HESSER
PACKAGING

General Terms and Service Conditions

1. Scope of validity

These Conditions exclusively apply to work undertaken in connection with all services rendered, for training, for modification work and modernisations of machinery and equipment as well as for the delivery of spare parts and software (hereinafter generally "Services") by Hesser Packaging GmbH (hereinafter "Contractor").
They add to any specific provisions, however, any changes or additional agreements, including this clause, are only valid if made in writing.
Deviating purchasing conditions of the customer (hereinafter "Customer") are expressly rejected; these do not become part of the contract upon Contractor's acceptance of Customer's order.

2. Scope of Services

The Scope of Services results from the Contractor's order confirmation and the work report of the field service personnel.

3. Pricing for Services rendered

Unless otherwise expressly agreed, the Service works shall be invoiced according to the time spent and material used on the basis of the Contractor's rates.
The Customer shall certify the performance by signing the respective reports. If the Customer refuses to grant certification without reason, by authorized personnel or if it is not granted in due time, the entries of the Contactor's personnel shall serve as a basis for calculation.
Travelling time as well as a reasonable amount of preparatory time and winding up time after the journey, which is necessary for compliance with the contractual conditions, is deemed to be working time.
In regard to orders via the Internet (E-Portal) all prices indicated are nonbinding for the Contractor. They can be changed by the Contractor anytime and without prior notice. The prices quoted do not include freight, postage and packing.

All prices are net of any value-added, sales, use taxes or similar taxes, levies, duties, governmental assessments of any nature, assessable by any authority whatsoever including any surcharges and surtaxes thereto ("Indirect Taxes" or, in singular form, "Indirect Tax"). Furthermore, all prices are expressed net of any income taxes, or similar taxes, levies, duties, governmental assessments, assessable by any authority whatsoever (including any surcharges and sur-taxes thereto) and to which the Contractor is the taxable person ("Direct Taxes" or, in singular form, "Direct Tax").Such Indirect Taxes or Direct Taxes shall be borne by the Customer in addition to the prices outlined in this agreement, if applicable.
The parties will take best efforts to cooperate in tax matters. In particular, but without limitation, each party will promptly inform the other party in writing of any event or situation that affects the tax position of the other party.
If any delays in the consummation of this contract caused by the Customer lead to an in-crease of any taxes, levies, duties, governmental assessments, assessable by any authority whatsoever to which the Contractor is the taxable person, the Customer shall bear, and to the extent possible hold the Contractor harmless of, any such taxes, levies, duties, govern-mental assessments in addition to the prices agreed in this agreement.
The price was determined upon conclusion of the contract based on the current "GP19-28 Maschinenbauerzeugnisse"-index (source: VDMA [Association of German Machinery and Plant Manufacturers, Engineering Products], contact: service-team@vdma.org). The initial value is the index figure as at the date of the conclusion of the contract. Should this index deviate by more than 3% from the initial value on the final invoice date, the parties shall negotiate a corresponding appropriate price adjustment.

The displayed delivery times correspond to the approximate time schedule and are therefore not binding; they do not include the time for transportation to the Customer. The planned delivery time is quoted by way of order confirmation.

4. Plans, technical documentation and software

Data provided in technical documents are only binding in so far as having been expressly stipulated as such.
Each party to the contract retains all rights to technical documents provided to the other. The party receiving such documents recognises these rights and shall not make these documents available to any third party, either in whole or in part - except if with previous written consent of the other party, nor use them for purposes other than those for which they were handed over.
The Customer is not entitled to claim any detail or assembly drawings.

5. Obligations of Customer and technical assistance

The Customer shall take all necessary measures to protect persons and material on the installation site. The Customer and the Contractor shall each appoint a responsible representative (technical supervisor) to keep connected and to coordinate the work. The Customer shall inform the technical supervisor of the Contractor about specific safety regulations if they are relevant for the service personnel. He also informs the Contractor about any breach of such regulation by his service personnel. In case of severe breaches, the Customer may in agreement with the Contractor refuse access to the installation site in regard to the person in breach. The Customer shall call attention to any special dangers for the Contractor or its personnel in performing the contractual obligations.
The Customer is obliged to provide technical assistance at his own expense, especially to :

