

# Contract for Maintenance

of machines and  
technical equipment

by

**SERVOLIFT GmbH**

Service Number

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(as of 05/2019)

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## I. Aim / Purpose

This contract governs the scope of the maintenance / inspection (services) to be performed by SERVOLIFT at Purchaser's premises.

## II. Preamble / Definition / Scope

### 0.1. Preamble

This contract does not replace any government regulations or obligations that the system operator must perform and monitor according to the operator's responsibilities. The objective is the prevention of breakdowns and system failures, the minimization of operation and maintenance costs and the long-term preservation of the customer's investment. The parties provide here for, among other things, favorable overall costs, operational safety, improved equipment availability, forward-looking planning of costs and the performance of statutory inspection obligations through use of a technical expert as required.

### 0.2. Definition

#### 0.2.1. Maintenance

Maintenance is, according to DIN 31051, the: "Combination of all technical and administrative measures as well as managerial measures during the life cycle of a unit for the preservation of its serviceable condition or return to serviceable condition so that it can fulfill its required function."

The subject of this contract is basic maintenance measures

- Inspection;
- Maintenance and Repair

#### 0.2.2. Inspection

Measures to determine and assess the present condition of a unit, including determining causes of wear and inferring the necessary consequences for future use. In particular, inspection measures may include:

- Creation of a mandatory inspection plan
- Preparation for the inspection including protective measures required therefore
- Performance of the inspection, predominantly the evaluation of specific characteristic values through testing, measuring, monitoring
- Presentation and evaluation of the results
- Error analysis
- Planning in the sense of pointing out and assessing alternative solutions, taking into consideration internal and external requirements
- Feedback to the corporation

#### 0.2.3. Maintenance

Measures to delay depletion of the existing wear reserve. In particular, maintenance measures may include:

- Creation of a mandatory maintenance plan
- Preparation for maintenance including required protective measures
- Performance of the maintenance (e.g. adjusting, changing and replacing operating materials / consumables, recharging, lubricating, preserving, cleaning to the extent required for preserving functionality)
- Operational testing
- Feedback to the corporation

The tests and measurements that are required in connection with maintenance shall be conducted.

#### 0.2.4. Repair

Physical measures that are carried out to restore the functionality of a faulty unit. In particular, repair measures may include:

- Task management
- Error analysis
- Planning
- Preparation for repair including preliminary measures
- Performance (e.g. making repairs, replacing)
- Testing of functionality and inspection and approval of the repair
- Evaluation and documentation

The tests and measurements that are required in connection with the reconditioning shall be conducted.

#### 0.2.5. Testing, Cleaning and Measuring

Generally, the term "testing" shall be understood to refer to a visual inspection including a function check, unless otherwise provided in the contract.

Generally, the term "cleaning" shall be understood to refer to cleaning that is necessary for the preservation of proper functioning or functional fulfillment.

Generally, the term "measuring" shall be understood to refer to:

- Monitoring whether a limiting value is being complied with.  
The result (positive/negative) must be documented.
- Determining a specific operating condition of the equipment.  
The measured value must be documented.

In either case, a result that lies outside of the tolerable range shall be cause for further action (maintenance, repair).

### 0.3. Area and Scope of Application

Applicable to all activities and services for the fulfillment of the maintenance and inspection services that are being provided by SERVOLIFT staff and/or SERVOLIFT subcontractors.

This contract does not apply to

- Joint commissioning of maintenance and inspection and repair services with other service providers.
- Sanitary, energy or technical research and design and improvements
- Sanitary inspections e.g. pursuant to VDI 6022.

## III. General

### 0.4. Insurance

Contractor has liability insurance that covers property damage as well as financial losses and bodily injury. The level of insurance covers the statutory liability of the insured arising from bodily injury and property damage that occur because of products manufactured and delivered by the insured and because of the execution of work by the insured during the effective period of the contract, in accordance with the insurance amounts and conditions of the insurance contract. The policy covers bodily injury and property damage occurring all over the world.

### 0.5. Inspection Periods

The designated periods shall generally be regarded as benchmarks and must be seen as depending upon the intensity and duration of use. The specific periods are dependent upon the obligation of the equipment operator, in particular upon

- the safety and sanitary requirements
- the requirements/recommendations of relevant regulations and guidelines
- the diverse wear and tear of the system components
- the required minimum availability of the system
- the local operating conditions (e.g. staff, emissions, service life)
- the accessibility of the equipment considering data protection regulation issues

Following a period of operation of several years, the completion periods should be checked using the collective experiences (e.g. Intensity of use, susceptibility to failure) and adjusted according to need. Independently from the services mandated in the contract, the operator or user must ensure / guarantee that visual and functional inspections are carried out, e.g. In connection with regularly performed inspections. The necessary expertise is referenced.

