

## Galenuswerk Rees GmbH

### General Terms and Conditions for Installation and Repair Work, domestic and abroad

#### I. Scope of validity

These General Terms and Conditions for Installation and Repair Work, domestic and abroad, apply to installation work, servicing, commissioning tasks, and conversions. They supplement the General Terms and Conditions of Sale for Domestic and Foreign Transactions of Galenuswerk Rees GmbH (hereinafter also referred to as "Galenuswerk" or the "contractor"), inasmuch as nothing to the contrary has been agreed in writing. The individual installation performances are set out in the specifications stipulated in a separate document. Any subsidiary agreements and changes must be made in writing.

#### II. Price of installation

1. The performances rendered will be charged for according to the actual time and costs accrued, if nothing to the contrary has been expressly agreed. Our current installation cost rates apply.
2. The amounts agreed herein are to be understood as amounts net of value-added tax or any other comparable local sales taxes; these must be compensated additionally in the respective statutory amounts.
3. All public holiday regulations and any other regulations concerning any work carried out on public holidays and Sundays, as applicable at the respective installation site, shall apply.
4. The agreed field allowance must not only be paid for each working day but also for such days on which the service engineer must be present at the installation site in connection with his work. However, during a possible hospital stay at the installation site this field allowance will be reduced by 70%, plus any accommodation costs that may possibly continue to have to be paid.
5. Travel expenses will be charged for both the outward and the return journey, and will be based on the most suitable method of transport in each case (e.g. by rail, air, road, sea etc.). Freight charges for installation tools and other incidental expenses as well as all cash expenditure connected with travel (insurance, left-luggage fees, taxi fares etc.) are levied on the same basis. If the service engineer cannot be lodged in accommodation near the site of installation, any additional travel expenses between the site of installation and such accommodation must be appropriately reimbursed on site by the customer.
6. Home leave
  - a) Following a four-week period of uninterrupted work at the installation site, our service engineers are entitled to a period of home leave, if the site of installation is located no less than 180 km away from the domestic residence of the service engineer. Such periods of home leave must be arranged in a way that the service engineer has 3 clear calendar years free in addition to the days spent travelling. The cost of travel to and from home leave will be charged to the customer. The free days will not be charged for.
  - b) One such return trip for home leave each should be scheduled for Christmas, Easter, Whitsun and the start of the annual holiday. The other periods of home leave are respectively to be taken in connection with a Sunday and public holiday.
  - c) Additional home leave is to be granted in the event of the death of a parent, parent-in-law, child, sibling and co-habiting spouse, or in the event the wife gives birth.
  - d) In the cases corresponding to Sec. II. 6. a), b) and c) the customer must bear the travel expenses and the field allowances during the journey home (Germany) and back to the site of work.
  - e) In the case of installations in any countries outside of Europe, appropriate special agreements can be concluded.
7. All costs caused by accidents or illness at the site of installation, including any travel expenses for the journey/transport home, will be borne by the customer. Time periods spent seeing medical doctors including the corresponding journey times at the site of installation will be charged for as working time.
8. Settlement of accounts
  - a) The accounts for installation hours and field allowance(s) will be settled on completion of the installation; however, in the case of installation operations taking longer than one month, at the latest respectively to the end of the month by means of partial invoices.
  - b) The customer shall individually confirm the daily working hours performed by our service engineers using a form sheet to be presented by the respective service engineer; this provides the basis for the statement and settlement of accounts.
  - c) Installation invoices are always payable immediately in cash and without any deductions, even if different terms and conditions of payment apply in respect of any materials supplied.
  - d) Voluntary payments in cash and in kind by the customer to our service personnel, that had not been agreed with us

expressly and in writing, cannot be taken into account in the settlement as reducing the remuneration payable.

