

## General Terms and Conditions for Services Performed on Machines and Systems of Sartorius | Status: 01.08.2019

### I. Scope of Validity

These Terms and Conditions constitute the basis for all business of Sartorius Biohit Liquid Handling Oy, Finland – hereinafter referred to as the “Contractor” – that particularly relates to the repair, maintenance, qualification and commissioning and other such services in connection with Contractor’s products, hereinafter referred to as “Object to Be Serviced,” where said services shall be referred to hereinafter as “Service” or “Services”, respectively, and where the customers are entrepreneurs, legal persons or special estates under public law. Any different, contrary or additional general terms and conditions of contract of the customer are hereby expressly excluded. Neither shall the same become an integral part of any contract if they are not expressly excluded in an individual instance.

### II. Conclusion of Contract | General Provisions

1. The scope of the particular Service to be performed shall be governed by the binding offer or written order confirmation issued by the Contractor.
2. Provided that a Service is to be performed on an Object to Be Serviced, the customer, upon conclusion of the contract, shall inform the Contractor of any existing industrial property rights concerning the Object; insofar as the Contractor is not liable, the customer shall indemnify the Contractor from any third-party claims concerning industrial property rights.
3. Furthermore, any Objects to be Serviced within the scope of any Service hereunder may not pose any health hazard to the Contractor (ABC contamination).
4. The Contractor shall be entitled to have third parties perform its contractual obligations hereunder.
5. Insofar as the Contractor supplies spare parts or other goods and objects to the customer within the scope of the particular Service performed hereunder,

aid supply shall be exclusively made according to the Contractor’s General Terms and Conditions of Business Relating to Goods and Services that are valid at the particular time in question. The currently valid version of said Terms and Conditions is available to the customer at [www.sartorius.com](http://www.sartorius.com) for downloading.

### III. Non-performable Service

1. The services performed to submit a cost estimate and the further labor and expenses that are to be substantiated (troubleshooting equals labor) shall be invoiced to the customer if the Service cannot be performed by the Contractor for reasons for which it is not responsible, particularly because
  - The error or defect about which the customer complained did not occur during inspection;
  - Spare parts could not be procured;
  - The customer was at fault in missing the Service appointment agreed upon;
  - The contract was terminated during performance of the Service.
2. Insofar as the particular Service is to be rendered on an Object to Be Serviced, said Object to Be Serviced only has to be returned to original condition, unless the work performed was not necessary.
3. In the case of a non- performable Service, the Contractor shall not be liable for damage to the Object to Be Serviced. Neither shall the Contractor be liable for breach of collateral duties hereof or for damages not sustained by the Object to Be Serviced itself, irrespective of the legal grounds the customer invokes. The Contractor shall be liable for willful intent, gross negligence on the part of its legal representatives or executive-level employees and for culpable breach of material contractual duties. In the event of culpable breach of material contractual duties, the Contractor shall be liable – except in the cases of willful intent and gross negligence on the part of the owner or executive-level employees – only for damage that is typically associated with this Contract and reasonably foreseeable.

### IV. Specification of Costs | Cost Estimate

1. The Services performed by service personnel shall be invoiced according to labor including any preparatory time, travel expenses incurred and, in individual cases, expenses for overnight accommodation, as well as materials used for performing said Services.
2. As far as possible, the Customer shall be informed upon conclusion of the contract about the price expected for the particular Service to be performed hereunder; otherwise the customer may set cost limits. If any Service cannot be performed under said cost limits or if the Contractor considers that it is necessary to perform additional work while rendering said Service, the Contractor shall obtain the prior consent of the Customer if the specified costs therefore will exceed more than 15% of the originally specified costs.
3. If the customer wishes to have a cost estimate with binding prices before said Service is performed, the customer shall expressly request said cost estimate from the Contractor. Such a cost estimate shall only be binding if it is given in writing, unless otherwise agreed. The services rendered in order to submit the cost estimate shall not be invoiced to the customer, provided that said services can be used to perform the Service hereunder.
4. Labor time of the Contractor’s service personnel shall begin as soon as they enter the customer’s premises. The customer shall bear any expenses for waiting times for which the Contractor or its service personnel is not responsible, which may, if required, be invoiced separately to the customer.