### 0.6. Waste / Waste Removal

Materials and supplies that must be replaced by Contractor in connection with maintenance must be removed according to statutory provisions within the scope of the contractual services. Excepted from this rule are materials and supplies that possess hazardous characteristics and must be disposed of as "hazardous waste". In these cases, disposal shall be carried out directly on site by the Purchaser and at Purchaser's expense. In these cases, Purchaser shall act as the waste producer and the disposal shall be managed separately by the Purchaser with reference to the statutory requirements for hazardous waste.

## Maintenance and Inspection Contract

for existing systems

Between (customer):

Click here to insert text.

represented by (customer contact person):

Click here to insert text.

job number of the purchaser (e.g. standing order / purchase order number)

Click here to insert text.

**-hereinafter referred to as Purchaser -**

and SERVOLIFT, GmbH

Click here to insert text.

job number of the contractor

Click here to insert text.

**- hereinafter referred to as Contractor -**

the following agreement is hereby reached  
for (SERVOLIFT machine numbers):

see "Machine/Equipment Overview" list.

## 1. Subject of the Contract

With the exception of improvements according to DIN 31051, Contractor undertakes the maintenance and inspection of, as well as further agreed or other services (see No. 2.1 and No. 2.2) regarding, the technical equipment and installations - referred to hereinafter as systems - that are designated in the machine/equipment list. The most current version of the machine/equipment list shall always apply.

The machine/equipment list is an integral part of this contract.

Note:

*Machine or equipment type, location of installation (spatial dimensions, if applicable), serial number, calendar week/year and other information relevant to the contract (spelled out if necessary on additional pages) should be indicated so precisely and thoroughly in the machine/equipment list that the subject of the contract and the covered system components can be assessed without ambiguity.*

## 2. Contractor Services

**(2.1)** The nature and scope of Contractor's services shall include all maintenance-related measures set forth in 2.1.1, 2.1.2 and 2.2 that are necessary for the secure, functional and economical operation of the system(s).

Note:

*The responsibility of Contractor regarding cost efficiency applies only to the extent that cost efficiency can be addressed through maintenance. Other influencing factors (e.g. the type and scope of systems operation) are beyond the sphere of influence of the Contractor and, for this reason, also beyond the scope of Contractor's responsibility. Therefore, under this maintenance contract, Contractor cannot be required to implement technical improvements to the systems for the purpose of improving cost efficiency without receiving extra compensation. The obligations of the operator arising under statutory provisions are not curtailed by the execution of a maintenance contract.*

Contractor shall determine the scope of the measures in detail, to the extent that no contrary arrangements are subsequently entered into. Should the measures provided by Contractor prove insufficient, Contractor is required to adjust the measures without any claim for additional compensation. An exception shall apply if the Contractor demonstrates that unforeseeable circumstances such as substantial changes in use or exceptional environmental impacts necessitate a change in the scope of the services.

Note:

*Special arrangements shall be made when it is already evident at the inception of the contract that exceptional environmental impacts may lead to elevated maintenance costs.*

**(2.1.1)** Maintenance shall encompass the measures that are regularly required for keeping the system(s) in good working order and condition according to a work instruction and/or checklist(s) of the Contractor, including the removal of dirt from the systems that accumulates as a result of their operation (measures to delay depletion of the existing wear reserve).

Note:

*Special arrangements shall be made if there are also working areas, ducts, chutes etc. that must be cleaned within the scope of this contract.*

## Further Agreements

-none-

**(2.1.2)** Inspection shall encompass the regular checking of the systems for their proper working order and good condition (measures to determine and assess the present condition of a unit, including determining causes of wear and inferring the necessary consequences for future use).

## Further Agreements

-none-

**(2.2)** Furthermore, Contractor's services include

- the certification of safety tests that must be carried out by Contractor's technical experts by reason of regulations under public law (e.g. industrial safety regulations, accident prevention regulations) and generally accepted rules of technology (e.g. DIN, VDE).

Further Agreements

-none-

**(2.3)** The following services are not a part of the Contractor's lump price maintenance package.

**(2.3.1)** Major overhaul of systems;

includes the removal of malfunctions and defects, the delivery of all required substitute parts and the reconditioning or repair of all worn-out or faulty system parts (physical measures that are performed to restore the functioning of a faulty unit), e.g. large swivels, joints and gaskets, hydraulic hoses every 6 years, etc.

**(2.3.2)** Adaptations or modifications due to requirements of new or modified statutory provisions;

**(2.3.3)** Delivery and installation of additional equipment and parts;

**(2.3.4)** Removal of damages caused by external forces, other unforeseeable influences or improper operation;

- In emergencies, Contractor must promptly perform the services mentioned in 2.3 in accordance with a special order placed within a reasonable period of time. As a rule, a detailed offer must be submitted in advance that is based upon a joint inspection.

