

General Terms and Conditions of Repair and Installation



1. General – Scope

1.1. These General Terms and Conditions of Repair and Installation (hereinafter referred to as 'Terms and Conditions') only apply to entrepreneurs in the exercise of their commercial or independent professional activity and to legal entities under public law or a special fund under public law (hereinafter referred to as 'Customer'). These Terms and Conditions are binding for all our offers and contracts for any kind of inspection, repair, overhaul, modification, contract work as well as installation and commissioning (hereinafter referred to as 'Works') in relation to the Customer and apply exclusively.

1.2. Conflicting, additional or deviating terms and conditions of purchase or order of the Customer do not become part of the contract unless we have agreed to their validity in text form. These Terms and Conditions also apply if we have not expressly objected to the Customer's conflicting, additional or deviating terms and conditions or if we carry out Works in the knowledge of such terms and conditions.

1.3. Individual agreements made in individual cases (including collateral agreements, supplements and changes) take in any case precedence over these Terms and Conditions. These individual agreements must be made in text form by the parties or expressly confirmed by us in text form.

1.4. These Terms and Conditions also apply to all future similar transactions between us and the Customer.

2. Offer and conclusion of contract

2.1. Our offers are subject to change and non-binding. Each order placed by the Customer merely represents an offer to us to conclude a contract concerning Works.

2.2. The individual contract is only concluded with our order confirmation in text form to the Customer. Our order confirmation is decisive for the scope of the Works.

2.3. Illustrations, drawings, weight, dimension, performance and consumption data as well as other descriptions of the Works contained in the documents belonging to an offer are only approximate unless they are expressly designated by us as binding. Like other publicly announced information, e.g. in catalogues or on our website, they expressly do not constitute an agreement or guarantee of a corresponding quality or durability of the Works and serve only to describe Works of average type and quality. The Customer's expectations regarding the Works or their use also do not constitute such agreement or guarantee.

2.4. We reserve the right to make changes to the design and shape of the Works insofar as the deviations are customary in the industry or insofar as the deviations are within the DIN tolerances or insofar as the changes are not significant and reasonable for the Customer. The same applies to the choice of material, the specification and the design.

2.5. We reserve ownership rights and copyrights to all samples, documents such as cost estimates, drawings, etc. and other information of a physical and non-physical nature – including in electronic form – (hereinafter referred to as 'Documents') provided to or made available to the Customer as part of the preparation of the offer and execution of the contract. These Documents may only be used for contractual purposes and may not be processed, reproduced, or made accessible to third parties without our consent. These Documents must be returned to us or destroyed immediately

upon request or if a contract is not concluded. We may disclose Documents designated by the Customer as confidential to our affiliated companies within the framework of the performance of the contract, otherwise we will only make them accessible to third parties with the Customer's consent.

2.6. Our Works generally comply with the statutory provisions applicable in the Federal Republic of Germany. If the Customer wishes the Works to comply with provisions that deviate from these provisions, the Customer must inform us of this before placing the order. At the same time, the Customer must send the provisions deviating from the German provisions in German or English.

3. Cost estimates and cost information

3.1. If the Customer commissions us to prepare a cost estimate before placing an order, we are entitled to invoice the necessary expenditure. This will be based on our valid 'Calculation Rates for external Services' (*Abrechnungssätze für Außenmontagen*).

3.2. If the Customer's object of the order on which the Works are to be carried out, is dismantled by us for the preparation of the cost estimate, it must only be restored to its original condition by us at the express request of the Customer and against reimbursement of the costs. This does not apply if the dismantling carried out by us was not necessary or if a corresponding order is placed on the basis of the cost estimate prepared.

3.3. If the commissioned Works cannot be carried out at the costs stated by us in the cost estimate or within a cost limit agreed with the Customer, we will obtain the prior consent of the Customer to continue the Works as soon as it is to be expected that the cost estimate or the cost limit will be exceeded by more than 15 %. The same applies if we consider it necessary or expedient to carry out additional Works in order to fulfil the purpose of the order.

