

1. Conclusion of contract, General

- 1.1. If an unquestioned written order confirmation exists, this is decisive for the content of the contract and the scope of the repair/installation. Subsidiary agreements and amendments to the contract require the written confirmation of the contractor.
- 1.2. These terms and conditions apply exclusively; we shall not accept any terms and conditions of the customer which differ from our terms of maintenance, unless we have expressly agreed to their validity in writing. Even if the contractor has knowledge of the terms of the customer which deviate and contradict these terms of repair and unconditionally carries out the repairs, this does not constitute consent, as even in this case, these conditions of repair and installation apply.
- 1.3. If the item of repair/installation is not delivered by the contractor, the customer/purchaser shall refer to existing industrial property rights with regard to the item. Insofar as the contractor is not culpable, the customer/purchaser shall release the contractor from any third party claims arising from industrial property rights.

2. Non feasible repair/installation

- 2.1. The services rendered for the submission of a cost estimate in addition to the additional expenses incurred and to be documented (trouble shooting time equals working time) shall be invoiced to the customer/purchaser, if the repair/installation can not be carried out in spite of the present order of the customer/purchaser for reasons beyond the control of the contractor, especially due to
 - a) the error about which complaint is being made does not result during inspection
 - b) Spare parts can not be procured
 - c) The customer/purchaser culpably failed to meet the agreed date
 - d) The contract has been terminated during the execution.The item of repair/installation only needs to be returned to the original condition at the express request of the customer/purchaser against reimbursement of the costs, unless the work was not required.
- 2.2. With a non feasible repair/installation the contractor is not liable for damages to the item of repair/installation, the violation of contractual secondary obligations and for damages which have not occurred on the object of repair/installation itself, irrespective of the legal basis which the customer/purchaser refers to. This exclusion of liability does not apply in case of wilful intent, gross negligence on the part of the owner or responsible employee as well as in case of culpable violation of essential contractual obligations. In the case of culpable violation of essential contractual obligations, the contractor shall be liable except in cases of intent and gross negligence on the part of the owner or responsible employee, only for the contractually typical, reasonably foreseeable damage.

3. Costs, cost estimates

- 3.1. Insofar as is possible, the customer/purchaser shall be informed of the expected repair/installation price at the conclusion of the contract, otherwise the customer/purchaser is entitled to set cost limits. If the repair/installation can not be carried out at these costs, or if the contractor considers necessary the execution of additional work during the repair/installation, the consent of the customer/purchaser must be obtained if the specified costs are exceeded by more than 15%.
- 3.2. If a cost estimate with binding prices is desired before the repair/installation is carried out, the customer/purchaser is to expressly require this in writing. Such a cost estimate shall be binding only if it is made in writing and designated as binding. The services performed in order to specify the cost estimate will only not be charged to the customer/purchaser if they can be utilised during the execution of the repair/installation.

4. Price and payment

- 4.1 The contractor shall be entitled to demand a reasonable advance payment upon conclusion of the contract.
- 4.2 In the calculation of the repair/installation, the prices for the parts used, materials and special services, as well as the prices for labour, travel and transport costs using the respectively applicable charges for domestic and foreign expenses are to be shown separately. If the repair or installation is carried out on the basis of a binding cost estimate, a reference to the cost estimate is sufficient, whereby only deviations in the scope of services are to be specified.
- 4.3 The value added tax is to be charged to the customer/purchaser at the statutory rate.
- 4.4 A possible correction of the invoice by the contractor and a complaint by the customer/purchaser must be made in writing no later than four weeks after receipt of the invoice.
- 4.5 The payment is to be made without any deductions. Unless otherwise agreed, the payment of the repair/installation service must always be effected immediately without any deduction upon acceptance and handing over or sending of the invoice. If the ability to pay of the customer/purchaser is worsened during the period between the awarding of the order and completion, the contractor is entitled to withhold outstanding deliveries.
- 4.6 The retention of payments or off-set due to any counterclaims of the customer/purchaser is not statutory, unless these claims are recognised or have been legally established.
- 4.7 The minimum order value is 75.00 €. If the order value is less than 75.00 €, we charge a handling fee of 20.00 €, although the maximum amount is to be 75.00 € including the order value.

