

For use with

1. A person, who when concluding the contract is acting in a professional capacity on a commercial or self-employed basis (entrepreneur);
2. Legal entities under public law or special funds governed by public law.

I. Conclusion of contract, information obligations, safety instructions

1. In case of an undisputed written order confirmation, this is decisive for the content of the contract and the scope of the repair services.
2. If the repair item is not supplied by the company (hereinafter referred to as the „Contractor“), the Buyer shall inform the contractor of any existing industrial property rights relating to the repair item; provided that the Contractor is not responsible, the Buyer shall hold the Contractor harmless from any possible claims of third parties resulting from intellectual property rights.
3. The Buyer shall notify the Contractor in due time in writing of contaminations, possible health-endangering residues in the items to be repaired as well as transport risks and other measures relevant for repairs to be taken.

II. Non-performable repairs

1. The Buyer shall be invoiced the costs incurred for the preparation of a cost estimate as well as further expenses incurred and to be documented (error location equals working time), if the repair cannot be carried out for reasons the Contractor is not responsible for, in particular due to the following reasons
 - the complained defect did not occur during the inspection,
 - spare parts cannot be procured,
 - the Buyer has culpably failed to meet the agreed date,
 - the contract has been terminated during the performance.
2. The repair item shall only be returned to its original condition at the express request of the Buyer against reimbursement of the costs, unless the works performed out was not necessary.
3. In the event of repairs that cannot be carried out, the Contractor shall not be liable for damage to the repair item, the breach of ancillary contractual obligations and for damages not caused to the repair item itself, irrespective of the legal basis on which the Buyer claims this.
The provisions of liability as per clause XI.3 of these Terms and Conditions shall apply accordingly.

III. Cost information, cost estimates

1. As far as possible, the estimated repair price shall be quoted to the Buyer on conclusion of the contract, otherwise the Buyer may set cost limits. If the repair cannot be carried out at these costs or if the Contractor, during the repair work, considers it necessary to carry out additional work during the repair, the Buyer's approval shall be obtained if the specified costs are exceeded by more than 15 %.
2. Should the Buyer request a cost estimate with binding prices prior to performance of the repair, the Buyer shall expressly request said cost estimate. Unless otherwise agreed, such a cost estimate shall only be binding if it is submitted in writing. The Buyer shall not be charged for the preparation work of the cost estimate where such preparation work is of use in the course 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 invoicing the repair, the prices for parts used, materials and special services as well as the prices for the works services, travel and transport costs shall be stated separately in each case. 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 with respect to the scope of performance shall be listed separately.
3. Value added tax shall be additionally charged to the Buyer at the respective statutory rate.
4. Any possible adjustment of the invoice on the part of the Contractor and a complaint on the part of the Buyer must be made in writing no later than four weeks after receipt of the invoice.
5. Payment shall be made without deduction at the time of acceptance and handing over or sending of the invoice.
6. The retention of payments due to possible counterclaims of the Buyer that are disputed by the Contractor is not permitted.
7. The set-off with any counterclaims of the Buyer from other legal relationships that are disputed by the Contractor is not permitted.

V. Cooperation and technical assistance of the Buyer in connection with repairs outside Contractors works

1. The Buyer shall assist the repair personnel in carrying out the repair at his own expense.
2. The Buyer shall take special measures necessary for the protection of persons and property at the repair site. He shall also inform the repair coordinator on existing special safety regulations, as far as these are of importance to the repair personnel. He shall notify the Contractor of any breaches of such safety regulations by the repair personnel. In the event of serious violations, he may, in consultation with the repair coordinator, deny the violator access to the repair site.