4. Execution of the Works

4.1. We will carry out the agreed Works with qualified specialists. We are expressly authorized to have the Works carried out by subcontractors. The Customer is not entitled to demand the deployment of specific personnel.

4.2. The Works relate to the scope of work specified in our order confirmation. Agreements between the deployed personnel and the Customer that deviate from this scope of work are only binding if they are confirmed in text form by a person authorized to represent us in this respect.

4.3. Without our express consent, the Customer is not authorized to use our personnel for work that is not the subject of the contract. We accept no liability for work carried out without our consent or special instructions on the order of the Customer.

5. Transport and transport risk

5.1. Any transport of the object of the order to us and back – including any packaging and loading – carried out by us at the request of the Customer in individual cases will be carried out at the expense and risk of the Customer. Otherwise, the object of the order is delivered to us by the Customer at its own expense and risk and collected again after the Works have been carried out.

5.2. During the time of the Works at our premises, we do not provide any insurance cover for the Customer's object of the order.

It is the responsibility of the Customer to take out the desired insurance cover, e.g. with regard to fire, mains water, storm and machine breakage. Insurance cover for these risks can only be arranged in individual cases at the express request and expense of the Customer.

5.3. If the Customer is in default of acceptance after completion of the Works, we are entitled to charge the usual storage fee for a forwarding agent for the storage of the object of the order on our premises. We are also entitled to store the object of the order with a forwarding agent at the risk of the Customer and to charge the Customer for the actual expenses incurred.

6. Occupational safety

6.1. While carrying out the Works, we will comply with the statutory regulations on occupational safety applicable at the place of fulfilment. Should the statutory regulations change between the conclusion of the contract and the execution of the Works, we are entitled to compensation for any additional expenses and to adjustment of the contractual deadlines. Additional, non-statutory safety and other regulations of the Customer at the place of fulfilment are only to be observed by us if they are made known to us by the Customer in the context of the order and expressly confirmed by us.

6.2. The Customer must comply with the occupational safety regulations applicable at the place of fulfilment and must provide safety instruction for our personnel on site before work commences. If safety regulations provide for special protective equipment for the personnel, this must be made available to us. The Customer must inform us of any violations of occupational safety regulations by our personnel so that we can take remedial action.

6.3. If safety requirements to be provided by the Customer at the place of fulfilment are not fulfilled within a reasonable period of time despite an express request, we are entitled to suspend the Works until the safety defect has been remedied. Furthermore, we are entitled to suspend the deployment of personnel or to withdraw personnel and to terminate the contract if there is a risk to life or limb for the persons concerned within the scope of the assignment. We expressly reserve the right to claim the costs incurred by us as a result of these measures.

7. Obligations of the Customer to co-operate

7.1. In the interest of a speedy and effective fulfilment of the Works, the Customer will support our personnel in the execution of the Works to the best of its ability at its own expense.

7.2. The Customer must ensure that the Works can be started by us immediately after the arrival of our personnel and that the Works can be carried out without delay or interruption.

7.3. If necessary, the Customer will also provide assistance not expressly agreed in advance but necessary for the speedy execution of the Works, such as in particular the provision of interpreters and assistants, the completion of forms and applications.

7.4. If necessary, the Customer will assist our personnel with daily commuting between the place of accommodation and the place of fulfilment and with transport to and from the place of arrival (airport, railway station, etc.).

7.5. In the event of illness or accidents, the Customer will provide our personnel with the necessary assistance for medical care or hospitalization. The Customer must inform us immediately of the nature and extent of the illness or accidents and coordinate all further measures with us.

