

**General Business Conditions
for the Repair of Devices and Systems delivered by LUST
for Commercial Transactions in Germany and in EU Countries**

1. Preamble

These "General Business Conditions for the Repair of Devices and Systems manufactured by LUST" are applied with respect to merchants and legal entities and separate assets under public law.

2. Contract Conclusion / General

2.1 The Supplier shall inspect the devices received from the Purchaser with a repair order for technical function and reparability, and the defects reported by the Purchaser shall be corrected as a single service under consideration of Section 5 (repairs that cannot be performed).

2.2 The Supplier shall issue an order confirmation for this purpose that confirms the receipt of the device.

2.3 If an uncontested written order confirmation exists, this confirmation shall be authoritative with respect to the content of the contract and the scope of the repair. Supplementary agreements and contract changes require written confirmation from the Supplier.

3. Price, Payment

3.1 The Supplier shall repair the repair item normally at a fixed price that is based on the scope of the repair work to be performed. The fixed price is binding and includes all costs and outlays related to the performance of the repair. The Supplier reserves the right to charge for the repair based on expenses incurred.

3.2 If the repair is billed based on expenses incurred, the prices for parts, materials, special services, as well as the prices for services performed and the costs for travel and transport must be stated separately. If the repair is performed based on a binding cost estimate, reference to the estimate shall be sufficient, whereby only deviations in the scope of the service must be listed separately.

3.3 The Purchaser must submit any objections to the invoice in writing no later than four weeks from receipt of the invoice.

3.4 Payment is due in full upon receipt of the invoice.

3.5 Any withholding of payment or offsetting against potential counterclaims of the Purchaser - disputed by the Supplier - shall not be permitted.

4. Cost Information, Cost Estimate

4.1 To the extent possible, the fixed price for the repair or the expected price shall be disclosed to the Purchaser by order confirmation at contract conclusion; alternatively, the Purchaser can set cost limits. If the repair cannot be performed within these limits or if the Supplier should determine during the repair that additional work is necessary, approval from the Purchaser must be obtained if the stated costs will be exceeded by more than 15%.

4.2 If a cost estimate with binding prices is desired before the repair is performed, the Purchaser must request this expressly in writing. Such a cost estimate is binding only if it is submitted in writing and identified as binding. The work involved in submitting the estimate shall not be billed to the Purchaser to the extent it can be used during the performance of the repair.

5. Repair that cannot be performed

5.1 Work performed in order to submit a cost estimate and additional incurred and verifiable expenses in the technical inspection of the devices (fault seeking time equals working time) shall be charged to the Purchaser if the repair cannot be repaired for reasons for which the Supplier is not responsible, in particular if

- the reported defects cannot be found during the inspection
- a repair is no longer economically justifiable
- spare parts cannot be obtained
- the Purchaser culpably failed to meet the agreed deadline, or
- the contract was terminated during the repair.

5.2 Restoration of the repair item to the original condition shall be required only at the express request of the Purchaser and against reimbursement of the costs, unless the work performed was not necessary.

5.3 Devices that cannot be repaired shall be returned to the Purchaser at its expense. However, the Purchaser shall be entitled to request disposal of irreparable devices by the Supplier subject to assumption of the disposal costs by the Purchaser.

6. Transport and Insurance

6.1 Unless otherwise agreed in writing, the cost of transporting the repair item to and from the Supplier – including any packaging and loading – shall be paid by the Purchaser. The Purchaser can pick the repair item up at the Supplier's location after completion of the repair.

6.2 The Purchaser shall bear the risk during transport.

6.3 At the request of the Purchaser, the transport can be insured at the Purchaser's expense against insurable transport hazards, such as theft, breakage, or fire.

6.4 During the repair time in the Supplier's plant there shall be no insurance coverage. The Purchaser shall be responsible for maintaining existing insurance cover for the repair item. Insurance coverage for these risks can be obtained only if expressly requested by the Purchaser and at the Purchaser's expense.

