

## **General maintenance and repair conditions of Drach Dieter Ltd.**

### **§ 1 Scope**

1. The following general maintenance and repair conditions are an integral part of all deliveries, services and offers of the Dieter Drach Ltd. (contractor). They apply only if the principal is contractor (§ 14 BGB), a legal entity under public law or a public law special fund.
2. The maintenance and repair conditions apply specifically to contracts for the maintenance and / or repair of Lathes. The maintenance and repair conditions apply in their current version as a framework agreement for future contracts for the maintenance and / or repair with the same client, without us, in each case have to point them out.
3. Our conditions apply exclusively. Differing, conflicting or supplementary general terms and conditions of the client are only part of the contract and in this respect, as we express their validity have agreed. This requirement applies in every case, for example, even if we are aware of the terms and conditions, the customer delivery without reservation to him export.
4. Individual agreements made with the client (including side agreements, amendments and changes have) always take precedence over these terms. The contents of such agreements is a written agreement or our written confirmation.
5. Quite significantly statements and advertisements, that are after the conclusion given from the clients to the insurer (e.g. deadlines, defects, notice of cancellation or reduction), are only valid in writing.

### **§ 2 Quotations, conclusion of contract**

1. Our offers are non-binding. The award is binding for maximum 30 days, unless expressly otherwise agreed. Afterwards the prices of material and charges rates apply which were valid on the day of performance.
2. A contract award by the contracting authority is considered a binding contract offer. Unless the order is placed otherwise, we are entitled to accept this offer of a contract, in particular through provision of services.
3. The expenses incurred by us in connection with the submission of cost estimates for the special services, such as error detection at the client site, dismantling or the like, the customer shall reimburse us in any case, that means even if it is not to order or to such an extent as to lower the cost estimate is provided.
4. If after the start of the repair that the estimated repair costs are nothing commercially reasonable proportion to the value of the unit, the work is interrupted and the customer will be informed about the estimated repair costs for approval. If during the repair of the defects, the elimination is beyond the authorized scope of repair, we will tell the client the estimated additional costs. The expansion of the scope of repair requires the consent of the client.

### **§ 3 Scope of service, timing and delivery arrangements**

1. For the nature and scope of services to be provided by us only the agreement reached with the client contractual agreement is prevail.
2. The repair of stationary mounted machines carried out on site, unless a professional repairs can only be carried out in the workshop. Access to the machine must be designed in that way that a proper repair or possibly a pick up can be done without disabilities.
3. The quantities of performance dates and deadlines are non-binding.
4. If we can not compliance binding repair dates for reasons that we are not responsible for, we will promptly inform the client about this and simultaneously notify a new date of repair.
5. The occurrence of default is determined by the law. In each case, however, a reminder of the buyer is required.
6. The service is owed by us to deliver during normal business hours. If for completion of an order work at night, on Sundays and / or public holidays or overtime is needed, this are billed separately.
7. If the service personnel deficiencies, that require replacement parts which are not included in the offer, they will be charged by us, including the associated working hours, any applicable special trips, etc. to the current price and cost rates, which can always be requested from us.
8. The client agrees to make the repair machinery available for the service employees to unhindered carrying out the contract. The client also provides for the repair-necessary tools, such as cleaners and cleaning cloths. If these are not available, the present employees uses the brought equipment.

### **§ 4 Passing of risk, acceptance, delayed acceptance**

1. The risk of accidental loss and accidental deterioration of the machine to be serviced or repaired shall pass with acceptance on to the customer. In other respects, for an agreed purchase apply legal provisions of the law on works contracts accordingly. The decrease is the same, if the principal is in arrears of assumption.
2. Acceptance will be documented by signing of the activity detection. In the activity detection in particular

the identified error and its cause, the work necessary for the debugging and the date and duration of the works recorded.

3. If the client is in default of acceptance, he omits an act of cooperation or delay resulting from our service because of reasons, the client is responsible for, we are entitled to compensation for the resulting damage demand, including additional expenses. We charge a flat rate allowance of 1% of contract amount for each full calendar week, but not more than 5% of contract value, starting with the service date or service period. The proof of greater damage and our legal claims (including reimbursement of additional expenses, reasonable compensation, termination) remain unaffected; the lump sum is to count on further monetary claims. The client is entitled to prove, that absolutely no or only a much smaller loss is incurred than the above lump sum.

## **§ 5 Price and payment**

1. Long as nothing else is agreed, subject to our applicable at the time of concluding the contract prices, that can be requested from us at any time, plus value added tax. For payment within 14 days from receipt of invoice by the customer, we offer replacement parts on a 2% discount. On working time, travel time, expenses and hotel costs, no discount is granted.

2. The agreed compensation shall be due and payable within 14 days from date of invoice and acceptance. Place of fulfilment for the payment is our registered office, unless otherwise agreed. The conveyance of invoice risks and costs shall be borne by the customer.

3. At the close above payment date, the customer is in default. The remuneration is due to the delay during the applicable statutory default interest rate. We reserve the right to claim further delay damages. For traders is our claim to the commercial maturity interest (§ 353 HGB) unaffected. We can always prove a higher damage rate and charge.

4. The Client is entitled to off-rights or rights to retention only to the extent, that his claim is legally established or undisputed. In case of deficiencies the customer is entitled in relation to the lack of adequate to withheld a part of compensation.

5. If, after conclusion of the contract is recognizable that our claim for compensation due to the inefficiency of the client is at risk (e.g. by application to open insolvency proceedings), then we are on the law to withhold service and - if necessary after a deadline - to rescind the contract (§321 BGB). For contracts for the production of unreasonable things (single design), we can revoke immediately; the legal regulations on the dispensability of the deadline shall remain unaffected. In the cases of payment delay or deterioration in the financial situation of the client, we can further execution of orders from the position of real or personal security, or if this is not done, make depend of the payment of the goods, if there are orders, that can not or only with difficulty be utilized by others due to special properties of the client.