### V. Prices | Payment

1. The Contractor shall be entitled to request a reasonable prepayment when the service contract is concluded.
2. When the Service performed is invoiced, the parts and materials used, and special services performed as well as prices for the work performed hereunder and the travel,

commuting expenses and transportation expenses shall be itemized separately. If the Service is performed on the basis of a binding cost estimate, it is sufficient for reference to the cost estimate to be made on the invoice, and only any differences in the scope of Service performed from that of the cost estimate shall be itemized separately on said invoice.

3. Value-added tax, if applicable, shall be charged to the customer in the amount legally prescribed.

4. Any adjustment of the invoice on the part of the Contractor and any customer complaint regarding the invoice shall be made in writing no later than four weeks upon receipt of said invoice.

5. The invoice shall be paid upon acceptance or personal transfer of the Object to Be Serviced hereunder or upon sending of the invoice, without any deduction.

6. Withholding of payments or offsetting of claims because of any customer counterclaims disputed by the Contractor shall not be allowed.

#### **VI. Cooperation | Technical Support by the Customer for Service Performed Outside the Customer's Plant**

1. The customer, at his own expense, shall support the Contractor's service personnel in performing the Service hereunder

2. The customer shall take the required special measures to protect people and objects on the site where the Service is to be performed. He shall also inform the Contractor's service personnel of any special safety rules and regulations, provided that these are important for said service personnel. He shall inform the Contractor of any violation of the latter's service personnel against said safety rules and regulations. In the event of serious violations, the customer may deny the service personnel whose conduct violates said rules and regulations access to the service site.

3. The customer undertakes, at his own expense, in particular, to

- a) provide the necessary auxiliary staff in the number and for the time required to perform the Service hereunder; said auxiliary staff shall follow instructions and orders issued by the service personnel. The Contractor shall not assume any liability for said auxiliary staff. If auxiliary staff cause a defect or damage on account of instructions or orders issued by service personnel, the provisions of Sections XII and XIII shall apply accordingly;
- b) perform all construction, foundation and all scaffolding work, including procurement of the building materials required therefor;
- c) provide the required devices and heavy machinery and/or tools as well as the required materials and items for said equipment;
- d) provide heating, lighting, utilities, water, including the required connections and outlets;
- e) provide the necessary dry and lockable rooms for storing the service personnel's tools;
- f) protect the site at which the Service is to be performed and the materials located there from damaging effects of any type; clean the site at which the Service is to be performed;

g) provide the Contractor's service personnel with suitable, secure lounge and work areas (with heating, lighting, wash facilities, sanitary facilities) and first aid;

h) provide materials and take all action that is necessary to adjust the Object to Be Serviced and to perform contractually agreed testing.

4. The customer's technical support shall ensure that the Service can be started without undue delay upon arrival of the Contractor's service personnel and performed without delay all the way to acceptance on the part of the customer. Insofar as special diagrams or instruction manuals are required for the Object to Be Serviced, the Contractor shall provide these in due time to the customer.

5. For Services to be performed within the scope of commissioning, the customer shall ensure, in particular, that electrical and mechanical installation of the Object to Be Serviced has been completed as a prerequisite to begin the Service

hereunder, besides providing the support set forth hereinabove.

6. If the customer fails to fulfill his obligations hereunder, the Contractor shall be entitled, after having set a deadline to cure said breach, but shall not be obligated to, have the customer's obligatory support and action performed on the customer's site and at the customer's expense. As for the remaining provisions, the Contractor's legal rights and claims shall remain unaffected thereby.

#### **VII. Transport | Insurance for Service to Be Performed at the Contractor's Plant**

1. Unless otherwise agreed in writing, the Object to Be Serviced shall, at the customer's request and expense, be retrieved, which shall include any packaging and loading, and transported to the Contractor's plant; otherwise, this Object to Be Serviced shall be brought by the customer, at his own expense, to the Contractor's plant, and retrieved from the Contractor following performance of the Service hereunder by the customer or by the customer's agent at said customer's expense.

2. The customer shall bear the risk of transport.

3. At the customer's request, transportation to and, if necessary, from the Contractor's plant will be insured against insurable transport risks, e.g., theft, breakage, fire, at the customer's expense.

4. During the time that Service is performed at the Contractor's plant, no insurance protection is provided. The customer shall ensure that existing insurance coverage is maintained for the Object to Be Serviced, e.g. for fire, water damage, storm and accidental damage and machinery insurance. Only upon the customer's express request and at his expense can the Contractor take out insurance to cover said risks.