8. Technical support by the Customer

8.1. Insofar as it is necessary for the execution of the Works, the Customer is obliged to carry out preparatory work and to provide technical assistance during the execution of the Works, taking into account all safety regulations and safety measures, in particular:

a) Clearing necessary work areas and making accessible the object of the order.

b) Provision of necessary equipment and heavy tools (e.g. hoists, compressors, welding equipment), special tools, necessary transport vehicles for the transport of materials, as well as provision of necessary items and materials.

c) Provision of heating, lighting, electricity, water, compressed air including the necessary connections.

d) Provision of suitable and lockable rooms or storage areas for the storage of our tools, materials and equipment for the duration of the Works.

e) Provision of suitable, lockable standby and work rooms (heatable or air-conditionable, with lighting, washing facilities, sanitary facilities) for our personnel for the duration of the Works.

f) Provision of materials and performance of all other actions necessary for the adjustment of the object of the order and for the performance of a contractually agreed test.

8.2. A detailed agreement on the preparatory work required for the Works and for technical assistance, in particular the required objects and materials, is to be reached between the parties before the start of the Works.

8.3. The Customer bears all costs for its preparatory work and technical assistance.

8.4. If the Customer does not fulfil its obligations specified in this Clause 8., or does not fulfil them in full or on time, we are entitled, but not obliged, after setting a reasonable period of time, to carry out the actions incumbent on the Customer in its place and at its expense or to have them carried out. Our statutory rights and claims otherwise remain unaffected.

9. Performance time

9.1. The performance time (performance period in the sense of the expected duration of the Works or performance date in the sense of the planned start of the Works) is determined by the agreements between the parties. Any information on a performance time is non-binding unless we have confirmed it to the Customer in text form as 'binding performance time'. In the case of additional and extension orders placed at a later date, the performance time will be extended accordingly.

9.2. A performance period is deemed to have been met if by its expiry the Works have been completed or we have given notice of readiness for acceptance.
A performance date is deemed to have been met if by this date our personnel have reached the place of fulfilment.

9.3. Compliance with the performance time by us is subject to the timely and proper fulfilment of the Customer's other obligations, such as the obligation to cooperate, the preparatory work and technical assistance, the complete provision of documents, approvals and releases to be procured by the Customer, the clarification of all technical questions and the payment of an agreed down payment. If this is not the case, the performance time will be extended accordingly. This does not apply if we are solely responsible for the delay.

9.4. Compliance with the performance time is subject to timely and correct delivery to us. If, despite the conclusion of a corresponding hedging transaction, we are not supplied on time for reasons for which we are not responsible, we are entitled to rescind the contract. If we are not supplied correctly and on time, we are obliged to inform the Customer immediately of the non-performance or the delay of the Works.

9.5. If we are in default of performance and the Customer suffers damage as a result, the Customer is entitled to demand a lump-sum compensation for the delay, to the exclusion of further claims for delays in contractually agreed deadlines. This amounts to 0.25 % for each full week of delay, but in total not more than 2.5 % of the value of the Works affected by the delay. This limitation of liability does not apply in the case of willful intent.

9.6. We expressly object to any contractual penalties by the Customer for exceeding the performance time.

10. Acceptance, Passing of risk

10.1. The Customer is obliged to accept the Works performed as soon as Customer has been notified of their completion and any contractually agreed testing of the Works has taken place. We will draw up a report on the acceptance, which is to be signed by the Customer and our project manager on site. Items still to be completed and minor defects will be recorded in the acceptance report and may not prevent acceptance of the Works. If the Works do not require acceptance in individual cases, our personnel must be provided with a confirmation of completion of the Works.

10.2. If no representative of the Customer authorized to accept the Works is on site at the time of the declaration of readiness for acceptance or if acceptance is delayed for reasons for which we are not responsible, the Works will be deemed to have been accepted at the time of notification of completion or declaration of readiness for acceptance. The same applies if the Customer puts the Works unconditionally into their intended use, without notifying us of complaints.

11. Prices, interim payments, partial invoices

11.1. The Works will be invoiced according to the costs incurred and in accordance with the price sheet based on time calculation at our valid 'Calculation Rates for external Services' (*Abrechnungssätze für Außenmontagen*), unless a lump sum price has been expressly agreed. The time records issued by us will serve as the basis for invoicing. Invoicing takes place monthly or after completion of the Works.

