

LEICA GEOSYSTEMS TERMS AND CONDITIONS FOR TECHNICAL SERVICE (TCTS)

0 PREAMBLE

- 0.1 These Terms and Conditions for Technical Service (TCTS) are only valid as an integral part of a valid Distribution Agreement between Distributor / Service Partner and Leica Geosystems.
- 0.2 These Terms and Conditions outline the Service Partners obligations, as an authorised Leica Geosystems service workshop, to provide Technical Services in accordance with the provisions of these TCTS for the Contract Products as defined below.
- 0.3 These Terms and Conditions are based on the definitions made in the Distribution Agreement.

1 ENHANCED DEFINITIONS

- 1.1 "Service-Level 1" shall be defined as all Technical Services that are possible without opening the relevant Contract Product, such as replacement of the Contract Product, function testing, downloading of new application software, or adjustments. In order to carry out Service-Level 1 Technical Services, the successful completion of the relevant compulsory training course(s) is required.
- 1.2 "Service-Level 2" shall be defined as Technical Services that may require more detailed technical knowledge and may in certain cases also involve the opening of the Contract Product. A detailed list of the individual Technical Services in Service-Level 2 can be found in the Service Manual for the relevant Contract Product, which shall be made available to Service Partner following successful completion of the relevant compulsory training course(s).
- 1.3 "Service-Level 3" shall be defined as Technical Services that, dependent on the decision of Leica Geosystems alone, may only be carried out in repair workshops owned or operated by Leica Geosystems or its affiliates. These Technical Services shall, for example, include services that require specialist machinery or tools, or which relate to more complex Contract Products, or which relate to the repair of Refurbished Modules.
- 1.4 "Spare Parts" shall be defined as new or refurbished Contract Products or components of Contract Products that are installed as replacements for defective Contract Products or defective components of Contract Products.
- 1.5 A "Refurbished Module" shall be defined as a Contract Product or component of a Contract Product that has been repaired and is in "as new" condition and that is made available to Service Partner by Leica Geosystems. A listing of such Contract Products and components of Contract Products available as Refurbished Modules can be obtained from the spare parts list, as updated from time to time, issued by Leica Geosystems.
- 1.6 A "Service Licence" shall be defined as the right to access Technical Services in return for a fee. The Service Licence allows the Service Partner to access Technical Services (inter alia, Service software and Service manuals via the Internet). Leica Geosystems shall adapt the Service Licence regularly to the current authorisation of Service Partners in accordance with Annex 1 of the Distribution Agreement.
- 1.7 "Lead Time" shall be defined as the relevant period of time for prompt customer service, being the time during which the Contract Product is physically in the service workshop, deducting time spent waiting for the customer's approval of the repair costs.
- 1.8 The "Service Commitment" shall be defined as the period of time during which Leica Geosystems shall guarantee the servicing of its products to its Technical Service partners.
- 1.9 "Standard Service Product" (SSP) shall be defined as the content and period of time allocated to perform a defined Technical Service on a Contract Product. Leica Geosystems may alter SSP's at any time.
- 1.10 "Technical Service Audit" (Audit) shall be defined as an initial and periodic assessment of the Service Partner's ability to perform Technical Services in accordance with these TCTS.

2 AUTHORISATION AND STATUS OF SERVICE PARTNER

- 2.1 Position in Commercial Dealings
 - 2.1.1 A Service Partner that has undergone a successful Audit by Leica Geosystems in accordance with Clause 3 shall have the right to make reference in its business relations to its status as an "Authorised Service Partner of Leica Geosystems".
 - 2.1.2 Technical Services carried out in terms of the warranty obligations of Leica Geosystems, as well as Technical Services instructed by Leica Geosystems, such as ex gratia services, must be carried out by Service Partner on behalf of and as instructed by Leica Geosystems.
 - 2.1.3 Service Partner in its own name and for its own account shall provide all other Technical Services that do not fall within the terms of Clause 2.1.2. In doing so, it shall be the direct contractual partner of the customer.
- 2.2 Performance of Technical Services
 - 2.2.1 Leica Geosystems hereby authorises Service Partner to carry out all Technical Services for the Contract Products and the duration of the Distribution Agreement for which it has successfully completed the relevant training courses.
 - 2.2.2 Service Partner undertakes to carry out Technical Services only when it has previously successfully completed the relevant training courses and has a complete understanding and command of the content of the Service Manual as well as the instructions for use at the time of the provision of services. The foregoing shall in particular apply to important safety instructions and warnings.
 - 2.2.3 Service Partner shall concentrate on providing the Technical Services in the Territory attributed to him and shall refrain from actively promoting its Technical Services within territories attributed to another Service Partner, by targeting of customers by direct mail or by otherwise approaching individuals or specific customer groups in such other territories. It shall be the duty of Service Partner to obtain the necessary information from Leica Geosystems on such territories attributed to other Service Partners of Leica Geosystems.
- 3 AUDIT
 - 3.1 After signing of the Distribution Agreement, Service Partner shall be granted a reasonable period of time, however, not longer than twelve (12) months, to provide for the infrastructure necessary to perform the Technical Services and to arrange for at least one of his employees to complete the compulsory training courses as defined by Leica Geosystems.
 - 3.2 At the end of this agreed period of time, Leica Geosystems shall conduct a first Audit at the premises of the Service Partner and shall confirm his ability to execute the Technical Services as defined by Leica Geosystems.
 - 3.3 During the audit, Leica Geosystems shall closely examine the infrastructure, documentation, the training qualifications of Service Partner and its employees, processes and procedures, as well as communications between Service Partner and its customers and Leica Geosystems.
 - 3.4 In the event that Service Partner's Audit is successful, it shall be entitled in accordance with Clause 2.1.1 to make reference in its business dealings to its status as an "Authorised Service Partner of Leica Geosystems".
 - 3.5 Leica Geosystems shall have the right to carry out audits at any time subject to the provision of advance notice thereof. For this purpose, Service Partner shall allow Leica Geosystems free access to its workshop and permit Leica Geosystems to inspect any relevant documents and data. Service Partner shall be obliged to make itself available to Leica Geosystems during the audit.
 - 3.6 In case the Audit result is not satisfactory, Service Partner will be granted an additional period of time, however, not longer than three (3) months, to rectify the unsatisfactory results. Should the Service Partner still not meet the standards after this second peri-

