

## **1. Scope of Application, Incorporation of the General Terms of Sale and Delivery 09/2011**

1.1. These Terms and Conditions of Service Work shall apply to any repair, maintenance or in-spection work (hereinafter referred to as Services) STAHL CraneSystems GmbH, Künzelsau (hereinafter referred to as Supplier) is being commissioned by Customer to render on the basis of an individual order or in combination with a permanent maintenance contract, save as where otherwise agreed upon individually. Where reference is made below to the attached General Terms of Sale and Delivery 09/2011, the terms service or delivery shall be deemed to mean service, the term delivery period shall be deemed to mean service period and vice versa.

1.2. If and insofar as the following provisions do not expressly and with full and final effect provide otherwise, the General Terms of Sale and Delivery 09/2011 shall apply accordingly.

## **2. Pricing Regarding Repair Work**

2.1. As far as possible, Supplier upon conclusion of a repair contract shall give a cost estimate; otherwise Customer may set a cost limit. Should turn out that the repair work will exceed these costs or should Supplier, in the course of the repair work, establish additional work being necessary, Customer's consent shall be obtained first should the actual costs exceed the costs indicated by more than 15%.

2.2 Should Customer wish to obtain a cost estimate including binding cost indications before the repair work is being conducted, Customer shall explicitly request so. Such a cost estimate shall – unless otherwise agreed upon – only be binding if given in writing. Customer shall not be charged for the preparation of the cost estimate, where such preparation work is of use in the course of the repair work.

## **3. Pricing of the Services, Payment**

3.1. Inspection and maintenance work shall be invoiced in accordance with the respective price list valid at the time of placing of the order. Repair work shall be invoiced on the basis of itemization, in particular the work time spent shall be invoiced in accordance with Supplier's rates applicable at the time of formation of the contract, unless lump-sum payment has explicitly been agreed upon. The respectively valid statutory value added tax shall be added.

3.2. Supplier shall be free to invoice on a weekly or a monthly basis or upon completion.

## **4. Industrial Property Rights**

Where the good to be serviced or parts thereof have not been supplied by Supplier, Customer shall indicate any industrial property rights which may exist therein. Customer shall indemnify Supplier against any third party claims based on industrial property rights, except where Supplier is liable for wilful or negligent wrongdoing. These provisions shall not affect the distribution of the burden of proof in legal action.

## 5. Assistance by Customer During On-site-services

5.1. Where services are to be performed on Customer's premises (on-site-service), Customer shall support the service personnel with the Services at its own expense.

5.2. Customer shall take any special measures necessary to protect the people and property on the worksite. Customer shall also advise the head of the service team of any applicable special safety regulations, should they be relevant for the service personnel. Customer shall notify Supplier of any breaches of such safety regulations by the service personnel. In the case of a severe breach, Customer may, after consulting with the head of the service team, refuse to allow the offender access to the worksite.

## 6. Technical Assistance by Customer During On-site-service

6.1. In the case of an on-site-service, the Customer shall provide technical assistance at its own expense, including (but not limited to) the following:

- a) Provision of auxiliary suitable personnel for the necessary time and in the numbers necessary for the Services; such auxiliary personnel shall adhere to the instructions given by the head of the service team. Supplier does not accept any liability for the auxiliary personnel. Should the auxiliary personnel cause a defect or damage due to instructions by the head of the service team, Provision 13. and 14. shall apply accordingly.
- b) Completion of all earth, construction, bedding and scaffolding work, including procurement of the necessary building materials.
- c) Provision of the necessary devices and heavy tools (e.g. lifting equipment, compressors, mobile forges) and the necessary commodity goods and materials (e.g. scaffold boards, wedges, underlay materials, cement, plaster and sealant materials, lubricants, fuel, driving belts and ropes).
- d) Provision of lighting, operating power, water (incl. connection facilities).
- e) Provision of dry and lockable rooms necessary for the storage of the tools, of suitable, burglar-proof common rooms and work rooms (including heating, lighting, washing and sanitary facilities) and of first aid to the service personnel.
- f) Transport of the service parts on the worksite, protection of the worksite and service materials against any damaging or detrimental influences of all types, cleaning of the worksite.
- g) Provision of any materials and performance of any other activity necessary for the adjustment of the goods to be serviced and for the conduct of a trial run as may be provided for under the contract.

6.2. The technical assistance by Customer shall ensure that the Services can be commenced with immediately after the arrival of the service personnel and can be carried out without interruption up to the stage of final inspection and acceptance by Customer. Supplier shall provide Customer with any necessary additional planning documents or instructions in due time.

