

Appendix: Additional Conditions for Repairs

These additional conditions apply together with the contract and in addition to the underlying General Conditions of Sale of Mehler Engineering + Service GmbH. Unless otherwise stipulated in these additional conditions, the General Conditions of Sale of Mehler Engineering + Service GmbH apply.

I. Conclusion of contract, General

1. If there is an uncontested written order confirmation, this is decisive for the subject matter of the contract and the scope of repair work.
2. If the object to be repaired is not delivered by the contractor, the customer has to point out the industrial property rights that exist with respect to the object; if the contractor is not to blame, the customer indemnifies the contractor against any possible third-party claims ensuing from industrial property rights.

II. Repairs that cannot be carried out

1. The services rendered in order to submit a cost estimate, as well as other costs that arise and can be substantiated (time identifying faults equals working time) are charged to the customer if the repairs cannot be carried out by the contractor for reasons beyond his control, particularly because
 - the fault complained about did not appear during the inspection,
 - spare parts are unavailable,
 - the customer has culpably missed the agreed deadline,
 - the contract has been terminated whilst the repairs were being carried out.
2. The object to be repaired needs to be restored to its original condition only at the express request of the customer against a refund of the costs, unless the work carried out was not essential.
3. If repair work cannot be carried out, the contractor is not liable for damages to the object to be repaired, nor is he liable for a breach of contractual accessory obligations or for damages that did not occur to the object itself, regardless of the legal reason cited by the customer.

However the contractor is liable for intent, gross negligence by the owner or executive personnel and in the event of a culpable breach of fundamental contractual duties. In the event of a culpable breach of fundamental contractual duties, the contractor is only liable for the contract-typical reasonably foreseeable damage, except in the case of intent and gross negligence by the owner or executive personnel.

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III. Cost data, cost estimate

1. In so far as it is possible, the estimated repair price will be given to the customer when the contract is concluded, otherwise the customer can set cost limits.

If the repair work cannot be carried out at these prices or if, whilst the repair work is being carried out, the contractor considers further tasks to be necessary, the customer's agreement must be sought if the stated costs will be exceeded by more than 15 %.

2. If a cost estimate with binding price quotes is required before the repair work is carried out, the customer must request this expressly. Such a cost estimate is - unless otherwise agreed - only binding if it is stated in writing.

The services rendered in order to submit a cost estimate are not charged to the customer if they can be utilised when carrying out the repair work.

IV. Price and payment

1. The contractor is entitled to request a reasonable advance payment when the contract is concluded.
2. When invoicing the repair work, the prices for used parts, materials and other services, as well as the prices for work done, the travel expenses and transport costs, are to be shown separately each time. If the repair work is carried out on the basis of a binding cost estimate, then a reference to the cost estimate suffices. Only deviations within the scope of services need to be specially listed.
3. VAT at the statutory rate that is valid at the time will also be charged to the customer.
4. A possible adjustment to the invoice on the part of the contractor and an objection on the part of the customer must be made in writing four weeks at the latest after receipt of the invoice.
5. Payment is to be made without a discount when the invoice is accepted and handed over or when it is sent.
6. Withholding payments or offsetting on account of possible counterclaims by the customer that are disputed by the contractor is not allowed.

V. Co-operation and technical assistance provided by the customer as regards repair work carried out away from the contractor's factory

1. The customer has, at his expense, to support the personnel carrying out the repair work.
2. In order to protect persons and property at the place of repair, the customer must take the necessary special measures. He also has to inform the person in charge of repairs about existing special safety regulations if these are of importance for the personnel carrying out the repair work. He will notify the contractor if the personnel carrying out the

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repair work are in breach of these safety regulations. In the event of serious breaches, he can, in consultation with the person in charge of repairs, refuse to allow the offender access to the repair site.

