

**General Terms and Conditions for After Sales Services of
Hans Lutz Maschinenfabrik GmbH & Co. KG,
Gutenbergstrasse 19, 21465 Reinbek**

I. General provisions

1. General information, scope of validity

- 1.1 Scope of validity:** The General Terms and Conditions for After Sales Services below shall apply to all services rendered and works undertaken by Hans Lutz Maschinenfabrik GmbH & Co. KG (hereinafter referred to as: "LUTZ") at home and abroad. These Terms and Conditions remain valid for all future business and contracts with the customer, even if they are not the subject of a further separate agreement.
- 1.2 Subsidiary clause:** In case of conflict between provisions contained in individual contracts and these General Terms and Conditions, the provisions contained in individual contracts shall prevail. In case of conflict between individually negotiated provisions and General Terms and Conditions contained in individual contracts the individually negotiated provisions shall prevail.
- 1.3 Written contract:** All agreements made between LUTZ and the customer under this contract are recorded in writing between the parties. Oral declarations and agreements are only binding if confirmed by writing.
- 1.4 Exclusivity:** These General Terms and Conditions are exclusively binding; terms and conditions of the customer opposing or differing from these terms and conditions are rejected if we have not explicitly approved them as binding in written and signed form. Even where we refer to a communication which contains the General Terms and Conditions of the customer or a third party or refers to such General Terms and Conditions, such reference shall not constitute consent to the applicability of those General Terms and Conditions.
- 1.5 General and specific provisions:** The general provisions of the present Section I. apply to both services, repair and/or maintenance works. As far as the performance of repair and/or maintenance works has been agreed by the parties they are undertaken under the special provisions of Section II.

2. Conclusion of contract, performance standards

- 2.1 Conclusion of contract:** The contract is concluded by offer and acceptance. The declaration of LUTZ is only binding if given in writing. Technical descriptions and specifications are only binding if explicitly designated as binding. Tolerances allowed by the German industrial standards (DIN-standards) apply.
- 2.2 Validity of offer:** Unless specified otherwise, offers of LUTZ are binding for a time span of ninety (90) days. If offers are accepted by the customer after this time limit, a contract is concluded only if LUTZ expressly accepts and confirms the order in writing.
- 2.3 German industrial standards:** LUTZ respects the German industrial standard (DIN-standard) with regard to maintenance services contained in DIN EN 13015 for the maintenance of elevators and moving staircases.

3. Scope of Services, scope of works, limitations of obligation to perform

- 3.1 Scope of services / works:** The scope of services rendered and of works undertaken under this contract is determined in the separately agreed upon service and work description between the parties and limited by the provisions of these General Terms and Conditions. The scope of services rendered and of works undertaken under the contract between LUTZ and the customer can consist in

an agreement on mere services or in the agreement on both services and repair works. Repair or maintenance works necessary to rectify damages caused by Force Majeure, inappropriate handling, utilization or changes of the facility, by overload or vandalism or changes to the building or unforeseen events, by fire, water, humidity or by excess voltage of electric supply lines are not comprised within LUTZ' obligation to perform, unless otherwise agreed between the parties. Furthermore, LUTZ' obligation to perform under this contract does not extend to maintenance services and repair works intending to remedy existing flaws or defects or to conduct technical changes, even if they become necessary due to new provisions or are ordered or recommended by competent inspection or regulation agencies.

3.2 No work on electrical lines: LUTZ' obligation to perform does not comprise the rendering of maintenance services or the undertaking of repair works on electric supply lines.

3.3 Force Majeure: In case of Force Majeure LUTZ shall be entitled to adapt or interrupt its performance for the duration of the Force Majeure event. In turn the customer is not obliged to perform any consideration for the duration of the interruption by LUTZ. Force Majeure shall include any circumstance which hinders the fulfillment of LUTZ obligation to perform and which is not culpably caused by LUTZ. Force Majeure shall include but is not limited to, Acts of God (including *inter alia* fire, explosion, flood, earthquakes, tidal waves, typhoon, hurricane and lightning, traffic jams), Acts of Government (including *inter alia* failure to grant or revocation of necessary governmental approvals of any government in its sovereign capacity), strikes and lockouts, restrictions due to quarantines, blockades, embargoes, revolution, terrorism, insurrection, riots, civil commotion, mobilisation, accidents, war whether declared or not, hostilities, break-down of production equipment, sabotage, destruction of the premises or works of LUTZ or its Sub-Contractors outside their respective control, power failure, major mechanical failure in material, equipment or component, faults in heavy casting and forging, default by and insolvency of major Sub-Contractors, perils of the sea or unusual severe weather conditions affecting the safe operation of LUTZ personnel.