od of time, Leica Geosystems shall have the right to withdraw Serviced Products from Annex 1 of the Distribution Agreement with immediate effect.

4 SUPPORT FROM LEICA GEOSYSTEMS

- 4.1 Leica Geosystems shall support Service Partner in the provision of its services by providing the required information and documentation, such as Service News, the Service e-mail support, Service Licenses, Service Manuals and Service software.
- 4.2 All documentation and aids of whatever nature, and in particular the Service Software and Manuals and Service License, that are provided to Service Partner by Leica Geosystems in connection with the Distribution Agreement, shall remain the property of Leica Geosystems and must be returned unprompted to Leica Geosystems by Service Partner free of charge on the event of (i) withdrawing Serviced Products from Annex 1 of the Distribution Agreement or (ii) the termination of the Distribution Agreement according to Clause 16.
- 4.3 The Service Software and Manuals are protected by Service Licence. In order to make use of a Service License, Service Partner requires in every case (i) to have command of the relevant specialist knowledge of the corresponding Technical Services. (ii) to have paid the current standard Leica Geosystems annual user fee per Service License, and (iii) to abide to the applicable Software License Agreement as defined in the Distribution Agreement.
- 4.3.1 The Service Partner shall normally require one Service License for each computer workstation.
- 4.4 Leica Geosystems shall amend its documentation and in particular the Service Manuals and Service Software to take account of the latest know-how at its own discretion.
- 4.5 Leica Geosystems shall offer regular training courses for service technicians in accordance with following Clause 6.

5 SERVICE WORKSHOP REQUIREMENTS

- 5.1 Service Partner shall be obliged to set up and maintain a suitable workshop with the required technical infrastructure in order to provide the Technical Services in terms of these TCTS to the complete satisfaction of the end customer and subject to the compliance with the safety requirements. The foregoing shall require the appropriate amount of space, clean and dust-free premises equipped with anti-static protection, stable workbenches, the customary tools, and the required specialist tools according to the instructions given by Leica Geosystems. In addition, Service Partner must guarantee a connection to the Internet, and thus to the Leica Geosystems data network, which is accessible via the Service Software and Service License.
- 5.2 Service Partner shall be obliged to make use of the latest and current version of all documentation (e.g. Service Manuals, Service Software), that are relevant to perform Technical Services. In addition, Service Partner shall be obliged to carry out all Technical Services in accordance with the latest documentation and instructions.

6 TRAINING REQUIREMENTS FOR SERVICE PARTNERS

- 6.1 At least one of Service Partner's employees shall at all times be trained to the extent necessary in order to be able to carry out Technical Services on the Contract Products. At least one of Service Partner's employees shall be obliged to complete all initial and advanced training courses organised by Leica Geosystems deemed at any time necessary by Leica Geosystems
- 6.2 Leica Geosystems shall from time to time offer initial and advanced training courses for service technicians. Leica Geosystems shall inform Service Partner of the training courses on offer, together with the costs thereof.
- 6.3 Following successful completion of an initial or advanced training course for a particular Contract Product, the relevant Service Manual shall be made available to Service Partner and the Service License shall be adapted to the updated authorisation.
- 6.4 Service Partner or at least one of its employees shall be obliged to complete additional training courses from time to time to up-date

their knowledge and training on new Contract Products according to the instructions of Leica Geosystems.

- 6.5 Should Service Partner fail to complete or fail to enroll at least one of its employees in training course(s) within nine (9) months of gaining Service Product authorisation, Leica Geosystems shall have the right to withdraw Serviced Products from Annex 1 of the Distribution Agreement with immediate effect.