5. Participation and technical assistance of the customer/purchaser in case of repair/installation outside the premises of the contractor

- 5.1 The customer/purchaser has to support the repair/installation personnel in the execution of the repair/installation at its own expense.
- 5.2 The customer/purchaser shall take the necessary special measures to protect persons and items at the repair/installation site. The customer/purchaser must also inform the person in charge of the repair/installation about existing special safety regulations, insofar as these are important for the repair/installation personnel. The customer/purchaser shall notify the contractor of any breach of the safety instructions by the repair/installation personnel. In the case of serious infringements, the customer/purchaser may refuse access to the repair/installation site to the infringing party in consultation with the person in charge of the repair/installation.
- 5.3 The customer/purchaser is obligated to provide technical assistance at its own expense, in particular to:
 - a) Provide the necessary appropriate auxiliary personnel in the number required for the repair/installation and for the required time. The auxiliary staff shall follow the instructions of the person in charge of the repair/installation. The contractor assumes no liability for the auxiliary staff. If a defect or damage has arisen due to the instructions of the person in charge of the repair/installation, the provisions of sections 10 and 11 shall apply correspondingly.
 - b) Carry out all construction, underlay and scaffolding work including procurement of the necessary building materials.
 - c) Provide the necessary equipment and also the heavy tools as well as the necessary consumer articles and materials.
 - d) Provision of heating, lighting, operating power, water including the necessary connections.
 - e) Provision of necessary, dry and also lockable rooms for the storage of the tools of the repair/installation personnel.
 - f) Protect the repair/installation site and materials from any harmful influences, clean the repair/installation site.
 - g) Provision of suitable, theft proof rooms and work areas (with heating, lighting, washing facilities, sanitary facilities) and first aid for the repair/installation personnel.
 - h) Provision of the materials and the performance of all other actions necessary for the adjustment of the object of repair/installation and for the carrying out of a contractually scheduled test.
- 5.4 This technical assistance service of the customer/purchaser must ensure that the repair/installation can be started immediately upon arrival of the repair/installation personnel and can be carried out without delays until the acceptance by the customer/purchaser. Insofar as special plans/instructions are required, the contractor shall make them available to the customer/oderer in good time.
- 5.5 If the customer/purchaser does not fulfil its obligations, the contractor shall be entitled but not obligated to perform the actions incumbent on the customer/purchaser in place of and at the expense of the customer/purchaser. For the rest the statutory rights and claims of the contractor shall remain unaffected.

6. Transport and insurance in the case of repair/installation at the premises of the contractor

- 6.1 Unless otherwise agreed in writing, a removal and return transport of the item of repair/installation, including packaging and loading, shall be carried out at the request and expense of the customer/purchaser. Otherwise, the item of repair/installation shall be delivered to the contractor by and at the expense of the customer/purchaser and after completion of the repair/installation it shall be collected by the customer/purchaser.
- 6.2 The customer/purchaser bears the risk of transport. If the transport has been agreed upon, the risk shall pass to the customer at the latest at the time of handover to the freight forwarder, freight carrier or other third party designated to execute the shipment (with the start of the loading process being decisive). This also applies if the contractor bears the freight costs and/or carries out the shipping itself. If the shipping or handover is delayed due to a circumstance which is not the responsibility of the contractor, the risk shall be transferred from the date on which the contractor is ready for shipping and has indicated this to the customer. At the request and expense of the customer/purchaser the outbound and possibly the return transport is to be insured for the insurable transport risks e.g. theft, breakage, fire.
- 6.3 At the request and expense of the customer/purchaser the outbound and possibly the return transport is to be insured for the insurable transport risks e.g. theft, breakage, fire.
- 6.4 During the repair/installation period there is no insurance cover in the premises of the contractor. The customer/purchaser shall maintain the existing insurance cover for the repair/installation item, for example fire, mains water, storm and machine breakage insurance. Only at the explicit request of the customer/purchaser can a corresponding insurance cover be obtained for these dangers.
- 6.5 In the event of default by the customer/purchaser with the takeover, the contractor may charge storage costs for the storage in its premises. The item of repair/installation may also be stored otherwise at the discretion of the contractor. The cost and risk of storage shall be borne by the customer/ purchaser.