6.3. Should Customer fail to comply with its obligations, Supplier shall be entitled to, but not be obliged to, perform, after advance announcement to such effect, Customer's duties in its stead and at Customer's expense. Other legal rights and claims of Supplier shall remain unaffected.

## **7. Carriage, Insurance Cover, Storage When Service Performed in the In-house Factory/in the Branch Establishment of Supplier**

7.1. Customer shall, at its own expense, deliver the goods to be repaired to the address indicated by Supplier and collect them there upon completion of the repair work. Should Customer explicitly commission Supplier to transport the goods to and from, such transport including packaging and loading shall – unless otherwise agreed upon in writing – be effected for the account of Customer.

7.2. Customer shall bear the risk of conveyance.

7.3. Where explicitly ordered, outward and, if applicable, inward carriage shall be insured, at Customer's expense, against the transport risks insurance cover is available for, i.a. theft, breakage, fire.

7.4. While the services are being carried out at the premises of Supplier, the goods serviced are not covered by insurance. It is Customer's own responsibility to ensure commencement of any existing insurance cover, for example against fire, piped water, storm and machinery breakage risks. Upon written order, Supplier may, however, arrange for insurance cover against these risks at Customer's expense.

7.5. Explicitly agreed dates for the collection of goods to be serviced are binding; otherwise, Customer shall collect the goods serviced from Supplier within one week after the notice of conclusion of the Services. Should Customer be overdue with collection, Supplier may choose to either store the goods serviced for a storage fee in accordance with the usual charges of a haulage firm or arrange for them to be stored by a haulage firm at Customer's expense. In both cases, Customer shall bear the storage risk.

## **8. Time Limit for Repair Work**

8.1. Any specifications regarding the time limits for the repair work are based on estimates and shall therefore not be considered binding.

8.2. An agreement on a time limit for the repair work, shall require, in order to be binding, to state such limit expressly to be binding and such binding time indication may only be asked for by Customer as soon as the scope of the work has precisely been established.

8.3. The binding time limit for the repair work shall be deemed complied with, should by the end of such the repaired goods be ready for final inspection and acceptance by Customer, or, should a trial run be contractually agreed upon, be ready for such trial run.

8.4. Should subsequently additional orders be placed, the order be extended or additional repair work become necessary, the agreed time limit for the repair work shall be prolonged accordingly.

8.5. Should the repair work be delayed by industrial action, in particular by strike or lockout, or by circumstances Supplier is not accountable for, the time limit for the repair work shall be reasonably extended, provided that such impediments prove to be of considerable influence on the completion of the repair work; the same shall apply, even if such circumstances arise after Supplier had been in default.

8.6. Should Customer suffer a damage due to Supplier being delayed, Customer may demand a lump-sum compensation for the delay. Such compensation shall amount to 0.5% per each full week of delay, but on aggregate not exceeding 5% of the price of the repair of the part of the goods to be repaired which cannot be used punctually due to the delay. Should Supplier be late with the repair work, Customer shall fix a reasonable new deadline for the performance, unless the statutory law expressly renders such second deadline redundant; should Supplier fail to meet such second deadline, Customer shall, as far as the statutory law allows so, be entitled to rescind the contract. Further claims by reason of default shall solely be governed by provision 5 of the General Terms of Sale and Delivery 09/2011, as applicable according to provision 1.2 of these present conditions.

### **9. Impossible Repair Work, Default in Acceptance**

9.1. Should, due to circumstances Supplier is not responsible for, the repair work not need to be carried out or need to be discontinued, in particular due to

- the defect reported in the complaint not occurring during inspection;
- spare parts occurring not to be available or only to be available in unreasonable time or in uncertain time;
- Customer negligently having missed the date agreed;

Supplier may invoice to Customer the expenses incurred until such time, in particular in connection with the cost estimate and the search for the defect.

9.2. The good to be repaired shall only be reconstructed to its original condition, should Customer expressly request so and only with the expenses being refunded, unless the work carried out was not necessary.

9.3. Where the repair work has not been carried out, Supplier's liability for damages to the good to be repaired shall be governed solely by provision 5. of the General Terms of Sale and Delivery 09/2011, as applicable according to provision 1.2 of these present conditions.

### **10. Working Hours, Surcharges, Travel and Tooling Costs**

10.1. As far as possible, Service personnel conducting service work on-site shall adapt to Customer's regular working hours.

10.2. Customer shall confirm the travel and working hours as well as the work performance of the service personnel on the time sheets submitted to Customer.