9. Flat-rate price
  - a) In the case of installations at flat-rate prices the cost estimate comprises all work to be carried out in accordance with separate specifications in writing. However, if the duration of any such installation is extended due to any circumstance whatsoever, or if any additional expenditure is required, for which in either case the customer or one of his subcontractors is responsible, and if this causes the work of the service personnel to be interrupted or prolonged, then any such waiting periods, additional working time, all accommodation and related expenses as well as any additional travel costs incurred by our service personnel will be invoiced separately.
  - b) 1/3 of the flat-rate price is due when installation commences, another third on expiry of the first half of the planned installation period, the remainder on completion of the installation.
  - c) The flat-rate installation prices are increased by the value-added tax in the respective statutory amount.

#### III. Service personnel

1. The number, qualification and composition of the service personnel will be adapted appropriately by us in accordance with the respective requirements.
2. Our service engineers are not authorized to make or receive any legally binding statements on behalf of Galenuswerk. For this reason, agreements shall be effective only if they are confirmed in writing by a Galenuswerk employee with authorization to represent the company.
3. Orders for materials or requests for additional personnel given orally to service engineers shall only be binding for us if such orders or requests are communicated to us by the customer and subsequently confirmed by us in writing.

#### IV. Work conditions

1. The customer must take all specific measures necessary for the protection of persons and property at the site of installation. Customer and contractor shall each designate in writing a responsible representative; these representatives have the task to keep in touch with one another during the execution of the current work tasks and to coordinate the same (hereinafter referred to as "Site Managers"). The customer must also inform the contractor's Site Manager about any specific safety regulations if these are of any significance for our service engineers. He will inform the contractor about any infringements of such safety regulations by his service personnel. In the event of any serious infringements, the customer - by agreement with the Site Manager - may refuse any such offenders entry to the installation site. The customer must draw the contractor's attention to the special hazards which may result from the execution of the installation work.
2. The unobstructed execution of installation and assembly requires that all installation workrooms are roofed, provided with gates and windows and generally made up such that staying therein neither impairs the health of the service personnel nor has a detrimental effect on the condition of the material.
3. The customer is responsible for ensuring that these rooms are sufficiently heated and that the service personnel is provided with all necessary hygienic facilities as well as materials for giving first aid assistance, which must be easy to access in the event of any accidents.
4. The customer provides up-to-date means of communication to our service engineers; i.e., telephone, fax, and Internet access are provided.

#### V. Technical assistance; customer's duty to cooperate

1. The technical assistance of the customer must ensure that the installation may be commenced immediately after arrival of the service personnel and can be executed without any delay.
2. The customer has a duty to provide technical assistance and cooperation at his own cost; in particular he shall:
  - a) provide flawless transportation routes up to the site of installation and all tools and devices necessary for the execution of any such installation,
  - b) carry out all necessary auxiliary work, for example digging, construction work, chiselling work and scaffolding work, the casting of rests and anchors, wall-sealing of supports, consoles, railings, pipe clamps, other preliminary work and special facilities. If the floor covering is laid later, the levelling and the determination of the foundation level as well as the provision of these materials must be initiated by the customer.
  - c) provide in good time all auxiliary materials not included in our scope of delivery, such as lining materials, vent pipes,