7 TECHNICAL SERVICES

- 7.1 Leica Geosystems is obliged to provide Technical Services for a period of at least 5 years after sale of the product, however, not exceeding 5 years after production phase-out of the Contract Product. Exceptions include: servicing parts are no longer available, reproduction of servicing parts is not economically feasible for the customer and newer versions of the Contract Product can be offered at a lower price.
- 7.2 Third party products are those with a labelling of a manufacturer other than Leica Geosystems. In those cases the availability of Technical Services is determined by the respective manufacturer.
- 7.3 Leica Geosystems is obliged to inform the Service Partner of upcoming Technical Service phase-out.
- 7.4 Service Partners should use Technical Service phase-out as an opportunity to contact their customer base to inform them of the pending phase-out.
- 7.5 The Service Partner shall cancel all service contracts with customers for products that have reached Technical Service phase-out.
- 7.6 Service Partner shall comply at least with the Service Commitment defined in above Clause 7.1.
- 7.7 Service Partner shall be obliged to provide the Technical Services in a full and proper manner, free from any defects, and in accordance with the Leica Geosystems Service Manuals and these TCTS.
- 7.8 Service Partner shall be required to provide all Technical Services in a responsive manner and within a Lead Time which is in the reasonable expectations of the customer and in line with local market practice.
- 7.9 Service Partner shall be obliged to provide Technical Services to all customers requesting such services, notwithstanding of where the customer has purchased the Contract Product.
- 7.10 Service Partner shall carry out the Technical Services in person or through its own appropriately trained staff and in its own workshop.
- 7.11 In the event that Technical Services have to be carried out on a product in respect of which Service Partner has no authorisation in terms of Clause 2 of these TCTS (which include in every case services within the scope of Service Level 3), Service Partner shall inform customer immediately that it is not authorised to perform this Service and must ship product either to another work-shop or to Leica Geosystems, as the case may be. Service Partner shall give a cost estimate on shipping cost to customer and, should customer agree to bear these shipping cost, shall immediately ship the product in accordance with instructions from Leica Geosystems.
- 7.12 In the event that the defective Contract Product or component of a Contract Product is or forms part of a Refurbished Module, Service Partner shall replace such Contract Product or component thereof with a Refurbished Module. Service Partner shall at its own expense return the relevant defective Contract Product or component thereof to Leica Geosystems. Leica Geosystems shall be obliged to reimburse the Service Partner for returning the defective component.
- 7.13 In the event that the defect to the Contract Product or component thereof involves a component that can be replaced by Service Partner through a Spare Part, or a Contract Product or component thereof which can no longer be repaired, Service Partner must retain the defective Contract Product or component thereof for six (6) months following the provision of the Technical Service, and at its own expense send it to Leica Geosystems, if requested to do so. On expiry of such six (6) month period, such defective Contract Products or components thereof must be disposed of in an envi-

ronmentally suitable manner in accordance with all applicable regulations.

- 7.14 Service Partner shall obtain the Spare Parts and Refurbished Modules that are required for the provision of Technical Services exclusively from Leica Geosystems.

8 BILLING THE CUSTOMER FOR TECHNICAL SERVICES

- 8.1 Service Partner shall not be responsible for the billing of Technical Services which are performed as part of Leica Geosystems' warranty obligations, or Technical Services performed as instructed by Leica Geosystems, such as ex gratia services as outlined in Clause 8 of the Distribution Agreement.
- 8.2 Service Partner shall bill all other Technical Services that do not fall within the terms of above Clause 8.1. Service Partner shall bill the customer for the services provided at prices in line with Clause 3 of the Distribution Agreement.

9 NOTIFICATION AND REMUNERATION OF WARRANTY AND EX-GRATIA CASES PROVIDED TO CUSTOMER

- 9.1 Leica Geosystems shall remunerate Service Partner in respect of Technical Services provided under the conditions of Warranty as

outlined in Clause 8 of the Distribution Agreement and other ex gratia services as instructed by Leica Geosystems.

- 9.2 Remuneration shall either be in form of its Standard Service Product or in special cases, an activity-based remuneration applying hourly rates is permissible. The relevant hourly rates are detailed in Annex 2 of the Distribution Agreement.
- 9.3 In respect of Spare Parts and Refurbished Modules that are required by Service Partner for Technical Services in accordance with Clause 2.1.2, Leica Geosystems shall reimburse Service Partner with the relevant purchase price.
- 9.4 Clause 9.2 and 9.3 shall govern conclusively the remuneration of Service Partners for its provision of Technical Services on behalf of and as instructed by Leica Geosystems. The relevant remuneration shall also cover any additional costs that are incurred by Service Partner in connection with the performance of the Distribution Agreement, such as traveling expenses and loss of working hours due to participation in meetings arranged by Leica Geosystems.