

FIBRO India TERMS AND CONDITIONS - STANDARD PARTS

Note: The translation into English below shall not be legally binding in any way. The German version of our general terms and conditions as well as the German wording of a contract shall be binding and apply exclusively. Any translations are provided for convenience and an easier understanding only.

The following conditions shall be applicable to the agreement unless agreed otherwise in writing. Any contrary terms of the Buyer shall not be applicable unless we expressly agreed to their applicability in writing. The following terms shall also apply if the Supplier makes delivery to the Buyer despite his knowledge of any contradicting or differing terms of the Buyer.

1. Conclusion of contract and delivery

a) The contract between Buyer and Supplier will come into effect by the Supplier's acceptance of the Buyer's order by means of a written order confirmation, however no later than by the delivery of the goods or services as ordered or execution of the installation or repair works.

b) If an order is placed via the webshop, the Supplier will confirm the receipt of the Buyer's order as soon as possible by e-mail. Such e-mail shall not be deemed an acceptance of the order.

The contract will come into effect only by the Supplier's acceptance of the Buyer's order by means of a separate order confirmation however no later than by the delivery of the goods or services as ordered.

c) The Buyer waives its right to receive a written statement of acceptance.

d) If the Buyer orders different goods or services, each of them shall be deemed to have been ordered with a separate purchase order, the latter representing a separate offer to enter into a sales or service contract.

e) If the Supplier notes that any specific goods or services are not available any longer or cannot be delivered for legal reasons the Supplier will accept the Buyer's offer to purchase only for such goods and services that are available for delivery.

f) The Supplier will inform the Buyer immediately if an offer cannot be accepted.

g) It is in the sole responsibility of the Buyer to supply any documents such as drawings, samples or the like. The Buyer shall guarantee that any documents provided by them do not infringe any third party proprietary rights.

h) The Supplier's order confirmation is relevant for the scope of supply. In case of special fabrications and custom-made tools, the number of items confirmed may be over or under-run by the more of 10% or 2 units.

2. Prices and packaging

a) Deliveries will be made from our warehouse in accordance with the respective current list prices of the Supplier valid at the time of order. Prices are EXW (ex works), plus packaging, freight, postage, insurance and GST.

b) Other packaging will only be taken back if there is a compulsory statutory obligation to do so.

c) Sample parts will only be shipped against payment.

3. Shipment and transfer of risk; acceptance of performance

- a) To the extent that the mode of shipment was not agreed in advance, it shall be in the Supplier's equitable discretion.
- b) Partial deliveries shall be allowed if this is reasonable for the Buyer.
- c) (1) The risk shall be transferred to the Buyer as soon as the delivery item has left the Supplier's site even if partial deliveries are made or if the supplier will also provide other services, e.g. delivery to the Buyer's site and installation, or pay for the shipping costs. If an acceptance procedure was agreed, the risk will be transferred then. Acceptance must take place without delay, at the acceptance date, or after notification from the Supplier that the delivery items are ready for acceptance. The Buyer must not refuse acceptance if only minor defects are noted.
(2) If shipment and/or acceptance do not take place or are delayed due to circumstances for which the Supplier is not responsible, the risk shall pass to the Buyer on the day on which the supplier reports the readiness for shipment and/or acceptance. The supplier must effect such insurance policies that the Buyer requests, at the Buyer's expense.

4. Offsets and retentions

The Buyer shall only have a right to offset amounts if these counterclaims have been established as final and absolute, if they are undisputed or accepted by the Supplier. Furthermore, the Buyer shall only be entitled to retain any amounts if their counterclaims are based on the same contract.

5. Delivery time, lump sum compensation for delay

- a) The delivery time shall be as agreed between the contracting parties. A prerequisite for the Supplier's compliance with such delivery times is that all commercial and technical issues have been clarified and that the Buyer has fulfilled all of its obligations, for example has provided all necessary official certificates or permits or made an agreed down-payment. Otherwise, the delivery time will be extended accordingly. This does not apply to the extent that the Supplier is responsible for the delay.
- b) The Supplier's compliance with the delivery time is subject to the timely deliveries from their sub-suppliers. If it must be expected that there may be a delay the Supplier will inform the Buyer as soon as possible.
- c) Delivery shall be deemed to be timely if the delivery item has left the Supplier's site or if readiness for delivery has been communicated before the delivery period expires. If an acceptance procedure was agreed the date of acceptance shall be relevant for determining the timeliness or, as the case may be, the date on which readiness for acceptance was reported – unless the Buyer has good cause to reject acceptance.
- d) If delivery or acceptance of the delivery item are delayed for reasons that are in the responsibility of the Buyer the Buyer will be charged the costs of the delay, starting one month after the notification of readiness for delivery or acceptance. If delivery is delayed at the request of the Buyer the Supplier shall be entitled – if an appropriate deadline has lapsed without success – to dispose of the delivery items otherwise and to make delivery to the Buyer with an appropriately extended delivery time.