7. The client is not entitled to transfer or to assign any against us claims and rights - with the exception of scope of § 354 a HGB - to third parties.

## **§ 6 Retention of title**

1. Until full payment of all our present and future claims arising from the maintenance and / or repair contract and an ongoing business relationship (secured claims), we retain ownership of the during maintenance or repair parts installed before.

2. The parts, that are subject to retention of title may, prior to full payment of the secured claims, not be pledged to third or to the absolute security be transferred. The customer must inform us immediately in writing if and when third parties access to the parts belong to us.

3. In breach of contract by the buyer, especially for non-payment of due compensation we are entitled to withdraw from the contract in accordance with statutory requirements and to reclaim the parts due to the retention of title and the withdrawal. In case the customer pays the overdue payment not, we may make these rights only, if we have previously unsuccessfully set a reasonable deadline for payment or a deadline in accordance with statutory regulations is unnecessary.

In this case the following additional provision apply:

a) The retention of title extends at their full value to the products, which caused by processing, mixing or combining our parts, where we are as a manufacturer. If then right of property at the event of processing, mixing or combining goods of third parties consist, we acquire co-ownership in proportion to the invoice value of the processed, mixed or combined goods / parts. In other respects, the resulting product is the same as for delivered under retention of parts.

b) Claims against third parties arising from the resale of the parts or the product, the customer already now assigns to us as a whole or as to the extent of any ownership share set out above to our security. We accept the assignment. The duties listed in paragraph 2 of the customer apply in respect of assigned claims. At the request of the contractor, the client has to notify his buyer about this assignment.

c) To collect the debt the customer is authorized next to us. We undertake not to collect the debts, as long

as the customer meets his payment obligations to us, as long he is not in delay of payment, as long there is no petition to open insolvency proceedings and no other deficiency in his solvency is present. If this is the case, then we can demand, that the customer notifies us of the assigned claims and their debtors, provides all information necessary for collection, hands over all relevant documents and notifies the debtors (third parties) about the assignment.

4. If the realizable value of our claims will be more than 10%, we are requested by the releasing client securities at our discretion.

### **§ 7 Warranty**

The warranty period shall begin upon acceptance by the client. The warranty is void if the customer tries to correct the occurring defect itself. There is also no warranty, if services we provided or supplied parts are altered, improperly handled, misused, destroyed by force or be damaged by chemical, physical or electrical influences. Parts, that are replaced through this warranty obligations become our property. For such compensation (as consequential damages, product damages, reimbursement of expenses), we are liable only if we intentionally or grossly have acted negligently.

### **§ 8 Other liability**

1. Unless these conditions, including the following conditions have no further results, we are liable for a breach of contractual and non contractual obligations under the relevant statutory provisions.

2. We are liable for damages - on whatever legal grounds - in case of intent or gross negligence. In case of simple negligence, we are liable only

a) for damages resulting from injury to life, limb or health,

b) for damages resulting from breach of a contractual obligation (an obligation which makes the proper execution of the contract in the first place and on its compliance with the treaty partner can trust and may rely); in this case our liability is limited to the replacement of the foreseeable, typically occurring damage.

3. Arising from paragraph 2, limitations of liability do not apply if we maliciously concealed a defect or have given a guarantee for the quality of the goods. The same applies to claims of the customer under the Product Liability Act.

4. Due to a breach of duty which is not a defect, the client may only terminate or withdraw, if we are responsible for the breach of duty. An unrestricted right of termination by the customer (especially section. § § 651,649 BGB) was excluded. In addition apply the statutory requirements and legal consequences.

5. The client is obliged to inform us of any risks (e.g. fire risks, accidents, use of special protective equipment) pay attention and take all safety precautions. As far as at the customer's company a safety officer is present, it is necessary to name it to us, including a phone number.

### **§ 9 Limitation**

1. Notwithstanding § 634a paragraph 1 No. 1 BGB, the general limitation period for claims arising from property and defects is for one year from date of acceptance. This does not affect the statutory period of limitation for structures acc. § 634a paragraph 1 No. 2 BGB. Also unaffected remain the special legal arrangements for the collateral rights of third parties, with fraudulent intent.

2. The foregoing limitation shall apply to contractual and non-contractual claims for damages of the customer, based on a defect, unless the application of the regular statute of limitations (§ § 195,199 BGB) results in individual cases in a shorter period. The limitation of the Product Liability Act remain in each case unaffected. Otherwise only the statutes of limitations apply to the claims for damages according of the customer according to § 8.

### **§ 10 Governing law and jurisdiction**

1. For these conditions and all legal relationships between us and the customer is the law of the Federal Republic Germany under exclusion of all international and supranational (contractual) legal systems, especially the UN purchasing law. The conditions and effects of retention of title according to § 6 are governed by the law of the respective location of the thing, so far as it made the right choice in favor of the German law is prohibited or ineffective.

2. If the customer is a merchant according to the Commercial Code, a legal entity under public law or a public special fund, our office in 74405 Gaildorf-Unterrot, Daimlerstr. 22nd is the exclusive - and international - jurisdiction for all disputes, who arise directly or indirectly from the contracts. We are also entitled to take action at the general jurisdiction of the customer.

### **§ 11 Severability clause**

Should one or more provisions of these maintenance and repair conditions or provisions within other agreements, all or partially invalid or be between us and the client, so the validity of all other provisions and

agreements are not affected. An invalid provision is replaced by an effective one, the intended regulation comes closest.