

## Teleservice Contract and Conditions for LOOS Teleservices

Between

company

- hereinafter called "Client" -

and

company

LOOS INTERNATIONAL  
Loos Deutschland GmbH  
Nürnberger Str. 73  
91710 Gunzenhausen

- hereinafter called "LOOS" -

a teleservice contract

shall be concluded for the following boiler plant(s):

Type:

Order number:

Year of manufacture:

Place of installation:

(if different from Client)

Client operates the above mentioned boiler plant which is equipped with a LOOS teleservice modem and at least one LBC in a LOOS switch cabinet. To support the plant's readiness for operation, Client charges LOOS with the teleservices specified hereinafter in detail which are principally rendered by way of data communications.

Teleservice requires close cooperation between the contracting parties. LOOS shall employ qualified specialized personnel for this, and - from the technical side of data communications – shall reserve a correspondingly configured access number.

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Client shall ensure that his plants are equipped with the corresponding software and hardware and that - on his side – trained personnel will be available to look after the teleservices. LOOS shall ensure the confidentiality of the Client's data.

The contracting parties shall agree that the responsibility and decision authority for operation of the plant shall remain with the Client. Teleservice cannot replace any regular maintenance and technical safety inspections of the plant.

## **1. Subject of the contract / Statement of services provided**

### **1.1 Telediagnosis**

Telediagnosis is used to determine any developing irregularities on the plant. These are for example:

- unacceptable pressure deviations
- failure of the burner
- irregularities of the water level
- unacceptable temperature deviations
- etc., etc.

If LOOS finds deviations within the course of telediagnosis which require action, LOOS shall support Client with the remedy as far as this is possible with the supplied telecommunication means as well as the telephone hotline.

#### **1.1.1 Determination of the actual condition (inspection)**

LOOS shall record the actual condition of processes by telecommunication means for the objects and parameters described in the appendix to this agreement, based on the recorded data and language.

#### **1.1.2 Data comparison / deviations**

LOOS shall analyze the recorded data and processes for deviations of the actual from the nominal condition.

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1. 1. 3 Searching the cause for deviations

LOOS shall analyze detected deviations for their causes. Telediagnosis shall serve to determine developing irregularities and damages to the plant.

1. 2 Discontinuous telediagnosis

If LOOS determines deviations by way of telediagnosis which require action, LOOS shall support Client in repair and maintenance as far as this is possible with the supplied telecommunication means as well as the telephone hotline.

1. 3 Other measures and services

1. 3. 1 Additional measures

If deviations cannot be remedied or not entirely be remedied by telecommunication measures within the meaning of Clause 1. 2, LOOS shall advise Client thereof.

Upon Client's request, LOOS shall render further maintenance and repair measures or propose such to the Client by means of which the proper operation of the plant can be ensured and will support him in the implementation of the suggested measures. A separate agreement shall be concluded about this.

1. 3. 2 Other services

Upon Client's request, LOOS can implement measures which go beyond the services listed above. A separate agreement shall be required for this.

1. 3. 3 Documentation

LOOS shall record the essential data of plant/processes determined by telediagnosis within the meaning of Clause 1.1.1 as well as the deviations detected.

After conclusion of the work within the meaning of Clause 1. 2 or 1. 3, LOOS shall inform Client of the measures taken by it and, upon request, shall make available the records, as well as other possibly required documentation.

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1. 4 Service limits

1. 4. 1 Service exclusions

If LOOS establishes upon the services regarding Clause 1. 1. 2 and 1. 1. 3 of this Contract that the deviations are due to external force, other unforeseeable influences, improper operation or noncompliance with the installation conditions or ambient conditions specified by the manufacturer, LOOS shall not be obligated to any measures in accordance with Clause 1. 2 and to services within the meaning of Clause 1. 3 of this Contract. The same shall apply if Client changes the software or the software environment, including the hardware.

In these cases, the parties shall meet with the objective to elaborate mutual procedures and the steps required for it.

1. 4. 2 Delimitation toward functional guarantee

LOOS shall assume the obligations listed in detail in this Contract. This shall not be connected with any guarantee that – due to the contractual services – all existing damages and deficiencies of the plant will be diagnosed and remedied, as well as any guarantee for the operability of the plant.