3. The Buyer is obliged to provide technical assistance at his own expense, in particular to:
 - a. Provide the necessary suitable assistants in the number and for the time required for the repair; the assistants shall follow the instructions of the repair coordinator. The Contractor shall not assume any liability for the assistants. If a defect or damage has arisen due to the instructions of the repair coordinator, the provisions of Sections X and XI of these Terms and Conditions shall apply accordingly.
 - b. Carrying out all construction, bedding and scaffolding work including the procurement of the necessary building materials.
 - c. Provision of the necessary equipment and heavy tools as well as the necessary commodities and materials.
 - d. Provision of heating, lighting, power supply, water, including the necessary connections.
 - e. Provision of necessary, dry and lockable rooms for the storage of the tools of the repair personnel.
 - f. Protection of the repair site and materials against harmful influences of any kind, cleaning of the repair site.
 - g. Provision of suitable, theft-proof recreation rooms and work rooms (with heating, lighting, washing facilities and sanitary facilities) and first aid for the repair personnel.
 - h. Provision of the materials and undertaking of all other actions required for regulating of the repair item and performing a contractually agreed test.
4. The technical assistance of the Buyer must ensure that the repair can begin immediately after the arrival of the repair personnel and can be carried out without delay until acceptance by the Buyer. Insofar as special plans or instructions of the Contractor are required, the Contractor shall make them available to the Customer in good time.
5. If the Buyer does not fulfil his obligations, the Contractor is entitled, but not under any obligation, to carry out the actions required by the Buyer in the Buyer's place and at the Buyer's expense after setting a deadline. Furthermore, the Contractor's statutory rights and claims shall remain unaffected.

VI. Transport and insurance for repairs at Contractors plant

1. Unless otherwise agreed in writing, transport and return of the repair item at the Buyer's request - including any packaging and loading - are carried out at his expense, otherwise the repair item shall be supplied by the Buyer to the Contractor at his own expense and after completion of the repair at the Contractor and collected again from the Contractor by the Buyer.
2. The Buyer shall bear the transport risk.
3. At Buyer's request, transport to and, if applicable, the return transport shall be insured at the Buyer's expense against the insurable transport risks e.g. theft, breakage, fire.
4. During the repair period at Contractor's works there shall be no insurance cover. The Buyer shall maintain the existing insurance cover for the repair item, for example regarding fire, mains water, storm and machine failure insurance. Only at the explicit request of the Buyer and at his expense, insurance cover can be provided for these risks.
5. In the event of a delay by the Buyer with the takeover, the Contractor may charge storage costs for the storage in his premises. The repair item may also be stored elsewhere at the discretion of the Contractor. The costs and risk of the storage shall be borne by the Buyer.

VII. Repair period, delay

1. The specifications of the repair periods are based on estimates and are therefore not binding.
2. The Buyer can only request the agreement on a binding repair period, when the scope of work has been precisely determined.
3. The binding repair period shall be deemed to have been complied with if repair item is ready for acceptance by the Buyer by the time it expires, or, in the case of a contractually agreed test run, for the performance thereof.
4. In case of additional and extension orders placed later or if additional repair work is necessary, the agreed repair period shall be extended accordingly.
5. If the repair is delayed due to measures within the framework of labor disputes, in particular strikes, lockouts as well as the event of circumstances not attributable to the Contractor, the repair deadline shall be extended reasonably as far as such circumstances can be proven to have significant influence on the completion of the repair.
6. If the Contractor is in delay for reasons he is responsible for and the Buyer suffers damage as a result, the Buyer shall be entitled to claim for liquidated damages for delay at a rate of 0,5 % for each full week of delay, however, maximum limited to 5 % of the repair price for such part of the item to be repaired which cannot be used in due time as a result of the delay.

If the Buyer sets the Contractor - taking into account the legal exceptions - a reasonable period of time to perform his obligations after the due date and this final period is not met, the Buyer shall be entitled to withdraw from the contract within the framework of the legal provisions. At the Contractor's request, the Buyer undertakes to declare within a reasonable period of time whether it will exercise its right to withdraw from the contract. Further claims arising from delay in delivery are exclusively governed by clause XI. 3 of these Terms and Conditions.

VIII. Acceptance

1. The Buyer is obliged to accept the repair work as soon as he has been notified of its completion and any contractually agreed test run of the repair item has taken place. If the repair proves not to be in accordance with the contract, the Contractor is obliged to remedy the defect. This shall not apply if the defect is insignificant for the interests of the Buyer or is based on a circumstance attributable to the Buyer. In the event of a non-significant defect, the Buyer may not refuse acceptance.
2. If the acceptance is delayed for reasons not attributable to the Contractor, the acceptance shall be deemed to have taken place after expiry of two weeks from notification of the completion of the assembly.
3. With the acceptance the Contractor shall no longer be liable for visible defects, unless the Buyer has reserved the right to claim for a certain defect.