4. Working hours

4.1 Regular working hours: All services are rendered and all works are undertaken within the regular working hours of LUTZ. In case the service and work description does not provide deviating working hours, LUTZ renders services and undertakes works in Germany from Monday to Friday from 07:30 a.m. to 04:00 p.m. Central European Time (CET) or – if the services or works are physically rendered in a different time zone – the same working hours of that time zone shall be applicable.

4.2 Extra working hours: If and to the extent that on demand of the customer services are rendered or works are undertaken outside the regular working hours stipulated in Section 4.1 above, occurring additional costs (e.g. overtime premium, lump-sum for emergency service) shall be paid by the customer. They are calculated on the basis of the current price list of LUTZ applicable on the time the services are rendered or the works are undertaken.

5. Remuneration

5.1 Net prices: All prices are net prices. VAT, if any and calculated on the basis of the applicable tax law, shall be paid by the customer.

5.2 Cost for materials: The remuneration agreed between the parties does not include materials, spare parts, auxiliary materials and consumables and shall be paid separately by the customer.

5.3 Adaptation of remuneration: The parties shall negotiate and shall mutually agree every two (2) years the scope of a necessary price adaptation in view of the development of costs, salaries and general price development.

5.4 Due date: Unless otherwise agreed, payments are due 14 days after the date of invoice and payable without deduction and free from costs for LUTZ.

- 5.5 Suspension right:** In case of late payment, LUTZ is entitled to suspend the fulfillment of its contractual obligations. The liability of LUTZ for damages occurring within the period of suspension is excluded.
- 5.6 Interest:** During the time of non-payment, LUTZ is entitled to statutory interest. LUTZ may demand higher interest on a different legal basis. The assertion of further damage by LUTZ is not excluded.
- 6. Ancillary costs**
- 6.1 Travel expenses:** The customer shall pay for travel expenses of LUTZ to and from, including additional travel expenses. LUTZ' employees shall generally travel by rail, car, public transport or air. The mode of transport used shall be chosen at LUTZ' discretion. In case personnel travels by train, the customer shall pay for the cost of 1st class rail travel plus surcharges. In case personnel travels by plane, the customer shall pay the costs of an economy class ticket. In case the flight time surpasses six (6) hours in total, the customer shall reimburse the costs of a business class ticket. Costs for car travel shall be reimbursed by the customer according to the current price list of LUTZ. Travel expenses also include the costs of transport and of transport insurance for the personal baggage and the tools and materials brought along.
- 6.2 Overnight stays:** The customer shall pay all costs for overnight stays.
- 7. Duties of customer**
- 7.1 Operator duties and compliance:** The customer remains operator of the facility. Its duties as an operator are not affected by this contract. The closing of usual insurance contracts remains incumbent on the customer. The customer agrees to comply with all statutory laws as well as all rules and regulations set by the administration and the professional association for the operation of elevators at its own expense. It agrees to ensure compliance of all proprietors, operators, administrators, instructed persons and users at its own expense.
- 7.2 Protection from malfunction or damages:** The customer must ensure that in case of malfunction or damages, the affected facilities are immediately shut down and that LUTZ is immediately informed. In case of danger arising from the malfunction or damage the place of danger must be sufficiently secured by the customer.
- 7.3 Access to relevant places/ Information of LUTZ on risks:** The customer provides for unhindered and secure access for LUTZ to all parts of the building or facility, in which elevators are to be found. The customer keeps all elevator-relevant places, e.g. machine rooms and pits, free of water, stocked materials and any dangerous goods. The customer is obliged to notify and inform LUTZ upfront of any risks and dangers for the employees of LUTZ at the worksite. In case the risks and dangers for the employees of LUTZ surpass usual standards, LUTZ shall be free to withhold its performance until the risks match usual standards again.
- 7.4 Information of LUTZ on facility:** On demand of LUTZ, the customer must provide for any information on the facility. On demand of LUTZ, documents containing information on the facility must be put into LUTZ' disposal for inspection.
- 7.5 Constructional or technical changes:** Constructional or technical changes that can affect the functioning and/or operability of the facility or changes in the type or degree of utilization of the facility must be notified to LUTZ in due time. After such changes, LUTZ is entitled to an appropriate adaptation of the contract on its demand. The parties agree that the constructional and technical parameters as well as the type and degree of utilization of the facility constitute circumstances which are the basis of this contract.
- 7.6 Intervention of the customer or a third party:** Maintenance, fault clearance, emergency releases, corrective maintenance and repair works on the facility may for operational security and liability

