



## Standard Terms of Service

### 1. Scope

- 1.1. These Standard Terms of Service (hereinafter: "Service Terms") apply to all contractual relationships of Bühler Technologies GmbH (hereinafter: "Bühler") with entrepreneurs as defined in §14 Civil Code (BGB), legal entities under public law or special funds under public law (hereinafter: "Customer(s)") and that concern maintenance, standby services, repairs (hereinafter individually or collectively referred to as "Service and Support") and/or a rental contract for equipment of Bühler.
- 1.2. These Service Terms apply on an exclusive basis. Deviating, conflicting or additional terms and conditions of Customer will not be incorporated in the contract unless and except to the extent their applicability has been expressly approved by Bühler in written form. These Service Terms shall also apply if Bühler, notwithstanding its knowledge of any deviating, conflicting or additional terms of Customer, executes the contract or provides the Service and Support to Customer. Customer is deemed to have accepted these Service Terms at the latest when accepting delivery of the Service and Support owed by Bühler.
- 1.3. These Service Terms as amended from time to time shall operate as master agreement for any future contracts without Bühler being required to invoke their application in each single case, and Bühler will promptly communicate any amendments to Customer.

### 2. Execution of contract

- 2.1. Bühler's offers are without engagement and non-binding unless they have been expressly marked as binding or contain a specific period of acceptance. Customer's order for Service and Support is a binding contractual offer. Except as stated in the order, Bühler has the right to accept Customer's contractual offer within 14 days of receipt. Bühler may declare acceptance of Customer's contractual offer either in written form (for example by acknowledgment of order) or by rendering the Service and Support to Customer.
- 2.2. Bühler and Customer will define the precise scope of the Service and Support in the contract made from time to time.
- 2.3. A rental contract for equipment of Bühler has been brought about when the two Parties to the contract signed the rental contract form provided by Bühler.

### 3. Substance of contract

- 3.1. Bühler will perform the Service and Support professionally and in entrepreneurial autonomy.

- 3.2. Any individual agreements made with Customer from time to time (including any subsidiary agreements or amendments) shall override these Service Terms in any event. Unless there is evidence to the contrary, a written contract or Bühler's written acknowledgment of order will determine the substance of any such agreements.
- 3.3. Bühler has no obligation to perform consultancy services or technical training unless such services are expressly stated in its acknowledgment of order. Any services that Bühler is to provide beyond the scope of its acknowledgment of order and that Bühler is not required to provide by law is subject to extra confirmation and payment by Customer.
- 3.4. Depending both on the type and scope of the Service and Support ordered by Customer and on the agreed period of performance, Bühler, in its own discretion, will deploy a reasonable number of skilled and qualified staff that are subject exclusively to Bühler's right to give directions. For this, Bühler may deploy qualified third-party staff, in particular sub-contractor staff, to an appropriate extent.
- 3.5. Any estimates Bühler may provide as to the expected duration of the Service and Support ordered are provided to the best of Bühler's knowledge, and Bühler will not be bound by such estimated duration until otherwise expressly agreed in writing with Customer.
- 3.6. If, for reasons beyond Bühler's control, Customer's facility where Bühler is to perform the Service and Support is destroyed or deteriorates to such an extent that it becomes impossible for Bühler to perform the Service and Support in conformity with the contract, Bühler is released from its obligation to perform while retaining its claim to the agreed consideration less any expenditures saved.

### 4. Cooperation, assistance by Customer

- 4.1. The Parties undertake to always work together in a spirit of trust to ensure cost-efficient and proper performance of the contract and to inform each other in this spirit and in a timely manner and to coordinate any measures that fall within the scope of these Service Terms.
- 4.2. Customer will reasonably assist Bühler in performing the Service and Support, in particular by providing technical assistance (section 5).
- 4.3. Customer shall provide the items or facilities to be serviced or repaired, putting them in a condition enabling Bühler to perform the Service and Support promptly upon arrival. Customer shall further ensure that Bühler will not be interrupted or disturbed by any third parties or Customer in performing the Service and Support.