e) If any deadline is missed due to force majeure, labour disputes or other events beyond the Supplier's control, the delivery time shall be extended appropriately. The Supplier will inform the Buyer about the begin and end of such circumstances as soon as possible.

f) (1) The Buyer is entitled to withdraw from the contract without notice if the Supplier is terminally unable to make delivery or provide the services prior to the transfer of risk. Furthermore the Buyer is entitled to withdraw from the contract if the Supplier is unable to supply part of the order or if the Buyer has a legitimate interest in refusing a partial delivery. If the latter is not the case, the Buyer remains obligated to pay the agreed price as it relates to the partial delivery made. The same applies in case of an incapacity of the Supplier. Otherwise, section 8 b) applies.

(2) If delivery becomes impossible or if the incapacity occurs while the Buyer is in delay of acceptance or if such circumstances are in the sole responsibility of the Buyer, the Buyer shall continue to be liable for compensation.

g) The Buyer may only claim a late fee from the Supplier after expiration of a grace period of no less than 6 working days after a delay has occurred and if it continues even after expiration of such grace period which must be fixed in writing.

h) (1) If the Buyer incurs damage due to a delay on the part of the Supplier they shall be entitled to demand damages in form of a lump-sum payment. Such payment amounts to 0.5 % for each full week of delay but no more than 5 % of the price for such part of the goods and services that cannot be used as agreed by contract.

(2) If, after expiration of the agreed delivery time, the Buyer fixes an appropriate deadline for delivery - taking into consideration the statutory exemptions - and this deadline is not met, the Buyer shall be entitled to withdraw from the contract as provided by the law. The Buyer undertakes to notify the Supplier in due time, at the request of the Supplier, whether they will exercise such right of withdrawal.

(3) Any further claims with respect to default shall exclusively be governed by section 8 b) of these terms.

6. Retention of title

The following provisions concerning the retention of title shall apply to all deliveries and services made or rendered by the Supplier:

a) The Supplier reserves the title to the delivery item until all and any claims from the business relationship with the Buyer have been settled in full. If it is agreed with the Buyer that the purchase price is to be paid by means of a procedure involving a cheque and a bill of exchange, the retention of title will continue beyond the cashing of the cheque until the bill is honoured by the Buyer.

b) The Buyer is allowed to resell the delivered items in the ordinary course of business, unless the receivables from such resale have already been assigned to others. If the goods are not paid for immediately, the Buyer must sell the goods under a retention of title only. The entitlement to resell shall be forfeited if the Buyer suspends payments.

c) The Buyer hereby assigns any receivables from a resale to the Supplier, as collateral in the amount of no less than the invoice total (including value added tax) from the transaction between the Supplier and Buyer, irrespective of the fact whether the delivery item was resold before or after any processing, blending or combining.

d) The Buyer shall be entitled to collect the assigned receivables as long as they fulfil their payment obligations towards the Supplier and do not become insolvent. At the Supplier's request, the Buyer must name the debtors of the assigned receivables as well as the respective totals. The Supplier shall be entitled to inform the debtors about an assignment.

e) Any processing or alteration of the delivery item through the Buyer shall always be performed for the Supplier without any obligations arising for the Supplier. If the delivery item is processed with other goods not owned by the Supplier, the Supplier shall become the co-owner of the new goods, and the Supplier's interest in the finished goods shall be proportionate to the delivery item's value at the time of processing. Otherwise, the same applies for the newly produced goods that applies for the delivery items that were sold under the retention of title.

f) If the delivery item is combined with other goods not owned by the Supplier, the Supplier shall become the co-owner of the new goods, and the Supplier's interest in the combined goods shall be proportionate to the delivery item's value at the time of combining. If the Buyer's item represents the main part of the new product, it shall be deemed agreed that the Buyer will proportionately transfer co-ownership in the product to the Supplier. The Buyer shall keep safe the property or co-owned property for the Supplier. The same applies if the delivery item is joined, blended or mixed with other goods not belonging to the Supplier.