The agreement for services under 2.3 shall be deemed awarded if

Purchaser confirms the agreement thereto by signing the form "Subsequent Works and Materials" directly on site.

### **3. Contractor's Obligations**

**(3.1)** Contractor must observe government regulations, in particular the accident prevention regulations and the generally rules of technology.

**(3.2)** Contractor must perform the services using Contractor's company. Contractor may assign portions of the services to subcontractors with the consent of Purchaser. Contractor is obligated to deploy skilled employees who are qualified.

**(3.3)** Contractor is obligated to provide or furnish all necessary tools (e.g. measuring instruments, diagnostic tools, loading weights and tools) and supplies (e.g. lubricants and cleaning agents) needed for delivery of the services. Excepted from this are the tools and supplies made available by Purchaser in accordance with 9.2.

**(3.4)** Only genuine spare parts (new parts or replacement parts) or their equivalents may be used. Removed parts are the property of the Contractor.

**(3.5)** Should Contractor recognize defects or damages outside of Contractor's scope of services that might jeopardize the operational availability or safety of the system, Contractor must immediately inform the Purchaser (contact person) and, if necessary, arrange for the removal of the system from service by Purchaser. The obligation to give notice also applies to defects or damages that jeopardize operational availability or safety but cannot be immediately remedied. Details shall be noted on the respective inspection record.

**(3.6)** Contractor must inform Purchaser in writing about measures that, because of changes in use, are required by government regulations or generally accepted rules of technology. Contractor should inform Purchase about important technological advancements.



**(3.7)** It is recommended to Purchaser that a maintenance ledger be kept and stored at the site of installation for each system.

**(3.8)** Contractor must address its invoices as follows:  
(address, invoicing details)

[Click here to insert text.](#)

## **4. Performance of the Services**

**(4.1)** Contractor must perform its services (with the exception of emergency maintenance)

during Contractor's normal working hours (8:00 a.m. - 5:00 p.m.)

at the following times:

[Click here to insert text.](#)

The time for performing out the work must be jointly agreed upon with Purchaser in a timely manner before it begins (contact person, telephone):

[Click here to insert text.](#)

**(4.2)** Completed tasks, as well as substitute parts that are installed and substantial defects and damages, shall be described briefly in the maintenance ledger. Measured values and setting values shall be entered in the respective checklists.

## 5. Performance of the Services

(5.1) The following compensation, on the basis of the VAT rate applicable at the time the tax accrues, is agreed upon for the services assigned to Contractor for the systems specified in the machine/equipment list:

Attachment 1 “Machine/Equipment Overview” list

(5.1.1) This remuneration shall be in satisfaction of

- the services described in 2.1 and 2.2;
- the costs for the tools and supplies designated in 3.3, except to the extent otherwise specified below

This remuneration shall further be in satisfaction of all costs arising from the services described in 2.1 and 2.2. Costs such as travel and transportation costs, accommodation allowances, per diem and lodging allowances, surcharges for services provided outside of normal working hours as laid out in 4.1, allowances for dirty and difficult working conditions, shall be calculated separately according to the Service Conditions Summary.

[Click here to insert text.](#)

(5.1.2) This remuneration shall not be considered compensation for

- the services under 2.3;
- surcharges for services under 4.1 to the extent that they are provided outside normal working hours;
- furnishing the following supplies  
-in accordance with 3.3

(5.2) Services under 5.1.2 shall be compensated (net) as follows:

Current Service Conditions Summary

**(5.3)** The remuneration under 5.1 is at the package prices (Attachment 1 “Machine/Equipment Overview” list) for a contract period of 24 months, excluding sales tax. The contract is tacitly renewed for an additional 12 months unless one party terminates the contract in writing 3 months before the end of the contract. Renewal of the contract shall involve a price increase of 3% per year.

**(5.4)** To the extent that Contractor is liable for material defects or defects of title relating to the installation of the system(s), no compensation shall be provided for Contractor's fulfillment of this obligation.

**(5.5)** The remuneration shall be paid

following performance of the services

Requests for compensation to which Contractor is entitled shall be paid within 30 days after receipt of invoice(s).

## **6. Warranty Claims**

The limitations period for warranty claims arising from this contract is 1 year.

## **7. Liability**

Should damage to systems be caused in connection with provision of the agreed upon services, Contractor must make good the damage if the fault lies with Contractor or its agents or servants.