- 4.4. Customer shall inform Bühler promptly, in any case in a timely manner prior to performance of the Service and Support, of any changes carried out by Customer or third parties commissioned by Customer concerning the items or facilities to be serviced or repaired.
- 4.5. Customer shall make sure that Bühler's staff and the equipment they come with are safe and protected at the place of performance and Customer shall take all necessary measures to do so. In particular, Customer shall put the items or facilities to be serviced or repaired in such a condition that they can be accessed in accordance with the accident prevention regulations that apply at the place of performance. Customer shall inform Bühler of the existing security precautions and shall act upon any safety instructions given by the Bühler staff. If a member of the Bühler staff seriously violates any security precautions, Customer may, in consultation with Bühler, direct the violating staff member to leave the place of performance, denying such staff member any further access to the place of performance.
- 4.6. Prior to performance of the Service and Support, Customer is obliged to advise Bühler of any toxic or other health-hazardous substances in the items or facilities to be serviced or repaired.
- 4.7. Where necessary, Customer will assist the Bühler staff in performing the Service and Support by finding appropriate accommodation and catering near the place of performance. No later than on arrival of the Bühler staff, Customer shall inform them of all their obligations (notifications, reports, etc.) in relation to the local authorities. Customer shall further assist the Bühler staff in their interactions with the local authorities, helping them with obtaining any necessary certifications. If the place of performance is outside Germany, Customer shall act for Bühler in relation to government agencies and shall handle the necessary paperwork.
- 4.8. Customer shall give prompt notice to Bühler if a staff member performing Service and Support at Customer's falls ill or dies or suffered an accident. Customer shall arrange for and advance the costs of medical treatment, any necessary transfer to a hospital, home transport where appropriate and any other required measures. Bühler shall reimburse Customer against supporting documents.
- 4.9. If providing the Service and Support requires the presence of Bühler staff for a period of more than one day, Customer is obliged to provide a lockable room or an appropriate lockable container for any equipment and tools the Bühler staff need to provide the Service and Support. The same obligation applies if the Service and Support as such does not require work for more than one day (8 hours) but requires staff to work on more than one day.
- 4.10. Customer shall reasonably assist Bühler with the transport and return shipment of the tooling provided by Bühler. If tooling for providing Service and Support is shipped to the place where the Service and Support is to be provided, Customer's obligation under subsection 4.9 shall apply whatever the hours needed to provide the Service and Support.
- ### 5. Technical assistance by Customer
- 5.1. Customer is obliged to provide Bühler with reasonable and requisite technical assistance at the place of performance at Customer's own expense, including, without limitation:
- (a) providing necessary, appropriate auxiliary staff, in the required number and for the required time; such auxiliary staff shall act upon the technical and other professional instructions given by the contact person designated by Bühler; liability for the auxiliary staff remains with Customer;
  - (b) carrying out scaffolding work, including procurement of the necessary building materials;
  - (c) providing necessary equipment and heavy tooling as well as other necessary requisites and materials, including obligatory safety equipment;
  - (d) providing heating, lighting, operating power and water, including the necessary connections and other resources;
  - (e) providing dry and lockable rooms for storing materials and tools; where available;
  - (f) transporting tools and parts at the place of performance where necessary;
  - (g) protecting the place of performance and the necessary materials against harmful impacts of any kind and cleaning the place of performance; in particular, disposing of packaging and residual waste, lubricants and so forth that may accumulate during the maintenance work, at Customer's own expense;
  - (h) providing appropriate and theft-proof recreation rooms and workrooms (including heating, lighting, washing facilities and sanitary facilities) and providing first aid to the Bühler staff if necessary; at least, ensuring shared use of Customer's recreation rooms and workrooms.
- 5.2. If Customer fails to comply with its obligations to cooperate and provide technical assistance, Bühler, notwithstanding any other rights, has the right but no obligation to perform such activities in lieu of Customer and at Customer's expense after allowing time.

### 6. Special terms concerning maintenance contracts

- 6.1. In the case of a maintenance contract, Bühler owes one maintenance session per calendar year for each piece of equipment covered by the maintenance contract.
- 6.2. Maintenance comprises (i) visual inspection of the equipment, (ii) functional testing, (iii) replacement of wearing parts, (iv) leak testing, (v) a test seal and (vi) a maintenance report.
- 6.3. Bühler and Customer will agree the specific maintenance date.
- 6.4. If a flat fee is agreed for the maintenance, such flat fee encompasses the working time, the costs and hours of travelling, expenses and a 30-minute safety briefing by Customer if the maintenance is carried out at Customer's. The cost of wear parts and spare parts are not included in the maintenance fee and are specified in the price list.
- 6.5. A maintenance contract encompasses maintenance services that are specifically agreed upon. Other work as well as wear parts and spare parts not included in the scope of the maintenance contract will be charged separately. In particular, no repairs fall within the scope of a maintenance contract.
- 6.6. In the case of a maintenance contract, 12 months after conclusion of the contract or 12 months after the most recent fee increase, Bühler may increase the agreed fee by 10% or less. If the fee was not increased in the previous 36 months, Bühler may increase the agreed fee by 20% or less. Bühler is obliged to give Customer written notice of any fee increase. If the fee increase exceeds 5%, Customer may summarily terminate the contract for cause.
- 6.7. The maintenance contract has a term of one year. It is renewed for another year in each case unless terminated by Bühler or Customer three months prior to expiry.