- erection scaffoldings, fixing materials and – inasmuch as they are connected with the building – energy connections and electro pneumatic connection lines between the individual assemblies so that installation activities will not be interrupted or delayed,
- d) provide the auxiliary support teams required for any auxiliary work and, if necessary, also masons, carpenters, fitters, electricians and other skilled workers in the numbers we deem to be necessary. These auxiliary support teams shall be available to our installation management for the duration of the installation or repair work. However, they remain under the supervision, responsibility and insurance obligation of the customer.
  - e) provide the necessary qualified personnel in the numbers and for the time periods required for installation who will render the necessary cooperation performances that are not a part of the contractual performances to be rendered by Galenuwerk (e.g. personnel for the execution of technical work which is not included in the subject matter of the contract, or customer employees who are to be trained). Following consultations with our Site Manager, the Site Manager of the customer will give the necessary instructions to the customer employees who shall comply with such instructions. When working outside the normal operating hours, a customer member of staff must be present for safety reasons. The contractor does not accept any liability for personnel provided by the customer.
  - f) provide to the installation site all process materials required for installation such as gas, water, lubricants, oil, oxygen, acetylene and compressed air, including the connections,
  - g) provide all hoists and transport devices of the tool as well as the necessary items and materials required for installation (e.g. setup timbers, wedges, supports, cement, cleaning and sealing material, lubricants, fuels etc.),
  - h) provide for the sole use of the installation personnel a suitable lockable dry room for the storage of tools, machine parts and other equipment items, and provide for the protection of the installation site and installation materials against detrimental influences of any kind and ensure that the installation site is cleaned.
3. If, within the framework of the installation, we take over the transportation to the installation site, unloading and storage of the material being the object of the installation, then these performances will be effected for account of and at the risk of the customer.
  4. The customer is liable for all injuries and damage to property caused by his own personnel, auxiliary personnel provided by him or by any third parties. The customer will also bear full responsibility for any accidents, consequences of accidents and damage to property, which are caused by a culpable infringement of the customer's cooperation obligations. There is a liability of the customer in particular with regard to any damage due to an insufficient quality of the setup tools and hoists - and other facilities provided by the customer, even if these were used by our personnel without any complaints.
  5. If the customer does not meet his obligations, then, after an appropriate time limit for meeting the said obligations has been set and expired, the contractor shall be entitled but not obligated to carry out any actions incumbent on the customer on his behalf and at his cost. In all other respects the statutory rights and claims of the contractor remain unaffected; in particular any costs accrued thereby (e.g. waiting periods, return journey) will be charged to the customer.
  6. It is the responsibility of the customer to notify our service personnel expressly and in good time, if there are any considerations to be observed with regard to his operations.
- VI. Personnel insurance / illness**
1. Our personnel is insured on installation sites. The (auxiliary) personnel to be provided by the customer are not included in this insurance.
  2. In the event of any illness and accidents the customer is responsible for immediately taking any measures for the care and restoration to health of all persons affected by such illness or accidents, in particular to procure the attention of a medical doctor and - if necessary - transport and admittance to a hospital being operated in accordance with modern principles. We are to be informed immediately of any incidents of this type. The reimbursement of any remuneration for necessary medical treatments will be covered by our insurance company. Any recourse claims by the insurance company remain unaffected hereby. All costs in connection with the sending of a replacement person will be charged to the customer.
- VII. Acceptance inspections**
1. If a formal acceptance inspection procedure has been agreed to, the date for any such acceptance inspection is to be announced in advance by the contractor and the inspection is to be carried out in the presence of both parties according to the technical conditions agreed in the contract.
  2. The customer must take at his own cost all necessary measures for carrying out the acceptance inspection as well as for the ready-to-operate setup of the item to be delivered, in particular he must provide the necessary auxiliary materials and operating resources and the required personnel.
  3. If any defects are found during the acceptance inspection, we will remove these within the framework of our contractual obligations. On removal of the defects we are entitled, and even obligated at the request of the customer, to repeat the acceptance inspection.
  4. The customer shall supply us with a certificate attesting the due and proper completion of the installation work, showing the result and the date of the acceptance inspection. Minor defects do not release

the customer from his obligation to effect acceptance and issue an acceptance protocol; however, such minor defects are to be recorded in the protocol and entitle the customer to assert the defect rights that he is contractually entitled to. In the event of any insignificant defects and rework the customer may not demand that the acceptance inspection be repeated.

5. If, in contravention of his obligations, the customer prevents the acceptance inspection from being carried out, or if this cannot be carried out due to any other circumstances that we are not responsible for, then the installation will be deemed to have been accepted on expiry of two weeks following notification that the installation has been completed.
6. Initial start-up of the installation for producing goods suitable for sale by the customer will in all cases be deemed to signify full acceptance.