5. If the customer delays retrieval and acceptance of the Object to Be Serviced following completion of Service, the Contractor may elect to charge the customer warehouse rent for storage at the former's plant. At the Contractor's discretion, the Object to Be Serviced may

be stored otherwise. The customer shall bear the costs and the risk of storage.

#### **VIII. Deadline for Service Performance**

1. The times indicated as deadlines for the particular Service to be performed hereunder are based on estimates and, for this reason, shall not be binding.

2. The customer may request the Contractor to agree to a binding deadline for performance of the Service(s) hereunder only if the scope of the work and/or Service is exactly defined.

3. A binding deadline for performance of a Service hereunder shall be considered met if upon expiration thereof the particular Object to Be Serviced is ready to be transferred to the customer for retrieval, if said Object is to be tested as provided by the contract, and/or the corresponding Service to be performed hereunder has been completed and/or the desired objective of said Service has been achieved.

4. If additional or extended orders are placed or if Services are additionally required, the agreed deadline for performing the originally ordered Service hereunder shall be extended accordingly.

5. If any Service to be performed hereunder is delayed in the context of events relating to industrial disputes, in particular strikes and lockouts, or occurrence of circumstances for which the Contractor is not liable, the deadline for performing said Service shall be reasonably extended, insofar as such obstacles are proven to exert significant influence on performance of any Service hereunder; this shall also apply if such circumstances occur after the Contractor has already defaulted on said performance.

6. If, as a consequence of the Contractor's delay in performing any Service, the customer incurs any damage that can be proven, the customer shall be entitled to request compensation for said delay. Said compensation shall be 0.5% on the whole for each full week that performance is delayed, but shall not exceed a maximum of 5% of the price for the Service of the particular part on which the Contractor is

to perform said Service and which cannot be used on time as a result of said delay.

7. If the customer specifies a reasonable deadline, taking into account the legal exceptions, for subsequent performance of Service after said delay has occurred and if this new deadline is not met, the customer shall be entitled within the scope of the legal provisions to withdraw from the contract. Further claims on account of a delay in performance shall be governed exclusively as defined in Section XIII 3 hereof.

#### **IX. Acceptance**

1. The customer undertakes to accept the Service performed hereunder, whether in the form of repair, maintenance, commissioning service or other defined Service hereunder. If the Service performed does not conform to this contract, the Contractor undertakes to eliminate the Defect as defined by Article No. XI. hereof, provided that this is possible for the particular Service to be performed. This shall not apply if the Defect is minor when assessed in the interest of the customer or is based on a circumstance for which the customer is responsible. If there is a minor Defect, the customer may not refuse acceptance.

2. If acceptance is delayed through no fault of the Contractor, acceptance shall be deemed as having taken place two weeks after the Contractor has notified the customer of completion of the Service performed hereunder.

3. Upon acceptance, the Contractor's liability for discernible Defects shall lapse, insofar as the customer does not reserve the right to enforce a claim for a certain Defect.

4. We, the Contractor, shall perform Services according to the guidelines of our quality control and check deliveries accordingly. Should the customer request more extensive tests, this shall be agreed in writing and the costs for said extensive tests shall be borne by the customer.

#### **X. Retention of Title | Extended Lien**

1. The Contractor shall retain title to all accessories, spare parts and exchange parts or subassemblies used until it has received all payments due from the particular service contract. Further security agreements may be entered into.

2. On account of the Contractor's claim to payment arising from the particular service contract, the Contractor shall be entitled to a lien on the customer's Objects to Be Serviced which come into the Contractor's possession as a result of the service contract. This lien may be also be enforced on the grounds of accounts receivable for work performed earlier, spare part deliveries and other Services insofar as they are in connection with the Object to Be Serviced hereunder. For any other claims arising from this business relation, this lien shall apply only to the extent that said claims are undisputed or *res judicata*.

#### **XI. Claims for Defects**

1. If the Contractor owes the customer specific work as agreed in a contract for work and services and thus work and services legislation is applicable, the Contractor shall fulfill its warranty according to the following provisions: In the event of deficient Service performed hereunder, the Contractor shall first be entitled, and obligated to perform, rectification. If rectification ultimately fails to eliminate the deficient Service, the customer may elect to withdraw from the contract, reduce payment for said Service or request damages according to the legal provisions. The customer's claims to reimbursement of expenses shall be excluded.