3. The customer is obliged to provide technical assistance at his expense, in particular to:
 - a) supply the necessary qualified support staff in the quantity needed for the repair work and for the required time; the support staff must follow the instructions of the person in charge of repairs. The contractor does not assume any liability for the support staff. If a defect or damage is caused by the support staff due to instructions from the person in charge of repairs, then the regulations in Sections X and XI apply accordingly.
 - b) undertake all the work related to construction, foundation and scaffolding, including the provision of the necessary building materials.
 - c) provide the necessary equipment and heavy tools as well as the required commodities and materials.
 - d) supply heating, lighting, power and water, including the necessary connections.
 - e) provide the required dry and lockable rooms for the safe storage of the repair personnel's tools.
 - f) protect the repair site and materials from harmful influences of any kind, cleaning the repair site.
 - g) provide suitable theft-proof rest rooms and work rooms (with heating, lighting, washing and sanitary facilities) and first aid for the repair personnel.
 - h) provide materials and carry out any other action that is necessary in order to adjust the object to be repaired and to carry out a test as contractually provided for.
4. Technical assistance provided by the customer must guarantee that the repair work can be started immediately once the repair personnel arrive and that it can be carried out without delay until it is accepted by the customer. If special plans or instructions are required from the contractor, he will make these available to the customer in good time.
5. If the customer does not fulfil his duties, the contractor is entitled but not obliged, after the fixing of a time limit, to carry out the work that was incumbent upon the customer in the place of and at the expense of the customer. In addition, the statutory rights and claims of the contractor remain unaffected.

VI. Transport and insurance as regards repair work carried out at the contractor's factory

1. Unless otherwise stipulated in writing, at the request of the customer and at his expense, the object to be repaired will be removed and returned by the contractor, and this may include packing and loading, otherwise the object to be repaired will be delivered to the contractor by the customer at his expense and, once the contractor has carried out the repair work, the customer will collect the repaired object.
2. The customer bears the transport risk.

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3. At the request of the customer and at his expense, transport to and, if applicable, transport from is insured against insurable transport risks, for example, theft, breakage and fire.
4. There is no insurance cover during the time that repair work is carried out at the contractor's factory. The customer has to ensure that the existing insurance cover is maintained for the object to be repaired, for example, as regards insurance against fire, tap water, storm and breakdown of machinery. Insurance cover for these risks can only be obtained at the express request and expense of the customer.
5. If the customer delays acceptance, the contractor can charge storage charges for storage in his factory. At the contractor's discretion, the repair item can also be stored elsewhere. The costs and risks of storage will be charged to the customer.

VII. Repair period

1. The information concerning repair periods is based on estimates and is therefore not binding.
2. The customer can only request that an agreement covering a binding repair period be made (and the repair period must be described as binding), if the extent of the work is established in detail.
3. The binding repair period is adhered to if, up until its expiry, the repair item is ready to be collected by the customer and, in the event of a test as contractually provided for, the repair item is ready to be tested.
4. The agreed deadline is extended accordingly if additional and expansion orders are issued later or if additional repair work is required.
5. If the repair work is delayed due to measures such as industrial disputes, particularly strikes and lock outs, and due to circumstances occurring that are not the fault of the contractor, the repair period will be reasonably extended if, as proven, such hindrances have a considerable influence on the completion of the repair work; this applies even if such circumstances occur after the contractor has fallen into arrears.
6. If, after the due date, the customer grants the contractor a reasonable time limit for performance and the deadline is not met, then - allowing for statutory exceptions - the customer is entitled to withdraw from the contract within the scope of the statutory provisions.

Further claims on account of delay are determined exclusively by Section XI.3 of these conditions.

VIII. Acceptance

1. The customer is obliged to accept the repair work as soon as he is notified that it has been completed and a test as contractually provided for has been carried out on the repair item. If the repair work proves to be non-conforming, the contractor is obliged to

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remove the defect. This does not apply if the defect is irrelevant in terms of the customer's interests or is due to a circumstance that is attributable to the customer. If there is a minor defect, the customer cannot refuse acceptance.

2. If acceptance is delayed through no fault of the contractor, then acceptance is deemed to have taken place when two weeks have elapsed following notification of completion of the repair work.
3. Once the repair work is accepted, the contractor's liability for identifiable defects lapses unless the customer has reserved the right to assert a specific defect claim.

