



- ◊ **Wartungen**
- ◊ **Versorgungstechnik**
- ◊ **chemische Anwendungen**
- ◊ **Wasser- u. Hygienetechnik**

General Terms and Conditions of Lutz Wartungen

General Installation and Service Conditions as per 02/2014

1. Applicability of Conditions

1.1 Installation, maintenance and cleaning as well as all future performances of Lutz Wartungen (hereinafter referred to as Lutz) are exclusively performed on the basis of the following terms and conditions. Deviating terms and conditions are invalid; this is also the case without our expressed objection; these are only applicable if they are accepted by us on an individual basis.

1.2 All agreements between us and the client for the purpose of the execution of this contract are laid down in writing in this contract.

1.3 Invalidity of individual stipulations does not affect applicability of these Terms and Conditions in any other respect.

2. Power of Representation of Lutz Employees

Verbal agreements before and on conclusion of contract with Lutz employees, in as far as these are not furnished with the appropriate legal power of representation, require written confirmation by Lutz in order to become effective. After conclusion of contract any verbal amendments and additions require a written confirmation by Lutz.

3. Quotation and Documentation

3.1 Our quotations are subject to change. The contract only becomes effective with our written order confirmation. The type and extent of our performance is exclusively determined by our written order confirmation.

3.2 We retain all intellectual property rights and rights of ownership in regards to any pictures, drawings, cost estimates, drafts and any other documentation; these can only be made available to third parties and copied with our consent. Drawings and other documentation which are part of our quotation are to be returned to us on request and always in those cases that we are not awarded the order.

4. Remuneration and Working Time

Remuneration of our services is calculated according to the following conditions:

4.1 Wage Costs and Working Time

4.1.1 Wage Costs

Hours worked during the normal working times on work days within the scope of standard weekly working hours are charged net on the basis of Lutz' charge rates valid at the time of conclusion of contract.

4.1.2 Installation Surcharges

For work performances under difficult circumstances – in particular in hot or cold or very small rooms, at very dirty installation sites or on piping containing chemicals are charged net on the basis of Lutz' charge rates valid at the time of conclusion of contract. This also applies to surcharges for hazardous conditions and difficult working conditions during cleaning works.

4.1.3 Overtime Charges

Overtime hours as well as working hours performed on Sundays and public holidays are charged net at the Lutz' surcharge rates valid at the time of conclusion of contract as indicated under point 4.1.1 and 4.1.2.

4.1.4 Working Times

Preparation, time spent travelling, maintenance, waiting times and journey times to and from the site are deemed working times and are charged for accordingly.

4.1.5 Delay

Additional expenses incurred by delays caused by the client – in particular additional expenses for travel and waiting time – are charged separately, this also applies to agreed flat rate demand charges.

4.1.6 Confirmation of Working Time

The client shall confirm the working times performed by the Lutz employees in writing on the service report. The invoices issued by Lutz are generally based on the service report filled in by the Lutz employees and are binding for both parties



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4.2 Travel Costs

4.2.1 Travel costs incurred by the employee's travel from the respective employee's place of residence or his / her last place of work to the place of performance at the clients' premises and return and also costs incurred by the daily trips from the place of accommodation to the place of performance are charged as travel costs.

4.2.2 In the case of motor vehicles being used, the Lutz charge rate valid at the time of conclusion of contract is invoiced at a per kilometre rate.

4.2.3 In the case of travel by [German] train services the costs for first class tickets are billed for engineers and chemists, the costs for second class tickets – plus surcharges - are invoiced for all other employees. Necessary plane travel is charged at the costs incurred. The transport costs for personal luggage as well as the accompanying work equipment and transport insurance are deemed part of travel costs.

4.2.4 The means of travel and transport is always chosen at the discretion of Lutz.

4.3 Costs for Accommodation and Sundry Costs

4.3.1 The client will be invoiced for the accommodation costs. Overnight stays will be charged as a flat rate on the basis of the Lutz current charge rates. The choice of appropriate accommodation is exclusively at the discretion of the Lutz employees.

4.3.2 Additional expenditures in connection with work performance of the Lutz employees for telephone, postage and similar are invoiced separately.

5. Client's Obligations

5.1 The client shall ensure in due time that all conditions are met at the place of performance that are necessary for work performances by Lutz without delay and under appropriate working conditions. In particular the client shall at their cost make available the necessary assistant staff, heavy tools and equipment (scaffolds), supplies, sanitary installations and containers for disposal of installation and packing material.

5.2 The client shall take the measures necessary in order to protect the Lutz employees and items in the property of Lutz, Lutz shall be informed of existing safety rules. An employee of the client has to be present during work performances outside the company working hours.

5.3 The client shall also make suitable temperature controlled break and work rooms available for the Lutz employees as well as suitable lockable rooms for storage of the tools and other work equipment that these brought with them.

5.4. Lutz is entitled to discontinue works and claim resulting damages should the client breach the obligations stated above.

6. Costs of Material

6.1 The material necessary for the respective works will be – in as far as it is not already itemized on the order confirmation – invoiced on the basis of the material slip drawn up by the Lutz employees. This is binding for both parties and shall furthermore be signed by the client.

6.2 Costs of material and the cost for use of special work tools of Lutz are calculated on the basis of the Lutz charge rates valid at the time of conclusion of contract.

7. Acceptance of Work Performances

The taking into operation of the works by the client as well as the absence of complaints of the client during the period of two weeks after completion of our works constitute acceptance of our work performances. Apart from that the statutory provisions for acceptance apply.