g) The Buyer is not entitled to pledge or assign the delivery item as security. In case of an attachment, seizure or other dispositions by third parties, the Buyer must inform the Supplier immediately. The Buyer shall bear the costs of any interventions by the Supplier.

h) If the Buyer violates the contract, including but not limited to a default in payment, the Supplier shall be entitled - after sending a reminder and fixing an appropriate deadline - to take back the delivery item and the Buyer is obliged to hand it over.

i) If the total value of all security interests of the Supplier - from their business relations with the Buyer - exceeds the total value of all secured receivables by more than 20 % the Supplier will release an appropriate portion of the collaterals and it is in the Supplier's own equitable discretion to decide which of them will be released.

7. Warranty claims

In case of defects of quality or title with respect to the delivery item, the Supplier shall be liable as follows and any other claims shall be excluded, subject to the provisions in section 8:

Defects of quality

a) All parts that turn out to be defective due to a circumstance that has occurred before the transfer of risk shall be repaired or replaced free of charge, which is in the Supplier's discretion, so that they are free of any defects. If the Buyer identifies such defects they must notify the Supplier in writing without undue delay. Replaced parts shall become the Supplier's property.

b) To carry out any repairs or replacement deliveries that the Supplier deems necessary, the Buyer shall ensure, upon consultation with the Supplier, that the Supplier is given sufficient time and opportunity for this, otherwise, the Supplier shall be released from any liability for any resulting damage. Only in urgent cases, if operational safety is at risk or there is a risk of unreasonably heavy damage – in which case the Supplier must be informed immediately – shall the Buyer be entitled to remove the defect themselves or have it removed by a third party and to claim compensation for all necessary expenses.

c) To the extent that the complaint turns out to be justified, the Supplier shall bear the costs directly related to the repair of the defects or replacement delivery, including shipment. Furthermore the Supplier bears the possible costs needed for installation and removal as long as this was subject of the original services, as well as the costs of the needed provision of the employees required including travel costs - provided that thereby no disproportionate burden arises for the Supplier.

d) The Buyer shall be entitled to withdraw from contract as provided by the laws if the Supplier – in due consideration of the statutory exemptions - allows a reasonable period of time set for the remedy of material defects or replacement to lapse unsuccessfully. In case of a negligible defect,

the Buyer shall only be entitled to claim a reduction of the contract price. Apart from that, the right to reduce the contract price shall be excluded.

e) Further claims shall be subject to Section 8) below.

f) Including but not limited to, any liability shall be excluded in the following cases: inappropriate or improper usage; defective installation or commissioning by the Buyer or third parties; natural wear and tear; faulty or negligent treatment; improper maintenance; inappropriate supplies; chemical, electrochemical or electrical influences – to the extent that they are not in the responsibility of the Supplier. The Supplier shall only be liable for defects in the material supplied by the Buyer if such defects had to be detected by the Supplier if the material had been examined by them with due care. If a product is manufactured on the basis of a drawing supplied by the Buyer, the Supplier shall be liable for delivering a product that is in accordance with such drawing only.

g) If the Buyer or a third party carries out repairs improperly, the Supplier shall not be liable for any resulting damage. The same applies to alterations of the delivery item performed without the Supplier's prior consent.

Defects of Title

h) (1) If the use of the delivery item violates any industrial or intellectual property rights at home, the Supplier will ensure – at their own expense - that the Buyer has the right to continue to use the delivery item or they will modify the delivery item in a way that is acceptable for the Buyer and does not impair any proprietary rights any longer.

(2) If this cannot be achieved at economical terms or within a reasonable period, the Buyer shall be entitled to withdraw from the contract. In this case, the Supplier shall also be entitled to withdraw from the contract.

(3) In addition, the Supplier shall indemnify the Buyer against any undisputed or non-appealable claims made by the relevant owners of the property rights.

i) The Supplier's obligations listed in section 7 h) shall be final with respect to any violations of industrial or intellectual property rights - subject to the provision in section 8 b).