11.2. Insofar as a flat-rate price has been agreed for the execution of the Works, this only applies to uninterrupted Works. If Works are delayed or interrupted for reasons for which we are not responsible, the Customer must bear all resulting costs. In addition, we are entitled to a correspondingly increased remuneration in such case.

11.3. Our prices are in Euro plus freight and travelling expenses. Statutory value added tax will be shown separately in invoices at the statutory rate applicable on the date of invoicing. Insofar as other public charges (taxes, fees, customs duties etc.) are levied which arise from or in connection with the conclusion or fulfilment of the contract outside the Federal Republic of Germany, these are to be borne by the Customer or reimbursed to us.

11.4. Travelling expenses incurred by us will be invoiced according to the agreement with the Customer, either on the basis of the actual costs incurred and the submission of corresponding receipts or as a lump sum. In the absence of an agreement, we are entitled to invoice travelling expenses on the basis of actual costs incurred, subject to submission of corresponding receipts. For journeys by plane with a duration of less than six hours, we are entitled to invoice the costs incurred when using economy class; for journeys

by plane with a duration of more than six hours, we are entitled to invoice the costs incurred when using business class. For train journeys of less than four hours, we are entitled to charge the costs incurred when using 2nd class; for train journeys of more than four hours, we are entitled to charge the costs incurred when using 1st class. Travel by car will be invoiced according to kilometers at the agreed flat rate and, in the absence of an agreement on a flat rate, according to the standard market flat rates.

For non-working days falling within working hours, in particular Sundays and public holidays, as well as in the event of staff absence due to illness or accident, we are entitled to charge waiting days at the agreed rates or, in the absence of an agreement, at the standard market rates. This applies to absences due to illness or accident, provided that it is not necessary or not possible for the affected personnel to return immediately on the day of the onset of illness or accident.

11.5. We are entitled to demand a reasonable advance payment upon conclusion of the contract and to issue an invoice on account.

11.6. Furthermore, we are entitled to issue partial invoices at our own discretion in accordance with the progress of the Works.

12. Invoicing and terms of payment

12.1. We are entitled to invoice our Works upon their completion or declaration of readiness for acceptance. The invoice will be issued as a final invoice if an invoice on account or partial invoices have been issued.

12.2. When invoicing for the Works performed, the prices for parts used, materials and special services as well as the prices for labor, expenses, travel and transport costs will be shown separately. If Works are carried out on the basis of a cost estimate, a reference to the cost estimate will suffice, whereby only deviations in the scope of services will be listed separately.

12.3. All payments must be made within 30 days of the invoice date, without any deductions, to our account specified in the invoice. The timeliness of the payment is determined by the receipt of payment by us, not by the dispatch of the payment. The statutory provisions regarding the consequences of default in payment (§ 288 BGB (*German Civil Code*)) apply.

12.4. We expressly reserve the right to demand security for payment or to carry out outstanding Works only against advance payment. In the event of default of payment, we reserve the right to demand immediate payment of all claims arising from the business relationship with the Customer.

13. Liability for defects

Should the Works be defective, we are liable to the express exclusion of further or other claims – subject to Clause 14 – as follows in this Clause 13.

13.1. Defects

13.1.1. If the Works have a defect, we are entitled and obliged to subsequent performance, at our own discretion by remedying this defect or by new provision of the Works. We provide a warranty for the subsequent performance to the same extent as for the original Works. The limitation period for claims for defects does not begin to run again in the event of subsequent performance and will end with the limitation period for claims for defects in the original Works in accordance with the limitation periods applicable under Clause 13.1.10.

13.1.2. We expressly assume no guarantees, in particular no quality or durability guarantees.

13.1.3. Claims of the Customer due to a material defect presuppose that the Customer has duly notified us of this within the scope of acceptance. Upon acceptance, our liability for recognizable defects will lapse unless the Customer has expressly reserved the right to assert its rights with regard to the defect in question.

13.1.4. If a defect becomes apparent later, the Works will also be deemed to have been approved with regard to this defect, unless the Customer notifies us of this defect in writing immediately after its discovery.