IX. Retention of title, extended lien

1. The contractor retains title to all used accessories, replacement parts and exchange units until all payments ensuing from the repair contract have been received. Further security agreements can be entered into.
2. Because of his claim ensuing from the repair contract, the contractor is entitled to a lien on the customer's repair item that is in his possession on the basis of the contract. The lien can be enforced on account of amounts owed for work carried out earlier, deliveries of replacement parts and other services, if they relate to the repair item. The lien only applies to other claims ensuing from the business relationship if these are undisputed or legally valid.

X. Defect claims

1. Once he has accepted the repair work and to the exclusion of any other claims by the customer, the contractor is liable for defects in the repair work, irrespective of No. 5 and Section XI, to the extent that he must remove the defects. The customer must notify the contractor of a detected defect immediately and in writing.
2. The contractor is not liable if the defect is irrelevant in terms of the customer's interests or is due to a circumstance that is attributable to the customer. This applies in particular to parts provided by the customer.
3. If improper changes or repairs are carried out by the customer or third parties, without the contractor's prior approval, the contractor's liability for the ensuing consequences is annulled. The customer only has the right to remove the defect himself or to arrange for a third party to remove it and to demand a refund of the necessary costs from the contractor in urgent cases, where operational safety is jeopardised or in order to avert excessive damage (and the contractor must be informed of this immediately). He also has the right to remove the defect himself or arrange for a third party to remove it and to demand a refund of the necessary costs if the contractor has missed a reasonable deadline set for him to remove the defect.
4. The costs directly ensuing as a result of removing the defect and the costs of replacement including dispatch are borne by the contractor if the complaint turns out to be justified. He also bears the costs of installation and removal as well as the costs of the provision of assemblers and support staff that may be required, including

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travel expenses, unless this would impose a disproportionate burden on the contractor.

5. If, allowing for statutory exceptions, the contractor lets a reasonable deadline set for him to remove the defect lapse in vain, the customer has the right to a price reduction within the scope of the statutory provisions. The customer's right to a price reduction also exists in other cases of failure to remove the defect. The customer can only withdraw from the contract if, despite the price reduction, the repair work is demonstrably of no interest to the customer.

XI. The contractor's liability, exemption from liability

1. If parts of the repair item are damaged and the contractor is to blame, then the contractor must, at his option and at his expense, repair them or deliver new parts. The obligation to pay compensation is, in terms of the amount, limited to the contractual repair price. In addition, XI. 3 applies accordingly.
2. If the repair item, through the fault of the contractor as a consequence of failing to follow or following incorrectly proposals and advice provided by the customer before or after the contract is concluded or due to the breach of other contractual accessory obligations, particularly instructions concerning the servicing and maintenance of the repair item, cannot be used by the customer in accordance with the contract, the regulations contained in Sections X and XI. 1 and 3 apply accordingly to the exclusion of further claims by the customer.
3. The contractor is only liable for damages that have not occurred to the repair item itself, for whatever legal reasons
 - a) in the event of intent,
 - b) in the event of gross negligence by the owner/the executive bodies or executive personnel,
 - c) in the event of culpable injury to life, body or health,
 - d) in the event of defects which he has fraudulently concealed or whose absence he has guaranteed,
 - e) to the extent that he is liable under product liability law for personal or material damages to privately used objects.
4. In the event of a culpable breach of fundamental contractual duties, the contractor is also liable in the event of gross negligence by non-executive personnel and in the event of slight negligence, in the latter case liability is limited to contract-typical reasonably foreseeable damage. Further claims are ruled out.

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XII. Statutes of limitation

All claims by the customer, for whatever legal reasons, become statute-barred in 12 months. The statutory periods apply to claims for damages according to Section XI. 3 a - e. The statutory periods also apply if the contractor carries out the repair work on a construction and this causes its defectiveness.

XIII. Indemnification by the customer

If, when carrying out repair work away from the contractor's factory, the equipment set up by the contractor or tools at the repair site are damaged or lost through no fault of the contractor, the customer is obliged to make good the damage. Damages that are due to normal wear and tear are disregarded.

XIV. Applicable law, place of jurisdiction

1. The law of the Federal Republic of Germany which is authoritative for the legal relationships between German parties applies exclusively to all the legal relationships between the contractor and the customer.
2. The place of jurisdiction is the court that has jurisdiction over the contractor's registered office. The contractor is entitled however to institute legal proceedings at the customer's headquarters.