They shall only apply if

- the Buyer informs the Supplier immediately about any claims for violations of industrial or intellectual property rights,
- the Buyer reasonably assists the Supplier in the defense of such claims or allows the Supplier to perform the modifications according to section 7 h),
- the Supplier shall be entitled to all remedies available, including amicable arrangements,
- the defect of title is not the result of an instruction of the Buyer and
- the infringement of property rights was not caused by the fact that the Buyer has changed the delivery item without authorization or used the delivery item improperly.

j) The Buyer shall be solely responsible for the documents to be supplied by them, for example drawings, gauges, samples and the like. The Buyer shall be liable for the non-infringement of the design drawings presented by them. It is not in the responsibility of the Supplier to ensure that quotations made by them on the basis of design drawings presented to them do not infringe any third-party rights. However, if any liability of the Supplier arises from justified claims, the Buyer shall hold them harmless.

8. Liability of the Supplier, disclaimer

a) If the delivery item cannot be used by the Buyer as agreed by contract due to the Supplier's negligence or fault in providing recommendations or advice before or after entering into a

contract or due to a culpable violation of other secondary contractual obligations, including but not limited to instructions for the operation and maintenance of the delivery item, the provisions of section 7 and 8 b) shall apply and further claims of the Buyer shall be excluded.

b) For damage that does not occur to the delivery item itself, the Supplier shall only be liable – irrespective of the legal reason – in case of

- intent,
- gross negligence of the owner / corporate bodies or senior executives,
- culpable injury of life, body and health,
- fraudulently concealed defects,
- under a warranty,
- liability under the Product Liability Act for personal injury or property damage with respect to privately used objects.

In the case of a culpable violation of material contractual obligations, the Supplier shall also be liable for gross negligence of non-executive employees and ordinary negligence; in the latter case, liability shall be limited to any typical and reasonably foreseeable damage.

Further claims shall be excluded.

9. Additional terms concerning installation services

As far as installation services are performed in addition to deliveries, the following terms shall apply for installation services only:

a) Price of installation services, billing and payment, performance sheets

(1) Installation services will generally be billed by the hour and on the basis of other expenses, at the Supplier's rates that are valid at the time the services are ordered and which, if not attached hereto, are made available at the Buyer's written request free of charge.

(2) The necessary material for the installation services will be billed on the basis of the actual quantities used during the installation works, at the Supplier's prices valid at the time of performance.

(3) Installation services are generally billed after acceptance of the works. However, the Supplier shall be entitled to demand reasonable down-payments on a weekly or monthly basis in accordance with the progress of the works. If the installation services are discontinued at the Buyer's request for a lengthy period of time, the Supplier shall be entitled to invoice all installation services performed until then.

(4) All invoices are due for payment immediately after receipt without any discounts.

(5) Payments must not be withheld or offset with any counterclaims of the Buyer if they are disputed by the Supplier.

(6) At the request of the Supplier's technicians, the Buyer must confirm the services performed on performance sheets on a weekly basis, but no later than upon completion of the installation works.

(7) Performance sheets signed by the Buyer always represent incontestable bases for billing.

b) Cooperation of the Buyer

(1) The Buyer must assist the installation personnel during the installation works at their own expense.

(2) The Buyer shall take any measures that are specifically necessary to protect persons and objects at the installation site.

(3) They must also advise the supervisor of the installation works of any existing special safety instructions to the extent that these are relevant for the installation personnel. They shall inform the Supplier about any violations of such safety regulations by the installation personnel. In the case of severe violations, they are entitled to deny the violating person access to the installation site after consulting with the supervisor of the installation works.

c) Technical assistance by the Buyer

(1) The Buyer must provide technical assistance at their own expense, including but not limited to the following:

- Provide the required assistants (masons, carpenters, locksmiths and other craftsmen, handymen), as many and as long as necessary; the assistants must follow the instructions of the supervisor of the installation works. The Supplier shall not be liable for the assistants. If any defect or damage is caused by the assistants that is due to the instructions of the supervisor of the installation works the provisions of section 9 f) and 9 g) shall apply accordingly.
- Performance of all ground, construction, bedding and scaffolding work including the procurement of the required building materials.
- Provision of the required devices and heavy tools (e.g. lifting devices, compressors) as well as the necessary equipment and materials (e.g. scaffolding boards, wedges, bedding, cement, plaster material, sealants, lubricants, fuels, drive cables and belts).
- Provision of heating, lighting, operating power, water, including all the necessary connections.
- Provision of necessary dry and lockable rooms for storing the tools of the installation personnel.
- Transport of the installation parts to the installation site, protection against harmful influences of any kind for the installation site and materials, cleaning of the installation site.
- Provision of suitable theft-proof social rooms and workshops (including heating, lighting, sanitary facilities) and first aid services for the installation personnel.
- Provision of all the materials and performance of all the works that are necessary to adjust the subject of the installation works and to carry out any agreed tests.