7. Repair/installation period

- 7.1 The data on the repair/installation periods are based on estimates only and are therefore not binding.
- 7.2 The agreement of a binding repair/installation period, which must be described as binding in writing, can only be demanded by the customer/purchaser if the scope of the work is precisely defined.
- 7.3 The binding repair/installation period is complied with if the repair/installation item is ready for acceptance by the customer/purchaser before the expiry of the contract, in the event that a contractually scheduled test is ready to be carried out for the acceptance.
- 7.4 In the case of subsequent additional and/or extension orders or the necessary additional repair/installation work, the agreed repair/assembly period shall be correspondingly extended.
- 7.5 If the repair/installation is delayed by means of measures in the context of industrial disputes, in particular strikes and lockouts, as well as the occurrence of circumstances which are beyond the control of the contractor, insofar as such hindrances are proven to have a considerable influence on the completion of the repair/installation, a corresponding appropriate extension of the repair/installation period shall be granted. This applies if such circumstances occur after the contractor has been in default.
- 7.6 If the customer/purchaser incurs damage as a result of the default of the contractor, it is entitled to demand a compensation for the delay. This shall be 0.5% for each full week of the delay, but not more than 5% of the repair/installation price for the part of the object to be repaired/installed by the contractor, which can not be used in due time as a result of the delay. If the customer/purchaser grants the contractor in default a reasonable extension of time, taking into account the legal exceptional cases, with the express declaration that it refuses to accept the repair/installation work after the expiry of this period and if the extension is not respected, the customer/purchaser is entitled to withdraw from the contract within the scope of the statutory provisions. Further claims do not exist notwithstanding clause 11.3

8. Acceptance

- 8.1 The customer/purchaser is obligated to accept the repair/installation work as soon as the completion of the repair/installation work has been notified and a contractually scheduled test of the repair/installation object has been

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carried out. Should the repair/installation prove to be not according to the contract, the contractor shall be obligated to remedy the defect. This shall not apply if the defect is irrelevant to the interests of the customer/purchaser or is due to a circumstance attributable to the customer/purchaser. If a non-essential defect exists, the customer/purchaser can not refuse acceptance if the contractor expressly acknowledges its duty to remedy the defect.

- 8.2 If acceptance is delayed without a fault on the part of the contractor, acceptance shall be deemed to have taken place two weeks after the completion of the repair/installation.
- 8.3 With the acceptance, the liability of the contractor for recognisable defects is cancelled, insofar as the customer/purchaser has not reserved the assertion of a specific defect.

9. Retention of title, extended lien

- 9.1 The contractor reserves the right of ownership of all accessories, spare parts and replacement units used until the receipt of all payments from the repair/installation contract. More extensive security agreements may be agreed upon.
- 9.2 The contractor is entitled to a lien on the repair/installation object which as a result of the repair/installation contract came into its possession from the customer/purchaser. The right of lien may also be claimed on account of claims arising from earlier work, replacement part deliveries and other services insofar as they relate to the repair/installation item. For other claims arising from the business relationship, the right of lien is only valid insofar as these are undisputed or legally binding.