10.3. The travel costs of the service personnel – including the costs of transport and of transport insurance cover for the personal luggage, tools and scaffolding taken along or forwarded – shall be invoiced on the basis of proof of the actual expenses. Travel costs shall include the costs of journeys home during service work in accordance with the applicable collective union agreement.

10.4. Any time of travel necessary for the service work and including the travel to and from the service place shall be invoiced up to 12 hours per calendar day as working hours, excluding additional charges. Work hours to be invoiced shall include any necessary waiting periods and, in cases of long-distance travel

installations, the time spent looking for accommodation and on making official registrations, as long as actual work time elapses as a result.

10.5. With respect to overtime work and travel and work time on Sundays and public holidays, the percentage rates set out in the applicable collective union agreement, which form the calculation basis of the applicable additional charges, shall be added to the hourly rates agreed. The resultant amount shall be invoiced to Customer as surcharge. Overtime work shall be effected where necessary and agreed.

10.6. Lifting and welding equipment, scaffolding and other heavy tools provided by Supplier shall be invoiced with 0.5% of their value as new per each day of them being transferred from the factory. Any outward and return freight costs or any lorry tours shall also be invoiced.

## **11. Acceptance of Performance of Repair Work, Certificate of Inspection**

### **Following Maintenance/Inspection Work**

11.1. Customer shall make the final inspection to and accept the repair work as soon as being given notice of the conclusion thereof and, should a trial run be contractually agreed on, such run having been conducted. Should the repair work prove not to be in conformity with the contract, Supplier shall remedy the defect. Such shall not apply, though, should the defect only be of minor importance with regard to Customer's interests or should its cause fall within Customer's responsibility. Customer may not refuse acceptance because of minor defects.

11.2. Should acceptance be delayed without Supplier being at fault, acceptance shall be deemed to have taken place two weeks after the notice of conclusion of the repair work.

11.3. Upon acceptance without reservation, Supplier's liability for obvious defects shall cease.

11.4. Pursuant to German regulations for prevention of accidents (BGV D6, D8), cranes must undergo an inspection by a specialized expert for cranes prior to its first putting into operation and, in the case of major technical modifications, also prior to recommencement of its operation. The Customer shall safeguard that the operating company commissions the specialized expert in accordance with the said regulations for prevention of accidents, and Customer shall, if necessary, even commission the expert itself.

11.5. After carrying out service work or inspections, Supplier shall provide Customer with a certificate of inspection, which Customer shall sign and file in the technical documentation handbook.

## **12. Retention of Ownership, Extended Lien**

12.1. Supplier shall retain the ownership to, its title to and right of disposal of all accessories, spare parts and replacement parts, pending full payment of the entire order. More extensive security agreements may be agreed upon.

12.2. As a security for the remuneration owed under the service order, Supplier shall be entitled to a lien on any good to be repaired that is in its possession by virtue of the agreement. Such lien may also be exercised in relation to outstanding debts stemming from work already conducted, deliveries of spare

parts and other services, as long as there is a connection with the good to be repaired. The exercise of such lien in relation to other claims stemming from the overall business relationship shall only be admissible where such claim is undisputed or recognized by final and binding judgment.

### **13. Warranty**

After acceptance of the service work, Supplier shall be liable for defects of the services that Supplier is responsible for and that occur within 12 months after the acceptance to the effect. Should Supplier fail to meet a reasonable time limit set by the customer for remedying a defect Supplier is responsible for, Customer may reduce the service price according to the extend of the repair work ("Minderung" under German law); A right to rescind the contract shall only arise, if and insofar as Customer demonstrates to have, despite its right to reduce the service price, no legitimate interest in the service work provided.

### **14. Liability of Supplier, Exclusion of Liability**

14.1. Should, due to circumstances Supplier is responsible for, a spare part delivered by Supplier be damaged, Supplier shall, at its free choice, either repair it at its own expense or supply a replacement.

14.2. Should, due to circumstances Supplier is responsible for, usage according to the contract of the goods serviced not be possible for Customer because suggestions made or advise given prior to or after execution of the contract or other ancillary contractual obligations have been omitted or wrongly executed – in particular, concerning the instructions on operation and maintenance of the goods serviced – the provisions 13., 14.1 and 14.3 shall apply accordingly with further claims of Customer being excluded.

14.3. Any further liability shall be determined in accordance with provision 5. of the General Terms of Sale and Delivery 09/2011 as applicable according to provision 1.2 of these present conditions.

### **15. Liability of Customer**

Should, in the case of an on-site-service, any equipment or tools provided by Supplier be lost or damaged without Supplier being at fault, Customer shall compensate Supplier for such damage. Damage due to normal wear and tear shall be excluded.