(2) With their technical assistance, the Buyer must ensure that the installation works can begin immediately after the arrival of the installation personnel and that they can be carried out without delay until acceptance through the Buyer. If any specific plans or instructions are required from the Supplier they will provide them to the Buyer in due time.

(3) If the Buyer fails to fulfil their obligations the Supplier - after expiry of a deadline fixed by them - shall be entitled, at its own discretion, to carry out the works that are in the responsibility of the Buyer, instead of the Buyer and at their expense. Otherwise, the statutory rights and remedies of the Supplier shall not be affected.

d) Period of installation, delay of installation

(1) The period of installation shall be deemed met if on the date of its expiry the installation works are ready for acceptance by the Buyer; if testing has been agreed in the contract this means readiness for testing.

(2) If installation work is delayed because of actions in the course of labor disputes, including but not limited to strikes or lockouts, or if circumstances occur for which the Supplier is not responsible the installation period shall be extended accordingly if such hindrances significantly impair the completion of the installation works.

(3) If the Buyer incurs damage due to a delay on the part of the Supplier they shall be entitled to demand damages in the form of a lump-sum payment. Such payment amounts to 0.5 % for each full week of delay but no more than 5 % of the price for such part of the agreed installation works that cannot be utilized as scheduled due to the delay.

(4) If the due date has passed and the Buyer fixes an appropriate deadline for performance by the Supplier – taking into consideration the statutory exceptions – and if such deadline is not met the Buyer shall be entitled to cancel the contract in accordance with the statutory provisions. The Buyer undertakes to notify the Supplier in due time, at the request of the Supplier, whether they will exercise such right of cancellation.

(5) Any further claims for default shall exclusively be subject to Sec. 9 g) paragraph 3 hereunder.

e) Acceptance of performance

(1) The Buyer shall be obliged to accept the installation works as soon as they have received a notification that the works have been completed and that any agreed tests of the installed item have been performed. If it turns out that the installation services are not as agreed the Supplier shall be obliged to remedy the defects. This does not apply if the defect is irrelevant to the Buyer's interests or if the defect is due to circumstances for which the Buyer is responsible. In case of an insignificant defect, the Buyer must not refuse acceptance of performance.

(2) If acceptance is delayed without the Supplier's fault the works shall be deemed accepted after two weeks from the receipt of the notification of completion of the installation services.

(3) Upon acceptance, any liability of the Supplier for visible defects shall be excluded to the extent that the Buyer has reserved a right to claim any specific defects.

f) Claims for defects

(1) After acceptance of the installation works, the Supplier shall be liable for faulty installation work – with all other claims of the Buyer excluded and without prejudice to Sec. 5 and 6 and letter g) – in the way that they must remove such faults. The Buyer must notify the Supplier immediately in writing of any identified faults.

(2) The Supplier shall not be liable if any faults are irrelevant for the interests of the Buyer or are due to circumstances that are in the responsibility of the Buyer.

(3) If the Buyer or a third party carry out improper repairs or changes without first obtaining the consent of the Supplier the Supplier shall not be liable for any consequences resulting thereof. Only in urgent cases where the safety of operations is at risk or in order to prevent unreasonably severe damage – in which case the Supplier must be informed immediately – or if a deadline fixed by the Buyer for the Supplier to remove defects has expired without success – taking into consideration all statutory exceptions – the Buyer, subject to the statutory provisions, shall be entitled to remove the defects themselves or through a third party and demand compensation from the Supplier for any costs incurred.

(4) In case of a justified complaint, the Supplier shall bear the costs that are directly incurred by the removal of the defects, to the extent that this does not cause any unreasonable costs for the Supplier.

(5) If the Supplier – subject to the statutory exceptions – allows a reasonable deadline that was fixed for the removal of defects by them to expire unsuccessfully the Buyer shall be entitled to reduce the price under the statutory provisions. Only if it can be proven that the installation works at a reduced price are irrelevant for the Buyer they may cancel the contract.

(6) Further claims shall exclusively be subject to section 9 g), paragraph 3.

g) Liability of the Supplier for installation services, disclaimer

(1) If an installed part supplied by the Supplier is damaged during the installation work and this is the Supplier's fault, it shall be in the Supplier's discretion either to repair or replace it at their own expense.