- Provide the necessary and sufficient number of qualified personnel during the time of the service works; the personnel has to follow the instructions of the technical supervisor. For safety reasons, a staff member of the Customer has to be present when service work is performed outside normal working hours. The contractor does not assume any liability for personnel of the Customer. However, in case of damages by any staff as result of instruction of the technical supervisor the subsequent provisions on warranty and liability in these Conditions shall apply.
- Perform all ground-, construction-, rescue and scaffolding work including procurement of necessary construction material. Any foundations have to be measured, approved and sufficient load bearing capacity.
- Provide necessary cranes and elevators, transport vehicles and tools as well as the further items and materials needed (for example wedges, mats, cement, plaster and sealing material, grease, fuel…).
- Provide heating, light, electricity, water including necessary connections.
- Provide necessary, dry and closable rooms for storage of tools of the service personnel and for high-value machine parts.
- Transport mounting parts on the installation site, protection of the installation site and -materials against any damaging influences, clean installation site and arrange for suitable access ways.
- Provide suitable, theft proof working and recreation rooms (with heating, lights, sanitary facilities) and first aid for the service personnel.
- Provide materials, arrange suitable conditions and take any further necessary precautions to enable the adjustment of the Service items and to test the equipment.

The technical assistance of the Customer shall ensure the begin the service work at the arrival and perform the service work without delay or interruption.
Should the Customer not fulfil his obligations, the Contractor is – after notification entitled but not obliged to remedy such deficiencies himself at the expense of the Customer. Any further rights provided by law or other claims of the Contractor remain unaffected, namely all costs incurred (e.g. waiting time, return journey) have to be borne by the Customer.

6. Time Schedule

Any indications in regard to completion and delivery time are based on estimations and therefore not binding.
A time-limit for completion is only binding if expressly agreed upon in writing. However, such an agreement is only possible after the scope of the Services has been determined.
Any binding time-limit for performance shall be suitably extended :

- if the instructions required by the Contractor to carry out the Service Works are not provided in good time, or if the Customer subsequently changes such instructions; or
- If the Customer does not comply with his contractual obligations, in particular if he does not comply with his duties regarding technical assistance (paragraph 5) or with the terms of payment on time and in the proper manner
- In the case of circumstances beyond the control of the Contractor; such as the threat or actuality of mobilization, war, civil war, rioting or sabotage, as well as labour disputes, accidents, illnesses, late or incorrect deliveries of necessary materials, actions or omissions by local or state authorities, unforeseeable transportation hindrances, fire, explosion, or natural incidents.

If a binding time-limit for performance has been agreed upon and this time-limit is not complied with due to circumstances which are solely the responsibility of the Contractor, the Customer may, provided he has suffered damage, after a grace period of 14 days claim payment of compensation for damage resulting from delay amounting to 0.5% per additional completed week up to a maximum of 5%. The amount of the compensation is calculated from the price of the Contractor's work for that part of the Services, which cannot be commissioned at the proper time due to the said delay. Further rights and claims in respect of delay, in particular for damages, are excluded. Compliance with the time-limits is subject to timely self-delivery to the Contractor by its suppliers and subcontractors. The Contractor shall inform the Customer as soon as possible of any delays that become apparent.

7. Acceptance

As soon as the Customer is notified that the Services are ready for acceptance, it shall be inspected by the Customer or his appointed representative in the presence of both parties. Any deficiencies are to be reported immediately in writing to the Contractor. If the Customer fails to do so, the Services shall be deemed to have been accepted.
In case of a non-material deficiency, the Customer is not entitled to refuse acceptance, if the Contractor expressly acknowledges his duty to remedy such deficiency.
If the acceptance is delayed due to no fault of the Contractor, the acceptance is deemed to have been obtained after two weeks from notification of completion of the Services or with the restart of commercial production at the latest.
As from acceptance, there is no warranty or liability for any apparent deficiency anymore except if the Customer has reserved the right to claim a specific deficiency. As far as necessary to perform the acceptance test as well as to make the ready-for-use adjustments of the relevant equipment, the Customer has to provide at his own expense personnel, energy, grease, water, fuel and any further materials.
In case no formal acceptance is agreed upon, the date of completion notification by the Contractor or in case of spare parts deliveries the receipt by Customer without immediate notification of defects shall apply instead.
The formal acceptance is effected by an acceptance report signed by both parties.