13.1.5. The Customer must give us the necessary time and opportunity to carry out the subsequent performance we deem necessary; otherwise, we are released from liability for the resulting consequences.

13.1.6. Expenses such as travel, transport, material or labor costs as well as dismantling and installation costs incurred for the inspection and subsequent performance will only be borne by us in accordance with the statutory provisions and only insofar as a defect in the Works actually exists. Costs incurred due to unjustified notices of defects must be borne by the Customer.

13.1.7. We are not liable for the consequences of any modifications or interventions by the Customer or third parties in the Works carried out improperly or without our express prior consent. In urgent cases, in particular to avert immediate danger or to avert unreasonably high damage to be expected, Customer is entitled, within the framework of the statutory provisions, to carry out the necessary measures to remedy defects in the Works itself or have them carried out by third parties immediately and without setting a prior deadline for subsequent performance and to demand reimbursement of the necessary costs from us.

13.1.8. If subsequent performance fails even after several attempts at subsequent performance by us and a reasonable period of time set by the Customer, or if we refuse subsequent performance without justification, the Customer is entitled, at its discretion, to demand a reduction (reduction of the remuneration for the Works) or, in the case of a significant material defect (*wesentlicher Mangel*), to rescind the contract.

13.1.9. Our liability for defects does not apply to natural wear and tear and parts that are subject to premature wear and tear due to their material properties or use, nor to damage resulting from modifications made to the Works by the Customer or as a result of improper storage, handling or operation, failure to observe the maintenance and care instructions or use of unsuitable operating materials, faulty on-site conditions or technical information provided by the Customer, or which arise due to special external influences that are not assumed under the contract. The same applies to all other circumstances occurring after acceptance which have arisen through no fault of our own.

13.1.10. The existing rights and claims of the Customer due to defects in the Works become statute-barred within 12 months after completion of the Works or acceptance. In all other cases, in particular in the case of intent or in the case of fraudulent concealment of defects on our part and in cases of § 634a para. 1 No. 2 BGB (*German Civil Code*), the statutory limitation periods apply. The statutory provisions on suspension or recommencement of the limitation periods remain unaffected.

13.2. Defects of title

13.2.1. If the Works lead to the infringement of intellectual property rights of third parties within the limitation periods applicable in accordance with Clause 13.1.10, we may, at our discretion and at our expense, either procure the right for the Customer to continue using the Works or modify the Works in a manner reasonable for the Customer so that the infringement of intellectual property rights no longer exists.

13.2.2. If this is not possible for us under economically reasonable conditions or within a reasonable period of time, the Customer is entitled to the statutory rights of rescission or reduction. In addition, we will indemnify the Customer against undisputed or legally established claims of the owners of the intellectual property rights concerned.

13.2.3. Our liability for defects of title only exist if and to the extent, that:

a) the Customer notifies us immediately in writing of any asserted infringements of intellectual property rights and does not recognize them;

b) the Customer supports us free of charge to a reasonable extent in the defense against the asserted claims or enables us to carry out the modification measures in accordance with Clause 13.2.1.;

c) we reserve the right to take all defense measures, including out-of-court settlements;

d) the defect of title is not based on an instruction of the Customer or on the fact that the infringement only arises due to the combination of the Works by the Customer with products or deliveries outside our scope of services; and

e) the infringement was not caused by the fact that the Customer modified the Works without authorization or used them in a manner not in accordance with the contract.

14. Liability

14.1. We are liable without limitation in accordance with the statutory provisions for intent and gross negligence. The same applies to damage resulting from culpable injury to life, body or health or from the breach of a guarantee or in the case of fraudulent intent. Mandatory statutory liability for product defects remains unaffected.

A quality or feature of the Works will only be deemed guaranteed within the meaning of the law, if this quality or feature is explicitly referred to by us as a 'guaranteed quality'.