(2) If the installed item cannot be used by the Buyer as agreed by contract due to the Supplier's negligence or default in providing recommendations or advice before or after entering into a contract or due to a culpable violation of other secondary contractual obligations, including but not limited to providing instructions for the operation and maintenance of the installed item, the provisions of section 9 f) and g), paragraphs 1 and 3 shall apply and further claims of the Buyer shall be excluded.

(3) For damage that does not occur to the installation item itself, the Supplier shall only be liable – irrespective of the legal reason – in case of

- intent,
- gross negligence of the owner / corporate bodies or senior executives,
- culpable injury of life, body and health,
- fraudulently concealed defects,
- under a warranty,
- liability under the Product Liability Act for personal injury or property damage with respect to privately used objects.

In the case of a culpable violation of material contractual obligations, the Supplier shall also be liable for gross negligence of non-executive employees and ordinary negligence; in the latter case, liability shall be limited to any typical and reasonably foreseeable damage.

Further claims shall be excluded.

h) Indemnification by the Buyer

If any devices or tools provided by the Supplier are damaged, destroyed or lost at the installation site without the Supplier's fault the Buyer shall be obliged to indemnify the Supplier for such damage. This does not apply to damage that is due to natural wear and tear.

10. Additional terms for repairs

The following applies if repair services are performed:

a) General If the subject of repair has not been supplied by the Supplier the Buyer must inform the Supplier about any existing industrial property rights with respect to such object; absent any fault on the part of the Supplier the Buyer shall indemnify them against any third party claims based on industrial property rights.

The Buyer has to inform the Supplier on time and in written form about contaminations, possible harmful residues inside the items which need to be repaired as well as about transport risks and measures to be taken regarding repair services.

b) Repairs that cannot be executed

(1) All services rendered for the purpose of a cost estimate and any further expense incurred and documented (troubleshooting time shall be deemed working time) will be charged to the Buyer if any repairs cannot be executed for any reasons that are not in the responsibility of the Supplier, including but not limited to the following:

- the claimed fault has not shown during inspection,
- spare parts cannot be procured,
- the Buyer has culpably missed the agreed appointment,
- the contract has been cancelled during performance.

(2) Only at the express request and expense of the Buyer must the repair item's original condition be restored, unless the works performed had not been necessary.

(3) If repairs cannot be executed the Supplier shall not be liable for any damage at the subject of the repairs, for any violation of secondary contractual obligations and for any indirect damage related to the subject of the repairs, irrespective of the legal basis claimed by the Buyer.

However, the Supplier shall be liable in case of intent, gross negligence of the owner/corporate bodies or senior executives and also in case of a culpable violation of material contractual obligations.

In the case of a culpable violation of material contractual obligations, the Supplier shall be liable – except for cases of intent or gross negligence of the owner/corporate bodies or senior executives – only for typical and reasonably foreseeable damage.

c) Cost information, cost estimates

(1) If possible, the Buyer is informed about the expected cost of repair at the conclusion of the contract; otherwise the Buyer may set limits in terms of costs. If the repairs cannot be executed at the stated costs or if the Supplier considers it necessary during the execution of the repairs to carry out additional works they shall obtain the Buyer's consent if the stated costs will be exceeded by more than 15 %.

(2) If a binding cost estimate is requested prior to the execution of the repairs it must expressly be demanded by the Buyer. Such a cost estimate shall be binding only if it is made in writing, unless agreed otherwise. It also requires compensation. If any works are done for the purpose of issuing a cost estimate and can then be used for executing the repairs such expense will not be invoiced to the Buyer.

d) Price and payment

Section 9 a) of these terms applies accordingly for the price for repairs, for billing and payment.

e) Cooperation and technical assistance by the Buyer for repairs not carried out at the Supplier's site

(1) The Buyer shall assist the personnel executing the repairs at their own expense.

(2) The Buyer shall take any measures that are specifically necessary to protect persons and objects at the repair site. They must also advise the supervisor of the repairs of any existing special safety instructions to the extent that these are relevant for the repair personnel. They shall inform the Supplier about any violations of such safety regulations by the repair personnel. In the case of severe violations, they are entitled to deny the violating person access to the repair site after consulting with the supervisor of the repairs.

(3) The Buyer must provide technical assistance at their own expense, including but not limited to the following:

- Provide the required qualified assistants for the repairs, as many and as long as necessary; the assistants must follow the instructions of the supervisor of the repairs. The Supplier shall not be liable for the assistants. If any defect or damage is caused by the assistants that is due to the instructions of the supervisor of the repairs the provisions in Sections 10 j) and 10 k) apply accordingly.
- Execution of all construction, foundation and scaffolding works including the procurement of the necessary construction materials.
- Provision of all necessary fixtures, equipment and heavy tools as well as the necessary supplies.
- Provision of heating, lighting, operating power, water, including the necessary connections.
- Provision of the necessary dry and lockable rooms for storing the tools of the repair personnel.

