

General Terms and Conditions of Service of Höfelmeyer Waagen GmbH

As of May 2018

§ 1 Applicability of the General Terms and Conditions of Service

1. These Terms and Conditions of Service apply to all transactions of Höfelmeyer Waagen GmbH (hereinafter referred to as 'Höfelmeyer') relating to the provision of services, in particular repair, maintenance, training, consultancy, installation or commissioning by Höfelmeyer. This shall also apply even if Höfelmeyer does not again draw the customer's attention to the applicability of these Service Terms and Conditions in subsequent transactions. The customer's general terms and conditions shall under no circumstances form part of the contract. This shall apply even if Höfelmeyer is aware of them or does not again expressly object to their applicability, unless their applicability is expressly agreed to in writing.

2. These Terms of Service apply only to businesses within the meaning of Section 310(1) of the German Civil Code (BGB).

3. These Terms of Service do not apply to services provided in the context of fulfilling claims for defects or where other terms and conditions have been expressly agreed and confirmed in writing by Höfelmeyer.

4. In the event of the simultaneous delivery of goods or products, Höfelmeyer's General Terms and Conditions of Sale and Delivery shall apply in this regard. These may be viewed and printed at www.hoefelmeyer.de/en or will be sent on request.

§ 2 Conclusion of Contract

1. Quotations are always subject to change. The contract is concluded upon written order confirmation by Höfelmeyer or, in the absence thereof, upon execution of the order. If a customer's order is to be classified as an offer in accordance with Section 145 of the German Civil Code (BGB), Höfelmeyer may accept this within two weeks of receipt of the order by Höfelmeyer. If the order deviates from Höfelmeyer's proposals or quotation, the customer shall draw up the order in writing and indicate the deviations.

2. Höfelmeyer is entitled to engage third parties or subcontractors to fulfil its contractual obligations.

3. If spare parts, consumables or other goods are used in the provision of services, their delivery shall be governed exclusively by Höfelmeyer's General Terms and Conditions of Sale and Delivery. These may be viewed and printed at www.hoefelmeyer.de/en or will be sent on request.

4. The scope of services provided by Höfelmeyer in the performance of services comprises:

- For repairs:
Unless otherwise agreed, the service order for a repair covers the performance of all work and the fitting of service parts necessary to restore the service item to proper working order, in accordance with professional judgement and recognised technical standards.
- For assembly and commissioning:
The service order for assembly and commissioning comprises the setting up and installation of a machine or component delivered fully assembled or disassembled for transport purposes, as well as a functional test thereof. The installation and commissioning of software is also part of the assembly service. Integration into the customer's production facilities is not included in the scope of assembly services.
- For maintenance work:
The performance of maintenance in accordance with the relevant maintenance checklist of Höfelmeyer
- For training:
Training of the persons designated by the customer in the use and operation of the delivered systems for the agreed period. The customer is responsible for the selection of personnel and their suitability.
- For consultancy services:
The provision of available specialist knowledge verbally, either on-site or by telephone.
- In the case of further consultancy assignments or other services (e.g. machine relocation, machine overhaul, etc.), the scope of services is described in the relevant order confirmation from Höfelmeyer.

§ 3 Obligations of the customer

1. The customer shall be subject to the following obligations:

- If the service is to be performed on an item not supplied by Höfelmeyer, the customer is obliged to draw attention to any special features of the item or existing industrial property rights of third parties upon conclusion of the contract.
- The items on which Höfelmeyer is to perform the service must not pose any health risk to Höfelmeyer's employees.
- The customer is obliged to assist Höfelmeyer's service personnel in the performance of the service at their own expense. They are also obliged to provide any necessary resources such as electricity, water, compressed air, gas, data connection, telephone or special tools.
- The customer must inform Höfelmeyer's service personnel of any special safety regulations to be observed on their premises or in relation to the service object and instruct them accordingly. Furthermore, the customer

obliged to supervise the service personnel to ensure compliance with these special safety regulations.

- If necessary, the customer is obliged to provide the service personnel with sufficiently qualified assistants free of charge. The assistants must follow the instructions of the service personnel. Höfelmeyer accepts no liability for the assistants.
- The customer is responsible for carrying out all construction, bedding, foundation and scaffolding work, including the procurement of the necessary building materials and supplies.
- The customer must provide any necessary equipment or heavy tools, as well as any necessary supplies and materials, at their own expense.
- Upon request, the customer must provide lockable, heated and dry rooms for the storage of tools and for the accommodation of service personnel.
- The customer shall provide suitable accommodation and work areas, as well as sanitary facilities, for the service personnel, in accordance with statutory regulations.
- Unless otherwise agreed, the customer is responsible for the complete electronic and mechanical installation of the service item.

2. In the event of a breach of the aforementioned obligations, the customer shall be obliged to compensate Höfelmeyer for the damage incurred. Any further statutory claims remain unaffected.

3. If the work to be carried out at the customer's premises is delayed through no fault of Höfelmeyer or its employees, the customer shall bear the costs incurred as a result.