**2. Data transmission**

2. 1 Equipment

For the services within the meaning of Clause 1. 1 as well as 1. 2, the telecommunication means supplied shall be available.  
Each party shall be responsible for the maintenance and the operation of its facilities.

The services shall be based on the data transmission technology, especially on the data transmission paths, such as they exist at the time of contract conclusion. As far as required, they shall be adjusted to technical progress. Client shall pay the resulting costs, unless the technical improvement were merely for the benefit of LOOS.

## 2. 2 Data transmission paths

Client shall procure a telephone connection on his own behalf and at his own expense and shall take care that this connection will be available to LOOS for the contractual services. Client shall pay the monthly basic rate for the telephone connection and the charges for the individual transmission processes.

If the telephone line or the telephone connection is impaired and if LOOS cannot receive any or insufficient data, LOOS shall be released from the services regarding Clauses 1.1 and 1.2 of this Contract. This shall also apply if the data quality does not enable LOOS to render the services. In this case, LOOS shall advise Client about the disorder of the telephone line or the telephone connection.

## 2. 3 Initialization mode

In case of need, Client shall activate the teleservice facility. LOOS shall thereupon dial into the Client's server. Automatic call-back of the server shall result.

# 3. Confidentiality and data integrity

## 3. 1 Assurance of confidential handling of Client's data.

The contracting parties shall agree that all of Client's data and other Client's information – exchanged within the scope of the teleservice – regarding production secrets, relevant product-specific data etc. may only be used by LOOS exclusively for the services defined in this Contract.

Any marketing of such information on own account or knowledge transfer to third parties shall not be allowed. LOOS shall be obligated to accordingly obligate the employees involved with the teleservice. LOOS furthermore agrees to delete Client's data after termination of the contract.

## 3. 3 Virus protection

The contracting parties shall take reasonable measures according to the respective state of the art to prevent any penetration of viruses into Client's software.

If viruses occur with either of the contracting parties which impair the teleservice or may be transmitted to the systems of the other contracting party, the other contracting party shall be immediately notified in writing.

#### **4. Client's cooperation duties**

##### **4.1 Maintenance duty for facilities**

The specified technical facilities as well as the required communication connections shall be provided and maintained in operating condition by Client.

##### **4.2 Duty of information regarding technical changes**

Changes which Client makes on the technical environment shall be advised beforehand and, if necessary, to be coordinated as far as they can have an effect on the stipulated teleservice.

##### **4.3 Assistance upon error message**

With regard to the detection, delimitation, reporting and description of errors, Client must follow the information provided by LOOS. If necessary, Client must use checklists by LOOS.

Client shall keep available personnel for the teleservice which is trained in the special area and in the language. In case of error messages and questions, Client shall transmit additional information and documents to LOOS, if necessary.

##### **4.4 Concern for safety/Supervisory duty**

In cases in which teleservice can result in danger to persons and things, Client shall give a check-back –for supervisory duty reasons – to the effect that the intended measures can be performed without any risk (acknowledge). If not every plant can be acknowledged on location, Client shall provide for a reliable protection against personal and material damages.

In particular, Client shall insure that no persons will be endangered – in whatever form and whatever stage – in connection with the service performed on location.

## **5. Remuneration**

### **5.1 Basic flat rate**

The annual contractual price for the services described in Clause 1. 1 shall be

EURO 670,00- plus value-added tax

in words: six hundred and seventy

In combination with a LOOS Maintenance Service Contract, the annual contract price is reduced to EURO 530,00.

Services according to Clause 1.2 of this contract shall be calculated according to actual expenditures. For the time expenditure incurred by LOOS, the respectively applicable hourly rates for engineers which are applicable for the corresponding year shall be taken as the basis for remuneration by LOOS.

For services within the meaning of Clause 1. 3, the hourly rates which are applicable for the corresponding year shall be taken as the basis for remuneration by LOOS.

Invoicing for the telediagnoses performed shall be per April 01 of the calendar year.

