

General terms and conditions of the Stela Laxhuber GmbH with respect to repairs

I. Conclusion of the contract

The written order confirmation of the contractor is solely decisive for the content of the contract and the extent of the repairs to be made.

II. Repairs that cannot be carried out

The customer will be invoiced for costs arising from the services provided by the contractor in connection with the preparation of the cost estimate and for any additional and documented work provided by the contractor (trouble-shooting time equals time worked) if repair work cannot be carried out for reasons not attributable to the contractor.

III. Price and payment

1. The contractor may request an appropriate advance payment on conclusion of the contract and is under no obligation to begin the repair work before the advance payment has been received.
2. All prices are subject to value-added tax at the current statutory rate and invoices are payable upon receipt without limitation arising from any other written agreements.
3. Withholding or offsetting against contractor claims is only permissible if the withholding or offsetting is undisputed or legally binding. The customer may only exercise a right of retention for claims against the contractor for claims deriving from the same contractual relationship.

IV. Cooperation and technical assistance provided by the customer on repairs outside of the customer's plant

1. The customer must support the repair personnel in the performance of the repair at his expense.
2. The customer must provide all measures necessary to protect persons and property on the repair site. He must also inform the person responsible for the direction of the repair (foreman) about any special safety requirements insofar as these requirements are relevant for the repair personnel. He will report violations of the safety requirements by the repair personnel to the contractor. For serious violations, in consultation with the foreman, he can deny access to the repair site to those guilty of the violation.
3. The customer must provide technical assistance at his expense, especially the following:
 - a) Supply the number of suitably qualified labour required for the repair and for the required time during which the supplied labour is subject to direction from the foreman. The contractor assumes no liability for the supplied labour. If work done by the supplied labour is defective or results in damages, due to the instructions by the foreman, then the contract provisions under sections VIII and IX will apply.
 - b) Carry out all construction, foundation and scaffolding work including providing the necessary building materials.
 - c) Provide the necessary devices and heavy equipment as well as the necessary supplies and materials.
 - d) Provide heating, lighting, power, water including the necessary connections.
 - e) Provide dry and lockable rooms as needed for the storage of the repair personnel's tools.
 - f) Protect the repair site and materials against all damage and cleaning of the repair site.
 - g) Provide suitable social and work areas protected against theft (with heating, lighting, washing and sanitary facilities) and first aid for the repair personnel.
 - h) Provide materials and carry out all further work necessary to make adjustments to the repair item and to perform the contractually agreed testing.
4. The technical assistance provided by the customer must ensure that the repair can be begun immediately after the arrival of the repair personnel and can be carried out without delay until the customer accepts the work as completed. If plans or instructions from the contractor are required, the contractor will make these available to the customer in good time.
5. Should the customer not fulfil his responsibilities, the contractor may, after setting a deadline to perform, carry out the work at the customer's expense. The contractor is however not obliged to carry out this work. The legal rights and claims remain unchanged for the

V. Transport and insurance for repairs carried out on the contractor's premises

1. If not otherwise agreed in writing, upon request by the customer, the customer will bear the costs for transport of the repair item to and from the contractor's premises – including the cost for any packing and loading. Otherwise the customer will at his expense deliver the repair item to the contractor and will have it picked up again after the repair has been completed.
2. The customer carries the transport risk.
3. If desired by the customer, the transport to and from the contractor's premises will be insured at the customer's expense, for example against theft, breakage, fire.
4. No insurance is carried during the repair at the contractor's premises. It is the customer's responsibility to maintain existing insurance coverage on the repair item, for example against fire, water from water lines, storm and machine breakage. Only if expressly requested and at the customer's expense can insurance coverage against these hazards be secured.
5. The contractor may invoice costs for storage if the customer delays in picking up the repair item from his premises once the repair has been completed. The repair item may be stored elsewhere at the contractor's discretion. The customer bears the cost and risk of storage.

VI. Acceptance

1. The customer is required to accept the repair as complete as soon as the contractor has provided notification that the repair has been completed and the repair item has been tested as contractually agreed. The contractor is obliged to correct any defects should the repair not have been carried out as contractually agreed. This does not apply if the defect is materially insignificant for the customer or if it results from a situation attributable to the customer. The customer cannot refuse to accept the repair as complete because of an insignificant defect.
2. If the acceptance is delayed through no fault of the contractor, then the acceptance is regarded as having been made two weeks after notification was provided by the contractor that the repair was completed.
3. The contractor's liability with regard to recognisable defects expires insofar as the customer has not reserved the right to exercise a claim for a particular defect.

