

I. Application of the terms and conditions

The following terms and conditions apply for all assembly and repair services (subsequently also referred to as a whole as “assignments” that we provide to the client outside our warranty for delivered goods. Additionally, our General Terms and Conditions in their respective latest version apply, accessible at www.ms-spaichingen.de/AGBs. Deviating terms and conditions of the client do not apply, even if we have not objected to them separately in individual cases.

II. The client's obligations to prepare and cooperate

1. The client has to prepare the assembly and/or repair site under compliance with respectively applicable accident prevention regulations and other regulatory safety provisions so that the execution of the assignment may be started immediately upon arrival of our staff. Any plans or information required for the execution of the assignment have to be provided upon request and in time before the work can begin.

2. The client is solely responsible for installations up to the machine as well as transport, masonry and chiseling work. Here the respective currently applicable regulations of the responsible electric utility company and any remaining official provisions and requirements have to be observed.

3. If the client does not fulfill his preparation and cooperation obligations, we are entitled, but not obliged, to perform the client's obligations in his place and at his expense following prior notification. Apart from that our statutory claims and rights remain unaffected.

III. Assembly and repair periods

1. In case of force majeure and any other events that are not attributable to us, such as interruptions of operations of any kind, difficulties in material procurement, strikes and lockouts, any bindingly agreed assembly and repair periods will be extended by the duration of the delay plus an appropriate starting period. This also applies if the client does not fulfill his preparation and cooperation obligations. This shall not affect our statutory rights. In all these cases, the client shall bear any costs resulting from the delay.

2. In case we delay the execution of the assignment, we shall only be liable according to number VII in these terms and conditions.

IV. Acceptance

1. The client is obliged to perform an acceptance of the assembly and repair work as soon as he has been notified of its completion.

2. The client must not refuse the acceptance if a defect contested by him is immaterial and we explicitly acknowledge the obligation of its removal.

3. If the acceptance is delayed due to reasons not caused by us or if the acceptance is refused by the client contrary to number IV.2, it shall be deemed to have occurred at the end of three weeks following the notification of the completion of the assignment.

4. Upon acceptance, our liability for any defects known to the client or any obvious defects no longer applies, irrespective of its legal grounds, provided that the client has not reserved the right to claim a specific defect in the acceptance protocol. Our liability for intent remains unaffected.

V. Payment

1. In accordance with the following provisions, the assignment is charged by time calculations, provided nothing else has been agreed upon in writing. Spare parts and other materials are charged separately. Any prices and payment rates are net plus the respective statutory VAT. The living allowance is calculated for every working day depending on work, wait and travel time. Overnight costs are charged according to their occurrence using receipts.

2. The hourly rates for assembly and repair services are based on the respectively applicable wage regulations, the salary agreement and the collective wage agreement of the wage district Süd-Württemberg Metall. Surcharge for overtime, weekend and bank holiday work applies. Our staff may only work overtime, during nights, on weekend and bank holidays upon the explicit request of the client. Upon conclusion of the assignment, the client shall confirm the performed working time including any waiting period for the customer service order.

3. Traveling and waiting times of our staff are charged the same as working hours.

4. Generally, our staff is deployed by vehicle, for this a rate per kilometer is charged. At our discretion, public transport may also be used. The transport costs for this and any ancillary costs resulting from the execution of the assignment, such as luggage expenses, telegram and long distance call charges etc. are born by the client following our expenses.

VI. Warranty

1. In case of deficient assembly or repair, the defects are removed at our own discretion by rectification or renewal. If these measures fail, the client may reduce the payment proportionately or withdraw from the contract. The client is only entitled to compensation claims in accordance with number VII. 4. remains unaffected

2. Any parts replaced by us become our property without special payment, unless the client requests their return in writing within a week after the notification of the completion of the assignment.

3. The repair of any goods delivered by us, does not result in the renewal of an expired warranty obligation for the repaired goods.

VII. Liability

1. Our liability for damage, irrespective of its legal grounds, shall be excluded, among others also for delay, impossibility, positive contractual infringement, unlawful acts and culpable violation of the rectification obligation, insofar as no divergent arises from the following provisions.

2. Deviating from number VII 1, we are liable for damage that resulted not on the assembled or repaired item itself:

- irrespective of fault under the product liability law

- for own intent or own gross negligence and intent or gross negligence of our bodies, executive employees and vicarious agents,

- for any culpable injury to life, body and health and

- – independent of the acting person - for any culpable infringement of contractual obligations (those are obligations, whose fulfillment allow for the proper execution of the assignment and upon whose compliance the contractual partner relies and may rely upon); in this case the liability is limited to reasonably foreseeable damages typical for the contract.

3. Furthermore, we are liable for any unfulfilled warranty pursuant to § 443 BGB (German Civil Code), if its purpose was to protect the client for the occurrence of specific damages.

VIII Limitation

Any claim of the client under warranty (refer to number VI) expires at the end of 12 months. For compensation claims as per number VII 2 – 3. statutory periods apply. In case we provide assembly or repair services on a building and thereby cause its defectiveness statutory periods apply as well.

IX. Place of Jurisdiction

The place of jurisdiction of any disputes resulting from and associated with the assembly or repair is Spaichingen, upon our discretion also the registered office of the client. Exclusive jurisdictions prescribed by law remain unaffected.