§ 4 Price, Payment, Quotation

1. A quotation shall be provided to the customer upon request. Quotations are non-binding unless expressly agreed otherwise in writing. Höfelmeyer reserves unrestricted ownership and copyright exploitation rights to quotations, drawings or other documents. These may not be made available to third parties without the consent of Höfelmeyer.

2. Services shall be invoiced on the basis of the working hours spent by service personnel, including preparation time, travel time and materials used. The current hourly rates of Höfelmeyer shall apply. Prices are quoted in euros. Value added tax at the applicable statutory rate shall be added to the prices.

3. Unless otherwise agreed, invoices are due for payment upon receipt and must be settled within 14 days. The consequences of any delay in payment by the customer are governed by the statutory provisions. The deduction of a cash discount requires a specific written agreement. In the case of new customers or if the customer is in arrears with other claims of Höfelmeyer, we reserve the right to demand a reasonable advance payment. When invoicing for services, prices for labour and for parts and materials used are shown separately. The same applies to travel, journey and transport costs.

4. The customer is obliged to pay the invoiced amount even if it exceeds the binding quotation by up to 20%.

5. The customer shall only be entitled to set-off if their counterclaims have been legally established and have not been disputed or acknowledged by Höfelmeyer. The customer may only exercise a right of retention if their counterclaim is based on the same contractual relationship.

6. The working time of Höfelmeyer's service staff begins with the journey to the customer. Waiting times for which neither Höfelmeyer nor Höfelmeyer's service staff are responsible shall be borne by the customer and may be invoiced in accordance with the standard hourly rates.

§ 5 Execution times

1. Binding performance times require express agreement.

2. The period for the performance of the service work begins on the day on which the agreement regarding the order between Höfelmeyer and the customer is confirmed in writing. Compliance with deadlines and time limits is subject to the timely receipt of all documents and information to be provided by the customer, any necessary approvals, clearances and clarifications, as well as the timely fulfilment of all obligations to cooperate.

3. Dates and deadlines are deemed to have been met if the services have been performed within the agreed dates and deadlines. They are also deemed to have been met if minor rework is required, provided that operational readiness is not impaired.

4. Dates and deadlines shall be postponed or extended appropriately if Höfelmeyer is prevented from performing the service on time due to force majeure, industrial action or other circumstances for which Höfelmeyer is not responsible. Höfelmeyer shall not be liable for any resulting damage on any legal grounds. If the hindrance lasts longer than three months, the customer shall be entitled, after setting a reasonable grace period, to withdraw from the contract with regard to the part not yet fulfilled. In this case, the customer shall not be entitled to claims for damages.

5. The customer shall only be entitled to rights and claims arising from delay if Höfelmeyer is responsible for the delay.

6. If the customer suffers damage as a result of a delay for which Höfelmeyer is responsible, the statutory provisions shall apply. If Höfelmeyer is required to pay compensation under these provisions, this shall amount to a maximum of 0.5% for each full week of delay, up to a total of 5% of the value of the services not performed on time.

. Any further claims for damages are excluded. The above limitations shall not apply in cases of intent or gross negligence for which Höfelmeyer is responsible, or in the case of a fixed-date transaction within the meaning of Section 286(2)(4) of the German Civil Code (BGB) or Section 376 of the German Commercial Code (HGB), or where the delay in delivery for which Höfelmeyer is responsible is based on a culpable breach of a material contractual obligation. Except in the case of an intentional breach of contract for which Höfelmeyer is responsible, Höfelmeyer's liability for damages in such cases is limited to the foreseeable, typically occurring damage. Höfelmeyer is entitled to prove that no damage, or damage less than the aforementioned lump sum, has actually been incurred.

7. Furthermore, the customer's right to withdraw from the contract following the fruitless expiry of a reasonable grace period set for Höfelmeyer remains unaffected.

8. Any other or further claims by the customer are excluded in all cases of delayed provision of services, even after the expiry of the grace period set for Höfelmeyer. This shall not apply where, for legal reasons, liability is mandatory for damages typically foreseeable under the contract in cases of intent or gross negligence, or where essential contractual obligations are breached through simple negligence.

9. In the event of additional or extended orders placed at a later date, or if it becomes apparent during the performance of the services that further measures are necessary, deadlines and time limits shall be extended accordingly.

§ 6 Acceptance

Acceptance shall be deemed to have taken place when the customer has taken the service object into use or more than two weeks have elapsed since the completion of the service. Formal acceptance shall only take place if this has been agreed in writing. Acceptance may not be refused on the grounds of defects which do not impair, or only slightly impair, the functional capability of the service object.

§ 7 Liability for defects/compensation

1. Defects in the services must be reported in writing without delay.

2. In the event that Höfelmeyer provides defective services, the customer may demand rectification in accordance with the statutory provisions. Rectification shall be effected, at Höfelmeyer's discretion, by remedying the defect or re-performing the work. If rectification ultimately fails, the customer may, at their discretion, demand a reduction in payment (abatement) or rescission of the contract (withdrawal) in accordance with statutory provisions. Höfelmeyer shall pay compensation in accordance with § 8 of these terms and conditions.