8. Risk of damage or loss, Ownership

The Customer shall bear the risk of damage or loss for the material to be installed during a necessary transport or storage and during performance of the Services as well as for the tools, equipment and materials provided by him, even if the Services are performed at the premises of the Contractor. The Contractor shall be entitled to claim the agreed remuneration less savings even if the Services have perished or have been damaged by no fault of the Contractor. The same applies in case of impossibility of performance.
Unless otherwise agreed, replaced parts remain the property of the Customer. The costs for proper disposal or replaced parts as well as for incidental consumable materials (e.g. oil, gas, dust etc.) are the responsibility of the Customer.
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9. Warranty

The Contractor warrants for a period of twelve months after acceptance or completion of the Services and in accordance with the following provisions that the work has been carried out in a workmanlike and careful manner.
As for spare parts, the warranty period of twelve months is calculated from the commissioning date, but expires after 18 months from delivery by the Contractor at the latest.
Should the Services be interrupted due to the reasons quoted in paragraph 6, the warranty period for the work completed before the interruption commences at the latest three months after the beginning of the interruption.
The warranty period is terminated in all cases three years after the agreed commencement of Services latest.
Any deficiencies in the Services detected during the warranty period shall be remedied free of charge. Deficiencies of spare parts are at the choice of the Contractor remedied by way of either repair or replacement. Any removal of defects are performed provided that such

deficiencies are notified to the Contractor in writing immediately upon their discovery. However, there is no warranty obligation of the Contractor, if a deficiency is of no material interest of the Customer or if it results from circumstances in the responsibility of the Customer.
The Contractor shall only be responsible for deficiencies related to the work performed under his supervision by the Customer's personnel or those of a third party, if it can be proven that such deficiencies are attributable to the fact that the Contractor's personnel has acted with gross misconduct in the course of instruction or supervision.
The warranty obligation of the Contractor is only applicable for deficiencies that emerge under ordinary operating conditions and proper usage. There is no warranty obligation of the Contractor for deficiencies resulting from faulty or missing maintenance, faulty operation or installation by the Customer or as result of modifications at the serviced equipment without previous written permission of the Contractor, badly performed repairs by the Customer or third parties or due to normal wear and tear. Furthermore, there is no warranty obligation if the Customer does not immediately take suitable measures to reduce the possible damage.
For work carried out under warranty, the Contractor shall provide warranty to the same extent as for the original work but not beyond the warranty period of the latter.
Any claims and rights relating to deficiencies other than those specified under paragraph 9 are excluded.

10. Liability

The Contractor shall be liable to the Customer only for such property damage which his personnel has caused in unlawful intent or gross negligently during the preparation or execution of the Services or during the remedying of any deficiencies. The total liability of the Contractor shall be restricted to the amount of the agreed amount for remuneration of the Services.
The Contractor shall only be responsible for material damages related to the work performed under his supervision by the Customer's personnel or that performed by a third party, if it can be proven that such deficiencies are attributable to the fact that the Contractor's personnel has acted with gross negligence over the course of instruction or supervision.
Any further claims by the Customer, in particular for compensation of Indirect damages as for example loss of production, loss of efficiency, loss of purchase orders, loss of profit, or compensation for damages of any kind, regardless of their legal basis, shall be excluded.
This exclusion of liability, however, does not apply as far as it is contrary to compulsory law.

11. Indemnification obligation of the Customer

The Customer shall indemnify the Contractor for any damages or losses to his de- vices or tools that occurred by no fault of the Contractor on the installation site of the Customer. This does not apply for damages due to normal wear and tear.

12. Terms of payment

Unless otherwise agreed, price and costs are invoiced monthly and are payable by the Customer within 30 days from the invoicing date. The Contractor reserves the right to partly or completely require an advance payment of the presumed amount.
The payment obligations of the Customer are fulfilled if payment is effected in accordance with the specifications as set forth in the invoice without deductions of any kind (e.g. discount, expenses, taxes, fees).
The Customer is not allowed to withhold, reduce or recalculate payments because of complaints, claims or counterclaims by the Customer not accepted by the Contractor.
If the Customer fails to effect payment on the agreed dates, he shall - under the proviso of other rights being claimed and without formal notice - be liable to pay interest on the overdue amount(s) from the date due at a rate of 7% p.a. Payment of default interest shall not release the Customer from paying the sums due under the terms of the contract.

13. General

Without written permission of the Contractor, the Customer is not allowed to employ the Contractor's personnel for work which does not form part of the contract.
When assigning the service personnel of the Contractor, the Customer has to observe the applicable local labour law. If necessary, any approvals of exemptions by the competent authorities have to be obtained in writing by the Customer in advance.
The service personnel is not entitled to make any arrangements in the name of the Contractor.
Within the scope of our quality assurance and improvement measures, project specific satisfaction surveys may be carried out. Participation in these surveys is voluntary.

14. Severability clause

Should any provision herein prove to be ineffective, this shall not affect the validity of the remaining conditions. The parties agree to replace any non-valid condition by new a new one, which is consistent as far as possible with the legal and economic objective of the contract.