### **5.2 Other remuneration components**

If measures are performed outside of the scope of the specified contractual conditions and working hours, LOOS shall indicate Client the additional costs connected with it.

### **5.3 Price validity/adjustments**

For the first two years after contract conclusion, the fees shall remain fixed. Thereafter, they shall be adjusted to the general development of cost in the technical service area.

## **6. Service time**

### **6.1 Availability of service**

LOOS shall be obligated to make the stipulated services available at the following times:

- Monday to Thursday from 07:30 to 16:30 CET (Central European Time).
- Friday from 07:30 to 14:00 CET (Central European Time).

Outside of these periods, as well as on country-specific legal holidays, LOOS can be reached via the service hotline number 0180/5667468. There shall be no obligation for telediagnosis in these periods of time.

### **6.2 Force majeure**

If the service owed is delayed by measures within the scope of labor disputes, especially due to strike and/or lockout, as well as the onset of circumstances which have not been caused by LOOS – especially a failure or disorder of the data transmission facilities – there shall be a reasonable extension of the performance period.

### **6.3 Delay**

If Client demonstrably suffers a damage due to a delay by LOOS, he shall be entitled to request a compensation for damage due to a delay – with the exclusion of additional claims. If there is no case of Clause 8. 1 paragraph 2 and 3, the compensation for damage due to a delay shall be 1% for every full week of delay; however, overall a maximum of 10% of the stipulated annual flat rate.

Client can terminate the contract without notice if he had given a reasonable grace period for LOOS being in delay, with the explicit declaration that, after expiration of that period, acceptance of the service would be refused and the grace period was not adhered to. There shall be no further claims – subject to the provision in Clause 8. 1. 1 paragraph 2 and 3.

## 7. Warranty

LOOS shall render its services according to the generally recognized rules of technology. If the specified services are not rendered completely or not properly, LOOS shall make up for them or remedy them at no charge.

If LOOS does not meet its obligation of remedy, Client shall be entitled to set a reasonable grace period. If LOOS lets this grace period pass effectlessly through its own fault, Client can, at his option, demand a reduction of the stipulated remuneration or terminate the contract without notice. Contractual and non-contractual liability for all other damages is regulated within the scope of the regulation under Clause 8 (Liability).

## 8. Liability

### 8.1 Maximum limits or exclusion of liability

LOOS shall remedy without charge any damages on the machines to be serviced which it or its vicarious agents have culpably caused. The amount of the replacement obligation shall be limited to the stipulated annual flat rate.

Client shall only have further claims

- in case of intent
- in case of gross negligence by the owner/organs or executive personnel
- in case of a lack of warranted characteristics
- as far as there is liability – according to the *Produkthaftungsgesetz* (Law on Product Liability) – for personal or material damage on privately used objects.

In case of a culpable breach of major contractual obligations, LOOS shall also be liable for gross negligence of non-executive personnel and in case of minor negligence, in the last case limited to the contract-typical, reasonably foreseeable damage.

In excess of the claims he is entitled to in this provision, Client shall neither have any further claims for restitution, in particular no claims for damages, not even for non-contractual actions, nor claim other rights versus LOOS due to any disadvantages which are connected with the stipulated services, irrespective on what legal reason he relies. This shall apply in particular for damages due to data losses or injuries.

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Client shall have no claims other than those explicitly specified in this contract. Exclusion of liability shall not apply for intent and gross negligence of LOOS.

8. 2 Statutory limitation

Client's contractual warranty and liability claims shall become statute-barred in 12 months, beginning with the termination of the corresponding service.

**9. Duration of contract/termination**

The contract shall be concluded for a period of 2 years. Thereafter, the contract shall be extended for another year each, unless it is terminated in writing by one of the two parties with a period of 4 weeks to the end of a calendar year.

**10. Legal venue/applicable law**

The court having jurisdiction for the head office of LOOS shall be the exclusive legal venue.

The substantive law of the Federal Republic of Germany shall be applied to the contract, with the exclusion of the CSIG.

For Client:

For LOOS:

....., (Date) .....

Gunzenhausen, (Date) .....

.....  
 Name / Signature / Stamp

.....  
 Name / Signature / Stamp