14.2. We are only liable for slight negligence if we are in breach of a principal contractual obligation. A principal contractual obligation is one which arises from the nature of the contract and which is of particular importance for the achievement of the purpose of the contract because compliance with it is essential for the proper performance of the contract and on compliance with which the Customer regularly relies and may rely. In the event of a slightly negligent breach of such a principal contractual obligation, our liability is limited to such damage as is foreseeable and the occurrence of which must typically be expected within the scope of the contract.

14.3. Claims for damages by the Customer due to loss of profit, downtimes and other indirect damage or consequential damage are excluded, except in cases of willful intent. Indirect damage is damage that has not occurred directly to the Works themselves.

14.4. Apart from that, claims for damages are excluded regardless of the type of breach of obligation and irrespective of the legal grounds.

14.5. Insofar as our liability is excluded or limited, this also apply to the personal liability of our legal representatives, employees, and vicarious agents.

15. Force Majeure

15.1. We are not liable for any partial or total non-performance of our obligations if such non-performance is due in whole or in part to events or circumstances beyond our reasonable control and which cannot otherwise be reasonably prevented or overcome by us

('Force Majeure'). In any event, the following events will be deemed to be Force Majeure: strikes, riots and civil commotions, war (declared or undeclared), piracy, terrorist threats, acts of sabotage, fires, floods, earthquakes and other natural disasters, epidemics (including epidemics and pandemics), acts of government.

15.2. In the event of Force Majeure, our obligations under the respective contract will be suspended for as long as the effect of the Force Majeure event lasts plus a reasonable recovery period thereafter. This also applies during an already existing delay on our part or if the Force Majeure occurs at a subcontractor. We will notify the Customer of the beginning and end of such hindrances within a reasonable period of time after becoming aware of them. If the circumstances continue for a period longer than 90 days, either party is entitled to terminate the contract.

15.3. In the event of termination in accordance with Clause 15.2., we are entitled to demand the agreed remuneration; however, we then have to set off any expenses we save as a result of the termination of the contract or which we acquire or intentionally fail to acquire through further use of our labor. The parties agree that we are entitled to 60% of the agreed remuneration for the outstanding part of our Works under the contract. The parties expressly reserve the right to prove higher or lower saved expenses or any other or maliciously omitted other acquisition.

16. Confidentiality

16.1. For a period of seven years from the conclusion of the contract, the Customer is obliged to treat as confidential all information received or made accessible, which is designated by us as confidential or which is recognizable as our business or trade secrets under other circumstances, and to use it only to the extent necessary for the business relationship. The Customer must take all necessary measures to protect this information from misuse, unauthorized disclosure to third parties, duplication, use, unauthorized access and unauthorized use. Prices and other contractual provisions are also deemed to be business or trade secrets in this sense.

16.2. Information will be exempt from the duty of confidentiality if it is demonstrably in the public domain or generally known at the time of receipt or becomes generally known or accessible later through no fault of the Customer. The burden of proof is borne by the Customer.

16.3. Insofar as the parties process personal data in the course of order processing, they must comply with the data protection laws. The Customer acknowledges and agrees that the documents and information relating to the Customer may also be stored or retained outside Germany.

17. Offsetting, right of retention, and assignment

17.1. The Customer may only offset counterclaims arising from other legal relationships to the extent that they are undisputed or have been legally established.

17.2. The Customer may only exercise a right of retention to the extent that its counterclaim is based on the same contractual relationship.

17.3. The Customer is not authorized to assign or transfer its contractual rights and obligations to third parties without our express consent.

18. Final provisions

18.1. The legal relationship between the Customer and us is governed exclusively by German law to the exclusion of the United

Nations Convention on Contracts for the International Sale of Goods (CISG).

18.2. The place of fulfilment for all Works is our head office; if a different place of destination is specified in the order, in particular the location of the Customer's object of the order on which the Works are to be carried out, this will be deemed to be the place of fulfilment. The place of fulfilment for payments is our head office.

18.3. The exclusive place of jurisdiction for all disputes arising from the business relationship between us and the Customer is our head office. We are also entitled to bring an action at the Customer's registered office and at any other permissible place of jurisdiction. Arbitration clauses of the Customer are hereby rejected.