10. Warranty, defect claims

- 10.1 After acceptance of the repair/installation, the contractor is liable for defects of the repair/installation, including the absence of expressly assured characteristics, which occur within 12 months after acceptance, excluding all other claims of the customer/purchaser notwithstanding clause 6 and clause 11 in the way that it shall remedy the defects. The customer/purchaser shall immediately notify the contractor of any defect discovered.
- 10.2 The period for the defect liability shall be extended by the duration of the downtime of the repair/installation object caused by the repair work.
- 10.3 The liability of the contractor does not apply if the defect is irrelevant to the interests of the customer/purchaser or is due to a circumstance attributable to the customer/purchaser. This applies in particular to the parts provided by the customer/purchaser.
- 10.4 The liability of the contractor shall be waived for the consequences arising from any improper modifications or repairs made by the customer/purchaser or third parties without the prior consent of the contractor. Only in urgent cases of endangerment of the operational safety and to prevent disproportionate damages, whereby the contractor is immediately to be informed, or if the contractor is in default with the remedy of the defect, the customer/purchaser is entitled to remedy this defect by itself or by third parties and to demand a reimbursement of the necessary costs from the contractor.
- 10.5 The contractor shall bear the direct costs arising from the repair, insofar as the complaint proves to be justified, the cost of the replacement part, including shipping, as well as the reasonable costs of removal and installation and furthermore if this can be required in the individual case, the cost of any necessary provision of installation personnel and auxiliaries. Otherwise, the customer/purchaser shall bear the costs.
- 10.6 If the contractor fails to meet a reasonable period of time for the remedy of the defect caused by his fault, the customer/purchaser is entitled to a reduction. The right of reduction of the customer/purchaser also exists in other cases of failure to remedy the defect. Only if the repair/installation is demonstrably not of interest to the customer despite the reduction, the customer/purchaser is entitled to cancel the contract after notification.

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11. Other liability of the contractor, disclaimer

- 11.1 If parts of the repair/installation item are damaged by the fault of the contractor, the contractor shall, at its discretion, repair or supply them at its expense. The liability for damages shall be limited to the contractual repair/installation price. In other circumstances, clause 11.3 shall apply accordingly.
- 11.2 If, due to the fault of the contractor the repair/installation item from the customer/purchaser as a result of the failed or faulty execution of proposals and deliberations as well as other contractual subsidiary agreements concluded before or after conclusion of the contract [.....fehlende Wörter im Originaltext.....], the customer/purchaser can not claim compensation from the contractor beyond the claims granted in these provisions, in particular no claims for damages, either from non-contractual actions or other rights due to possible disadvantages which are related to the repair/installation, regardless of the legal basis which may be invoked. This exclusion of liability does not apply in case of wilful intent, gross negligence on the part of the owner or responsible employee as well as in the case of culpable violation of essential contractual obligations. In the case of culpable violation of essential contractual obligations, the contractor shall be liable except in cases of intent and gross negligence on the part of the owner or responsible employee, only for the contractually typical, reasonably foreseeable damage. The exclusion of liability also does not apply in the cases in which according to the product liability law due to defects in the repair/installation, it is liable for the personal injury or property damage to privately used objects. It also does not apply in the absence of features which are expressly assured, if the assurance is intended to protect the customer/purchaser against damage that is not caused by the repair/installation object itself.

12. Limitation period

All claims of the customer/purchaser, for whatever legal reason, expire in 12 months. The statutory time limits apply for claims for damages pursuant to section 11. If the contractor carries out the repair/installation work in a building and causes it to be defective, the statutory periods also apply.

13. Compensation of the customer

In the case of repair or installation work outside the premises of the contractor, if the equipment or tools placed by the contractor at the repair/installation site are damaged or are lost without his fault, the customer/purchaser is obligated to compensate for this damage. Damages due to normal wear and tear are not considered.

14. Used parts

The disposal of used parts and other objects which are no longer usable is the responsibility of the customer/purchaser unless otherwise agreed. To the extent that statutory provisions are enacted which determine something else, the customer/purchaser undertakes to make an appropriate agreement with the supplier regarding the recovery. It is to be assumed that the contractual partners use a third party to fulfil the recovery obligation.

15. Applicable law, place of jurisdiction

- 15.1. The relevant law of the Federal Republic of Germany shall apply exclusively to all legal and contractual relations between the contractor and the customer/purchaser.
- 15.2. The place of jurisdiction is the competent court where the place of business of the contractor is located. The contractor shall, however, be entitled to take legal action at the registered office of the customer/purchaser.

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16. Miscellaneous

It is in the duty of the foreign customer/purchaser to ensure that the repair/installation item is used according to the respective national safety regulations.

17. Severability clause

Should one or all of the aforementioned conditions be or become invalid or become ineffective or impracticable in their entirety or in part, the validity of the remaining agreements will not be affected thereby.

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