reasons only be undertaken by LUTZ. If any of the mentioned measures are undertaken by the customer or a third party without consent of LUTZ, guarantee and warranty claims of the customer regarding defects of the facility resulting from this intervention are excluded.

7.7 Assistance of LUTZ by customer: The customer shall assist LUTZ' technicians in rendering the services and undertaking the repair works at his own expense. The technical support provided by the customer must serve to guarantee that the service and/or repair work can get started as soon as LUTZ' technicians arrive and can proceed without any undue delay through to the point of acceptance by the customer, if and as far as the latter is needed. The customer shall particularly be required to carry out the following works on the site at his own expense:

- a) Setting up the site to enable the service and/or repair work to be carried out unhindered.
- b) Providing electricity, water, heating, lighting and the requisite connections.
- c) Providing the requisite heavy tools and fixtures, such as special tools, transport equipment, other site equipment, scaffolding and auxiliary equipment.
- d) Providing suitable washing facilities as well as locking rooms for storing the tools and the technicians' clothing.
- e) Protecting the parts and materials from exposure to any potential sources of damage.

The customer shall take the requisite measures on-site to protect against personal injury and damage to property and shall undertake to ensure compliance with the relevant accident prevention measures. If there is only one technician deployed, the customer shall undertake to provide the personnel and safety equipment stipulated by the Accident Prevention Regulations. LUTZ' instructions on safe working practices (according to the Accident Prevention Regulations governing LUTZ) have to be complied with.

7.8 Carrying out of customer's obligations by LUTZ: If the customer neglects its obligations, LUTZ may, although LUTZ is not obliged to do so and without prejudice to other legal rights, carry out the customer's obligations at its place and at the customer's expense after unsuccessfully setting a deadline.

8. Termination and suspension of contract

8.1 Duration and Termination: The contract shall have a contract duration of three (3) years. If the contract is not terminated by neither of the parties with at least three (3) months' prior notice, the contract shall be automatically prolonged each time by two years.

8.2 Extraordinary termination: The right to immediate termination for cause remains unaffected. Either party is entitled to immediately terminate this contract immediately if the other party commits a major breach of any of the terms of this contract. A breach of the customer's duties under section 7 of this contract shall be considered a major breach of contract in this sense. LUTZ is entitled to immediately terminate this contract if the customer delays payments for more than ten (10) weeks. The right to termination because of late payment shall not be limited in time.

8.3 Written form: Any declaration of termination must be made in writing.

8.4 Shutdown maintenance: In case of and for the duration of closedown of the facility this contract is being suspended. In order to preserve the operability of the facility, for the duration of the shutdown the parties shall agree on a special shutdown maintenance with correspondingly adapted intervals and remuneration.

8.5 Restart of facility: Before restarting operation of the facility, LUTZ will perform an inspection in order to evaluate the necessity of cleaning and repair works for restarting operation of LUTZ equipment. The costs of the inspection and the necessary restart works are not included in the remuneration of this contract or of the remuneration of the shutdown maintenance and have to be born by the customer.