3. The limitation period for claims for defects is 12 months from acceptance. This does not apply to claims for damages arising from injury to life, limb or health and/or to claims for damages based on gross negligence or wilful misconduct. The statutory limitation period applies to these claims. Rectification measures do not result in an extension of the period specified in sentence 1 and do not constitute an acknowledgement triggering a new limitation period.

4. Höfelmeyer shall not be liable for defects in parts, components or services provided by third parties.

5. If the service item or parts thereof are damaged through the fault of Höfelmeyer, Höfelmeyer shall, at its discretion, either repair it or procure an equivalent replacement. If the repair or procurement of a replacement fails or if Höfelmeyer refuses to carry out such measures, the customer shall be entitled, after the expiry of a reasonable grace period, to claim damages in accordance with the provisions of § 8 of these terms and conditions.

§ 8 Liability

1. Höfelmeyer shall be liable for damages, irrespective of the legal basis, only to the extent that it or its vicarious agents have caused such damages through gross negligence or wilful misconduct. This applies to all claims, including indirect damages, e.g. due to downtime, business interruption, loss of profit, data loss, loss of information and individual data records, loss of production and similar consequential damages. The above limitation does not apply in the event of culpable injury to life, limb or health, or insofar as liability arises under the Product Liability Act. Likewise, liability for the breach of material contractual obligations remains unaffected; in this case, liability is limited to the damage that was foreseeable at the time the contract was concluded and that typically occurs.

2. The limitation of liability under clause 1 above also applies to any claims by the customer for reimbursement of wasted expenditure.

3. Insofar as liability towards us is excluded under these terms and conditions, this shall also apply to the personal liability of our representatives, vicarious agents or employees.

4. Insofar as Höfelmeyer is not liable for wilful misconduct or the customer's claim has not already become time-barred, the customer is obliged, in the event of claims for damages, to bring such claims within a preclusive period of 6 months following Höfelmeyer's rejection of the claim. The limitation period for claims for defects pursuant to § 7(3) of these General Terms and Conditions of Service remains unaffected.

§ 9 Security Co-ownership, Lien

1. Höfelmeyer retains ownership of all spare parts and materials used in the provision of the service until all payments arising from the business relationship with the customer have been received.

2.

To secure the claims arising or to arise in favour of Höfelmeyer as a result of the provision of services, the customer grants Höfelmeyer co-ownership of the service object in the amount of the invoice value for the service. Until the claim has been settled in full, the customer shall hold the machine or component in safekeeping for Höfelmeyer free of charge.

3. Where services are provided at a Höfelmeyer facility, the customer grants Höfelmeyer a lien on the service item to secure all claims arising or to arise from the services, insofar as these claims are not already secured in accordance with clause 2.

4. Höfelmeyer's co-ownership and lien shall expire upon full settlement of the invoice.

§ 10 Transport, Insurance

1. If the service item is taken to or dispatched to a Höfelmeyer facility, this shall be at the customer's expense and risk. The same applies to return transport.

2. The customer is obliged to insure the service item to an appropriate extent and for an appropriate sum for the duration of transport and storage at Höfelmeyer's premises. Höfelmeyer does not provide insurance.

3. If the customer is in default of taking delivery of the service item, Höfelmeyer is entitled to charge storage costs of €10.00 per day or to store the service item with a third party at the customer's expense and risk. The customer is entitled to prove that the actual loss incurred was lower.

§ 11 Final Provisions

1. We comply with all legal regulations regarding data processing (processing, collection, use, transmission, storage, deletion). We have summarised all necessary information in a privacy policy. We refer to this here. Please familiarise yourself with our privacy policy. It is available for viewing and printing at <https://www.hoefelmeyer.de/en/legal-notice>. Upon request, we will be happy to send you our privacy policy at any time by email or post.

The data controller responsible for processing your personal data is: Höfelmeyer Waagen GmbH, Werner-von-Siemens-Straße 33, 49124 Georgsmarienhütte, represented by the managing directors: Reinhard Höfelmeyer, Felix Höfelmeyer, telephone: +49 (0) 5401 4977-0, email: waagen@hoefelmeyer.de
Contact details of the Data Protection Officer: Detlef Breuker, c/o C&S Consulting, Obere Findelstätte 34, 49124 Georgsmarienhütte, email: info@datenschutz-os.de

2. The law of the Federal Republic of Germany shall apply exclusively, to the exclusion of the UN Convention on Contracts for the International Sale of Goods. The applicability of the UN Convention on Contracts for the International Sale of Goods is also expressly excluded in the event that its application is provided for in the customer's terms and conditions.

3. A handwritten signature or a digital signature is not required to satisfy the written form requirement. Written notification by email, fax or any other text form is sufficient.

4. **In the event of any discrepancies between the German version and a translated version of these terms and conditions, the German version shall prevail.**

5. The exclusive place of jurisdiction for all disputes arising from this contract is our registered office. The same applies if the customer has no general place of jurisdiction in Germany or if their place of residence or habitual abode is unknown at the time the action is brought. However, Höfelmeyer is entitled to bring an action against the customer at the location of their registered office or commercial branch.

5. The place of performance, payment and fulfilment for all obligations arising from the business relationship is Georgsmarienhütte, unless otherwise agreed.