- Protection against harmful influences of any kind for the repair site and materials, cleaning of the repair site.
- Provision of suitable theft-proof social rooms and workshops (including heating, lighting, sanitary facilities) and first aid services for the repair personnel.
- Provision of materials and execution of all actions that are necessary to adjust the subject of the repair works and to carry out any agreed tests.

(4) With their technical assistance, the Buyer must ensure that the repairs can begin immediately after the arrival of the repair personnel and that they can be carried out without delay until acceptance through the Buyer. If any specific plans or instructions are required from the Supplier they will provide them to the Buyer in due time.

(5) If the Buyer fails to fulfil their obligations the Supplier, after expiration of a deadline fixed by them, shall be entitled, at its own discretion, to carry out the works that are in the responsibility of the Buyer, instead of the Buyer and at their expense. Otherwise, the statutory rights and remedies of the Supplier shall not be affected.

f) Transport and insurance in case of repairs at the Supplier's site

(1) Unless agreed otherwise in writing, any transport of the subject of the repairs to and from the site that is requested by the Buyer – including any packaging and loading – will be carried out at their own expense; otherwise, the subject of the repairs will be delivered to the Supplier's site by the Buyer at their own expense and collected by the Buyer at the Supplier's site after completion of the repairs.

(2) The Buyer shall bear the risk of transport.

(3) At the Buyer's request, insurance against the insurable transport risks - for example theft, breakage, fire - will be effected for the transport forth and back, at their own expense.

(4) During the time of repair at the Supplier's site there will be no insurance coverage. The Buyer must ensure that any existing insurance coverage is maintained for the subject of the repairs, for example with respect to fire, tap water damage, storm and machinery breakage. Only at the express request and expense of the Buyer will the Supplier procure insurance coverage against these risks.

(5) In case of default in acceptance on the part of the Buyer, the Supplier may bill a storage fee for storage at their site. The subject of the repairs may also be stored otherwise which is in the discretion of the Supplier. Costs and the risk of storage shall be borne by the Buyer.

g) Repair period, delays in repair

(1) Any statements made about repair periods shall be understood to be estimates and are therefore not binding.

(2) The Buyer may only demand the fixing of an agreed binding repair period – which must expressly be identified as such – once the exact scope of the works has been determined.

(3) A binding repair period shall be deemed met if the subject of the repairs is made available for acceptance by the Buyer by its expiry date; in case of an agreed testing procedure this means availability for testing.

(4) If any additional orders are placed or if orders are extended or if additional repairs become necessary the agreed repair period shall be extended accordingly.

(5) If repair work is delayed because of events in the course of labor disputes, including but not limited to strikes or lockouts, or if circumstances occur for which the Supplier is not responsible the repair period shall be extended accordingly if such hindrances significantly impair the completion of the repair work.

6) If the Buyer incurs damage due to a delay on the part of the Supplier they shall be entitled to demand damages in form of a lump-sum payment. Such payment amounts to 0.5 % for each full week of delay but no more than 5 % of the price for such part of the agreed repairs that cannot be utilized as scheduled due to the delay.

If the due date has passed and the Buyer fixes an appropriate deadline for performance by the Supplier – taking into consideration the statutory exceptions – and if such deadline is not met the Buyer shall be entitled to cancel the contract in accordance with the statutory provisions. The Buyer undertakes to notify the Supplier in due time, at the request of the Supplier, whether they will exercise such right of cancellation.

Any further claims for default shall exclusively be subject to Sec. 10 k) paragraph 3 hereunder.

h) Acceptance

Section 9 e) of these terms shall apply accordingly for the acceptance of repair services.

i) Retention of title, extended lien

(1) The Supplier reserves the title to all accessories, spare parts and replacement units in accordance with the provisions in section 6 of these terms.