## 8. Contract Duration, Termination and Changes in Service

**(8.1)** The contract shall be in effect for a period beginning

- on mm.dd.yyyy and continue for 2 years

**(8.2)** Termination without notice is only possible for good cause. In particular, good cause shall exist if:

- a. the systems specified in the machine/equipment list is sold or is supposed to be permanently taken out of service;
- b. the systems specified in the machine/equipment list must, for legal reasons, be maintained by third parties;
- c. Contractor has not performed its services or has not performed them in accordance with the contract (§ 323, BGB);
- d. Contractor's business is no longer equipped to handle the required maintenance tasks as a result of substantial changes in the system(s);
- e. an insolvency proceeding or a comparable legal proceeding is opened regarding the assets of Contractor, or an application for the opening thereof has been permitted or has been dismissed for lack of assets, or the proper execution of the contract is placed in question as a result, or Contractor has permanently suspended payments;
- f. it can be demonstrated that Contractor, by reason of the award, has reached an agreement that constitutes an unlawful restraint of competition;
- g. Contractor directly or indirectly promises, holds out the prospect of, or bestows gifts or other benefits or advantages to Purchaser or its staff or third parties that it has entrusted with the preparation, conclusion or execution of the contract, or to persons related to them.

- h. Contractor engages in criminal acts or aids and abets such acts, with respect to Purchaser, its staff or its commissioned third parties, that fall under § 298 StGB (offers in restraint of trade), § 299 StGB (bribery and corruption in commerce), § 333 StGB (granting of undue advantage), § 334 (bribery), § 17 UWG (betrayal of business and trade secrets) or § 18 UWG (commercial exploitation of the property of others);

**(8.3)** Not applicable.

**(8.4)** Not applicable.

Note:

*The intention to decommission systems must be shared with Contractor as early as possible. Such notice must announce the expected duration of the temporary shutdown. Supplemental agreements must be reached for any services that may be required for the decommissioning and recommissioning.*

**(8.5)** Should the systems specified in the inventory listing(s) be substantially altered, a corresponding change in the service and compensation obligations may be insisted upon.

Note:

*Substantial changes in the services to be carried out for the system or the contract can create an obligation to reform the contract.*

**(8.6)** Upon the request of a contracting partner, a joint inspection of the system(s) must be carried out at the end of the contract in connection with the final inspection/maintenance service. Following the joint inspection, a record thereof must be compiled.

## 9. Purchaser's Obligations

**(9.1)** Purchaser must make the existing installations, supply connections and utilities (e.g. electricity, water, fuels) available at no cost to Contractor for the performance of Contractor's services and give Contractor access to the systems and supply connections.

**(9.2)** Purchaser shall provide the following personnel:

-none-

tools:

-none-

supplies:

-none-

**Note:**

*From the point of view of the Purchaser, there may be reasons for Purchaser to provide its own tools and supplies such as hydraulic oil, motor oil, filters. In these cases, there must be coordination between the contracting parties regarding the quality of the provided materials and regarding the costs and the potential for waste disposal.*

The obligations of Contractor spelled out in 3 remain unaffected.

**(9.3)** It is incumbent upon Purchaser to award the contract to technical experts for safety inspections required by law.

**(9.4)** Purchaser shall inform Contractor about all recognized exceptional operating conditions.

## 10. Performance of Services by Third Parties

**(10.1)** If Purchaser intends to contract out services under 2.3 to a third party, then Purchaser must advise Contractor of this. Contractor must then declare whether, or under which conditions, Contractor is willing to continue the contract.

**(10.2)** If Contractor is not willing to continue the contract without modifications, and should no agreement be reached regarding modification, then each party is entitled to termination without notice.

Note:

*The insertion of a third party has a considerable impact on the rights and obligations of the parties to a contract. In such cases, it appears essential to reach specific agreements, for example regarding*

- *the scope of the contractual services during the activities of the third party;*
- *the duty of emergency maintenance during the activities of the third party;*
- *liability during the activities of the third party;*
- *examination of the equipment with or without additional compensation following the activities of the third party;*
- *warranty following the activities of the third party*

## 11. Jurisdiction

The place of jurisdiction for disputes arising from the contract shall be based on Contractor's place of business.

## 12. Attachments to the Contract

- Attachment 1 "Machine/Equipment Overview" list
- "Subsequent Works and Materials" Form
- Service Conditions Summary

## 13. Written Form and Severability Clause

**(13.1)** Amendments and supplements to this contract as well as notifications required under the contract must be in writing if they are significant for contract execution (e.g. price adjustments, changes in service).

**(13.2)** Should any one or more of the provisions of this contract be invalid, this shall not affect the validity of the remaining provisions. If and to the extent that one of the provisions of this contract should violate mandatory legal provisions, the contracting parties are obligated to replace it with a stipulation that fulfills the desired purpose in an economically equivalent manner.

Purchaser

Contractor

..... , the .....

..... , the .....

.....

.....

Name/Signature

Name/Signature