

For use in the case of:

1. a person who, at the time the contract is concluded, is exercising their commercial or self-employed professional activity (entrepreneur);
2. a legal entity under public law or a special assets fund under public law.

## **I. Conclusion of contract, information requirements, safety instructions**

1. All repairs are based on these terms and conditions and any separate contractual agreements. These are part of all contracts that the contractor concludes with its contractual partners regarding the repairs it offers. They also apply to all future repairs and services to the customer, even if they are not separately agreed again. These terms and conditions also apply to foreign transactions. Deviating contractual terms and conditions of the customer are not included in the contract even if the order is accepted.

If there is an uncontested written order confirmation, this is decisive for the content of the contract and the extent of the repair.

2. If the repair item was not supplied by the contractor, the customer must point out existing industrial property rights with regard to the item ; insofar as the contractor is not responsible for the fault, the customer exempts the contractor from any claims of third parties arising from industrial property rights.
3. The customer must notify the contractor in due time and in writing of any contamination, any hazardous residues in the items to be repaired, as well as transport risks and other repair-related measures to be taken.

## **II. Non-feasible repairs**

1. The submission of a cost estimate and the other expenses incurred and recorded (troubleshooting time equal to working time) shall be charged to the customer if the repair cannot be carried out for reasons for which the contractor is not responsible, especially because
  - the defect does not occur during the inspection,
  - spare parts can not be procured,
  - the customer has culpably failed to meet the agreed deadline,
  - the contract was terminated during execution.
2. The repair item only needs to be returned to the original condition at the express request of the customer against reimbursement of the costs, unless the work was not required.
3. For a non-feasible repair, the contractor is not liable for damages to the repair item, the violation of contractual secondary obligations and for damages which have not occurred on the repair item itself, irrespective of the legal basis which the customer refers to.

The liability provisions of section XI.3 of these terms and conditions apply accordingly.

## **III. Costs, cost estimates**

1. Insofar as is possible, the customer shall be informed of the expected repair price at the conclusion of the contract, otherwise the customer shall be entitled to set cost limits.  
If the repair can not be carried out at these costs, or if the contractor considers necessary the execution of additional work during the repair, the consent of the customer must be obtained if the specified costs are exceeded by more than 15%.
2. If a cost estimate with binding prices is desired before the repair is carried out, the customer must request this expressly in writing. Unless otherwise agreed, such a cost estimate is only binding if made in writing. It must be paid. The services performed in order to specify the cost estimate will only not be charged to the customer if they can be utilised during the execution of the repair.

## **IV. Price and payment**

1. The contractor shall be entitled to demand a reasonable advance payment upon conclusion of the contract.
2. When calculating the repair, the prices for the parts, materials and special services used as well as the prices

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for the work, the travel and transport costs have to be shown separately. If the repair 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.

3. Value added tax is to be charged to the customer at the statutory rate.
4. A possible correction of the invoice by the contractor and a complaint by the customer must be made in writing no later than four weeks after receipt of the invoice.
5. The payment is to be made without cash discount upon acceptance and delivery or on sending the invoice.
6. The withholding of payments due to any counterclaims of the customer disputed by the contractor is not permitted.
7. Offsetting against any counterclaims of the customer from other legal relationships that are disputed by the contractor is not permitted.

### **V. Participation and technical assistance of the customer for repairs outside the premises of the contractor**

1. The customer must support the repair personnel in the execution of the repair at its own expense.
2. The customer must take the necessary special measures to protect persons and items at the repair location. The customer must also inform the person in charge of the repair about existing special safety regulations, insofar as these are important for the repair personnel. The customer shall notify the contractor of any breach of the safety instructions by the repair personnel. In the case of serious infringements, the customer may refuse access to the repair site to the infringing party in consultation with the person in charge of the repair.
3. The customer is obligated to provide technical assistance at its own expense, in particular to:
  - a. Provide the necessary suitable auxiliary personnel in the number and time required for the repair; the auxiliary personnel must follow the instructions of the person in charge of the repair. 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, the provisions of sections X and XI of these terms and conditions 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 consumable goods and materials.
  - d. Provision of heating, lighting, operating power, water including the necessary connections.
  - e. Provision of the required dry and also lockable rooms for the storage of the tools of the repair personnel.
  - f. Protect the repair site and materials from any harmful influences, clean the repair site.
  - g. Provision of suitable, theft proof rooms and work areas (with heating, lighting, washing facilities, sanitary facilities) and first aid for the repair personnel.
  - h. Provision of the materials and the performance of all other actions necessary for the adjustment of the repair item and for the carrying out of a contractually scheduled test.
4. This technical assistance of the customer must ensure that the repair can be started immediately upon arrival of the repair personnel and can be carried out without delays until the acceptance by the customer. Insofar as special plans or instructions are required from the contractor, the contractor shall make them available to the customer in good time.
5. If the customer does not fulfil its obligations, after the setting of a deadline, the contractor shall be entitled but not obligated to perform the actions incumbent on the customer in place of and at the expense of the customer. For the rest the statutory rights and claims of the contractor shall remain unaffected.

### **VI. Transport and insurance for repairs at the premises of the contractor**

1. Unless otherwise agreed in writing, the delivery and collection transport of the repair item on the request of the customer, including any packaging and loading, shall be charged to the customer, otherwise, the repair item shall be delivered to the contractor by the customer at its own expense and collected by the customer after carrying out the repair at the contractor.