8. Invoicing and Terms of Payment

8.1 Works are generally invoiced after completion, however, Lutz retains the right to issue interim invoices and to demand part payments before completion.

8.2 The calculation is based on the Lutz charge rates valid at the time of conclusion of contract.

8.3 If not agreed otherwise in writing, all payments by the client are to be effected in Euros.



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8.4 Our invoices are due immediately and without deductions within 14 days after date of invoice, unless offered in deviation of this. We charge the client 3.00 EUR per reminder – with the exception of the first reminder which constitutes formal default. The client, however, has the right to show that we suffered no damages or that the damages we suffered were considerably lower. We retain the right to claim further damages.

8.5 A credit note for bills of exchange and cheques is only issued under the condition of the full amount being received in the correct manner. We retain the right of presenting third party or client's own acceptances for discount. Costs and discount charges are to be borne by the client. We do not assume any responsibility for presentation and protest. If the client's own bills of exchange are protested or if protested third party bills of exchange are not covered immediately, we have the right to return all other outstanding bills of exchange. At the same time all amounts outstanding become due immediately. We do not accept predated cheques.

8.6 Payment is only deemed as made when we have the amount due at our disposal. The risk of the method of payment shall be borne by the client. If the client is in default of payment, we have the right to claim interest to the amount of 8 percentage points above the base rate of the European Central Bank from companies and 5 percentage points above the base rate of the European central bank from consumers for the duration of the default. The right to claim further damages remains unaffected.

8.7 If after conclusion of contract we become aware of circumstances which put the client's credit worthiness into question, in particular if a cheque or a bill of exchange is not honoured, we have the right to declare all remaining outstanding amounts as due, even if cheques or bills of exchange have been accepted, and also to make all future performances of this contract or other contracts dependent on the advance provision of securities or on each delivery being matched by payment.

If the client does not meet our demand for advance payment or for provision of a security within the appropriate time as set by us, we have the right to withdraw from the contract and to invoice the client for all costs incurred until that point in time including loss of profit.

8.9 The client is only entitled to offset payments, if his counter-claim is not contested by us or if it has been legally determined. If the client is a company, this also applies to the withholding of payments.

8.10 Payment only has discharging effect if made to the account stated on our invoice and as well to employees of our company who have been given authority for collection.

9. Warranty for Work Performances

9.1 Statutory period of warranty applies to building work performances. For all other work performances the warranty period is one year after acceptance of work performance. The statutory warranty period applies to claims derived from damages arising from injury to life, body or health that we, our legal representative or vicarious agent are responsible for. The client only has a right to claim damages for guaranteed characteristics, if it was the purpose of the guarantee to afford the client protection from the said damage incurred. Other claims for damages derived from warranties are excluded, with the exception of claims arising from injury to life, body or health that we, our legal representative or vicarious agent are responsible for, if we, our legal representative or vicarious agent are guilty of minor negligence, unless this constitutes foreseeable, typical damages due to material default; not excluded are claims for damages if we, our legal representative or vicarious agent acted with intent or were grossly negligent.

9.2 We are not responsible for defects caused by damages outside our premises due to incorrect handling or handling not in keeping with the conditions of the contract. We are also not responsible for defects if these are caused by the client's incorrect information, in particular incorrect layouts or incorrect technical details.

9.3 Furthermore the following conditions apply to cleaning works:

9.3.1 Warranties according to German Construction Contract Procedures [VOB] do not apply to cleaning works as these are technical performances and not construction works.

9.3.2 We expressly point out that an inspection of the surfaces of the steel components and of the piping underneath the sediment layer is not possible. There is the possibility of pitting corrosion and oxidation. Therefore, leakages may occur and cleaning fluid might flow out during the cleaning process. Claims arising from these damages are excluded, with the exception of claims arising from injury to life, body or health that we, our legal representatives or vicarious agent are responsible for, if we, our legal representative or vicarious agent are guilty of minor negligence, unless this constitutes foreseeable, typical damages due to material default; not excluded are claims for damages if we, our legal representative or vicarious agent acted with intent or were grossly negligent.



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10. Limitation of Liability

Claims for damages against us, our legal representatives, vicarious agent and sales employees arising from torts and breach of duty are excluded in all cases, with the exception of claims arising from injury to life, body or health that we, our legal representative or vicarious agent are responsible for unless these constitute foreseeable, typical damages due to material default or the damages were caused by intent or grossly negligent breach of duties by us, our legal representative or vicarious agent. Claims arising from the German Product Liability act remain unaffected by this exclusion of liability.

11. Applicable Law and Jurisdiction

11.1 All claims arising from the business relationships are exclusively governed by the Law of the Federal Republic of Germany.

11.2 In as far as the client is a merchant, a corporate body under public law or separate estate under public law we chose Goepingen as the place of jurisdiction. This place of jurisdiction, which is also particularly relevant for default action, is also the place of jurisdiction for disputes about the beginning and validity of the contractual relationship. However, we have the right to also instigate court action against the client at the client's place of jurisdiction. If the client's registered place of business is outside the Federal Republic of Germany, we also have the right of choice to have a dispute arising from this contract and its validity decided with final effect in accordance with rules of conciliation and arbitration of the International Chamber of Commerce, Paris, by one or more referees appointed in accordance with rules of arbitration under exclusion of ordinary court procedures. The court of jurisdiction shall in keeping with our choice be registered in Goepingen.