- 8.6 Definite shutdown of facility:** In case of definitive shutdown of the facility, this contract expires with effect to the end of the month in which the shutdown occurs if the customer informs LUTZ about the shutdown in writing with not less than three months' notice.
- 9. Repair of damages caused**
- LUTZ will repair all defects it causes culpably to the customer's elevators. The customer must notify LUTZ of determined defects caused by LUTZ in writing without undue delay.
- 10. Prescription**
- All claims of the customer shall become time-barred after a period of 12 months. As opposed to the foregoing, the prescription period for claims in relation to the infringement of life, bodily integrity and health, intent or gross negligence, fraud or mandatory liability under the German Act on Product Liability ("Produkthaftungsgesetz"), shall be the statutory prescription period. The statutory prescription period shall also be applicable if repair works are performed at a building and cause its defect, a defect has been fraudulently concealed or a guarantee for the quality of the works has been incurred.
- 11. Assignment, set-off and right of retention**
- The customer shall not assign any rights and/or obligations resulting from this contract to a third party without prior written consent of LUTZ. If the customer is an entrepreneur, this does not apply on monetary claims. The customer may only set-off counterclaims resulting from other legal relationships with LUTZ only in case that the claim is undisputed or finally established by a court. The customer may only use the right of retention if the counterclaim is undisputed or finally established by a court and derives from the same contractual relationship.
- 12. Written form**
- Any deviations, changes or amendments to this contract are only binding if concluded in writing. This applies equally to deviations, changes or amendments to this written form clause.
- 13. Severability clause**
- If any provision of this contract should be or become partly or wholly void, invalid or unenforceable, the remaining provisions shall continue to apply. The parties shall replace the void, invalid or unenforceable provision or the void, invalid or unenforceable part of the provision by a legally valid and enforceable provision, which comes as close as possible to the commercial meaning and purpose of the void, invalid or unenforceable provision or part of the provision reflecting the economic interest of the Parties. The same shall apply to filling any gaps in this contract.
- 14. Choice of law and jurisdiction / arbitration**
- 14.1 Choice of law:** This contract and all of its terms shall be governed by and construed according to the laws of the Federal Republic of Germany, excluding its body of law relating to conflicts of law and the UN Convention on the International Sale of Goods (CISG).
- 14.2 Jurisdiction / Arbitration:** The place of jurisdiction for all disputes arising in connection with the present contract and/or all contracts on the rendering of services, delivery of products, undertaking of repair and/or maintenance works or their respective validity shall be Reinbek, Germany. Alternatively for the same disputes, LUTZ shall be entitled to take legal action against the customer through the state court which has jurisdiction over the customer. Alternatively for the same disputes and instead of a proceeding in front of state courts, LUTZ shall have – in its own choice – the option to initiate an arbitration proceeding against the customer under the Rules of Arbitration of the German Institution of Arbitration (*Deutsche Institution für Schiedsgerichtsbarkeit - DIS*) without recourse to the ordinary

courts of law. The place of arbitration is Hamburg, Germany. The arbitration tribunal shall consist of three arbitrators. Only if the amount in dispute is below EUR 250.000,00 the dispute shall be decided by one sole arbitrator appointed in accordance with the said rules. The language of the arbitral proceedings shall be English. Documents can be filed also in German.

II. Special provisions with regard to repair works

15. Repair time

LUTZ commits to deploy best efforts in order to execute repair works under this contract within a reasonable lapse of time proportionate to the circumstances. Repair and construction orders by third parties and other circumstances as availability of means of transport, weather conditions etc. must be taken into account.

16. Reservation of proprietary rights

Unless specified otherwise, LUTZ reserves the right of propriety with regard to all materials, spare parts, auxiliary materials and consumables used for the purposes of repair works until full payment of the separately invoiced purchase prices.

17. Acceptance of contract works

17.1 Acceptance test: After notice of the completion of the repair works, the customer immediately has to undertake an acceptance test. The customer has to accept the repair, if the repair work fulfills the respective contractual obligation and the acceptance test has been successfully performed. Should the repair prove to be insufficient, LUTZ shall remedy defects of the repair pursuant to the provisions of Section 20. This does not apply in case the defect is not essential to the customer or is the consequence of an event, for which the customer is responsible.