All customer warranty claims based on a defect in quality or material or in title shall be subject to a limitation period of twelve (12) months as of acceptance of the work performed hereunder. As for the remaining provisions, Article Nos. XII. and XIII. shall apply accordingly.

2. If service legislation is applicable to the Service agreed hereunder, the following shall apply: In the event of deficient Service performed hereunder, the Contractor shall first be entitled, and obligated to perform, rectification. If said rectification fails to eliminate the deficiency, the customer shall be entitled

to receive damages within the scope of Article No. XII.

3. The warranty shall exclude used goods, used spare parts, damage incurred as a consequence of natural wear and tear, inadequate maintenance – provided that this was not performed by the Contractor – failure to follow equipment operating instructions excessive or unsuitable use and improper construction and/or assembly work performed by third parties and any other external effects and causes over which the Contractor has no control or for which the Contractor is not responsible.

4. This warranty shall expire if the customer or a third party makes changes or repairs to the Object to Be Serviced hereunder, without obtaining the prior written consent to do so from the Contractor.

## **XII. Contractor's Liability |**

### **Exclusion of Liability**

1. If parts of the Object to Be Serviced are damaged through the fault of the Contractor, said Contractor may elect to repair said damage at its own expense or to deliver new replacements. The Contractor's obligation to replace said damaged parts shall be limited to the price at which the particular Service was agreed. As for the remaining provisions, XII. 3 shall apply accordingly.

2. If, through the Contractor's fault, the customer cannot use the Object to Be Serviced as provided by the contract, and this non-use results from failure to provide or the provision of deficient suggestions and or advice, either before or after said contract is signed, and other collateral obligations of the contract – in particular instructions for operation and maintenance of the Object to Be Serviced, the provisions of Sections XI and XII 1 and 3 shall apply accordingly, excluding further customer claims.

3. The Contractor shall not be liable for any consequential, indirect, special, punitive or exemplary damages (including, without limitation, lost profits, business or goodwill) suffered or incurred by the customer or any third party in connection with the Services performed and | or any

breach or alleged breach of the contract. Notwithstanding anything contained in these Terms and Conditions to the contrary, the total aggregate liability of the Contractor and its respective officers, directors, employees and agents, is limited for any and all claims, losses, costs, damages of any nature, so that the aggregate liability of the Contractor shall not exceed the amounts payable to the Contractor for the Services giving rise to the claim. Notwithstanding the above, in the event of damage that is not sustained by the Object to Be Serviced itself, this limitation will not exclude, irrespective of the legal reason,

- a) any event of willful intent;
- b) any event of gross negligence on the part of the legal representative | entities, directors or executive-level employees;
- c) any event of culpable physical injury death and hazards to life and health;
- d) any event of Defects that it has fraudulently concealed or the absence of which it has guaranteed.

With regard to claims under the Finnish Product Liability Act (694/1990), said Act shall apply without restriction.

Any further claims shall be excluded.

## **XIII. Limitation of Claims**

All customer claims, irrespective of their legal basis, shall be subject to a limitation period of twelve (12) months. For claims for damages as defined by Section XII. 3 a – e, the statutory limitation periods shall apply. If the Contractor performs Service on a building or structure and causes it to become defective as a result, the statutory limitation periods shall likewise apply. The warranty shall not entail that the Object to Be Serviced maintain metrological specifications that were changed as a result of improper use.

## **XIV Payment of Damages by the Customer**

If the devices, equipment or tools provided by the Contractor are damaged or lost through no fault of the Contractor during Services performed outside the Contractor's plant at the site at which said Service(s) is (are) to be performed, the customer shall be obligated to pay compensation to the Contractor for said damage incurred. Damage that can be attributed to normal wear and tear shall not be considered.

## **XV. Applicable Law | Place of Jurisdiction**

1. The legal relations between the Contractor and the customers shall be exclusively governed by the laws of Finland, which are authoritative for legal relations between domestic parties.

2. The place of jurisdiction shall be the court having jurisdiction at the Contractor's legal domicile. However, the Contractor shall be entitled to bring claims before the court having jurisdiction at the customer's primary place of business.