VII. Retention of title, extended lien

1. The contractor retains ownership of all accessories, spare parts and replacement components used in the repair until all payments provided for in the repair contract have been received. More extensive agreements securing contractual interests can be agreed.
2. The repair contract provides the customer with a lien right in connection with his claims under the contract against the repair item in his possession as a result of the repair contract. The lien right can also be asserted because of claims arising from earlier work, spare part deliveries and other services insofar as these arose in connection with the repair item. For other claims arising from the business association between the contracting parties, the lien right can only be asserted insofar as it is not disputed or is legally binding.

VIII. Claims for defects

1. Once the customer has accepted the repair as completed, the contractor bears liability for defects in the repair under exclusion of all other customer claims such that he is only required to correct the defects. The customer must notify the contractor immediately in writing of all defects.
2. The contractor's liability expires for all consequences arising from changes or repairs improperly carried out by the customer or a third party if these were undertaken without prior agreement from the contractor. Only in urgent cases when operating safety is at risk and to prevent disproportionately great damage, of which the contractor must be informed immediately, or if the contractor – excluding exceptions allowed by law – has failed to meet a deadline to correct defects, does the customer have the right within the framework of the law, to correct the defect himself or have it corrected by a third party and to demand repayment from the contractor for the necessary costs of the correction.
3. Of the immediate costs arising from the correction of the defect, the contractor bears – insofar as the complaint was justified – the cost of the replacement part including shipment. He also bears the costs for disassembly and reassembly as well as the costs for the engagement of the necessary mechanics and assistants including travel expenses insofar as this does not disproportionately burden the contractor.
4. If the contractor fails to meet an acceptable deadline to correct defects – excluding exceptions allowed by law, the customer has a right to exercise a right of reduction within the framework of the law. Only if the repair, despite the reduction, demonstrably no longer fulfils the customer's material interests can the customer withdraw from the contract.
Additional claims are determined exclusively in accordance with section IX. 3 of these conditions.

IX. Contractor's liability, exclusion of liability

1. Should parts of the repair item be damaged through fault of the contractor, then the contractor may at his discretion either repair or replace these at his expense. The replacement obligation is limited in its amount by the contractually agreed price for the repair. VIII applies apart from this. 4.
2. If through fault of the contractor the repair item can no longer be used as contractually intended as a result of work not carried out or work incorrectly carried out or because of suggestions or consultations made by the contractor before or after the contract was concluded as well as from other secondary contractual obligations – especially instructions on the operation and maintenance of the repair item – then under exclusion of any further claims from the customer, the contract provisions in section VIII apply.
3. For damages not to the repair item itself, the contractor bears liability – for whatever legal reason – only
 - a) if intentional,
 - b) in the event of gross negligence on the part of the owner/management or executives,
 - c) for culpable injury to life, limb or health,
 - d) for maliciously concealed defects,
 - e) within the framework of a guarantee commitment,
 - f) insofar as in accordance with laws governing product liability for personal and property damage, liability can be claimed on privately used property.

In the event of culpable violation of significant contractual obligations, the contractor also bears liability for gross negligence of non-executive employees and for simple negligence, in the latter case limited to contract typical, reasonably predictable damages.
Additional claims are excluded.

X. Expiration

All customer claims – for whatever legal justification – expire in 12 months. For damage claims in accordance with section IX. 3 a–d and f, the legal statute of limitations applies. If the contractor provides the repair work on a structure and thus caused it to be defective, then the statutory time limits also apply.

XI. Compensatory service by the customer

Should during repair work outside or the contractor's premises, due to no fault of the contractor, his equipment or tools be damaged on the repair site or be lost, due to no fault of his, the customer must make compensation. No account is made for damages deriving from normal wear.

XII. Applicable law, court of jurisdiction

1. For all legal relationships between the contractor and customer, only that law applies which governs the legal relationships between domestic parties among themselves in accordance with the law in the Federal Republic of Germany.
2. The court of jurisdiction is the responsible court in the contractor's main place of business. The contractor is however entitled to bring suit in the customer's main place of business.
3. All agreements between the contractor and customer must be made in writing. Any changes and/or supplementary agreements made before or after the conclusion of contract must also be made in writing.
4. The contract remains binding in its remaining parts, even if individual provisions are legally ineffective. The ineffective provision shall be replaced by one that comes as close as possible to the economic intent of the original.