IX. Retention of title, extended lien

1. The Contractor retains title to all accessories, spare parts and replacement units used until receipt of payment in full under the repair contract. Further security agreements can be made.
2. The Contractor shall be entitled to a lien on the repair item which as a result of the contract came into his possession from the Buyer. The right of lien may also be asserted for claims arising from previously performed work, spare part supplies and other deliveries and 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 these are undisputed or legally binding.

X. Claims for defects

1. After acceptance of the repair work, the Contractor shall be liable for any defects in the repair work under the exclusion of all other claims of the Buyer, notwithstanding paragraph 5 and paragraph 6 and clause XI, in such a way, that the Contractor has to remedy the defect. The Buyer has to immediately notify the Contractor in writing of a discovered defect.
2. The liability of the Contractor shall not apply if the defect is insignificant for the interests of the Buyer or is based on a circumstance attributable to the Buyer. This shall in particular apply to parts provided by the Buyer.
3. In the event of any changes or maintenance works improperly carried out by the Buyer or third parties without prior approval of the Contractor, liability of the Contractor for the consequences resulting therefrom is excluded. Only in urgent cases of risk to operational safety or to prevent unreasonably high damages, in which case the Contractor must be notified immediately, the Buyer shall be entitled - within the framework of the statutory exceptions - to remedy the defect itself or to have the defect remedied by third parties and to demand reimbursement of the necessary expenses from the Contractor.
4. In case of a justified complaint, the Contractor shall bear the costs necessary to remedy the defect, insofar as this does not result in a disproportionate expense for the Contractor.
5. If the Contractor - taking into account the statutory exceptions - fails to meet a reasonable deadline set to him to remedy a defect, the Buyer shall have a right of reduction of the price within the framework of the legal provisions. The Buyer may only be entitled to withdraw from the contract if the assembly work is proven of no interest to the Buyer despite the reduction.
6. Further claims are exclusively subject to clause XI.3 of these Terms and Conditions.

XI. Liability of the Contractor, Limitation of liability

1. If parts of the repair item are damaged through the fault of the Contractor, the Contractor shall, at its discretion, repair them, deliver new parts or provide replacements at its own expense. The costs to be incurred for this shall be limited to the contractual repair price in the event of slight negligence. In addition, liability for damage to the object to be repaired shall be in accordance with clause XI.3 of these Terms and Conditions.
2. If the repair item cannot be used by the Buyer in accordance with the contract as a result of culpably omitted or faulty suggestions or advice given by the Contractor before or after conclusion of the contract, or as a result of culpable breach of other secondary contractual obligations - in particular instructions for operation and maintenance of the repair item - the provisions of clause X and clause XI. 1 and 3 shall apply to the exclusion of further claims by the Buyer.
3. The Contractor shall be liable for damages not caused to the repair item itself, for whatever legal reasons, only
 - a. in case of intent and gross negligence,
 - b. in case of a culpable injury to life, body, health,
 - c. in case of defects the Contractor has fraudulently concealed,
 - d. within the framework of a guarantee,
 - e. as far as liability is provided in accordance with the Product Liability Act for injury to persons and material damages to privately used objects.

In the event of a culpable breach of essential contractual obligations the Contractor shall also be liable for slight negligence, however, limited to the reasonably foreseeable damage typical for the contract.
Further claims are excluded.

XII. Statute of limitation

All claims of the Buyer - for whatever legal reasons - shall become time-barred after 12 months. The statutory time limits shall apply to damages claims under XI. 3 a-c and e. If the Contractor renders the repair work on a building and thereby causes the defectiveness thereof, the statutory periods shall also apply.

XIII. Compensation from the Buyer

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

XIV. Applicable law, place of jurisdiction

1. For all legal relationships between the Contractor and the Buyer the law of the Federal Republic of Germany, which governs the legal relations between domestic parties, shall apply exclusively.
2. The place of jurisdiction shall be the court having jurisdiction over the place of business of the Contractor. However, the Contractor shall be entitled to take legal action at the principal place of business of the Buyer.