### 7. Special terms concerning standby services

- 7.1. If the Parties agreed standby services, Bühler is obliged to ensure that a qualified member of its staff can be reached by phone during the agreed hours. Working together with Customer, Bühler shall carry out an error analysis and shall troubleshoot by phone for equipment that is subject to the contract, provided this can be made by phone. When on standby, Bühler provides telephone advice for error analysis, assisting in Customer's own troubleshooting efforts. If an issue cannot be resolved by phone, an appointment can be made for Bühler to repair the equipment. Such repair is

not part of Bühler's standby service and will be charged separately.

- 7.2. If the Parties agreed on "standby service", Bühler is obliged to ensure that a qualified member of its staff will repair the subject equipment at the place of performance within the agreed period in Customer's order. Such repair is not part of Bühler's standby service and will be charged separately. The respective time commitment (24h/48h/72h) results from the respective agreements in the service order.
- 7.3. Standby services will be charged monthly. Notwithstanding subsection 10.6, Bühler's fee claim will fall due upon provision of the standby service and will be payable 8 days after receipt of the invoice at the latest.
- 7.4. In the case of a contract for standby services, 12 months after conclusion of the contract or 12 months after the most recent fee increase, Bühler may increase the agreed fee by 10% or less. If the fee was not increased in the previous 36 months, Bühler may increase the agreed fee by 20% or less. Bühler is obliged to give Customer written notice of any fee increase. If the fee increase exceeds 5%, Customer may summarily terminate the contract for cause.
- 7.5. In case Bühler fails to meet its obligations regarding its standby service to more than a minor extent, in particular if it cannot be reached by phone during standby service, Customer is released from its payment obligation for the billing month in question. Bühler remains obliged to provide standby services for the month in question.
- 7.6. A contract for standby services has a term of one year. It is renewed for another year in each case unless terminated by Bühler or Customer three months prior to expiry.

### 8. Default in performance

If Bühler fails to perform its obligation under the contract or fails to do so in a timely or complete or proper manner, Customer may give written notice to Bühler allowing reasonable time for Bühler to perform its contractual obligation. If Bühler fails to comply with its obligations within the time allowed, Customer may, at the earliest after two attempts of Bühler to remedy its failure, perform or have a third party perform the relevant Service and Support at Bühler's expense. The first and second sentences above do not apply to the extent the breach of duty is not in Bühler's control.

### 9. Liability

- 9.1. In conformity with statutory regulations, Bühler's liability shall not be limited in the events of (i) deliberate default or gross negligence, (ii) injury to life, body or health if caused at least through negligence, (iii) mandatory liability under the Product Liability Act (Produkthaftungsgesetz), (iv) fraudulent conduct and (v) liability for absence of guaranteed qualities.
- 9.2. In the event of injury caused through gross negligence of persons employed by Bühler in the performance of its obligations, Bühler's liability is limited to the typically foreseeable damage notwithstanding the events stated in clause 9.1(ii) to (v) above.
- 9.3. In the event of ordinary negligence, Bühler shall not be liable except for negligent breach of duties that are of the essence of the contract notwithstanding the events stated in clause 9.1 (ii) to (v) above. Duties that are of the essence of the contract are duties the very performance of which enables the proper completion of the contract and on the satisfaction of which a contracting party typically relies and may rely. In these events, Bühler's liability is limited to the typically foreseeable damage.
- 9.4. Where Bühler provides technical information or consultancy services that do not form part of the contractually agreed scope of performance, this will be to the exclusion of any liability, notwithstanding the events set forth in clause 9.1 (i) to (v) above.
- 9.5. Whether or not a delivery period or date has been agreed upon on a binding basis, Bühler shall not be responsible for any delays in delivery or performance that are due to force majeure or other events beyond Bühler's control that substantially impede or render impossible delivery or performance by Bühler, including, without limitation, shortage of commodities, strikes, lockouts, official orders, fire, theft, lightning, storm damage, and so forth, including such events occurring at Bühler's suppliers or their sub-suppliers. Bühler will notify Customer without undue delay once any of the foregoing events has occurred. Bühler may postpone the delivery or performance by the length of the disturbance plus appropriate start-up time or may withdraw from the contract wholly or in part as regards the contractual part that has not yet been performed. If Customer, as a result of the delay, cannot reasonably be expected to accept delivery or performance, Customer may withdraw from the contract by giving prompt written notice to Bühler.
- 9.6. The foregoing limitations on liability shall also inure to the benefit of a legal representative, an employee or a person employed by Bühler in the performance of its obligations or by any other persons acting for Bühler.
- 9.7. Customer shall be responsible for the contractually agreed execution of the contract order to not involve any infringement of another's IP rights by any items,