6.5 If the transfer is delayed through the fault of the Purchaser, the Supplier shall be entitled to charge for storage in its plant. The repair item can be stored elsewhere at the discretion of the Supplier. The costs and risk of the storage shall be borne by the Purchaser.

7. Repair period

7.1 The information on the repair periods and times are based on estimates and therefore non-binding.

7.2 The Purchaser can obtain an agreement to a binding repair period, which must be identified in writing as binding, only when the exact scope of the repair work has been determined.

7.3 The binding repair period shall be deemed fulfilled when the repair item is ready for

- 7.4 In case of subsequent supplemental or expanded orders, or if additional repair work is necessary, the agreed repair period shall be extended accordingly.
- 7.5 If the repair is delayed due to activities within the scope of labor disputes, in particular strike and lock-out, or due to the emergence of circumstances for which the Supplier is not responsible, and provided such hindrances can be shown to have substantial influence on the completion of the work, the repair period shall be extended by a reasonable amount of time; this applies equally if such circumstances emerge after the Supplier is behind schedule.
- 7.6 If the Purchaser suffers verifiable damages due to delays by the Supplier, the Purchaser shall be entitled under exclusion of further claims, to demand compensation for the delay; this compensation shall be 5% for each full week of delay, but shall not exceed 50% of the repair price for that part of the item to be repaired by the Supplier which cannot be used on time as a result of the delay.
- 7.7 If the Purchaser grants the Supplier a reasonable period and expressly states that the Purchaser will not accept the work after expiration of this period and if the work is not completed upon expiration of the period, the Purchaser shall be entitled to withdraw from the contract. Further claims shall not be permitted – irrespective of Item 10.2.

8. Acceptance, Warranty

- 8.1 The Purchaser shall be obligated to conduct an acceptance inspection of the repair work as soon as the repair item is available.
- 8.2 If acceptance is delayed through the fault of the Purchaser, the acceptance shall be deemed to have been performed two weeks after notification that the repair has been completed.
- 8.3 Upon acceptance, the Supplier shall no longer be liable for identifiable defects, to the extent the Purchaser has not reserved the right of objection to a particular defect.
- 8.4 If the work is found to be not in accordance with the contract, the Supplier shall be obligated to correct the defect and to send the repair item at its own expense to the Purchaser.
- 8.5 The Supplier shall not be liable if the defect does not adversely affect or prevent the suitability for the use required according to the contract or is due to circumstances for which the Purchaser is responsible. This applies in particular if the defect was caused by improper or negligent handling, inappropriate use, excessive strain or other improper operation, unsuitable equipment, defective workmanship, unsuitable foundation soil or from particular external influences not assumed under the contract, or from non-reproducible software errors.
- 8.6 Claims based on defects attributable to improper modifications or repair work carried out by the Purchaser or third parties and the consequences thereof shall be likewise excluded.
- 8.7 The Purchaser shall not refuse acceptance on the basis of minor defects if the Supplier has expressly acknowledged its obligation to correct the defects.
- 8.8 The warranty inspection and fulfillment of the warranty on the repair item shall be performed exclusively at the Supplier's location. For this purpose the Purchaser shall send the repair item at its own expense to the Supplier. A warranty inspection or fulfillment of the warranty at the Purchaser's location requires a separate service