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2. The customer bears the risk of transport.
3. At the request and expense of the customer the outbound and possibly the return transport is to be insured for the insurable transport risks e.g. theft, breakage, fire.
4. During the repair period there is no insurance cover in the premises of the contractor. The customer shall maintain the existing insurance cover for the repair item, for example fire, mains water, storm and machine breakage insurance. Only at the explicit request of the customer can a corresponding insurance cover be obtained for these dangers.
5. In the event of a delay by the customer with the takeover, the contractor may charge storage costs for the storage in its premises. The repair item may also be stored elsewhere at the discretion of the contractor. The cost and risk of storage shall be borne by the customer.

### VII. Repair deadline, repair delay

1. The data on the repair periods are based on estimates only and are therefore not binding.
2. The agreement of a binding repair deadline, which must be described as binding in writing, can only be demanded by the customer if the scope of the work is precisely defined.
3. The binding repair deadline is complied with if the repair item is ready for acceptance by the customer before the expiry, in the event that a contractually scheduled test is ready to be carried out for the acceptance.
4. In the case of additional and extension orders issued later or additional repair work required, the agreed repair deadline shall be extended accordingly.
5. If the repair is delayed as a result 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, a corresponding appropriate extension of the repair deadline shall be granted.
6. If the customer sets a reasonable deadline for performance to the contractor after expiry and the deadline is not met, taking the legal exceptions into account, the customer is entitled to withdraw from the contract within the scope of the statutory provisions It undertakes, at the request of the contractor, to declare within a reasonable period of time whether it exercises its right of withdrawal.

Further claims as a result of delays shall be determined pursuant to Section XI. 3 of these terms and conditions.

### VIII. Acceptance

1. The customer is obligated to accept the repair work as soon as the completion of the repair work has been notified and a contractually scheduled test of the repair item has been carried out. Should the repair prove not to be according to the contract, the contractor shall be obligated to the removal of the defect. This shall not apply if the defect is irrelevant to the interests of the customer or is due to a circumstance attributable to the customer. If there is a non-essential defect, the customer can not refuse acceptance.
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.
3. With the acceptance, the liability of the contractor for recognisable defects is cancelled, insofar as the customer has not reserved the assertion of a specific defect.

### IX. Retention of title, extended lien

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 contract. More extensive security agreements may be agreed upon.
2. The contractor is entitled to a lien on the repair item which as a result of the repair contract came into its possession from the customer. 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 item. For other claims arising from the business relationship, the right of lien is only valid insofar as this is undisputed or legally binding.

### X. Claims for defects

1. After acceptance of the repair, the contractor is liable for any defects in the repair, excluding all other claims of

the customer, without prejudice to no. 5 and 6 and Section XI of these terms and conditions in such a way that it has to eliminate the defects. The customer shall immediately notify the contractor of any defect discovered.

2. The liability of the contractor does not apply if the defect is irrelevant to the interests of the customer or is due to a circumstance attributable to the customer. This applies in particular to the parts provided by the customer.
3. The liability of the contractor shall be waived for the consequences arising from any improper modifications or repairs made by the customer or third parties without the prior consent of the contractor. Only in urgent cases of endangering operational safety and to avoid disproportionate damage, whereby the contractor must be informed immediately, or if the contractor, taking into account the statutory exceptions, has let a reasonable deadline set for remedying the defect elapse unsuccessfully, the customer has the right to have the defect rectified itself or by a third party, within the scope of the statutory provisions, and to demand compensation from the contractor for the necessary costs.
4. In the event of a justified complaint, the contractor shall bear the costs for the remedy of the defect, insofar as no disproportionate burden occurs thereby on the contractor.
5. If the contractor, taking into account the statutory exceptions, allows a reasonable deadline to set for it to remedy the defect to elapse unsuccessfully, the customer shall have a right of reduction within the scope of the legal regulations. Only if, despite the reduction, the repair is demonstrably of no interest to the customer, can the customer withdraw from the contract.
6. Further claims are governed exclusively by Section XI.3 of these terms and conditions.

## **XI. Other liability of the contractor, disclaimer**

1. If parts of the repair item are damaged by the fault of the contractor, the contractor must, at its discretion, repair them or supply them new at its expense. In the event of slight negligence, the costs to be incurred are limited to the contractual repair price. In addition, liability exists for damage to the repair item in accordance with Section XI.3 of these terms and conditions.
2. If, due to the fault of the contractor, the repair item can not be used by the customer for the contractually agreed purpose, due to negligence or faulty execution of proposals or advice given before or after conclusion of the contract or by the culpable violation of other subsidiary contractual obligations, in particular instructions for operating and maintaining the repair item, the provisions of Sections X and XI. 1 and 3 of these terms and conditions shall apply accordingly to the exclusion of further claims of the customer.
3. For damages, which did not originate on the repair item itself, the contractor shall be liable, for whatever legal reasons, only
  - a. for intentional acts or gross negligence
  - b. for culpable injury to life, body, health,
  - c. for defects it has fraudulently concealed,
  - d. as part of a guarantee commitment,
  - e. insofar as liability exists under the Product Liability Act for personal injury or damage to privately used objects.

In the event of the culpable breach of essential contractual obligations, the contractor shall also be liable for simple negligence, albeit limited to the contractually typical, reasonably foreseeable damage.

Further claims are excluded.

## **XII. Limitation period**

All claims of the purchaser, for whatever legal reason, expire in 12 months. For claims for damages according to Section XI. 3 a-c and e of these terms and conditions, the statutory periods shall apply. If the contractor provides the services to a building and thereby causes its defectiveness, the statutory periods shall also apply.

## **XIII. Compensation of the customer**

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

## **XIV. Applicable law, place of jurisdiction**

1. For all legal relations between the supplier and the purchaser, the law of the Federal Republic of Germany applies exclusively.
2. The place of jurisdiction is the competent court where the registered office of the contractor is located. The contractor shall, however, be entitled to take legal action at the registered office of the customer.

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