**VIII. Duration of installation work**

1. If an installation schedule has been agreed, then this shall apply only subject to installation work proceeding smoothly and without hindrance of any kind. This assumes that the customer has created the preconditions stipulated in these General Terms and Conditions for Installation and Repair Work.
2. If the installation work or repair work or the acceptance inspection are delayed or interrupted without any fault of our own, then the customer will bear the additional costs caused thereby, in particular for any waiting periods, extended working hours and, in the event of our personnel having to be withdrawn, also travelling expenses.
3. If the execution of the work is made more difficult due to an event of force majeure, including strikes and lockouts, then the installation period will be appropriately extended to take the above-stated circumstances into account. We reserve the right to conclude new agreements with the customer adapted to the new circumstances. If the execution of the work becomes impossible, then we will be released from the obligations acquired, but retain our claim for remuneration of all performances rendered up to that point as well as for compensation of all expenses accrued up to that same point.

**IX. Infringement of the contract by the customer**

1. If the customer does not meet his contractual obligations within a suitable period of grace, then we shall be entitled to remedy the situation ourselves.
2. The costs arising as a result will be invoiced to the customer and must be borne by the same, if initially he was set a period of grace without avail or if he has been issued with a reminder. We reserve the right to claim for additional damages that might arise.

**X. Claims based on defects**

1. Inasmuch as an installation defect has occurred, we shall be obliged at our own discretion to carry out secondary performance by way of a remedy of defects or to render a new installation performance free of any defects. The obligation to carry out secondary performance only exists with regard to such defects that we are notified of in writing immediately after they have been found.
2. In order to remedy a defect or provide secondary performance, the customer must allocate us the necessary time and opportunity. Otherwise we shall be released from any liability for any consequences this may give rise to.
3. If we are not prepared to provide any such secondary performance, or not capable thereof, and/or if in particular such secondary performance is delayed beyond any suitable periods for reasons that we cannot be held responsible for, or if any such secondary performance fails in any other way, or if the type of secondary performance which the customer is entitled to is not deemed acceptable to the customer, the customer - at his own discretion - shall be entitled to withdraw from the contract or to demand a reduction in remuneration. If there is an insignificant defect only, the customer shall only be entitled to a right to reduce the remuneration. If the customer has suffered damage, or costs and expenses accrued to him to no avail, due to any defects of the performances rendered by us, our liability will be governed by Sec. XI.
4. If the customer or a third party by order of the customer carries out incorrect improvements, we shall not be liable for any consequences arising therefrom. The same applies to all modifications of the item to be delivered that have been implemented without our prior approval and caused a defect or damage to occur.
5. If defects are found in our performance, which cannot be remedied immediately for reasons that we are not responsible for, then only such costs will be chargeable to us that would have accrued in the event of any immediate remedy having been carried out. If the customer prevents us from remedying known defects, then the customer will have to bear all costs arising from the damage, waiting period or other expenses.

**XI. Liability**

1. We shall only be liable to the customer and any third parties for any damage claims or unnecessary expenses, for whatsoever legal reason if such damage and/or unnecessary expenses
  - a) were caused by us or our vicarious agents through a culpable breach of an obligation, the fulfillment of which is essential for the carrying out of the contract and which the customer would ordinarily be entitled to depend upon ("material contractual obligation"), or
  - b) can be attributed to gross negligence or wilful infringement of a contractual obligation on our part or the part of our vicarious agents.
 Notwithstanding Sec. XI. 1. a), we shall be liable for damages and/or unnecessary expenses that arise from providing consultation services and/or information that is not to be billed separately only in the event of gross negligence or wilful infringement of a contractual obligation, insofar as such an infringement does not constitute a