17.2 Fiction of acceptance: The customer shall not refuse the acceptance test in case of non essential defects. Four (4) weeks after notice of the completion of the repair works, the acceptance test shall be considered as being successfully completed and the repair as accepted if the acceptance test has been delayed for reasons beyond LUTZ' responsibility and if, in case the customer is a consumer in the sense of Section 13 of the German Civil Code ("Bürgerliches Gesetzbuch"), LUTZ especially notifies the customer of the significance of the omission of the acceptance test after notification of the completion of the repair works. The acceptance test shall be considered as being successfully completed and the repair as accepted four (4) weeks after the moment in which the customer takes the elevator into use after repair.

17.3 Exclusion of liability for apparent defects: After acceptance of the repair, LUTZ is no longer liable for any apparent defects provided that the customer has not reserved his rights for the specific defect.

18. Handover and passing of the risk

With the handover of the work, the risk passes on the customer. If for reasons beyond LUTZ' responsibility the repair is disrupted, the risk passes on the customer with disruption of the repair. If a third party (e.g. an insurance company) reimburses damages, than the party is entitled to the indemnification, which bore the risk at the time the damage occurred.

19. Return of materials and equipment, liability of the customer to pay compensation

19.1 Return of materials and equipment: Following the end of the repair, the customer shall return leftover materials, repair tools and all borrowed items to LUTZ unless the customer bought them. If it

fails to return them within a reasonable time limit, LUTZ shall be entitled to demand payment of a fee for borrowing them.

19.2 Deterioration of equipment or tools: The customer shall be liable in case LUTZ' equipment or tools get lost or damaged at the site of the customer for reasons beyond LUTZ' responsibility. This does not apply to damages as a result of the usual deterioration.

20. Warranty, self-help, reduction of remuneration

20.1 Defect culpably caused by LUTZ: If a defect is culpably caused by repair work of LUTZ, LUTZ must remedy these defects under exclusion of all other claims of the customer, but without prejudice to the provisions of Section 20.2-20.7 and the conditions stipulated in the individual contract, e.g. the service and works description. The customer shall give notice to LUTZ of determined defects in writing without undue delay.

20.2 Exclusion of claim to remedy of defects: If the customer is an entrepreneur in the sense of Section 14 of the German Civil Code ("*Bürgerliches Gesetzbuch*"), the customer's claim to remedy of defects is excluded, if the defect is immaterial to the interests of the customer or attributable to the customer. This applies in particular to parts and material furnished by the customer.

20.3 Intervention of customer or third parties: In addition, LUTZ shall not be liable if the claimed defect was caused by alterations or repair works undertaken without LUTZ' prior consent by the customer or third parties. Only in urgent cases where operational safety is endangered and to avoid disproportionately large damages (the circumstances of which LUTZ must be notified of immediately) or if a reasonable deadline LUTZ must abide by to remedy defects has lapsed without remedying the defect, the customer shall have the right, within the statutory provisions, to remedy the defect himself or to have such defect remedied by third parties and to demand the reimbursement of the costs necessary therefore from LUTZ.

20.4 Costs of remedy of defects: LUTZ shall pay the direct costs accruing from the remedy of a defect caused by LUTZ repair work. In such cases, LUTZ shall pay in addition the costs of the replacement items as well as shipping costs. In case an unreasonable burden on LUTZ shall occur for the remedy of defects, LUTZ has the right to refuse the remedy of defects.

20.5 Failure of LUTZ to remedy defects:

The customer is at its option entitled to reduce the purchase price or to revoke the contract, in case

- (i) LUTZ is not remedying a defect caused by its repair work within a reasonable deadline set by the customer,
- (ii) LUTZ finally fails to remedy the defect or exercises the right to refuse the remedy of defects as set out under Section 20.4,

This shall not apply in case where either building work is the object of liability for defects or statutory exemptions for LUTZ obligation to remedy defects exist.

20.6 Exclusion of warranty claims: After successful performance of the acceptance test (cf. Section 18.1), warranty claims of the customer are excluded for any apparent defects provided that the customer has not rightfully reserved his rights for the specific defect. Regardless of acceptance, warranty claims of the customer are excluded, if the customer fails to notify LUTZ of apparent defects within four (4) weeks' time from the moment of their apparentness.

20.7 Prescription of warranty claims: As to prescription of warranty claims, the provisions of Section 10 are applicable. The prescription period stipulated by the first phrase of Section 10 counts from the acceptance of the repair or, if not accepted, the moment in which the customer was bound to accept it.