

Repair conditions

Our repair conditions correspond to the VDMA (Verband Deutscher Maschinen- und Anlagenbau) conditions for repairs to machinery and equipment, as of August 2019.

For use against:

1. a person who, at the conclusion of the contract, acts in the exercise of his commercial or independent professional activity (entrepreneur)
2. legal persons governed by public law or a special fund governed by public law.

I. Conclusion of Contract, Information Obligations, Safety Instructions

1. If there is an undisputed written confirmation of the order, this shall be decisive for the content of the contract and the extent of the repair.
2. If the object of repair is not delivered by the Contractor, the Customer shall draw attention to existing industrial property rights in respect of the object; insofar as the Contractor is not at fault, the Customer shall release the Contractor from any claims of third parties under industrial property rights.
3. The Customer shall inform the Contractor in good time in writing about contamination, possible health-hazardous residues in the items to be repaired as well as transport risks and other repair-relevant measures to be taken.

II. Repairs not practicable

1. The services rendered for the purpose of submitting a cost estimate as well as the further expenses incurred and to be documented (defect search time equal to working time) shall be invoiced to the customer if the repair cannot be carried out for reasons beyond the control of the contractor, in particular because
 - the defect complained of did not occur during the inspection
 - spare parts are not available
 - the customer has culpably missed the agreed date
 - the contract has been terminated during implementation
2. The object of repair only needs to be returned to its original condition at the express request of the customer against reimbursement of the costs, unless the work carried out was not necessary.
3. In the event of an impracticable repair, the Contractor shall not be liable for damage to the object of repair, the breach of contractual ancillary obligations and for damage that has not occurred to the object of repair itself, regardless of the legal grounds on which the Customer invokes.

The events of liability in Section XI. 3 of these Conditions shall apply mutatis mutandis.

III. Costs, cost estimate

1. As far as possible, the estimated repair price shall be indicated to the customer upon conclusion of the contract, otherwise the customer may set cost limits.

If the repair cannot be carried out at these costs or if the Contractor considers it necessary to carry out additional work during the repair, the agreement of the Customer shall be sought if the stated costs are exceeded by more than 15 %.

2. a cost estimate with binding price estimates is required prior to the execution of the repair, this must be explicitly requested from the customer. Unless otherwise agreed, such a cost estimate is only binding if it is submitted in writing. He's compensable. The services rendered for the submission of the cost estimate shall not be charged to the customer insofar as they can be used for the execution of the repair.

IV. Price and payment

1. The Contractor is entitled to demand an appropriate advance payment upon conclusion of the contract.
2. When calculating the repair, the prices for used parts, materials and special services as well as the prices for work, travel and transport costs shall be shown separately. If the repair is carried out on the basis of a binding estimate, a reference to the estimate shall suffice, whereby only deviations in the scope of services shall be specified.
3. The value added tax shall be charged in the respective statutory amount additionally at the expense of the customer.
4. Any 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. Payment shall be made without discount upon receipt and delivery or dispatch of the invoice.
6. The withholding of payments due to any counterclaims of the Customer disputed by the Contractor is not permissible.
7. Offsetting due to any counterclaims of the Customer arising from other legal relationships disputed by the Contractor is not permissible.

V. Cooperation and technical assistance of the customer for repairs outside the contractor's plant

1. The customer shall assist the repair personnel in carrying out the repair at his own expense.
2. The customer shall take the special measures necessary to protect persons and objects at the repair site. He shall also inform the repair manager of any existing special safety regulations, insofar as they are relevant to the repair staff. It shall notify the contractor of any non-compliance by repair personnel with such safety requirements. In the event of serious violations, he may, in consultation with the repair manager, refuse the offender access to the repair shop.
3. The customer is obliged to provide technical assistance at its own expense, in particular to:

- a. Provision of the necessary suitable auxiliaries in the number and for the time required for the repair; the auxiliaries shall follow the instructions of the repair supervisor. The contractor assumes no liability for the auxiliary staff. If a defect or damage has been caused by the auxiliaries as a result of instructions from the repair manager, the provisions of Sections X and XI of these Conditions shall apply mutatis mutandis.
 - b. Carrying out all construction, bedding and scaffolding work including procurement of the necessary building materials.
 - c. Provision of the necessary equipment and heavy tools as well as the necessary supplies and materials.
 - d. Provision of heating, lighting, power, water, including the necessary connections.
 - e. Provision of necessary, dry and lockable spaces for the storage of the tools of the repair personnel.
 - f. Protection of the repair site and materials from harmful influences of any kind, cleaning of the repair site.
 - g. Provision of suitable, thief-proof living and working spaces (with heating, lighting, washing facilities, sanitary facilities) and first aid for repair personnel.
 - h. Providing the materials and carrying out all other actions necessary for the adjustment of the object of repair and for carrying out a contractually stipulated test.
4. The Customer's technical assistance must ensure that the repair can be started immediately after the arrival of the repair personnel and carried out without delay until acceptance by the Customer. Insofar as special plans or instructions of the contractor are required, the latter shall make them available to the customer in good time.
 5. If the Customer fails to comply with its obligations, the Contractor shall be entitled, but not obliged, to carry out the actions incumbent upon the Customer on its behalf and at its expense. Otherwise, the legal rights and claims of the Contractor remain unaffected.

VI. Transport and insurance in the event of repairs at the Contractor's plant

1. Unless otherwise agreed in writing, a transport of the repair item - including any packaging and loading - carried out at the customer's request shall be carried out on the customer's account, otherwise the repair item shall be delivered by the customer at the supplier's expense and collected by the customer after the repair has been carried out from the supplier.
2. The customer bears the risk of transport.
3. At the request of the customer, the outward and, if necessary, the return transport shall be insured against the insurable transport hazards, e. g. theft, breakage, fire.
4. There is no insurance cover during the repair period at the contractor's plant. The customer shall ensure that the existing insurance cover for the object of repair is maintained, e. g. with regard to fire, tap water, storm and machine breakage insurance.

Insurance cover for these risks can only be provided at the express request and at the expense of the customer.

5. In the event of delay by the Customer with the takeover, the Contractor may charge storage fees for storage at his plant. The object of repair may also be stored elsewhere at the Contractor's discretion. Costs and risks of storage shall be borne by the customer.

VII. Repair period, delay in repair

1. The information on repair times is based on estimates and is therefore not binding.
2. The agreement of a binding repair period, which must be designated as binding, can only be demanded by the customer if the scope of the work is precisely established.
3. The binding repair period shall be complied with if, by the end of the period, the object of repair is ready to be taken over by the customer or, in the case of a contractually provided testing, to carry it out.
4. In the case of additional and extension orders or in the case of necessary additional repair work, the agreed repair period shall be extended accordingly.
5. If the repair is delayed due to measures in the context of industrial disputes, in particular strikes and lockouts, as well as the occurrence of circumstances for which the Contractor is not responsible, a reasonable extension of the repair period shall take place insofar as such obstacles are demonstrably of considerable influence on the completion of the repair.
6. If the Customer incurs damage as a result of the Contractor's delay, he shall be entitled to demand a lump sum compensation for delay. It shall be 0,5 % for each full week of delay, but not more than 5 % of the repair price for that part of the item to be repaired by the Contractor which cannot be used in due time as a result of the delay.

If the Customer sets the Contractor a reasonable deadline for performance after due date - taking into account the legal exceptions - and if the deadline is not met, the Customer is entitled to withdraw within the scope of the statutory provisions. He undertakes to declare within a reasonable period, at the request of the Contractor, whether he is making use of his right of withdrawal.

Further claims due to delay shall be determined exclusively in accordance with Section XI. 3 of these Terms and Conditions.

VIII. Acceptance

1. The customer is obliged to accept the repair work as soon as it has been notified of its completion and a contractually stipulated testing of the repair object has taken place. If the repair proves not to be in accordance with the contract, the Contractor is obliged to remedy the defect. This does not apply if the defect is insignificant for the interests of the customer or is due to a circumstance attributable to the customer. If there is a non-essential defect, the customer may not refuse acceptance.
2. If acceptance is delayed through no fault of the Contractor, acceptance shall be deemed to have taken place two weeks after notification of the completion of the repair.

3. With the acceptance, the Contractor shall no longer be liable for recognizable defects, unless the Customer has reserved the right to assert a particular defect.