- defect as to quality with respect to the performances delivered by the US.
2. If we are liable under the terms of Sec. XI. 1. a) for the infringement of a material contractual obligation without acting with gross negligence or wilfully, our liability shall be limited to the foreseeable damage typical in such situation. We shall not in this case be liable for any lost profits of the customer, nor for non-foreseeable, indirect or consequential damages. The limitation of liability according to sentence 1 and 2 applies mutatis mutandis to claims arising from wilful or gross negligent conduct of our employees or representatives, if such persons are not members of the Galenuswerks's board of directors or management staff.
  3. The limitations of liability described in Sec. XI. 1. and 2. (above) shall not apply if the liability in question is arising under the provisions of mandatory Product Liability Legislation, or if claims are brought against us for the injury of life, limb, or health. In the event of items delivered by us not possessing a given guaranteed characteristic, we shall only be liable for losses directly resulting from the failure to supply this specific characteristic or feature.
  4. Any liability in excess of the liability stipulated in the aforementioned provisions of Sec. XI. 1.-3. is hereby expressly excluded, irrespective of the legal nature of such claim. This shall specifically apply to compensation claims arising from negligence in the conclusion of the agreement (culpa in contrahendo), (positive) breach of contract (*positive Vertragsverletzung*) or in tort.
  5. Where our liability towards the customer or third parties is excluded or limited under Sec. XI. 1.-4., this limitation of liability shall also apply with regard to the personal liability of our employees, labourers, co-workers, representatives and vicarious agents.

#### **XII. Statutory limitation**

1. Claims of the customer relating to a breach of our contractual obligations, including claims for compensation and for unnecessary expenses, are subject to a limitation period of one year, unless otherwise stipulated in Sec. XII. 2. and 3. In the case of contracts for work to be performed, the statutory limitation of any customer claims within the meaning of sentence 1 starts on the date of acceptance, and in all other cases on the commencement date for the statutory limitation prescribed in law.
2. In the event of defects being detected in a constructed building, or if components designed to be used for buildings have caused a defect in buildings, the limitation period for Customer claims shall be five years, running from the moment of acceptance or, in all other cases, with the commencement date for the statutory limitation prescribed in law.
3. If we have provided consulting services and/or information that is not to be billed for separately, without providing it in connection with the rendition of services or without this information giving rise to a defect as to quality in the items delivered, claims against us are subject to a limitation period of one year, running from the moment stipulated by law. If the consultation services or information provided give rise to a defect as to quality in the items delivered along with the said advice or information, the applicable limitation period shall be determined by the provisions of Sec. XII. 1., 2. and 4.
4. The provisions in Sec. XII. 1. - 4. do not apply to claims arising from injury to life, limb or health, nor do they apply to claims brought under mandatory Product Liability Legislation nor to claims arising from a defective title of the performances delivered by us, which invoke a third-party's right in rem and would result in that third party's claim to have the delivered performances handed over to him. They furthermore do not apply to the limitation period of customer's claims relating to a fraudulent concealment of defects in the items or services delivered by us. The statutory provisions shall apply to the cases described in Sec. XII.4.

#### **XIII. General**

1. Without the contractor's prior approval in writing the customer must not use the contractor's personnel for any work not covered by this contract. When using the contractor's service engineers the customer must observe the work restrictions in accordance with the respectively applicable statutory provisions. Approvals for any deviations as an exception to the rule must have been obtained in writing by the customer from the competent authorities.
2. The service engineers are not permitted to carry out any work on any external third party machines or installations. The contractor therefore does not accept any liability whatsoever for any such work even if this is carried out in connection with the installation of a machine supplied by the contractor. The service engineers are not authorized to conclude any agreements with the customer on behalf of the contractor.
3. Any details given by the contractor in advance with regard to the duration of the installation work have been calculated in accordance with the respective state of knowledge at the time and are therefore not binding. The customer undertakes not to offer an employment contract to employees sent to him, or to conclude any such contract with any such employees, without prior approval of the contractor.
4. In the event that any provision of these terms and conditions is wholly or partially invalid or becomes invalid at some later date, the same shall not affect the remaining provisions hereof. The ineffective provisions shall be replaced by the relevant statutory regulations.

#### **XIV. Applicable law; place of jurisdiction**

1. This contract relationship is exclusively subject to German law, specifically excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
2. For all disputes arising directly or indirectly from the contract relationship, the sole place of jurisdiction shall be our principal place of business. We are also entitled to bring an action at the customer's principal place of business.

#### **XV. Additional provisions**

In addition, and inasmuch as the present "General Terms and Conditions for Installation and Service Work, domestic and abroad" do not state anything to the contrary, our "General Terms and Conditions of Sale for Domestic and Foreign Transactions" shall apply as well.