drawings, samples or models provided by Customer. Customer is obliged to indemnify Bühler against all claims that may be brought against Bühler by third parties on grounds of such infringements, and Customer is obliged to compensate Bühler for all necessary expenditures in connection with such claims. No such entitlement arises where Customer can prove that the infringement has not been in Customer's control and that Customer, applying commercial diligence, ought not to have recognized the infringement at the time of the order.

### 10. Prices/terms of payment

- 10.1. Except as expressly agreed, Bühler provides all Service and Support at the cost-based prices applicable on conclusion of the contract. The current price list, including the provisions relating to hardship allowances and allowances for overtime hours or Sunday work and night work will be sent to Customer together with Bühler's offer.
- 10.2. Service and Support further encompasses hours of travel as well as set-up, preparation and clean-up time. Customer shall further bear travel costs, the cost of transport of staff, baggage and tools, daily allowances for the staff as well as baggage and flight insurance costs to a reasonable extent.
- 10.3. Except as expressly agreed in the given contract, Bühler will charge Customer separately for any wear parts replaced as part of Service and Support including for any other material costs, at the list prices valid at the time of performance.
- 10.4. The stated prices are net prices. Bühler will charge transaction taxes (VAT, etc.) additionally and in conformity with the statutory provisions applicable at the time of performance at the place of performance.
- 10.5. Except as agreed in writing, any claims of Bühler will be due when accrued and must be paid within 30 days of the invoice date at the latest. Any discount is subject to specific written agreement. No cheques or bills of exchange will be accepted unless upon prior written agreement. The cost of payment transactions and of any collateral that may have to be provided shall be at Customer's expense.
- 10.6. Bühler has the right to withhold the execution of pending Service and Support until advance payment or provision of security if Bühler, after entering into the contract, has notice of circumstances that are apt to substantially affect Customer's credit standing and that put Customer's payment of Bühler's outstanding receivables under the respective contractual relationship at risk.

### 11. Set-off/right of retention/right to withhold performance/assignment

- 11.1. Customer has no right to set off or retain any payments except to the extent Customer's claim is indisputable or has been recognized by final judgment.
- 11.2. If it becomes evident after the execution of a contract that Bühler's right to be paid the remuneration is jeopardized through lack of financial fitness in Customer, Bühler may refuse to perform and, after allowing time for payment as the case may be, may withdraw from the contract in accordance with statutory regulations (§ 321 BGB). If a contract is for the production of non-fungible goods (custom-made goods), Bühler may declare its withdrawal promptly, without prejudice to the statutory provisions on the allowing of time being dispensable.
- 11.3. Bühler may freely dispose of its claim against Customer, and its claim is assignable.

### 12. Termination

If cause has occurred, Bühler may either summarily terminate the contract or may withdraw from the contract without allowing time, in each case prior to expiry of the contract. Cause has occurred in particular if Customer:

- (a) gets into an economic situation in which Customer cannot meet its liabilities, in particular if opening insolvency proceedings against Customer's assets has been applied for or if opening such proceedings has been refused for lack of assets;
- (b) fails to meet its payment obligation despite a written warning allowing reasonable time.

### 13. Written form

The effectiveness of any legally relevant notifications and declarations to be made by Customer to Bühler after the execution of a contract (for example to set a time or notify defects or withdraw from the contract or reduce the price) are subject to written form. To comply with written defects as to written form for purposes of these Service Terms, transmission of characters by way of unsigned emails shall be sufficient.

### 14. Choice of law/place of performance/place of jurisdiction

- 14.1. The law of the Federal Republic of Germany shall exclusively apply to the contractual relationship between Bühler and Supplier to the exclusion of German private international law and the Convention of 11 April 1980 on Contracts for the International Sale of Goods (CISG).
- 14.2. Bühler's place of business shall be the place of performance for deliveries and payments.
- 14.3. Düsseldorf shall be the place of jurisdiction for all disputes under / or in connection with the contractual relationship between Bühler and Customer. Bühler has the right to sue Customer at Customer's general place of jurisdiction.

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