- 8.9 The Supplier shall not be liable – irrespective of Item 10 – for the costs incurred by the Purchaser or a third party for a fault analysis at the Purchaser’s location or for the installation and/or removal of the repair item.
- 8.10 Irrespective of Item 8.3, the Supplier shall be liable after acceptance only for such defects in the work performed by the Supplier, including the absence of expressly guaranteed characteristics or services, that occur within 12 months after the acceptance, under exclusion of all further claims by the Purchaser – irrespective of Item 10 – in such a way, that the Supplier must correct the defects. This provision shall not apply where longer periods are prescribed by law according to Sec. 634a para. 1 No. 2 (defects of a building) German Civil Code (“BGB”), as well as in cases of injury of life, body, or health, or where the Supplier through intent or gross negligence fails to fulfill its obligation or fraudulently conceals a defect. The legal provisions regarding suspension of expiration, suspension, and recommencement of limitation periods remain unaffected.
- 8.11 The Purchaser shall report defects to the Supplier in writing and without undue delay. The Purchaser’s right to assert claims for the defect shall expire in 6 months from the time the defect occurred unless the Purchaser has notified the Supplier previously in writing of the defect.
- 8.12 The limitation period shall be extended by the amount of time that the repair item was down due to correction of the defect.
- 8.13 If the Supplier culpably allows a set reasonable period to expire without correcting the defect, the Purchaser shall be entitled to demand a reduction in price or withdraw from the contract. This applies equally in other cases in which the correction of the defect fails.
- 8.14 Correction of the defect by the Purchaser shall not be permitted, unless a relevant written agreement with the Supplier was concluded. Further liability of the Supplier – irrespective of Item 10 – shall be excluded.

9. Retention of title, expanded right of assignment

- 9.1 All accessories, spare parts, and replacement units used in the repair shall remain the property of the Supplier until each and every claim the Supplier has against the Purchaser on account of the repair contract has been fulfilled. Additional security agreements can be concluded.
- 9.2 The Supplier shall be entitled to a right of lien to the Purchaser’s property being held for repair due to its claims on account of the repair contract. The right of assignment can also be asserted on account of claims from previously performed work or services.

10. Other claims for damage

- 10.1 If parts of the repair item are damaged through the fault of the Supplier, the Supplier shall repair or replace these at its discretion and at its expense. The obligation of replacement shall be limited in amount to the contractual repair price. In other respects Item 10.2 shall apply accordingly.
- 10.2 The Purchaser shall not be entitled to any claims for damages that exceed those described herein, in particular no claims shall be permitted against the Supplier for damages, even due to non-contractual handling or other rights due to any disadvantages related to the repair, irrespective of legal grounds.

- 10.3 This exclusion of liability shall not apply to the extent that liability is mandatory, particularly in case of intent, gross negligence, injury to life, body, or health, or the violation of key contractual duties. However, damages shall be limited to contract-typical, foreseeable damages except in case of intent, gross negligence, injury to life, body, or health. A change in the burden of proof to the disadvantage of the Purchaser shall not be connected to the above provision.
- 10.4 Furthermore, the exclusion of liability shall not apply in the absence of characteristics that were expressly guaranteed, if the guarantee was designed to protect the Purchaser against damages that did not occur on the item itself.
- 10.5 If the Purchaser is entitled to damages according to this Section 10, these claims shall expire pursuant to Items 8.10 and 8.11.

11. Jurisdiction, applicable law, severability

- 11.1 The court of jurisdiction for all disputes arising from this contractual relationship, if the Purchaser is a merchant who has been entered in the commercial register, a legal entity, or a separate asset under public law, shall be the court of the company seat of the Supplier. The Supplier shall also be entitled to use the court of jurisdiction for its branch that was commissioned with the repair or the court of jurisdiction for the Purchaser.
- 11.2 The contractual relationship shall be governed by the laws of the Federal Republic of Germany under exclusion of all bilateral and/or multilateral agreements pertaining to the purchase of movable property, in particular under exclusion of the U.N. Convention on Contracts for the International Sale of Goods of 4-11-1980 (CISG).
- 11.3 If one or more parts of these conditions should be or become invalid, the remaining conditions and the contract shall remain unaffected thereby.

If one provision of these conditions or the contract should be invalid in consideration of mandatory foreign law, the Supplier shall be obligated if so requested to negotiate amendments to the contract with us and to submit declarations to third parties or authorities through which the validity of the affected provision and, if this is not possible, its economic content shall be ensured. Suppliers shall be hereby informed pursuant to § 33 BDSG that we store personal data related to Suppliers.