IX. Retention of title, extended pledge

1. The Contractor retains ownership of all used accessories, spare parts and replacement units until receipt of all payments from the repair contract. Further security arrangements may be made.
2. The Contractor is entitled to a lien on the repair object of the Customer which has come into his possession on the basis of the repair contract due to his claim under the repair contract. The pledge may also be asserted against claims arising from previously performed work, spare parts deliveries and other services insofar as they are related to the object of repair. For other claims arising from the business relationship, the pledge only applies insofar as these are undisputed or legally enforceable.

X. Claims for defects

1. After acceptance of the repair, the Contractor shall be liable for defects in the repair to the exclusion of all other claims of the Customer, without prejudice to Nos. 5 and 6 and Section XI of these Conditions, in such a way that the Contractor shall remedy the defects. The Customer shall immediately notify the Contractor in writing of an identified defect.
2. The Contractor shall not be liable if the defect is insignificant for the interests of the Customer or is due to a circumstance attributable to the Customer. This applies in particular to the parts supplied by the customer.
3. In the event of improper changes or repairs made by the Customer or a third party without the prior consent of the Contractor, the Contractor's liability for the resulting consequences shall be waived. Only in urgent cases where operational safety is endangered and in order to prevent disproportionately large damages, whereby the Contractor must be notified immediately, or if the Contractor - taking into account the legal exceptions - has failed to pass a reasonable period for the rectification of defects, the Customer shall have the right, within the scope of the statutory regulations, to have the defect rectified itself or by a third party and to reimburse the necessary costs by the Contractor. desire.
4. In the event of a justified complaint, the Contractor shall bear the direct costs arising from the rectification of the defect, insofar as this does not result in a disproportionate burden on the Contractor.
5. If the Contractor - taking into account the legal exceptions - allows a reasonable period of time set for him for the rectification of defects to expire in vain, the Customer shall have a right of reduction within the scope of the statutory provisions. Only if, despite the reduction, the repair proves to be of no interest to the customer, the customer may withdraw from the contract.
6. Further claims shall be determined exclusively in accordance with Section XI. 3 of these Conditions.

XI. Liability of the contractor, exclusion of liability

1. If parts of the object of repair are damaged due to the fault of the Contractor, the Contractor shall, at its option, repair, re-deliver or replace them at its expense. In the event of slight negligence, the costs to be spent for this purpose are limited in amount to the contractual repair price. In addition, liability is assumed for damage to the object of repair in accordance with Section XI. 3 of these conditions.
2. If the object of repair cannot be used by the customer in accordance with the contract as a result of culpable omission or erroneous suggestions or consultations made before or after the conclusion of the contract, or due to the culpable breach of other contractual obligations - in particular instructions for the operation and maintenance of the object of repair - the provisions of Sections X and XI. 1 and 3 of these Terms and Conditions shall apply to the exclusion of further claims of the customer.
3. For damages that are not caused to the object of repair itself, the Contractor is liable - for whatever legal reasons - only
 - a. in case of intent and gross negligence
 - b. in the event of culpable injury to life, body, health,
 - c. in the case of defects which he has fraudulently concealed,
 - d. in the context of a guarantee undertaking,
 - e. insofar as liability is incurred for personal or property damage to privately used items according to the Product Liability Act.

In the event of culpable breach of essential contractual obligations, the Contractor shall also be liable in the event of gross negligence on the part of non-executive employees and in the event of slight negligence, in the latter case limited to the reasonably foreseeable damage typical of the contract.

Further claims are excluded.

XII. Limitation period

All claims of the customer - for whatever legal reasons - expire in 12 months. Claims for damages pursuant to Section XI. 3 a-d and e of these Terms and Conditions shall be subject to the statutory deadlines. If the Contractor carries out the repair work on a building and thereby causes its defectiveness, the statutory deadlines also apply.

XIII. Substitute performance of the customer

If, during repair work outside the Contractor's works, the equipment or tools provided by the Contractor at the repair site are damaged or lost through no fault of the Contractor, the Customer shall be obliged to compensate for such damage. Damage due to normal wear and tear is not taken into account.

XIV. Applicable law, place of jurisdiction

1. All legal relations between the Contractor and the Customer shall be governed exclusively by the law of the Federal Republic of Germany which governs the legal relations between domestic parties. The provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG) do not apply.
2. Place of jurisdiction shall be the court competent for the place of business of the Contractor. However, the Contractor is entitled to file a claim at the Customer's head office.