions at the courts having jurisdiction at the headquarters of the Customer.

3. Should a provision of these Maintenance Conditions be or become invalid, void or unenforceable, the legal validity or the enforceability of all other provisions of these Maintenance Conditions or other agreements shall remain unaffected thereby. Invalid, void or unenforceable provisions of these General Terms and Conditions of Maintenance shall be deemed to be replaced by such valid and enforceable provisions which come as close as possible to the commercial purpose of the cancelled regulation.

Obernkirchen, in April 2009