15. Anti-Corruption Clause

Each Party represents that it will not, directly or indirectly, pay, offer, grant, promise or give, or authorize the payment or grant of, any money or thing of value to any person or entity for the purpose of unlawfully or improperly effecting any decision or obtaining or retaining any business or benefit in connection with this Agreement.
Customer agrees to promptly notify Contractor in writing if at any time Customer becomes aware that its aforementioned representation is no longer accurate. Customer shall promptly notify Contractor of any known or suspected breach of the foregoing representation.
Contractor may terminate the contract without notice if it is proven that Customer has breached any of his obligations under this section 15.
In the event of a termination in accordance with clause 15, the Customer is excluded from raising a claim for any damage or other rights on account of the termination.

16. Export control clause

The supplies and services (the performance of the contract) are subject to the proviso that performance is not opposed by national or international export control regulations, in particular by embargoes or other sanctions. The Customer shall provide all information and documents that are required for export or shipment. Any delays due to export inspections or authorization procedures shall suspend the time limits and delivery times. If any requisite authorizations are not granted or if the supply or service is not able to be authorized, the contract applies as being not concluded in relation to the parts affected.

The Contractor is entitled to terminate the contract without notice, if termination is required for the purpose of complying with national or international legal regulations.

In the event of a termination in accordance with clause 16 the Customer is excluded from raising a claim for any damage or other rights on account of the termination.

When passing on the supplied goods (hardware and/or software and/or technology and the relevant documents, independently of the manner in which they are provided), or of work, and services provided by the supplier (including technical support of any kind) to third parties domestically or abroad, the Customer shall comply with the applicable regulations of the national and international (re-) export control legislation.

The Customer is obligated to immediately present any documents that are required to fulfill the official requirements.

17. Export ban into the Russian Federation and Belarus

(1) The Customer shall not sell, export or re-export, directly or indirectly, to the Russian Federation or for use in the Russian Federation any goods supplied under or in connection with this contract that fall under the scope of Article 12g of Council Regulation (EU) No. 833/2014, Article 8g of Council Regulation (EU) No. 765/2006, Article 14f of the Ordinance imposing Measures in Connection with the Situation in Ukraine (SR 946.231.176.72) or Article 11a of the Ordinance imposing Measures on Belarus (SR 946.231.116.9).
(2) The Customer shall undertake its best efforts to ensure that the purpose of paragraph (1) is not frustrated by any third parties further down the commercial chain, including by possible resellers.
(3) The Customer shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including by possible resellers, that would frustrate the purpose of paragraph (1).
(4) Any violation of paragraphs (1), (2) or (3) shall constitute a material breach of an essential element of this contract, and Contractor shall be entitled to seek appropriate remedies, including, but not limited to
(i) termination of this contract; and/or
(ii) a penalty equivalent to the yearly remuneration of the Services and the Additional Add-on Services exported.
(5) The Customer shall immediately inform the Contractor about any problems in applying paragraphs (1), (2) or (3), including any relevant activities by third parties that could frustrate the purpose of paragraph (1). The Customer shall make available to the Contractor information concerning compliance with the obligations under paragraph (1), (2) and (3) within two weeks of the simple request of such information."

18. Force majeure

Each party is entitled to suspend the performance of its contractual obligations to the extent that such performance is made impossible or unreasonably difficult through no fault of its own due to circumstances beyond the reasonable control of the seller (or its suppliers) or buyer, such as a fire, armed conflicts, war, general mobilization, insurrection, requisition, confiscation, embargo, pandemic, epidemic, restrictions on energy consumption , industrial actions, supranational supply chain disruptions and defective or delayed deliveries by subcontractors on account of the circumstances listed in this clause. The right to discontinue contractual duties also applies to to further circumstances beyond the control of the Contractor.

A party to the contract that pleads force majeure shall inform the other party to the contract immediately and in writing of the occurrence and of the end of such circumstances. If force majeure hinders the Customer from performing its contractual duties, it shall compensate the Contractor for any costs incurred for the purpose of security and for the protection of the plant.

Notwithstanding all effects defined in these Conditions, each party to the contract has the right to withdraw from the contract by providing notice in writing to the other party, if the discontinuation of performance of the contract due to force majeure will last longer than six months. In this case the Contractor shall be reimbursed with the costs incurred by it up to that point in time (in particular the materials, working hours, supply contracts).

19. Place of jurisdiction and applicable law

The material law of Switzerland, subject to exclusion of the conflict of laws provisions and provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall exclusively apply for all legal relations between the Contractor and the Customer.

All disputes arising out of or in connection with this Agreement shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The seat of arbitration shall be Schaffhausen, Switzerland.