(2) Based on their claim from the repair contract, the Supplier shall be entitled to a lien over the subject of the repairs which is owned by the Buyer but has come into the Supplier's possession as a consequence of the repair contract. The lien may also be asserted for receivables from formerly performed works, former spare part deliveries or other services insofar as they relate to the subject of the repairs. In respect of any other claims from the business relation, such lien may be applied only if these are undisputed or non-appealable.

j) Warranty claims

(1) After acceptance of the repair work, the Supplier shall be liable for faulty repair work – with all other claims of the Buyer excluded and without prejudice to Sec. 5 and 6 and Sec. 10 k) – in the way that they must remove such faults. The Buyer must notify the Supplier immediately in writing of any identified faults.

(2) The Supplier shall not be liable if any faults are irrelevant for the interests of the Buyer or are due to circumstances that are in the responsibility of the Buyer. This particularly applies to parts supplied by the Buyer.

(3) If the Buyer or a third party carry out improper repairs or changes without first obtaining the consent of the Supplier the Supplier shall not be liable for any consequences resulting thereof. Only in urgent cases where the safety of operations is at risk or in order to prevent unreasonably severe damage – in which case the Supplier must be informed immediately – or if a deadline fixed by the Buyer for the Supplier to remove defects has expired without success – taking into consideration all statutory exceptions – the Buyer, subject to the statutory provisions, shall be entitled to remove the defects themselves or through a third party and demand compensation from the Supplier for any costs incurred.

(4) In case of a justified complaint, the Supplier shall bear the costs that are directly incurred by the removal of the defects, to the extent that this does not cause any unreasonable costs for the Supplier.

(5) If the Supplier – subject to the statutory exceptions – allows a deadline that was fixed for the removal of defects by them to expire unsuccessfully the Buyer shall be entitled to reduce the price under the statutory provisions. Only if it can be proven that a repair at the reduced price is irrelevant for the Buyer they may cancel the contract.

(6) Any other claims shall exclusively be subject to section 10 k) paragraph 3 of these terms.

k) Supplier's liability, disclaimer

(1) If parts of the subject of the repairs are damaged and such damage is the Supplier's fault the Supplier, at their own discretion and expense, shall repair it, make a replacement delivery or pay damages. In the case of ordinary or gross negligence of non-executives, the costs incurred by this shall be limited to the agreed price for the repair works. In addition, the Supplier is liable for damage on the subject of the repairs in accordance with section 10 k) paragraph 3.

(2) If the subject of the repairs cannot be used by the Buyer as agreed due to the Supplier's culpable failure to make recommendations or give advice prior to or after entering into the contract, or if such recommendation or advice was incorrect, or if the Supplier has culpably violated other secondary contractual obligations – including but not limited to, this applies to instructions for the operation or maintenance of the subject of the repairs – the provisions of sections 10 j) and 10 k) paragraph 1 apply and any other claims of the Buyer shall be excluded.

(3) For any damage that occurred other than with respect to the subject of the repairs, the Supplier shall only be liable – irrespective of the legal basis of any such claim – in the case of

- intent,
- gross negligence of the owner / corporate bodies or senior executives,
- culpable injury of life, body and health,
- fraudulently concealed defects,
- under a warranty,
- liability under the Product Liability Act for personal injury or property damage with respect to privately used objects.

In the case of a culpable violation of material contractual obligations, the Supplier shall also be liable for gross negligence of non-executive employees and ordinary negligence; in the latter case, liability shall be limited to any typical and reasonably foreseeable damage.

Further claims shall be excluded.

l) Indemnification by the Buyer If during repair works outside the Supplier's site and without the Supplier's fault the fixtures, equipment or tools at the repair site are damaged or lost the Buyer must indemnify the Supplier for the damage incurred. This does not apply for damage that is due to common wear.

11. Statute of limitation

All claims of the Buyer - for whatever legal reason - shall come under the statute of limitations within 12 months. The statutory limitation periods apply to damage claims subject to section 8 b), bullets 1-4 and 6 as well as section 9 g), paragraph 3, bullets 1-4 and 6 and section 10 k) paragraph 3 bullets 1-4 and 6. This also applies to defects of a building or to delivery items that were used for a building as intended and then caused the building's defectiveness. To the extent that the Supplier renders their installation services subject to section 9 or repair services subject to section 10 with respect to a building and thereby causes its defectiveness, the statutory limitation periods apply.

12. Special terms for processing contracts (finishing, refurbishing, reworking or repairing of tools)

In amendment of the terms of delivery, the following applies to processing contracts:

a) The Supplier does not accept any liability for the behavior of supplied material. This does not affect their entitlement to compensation.

b) If the material becomes useless during processing due to the Supplier's fault their entitlement to compensation shall be forfeited.

13. Place of fulfilment, place of jurisdiction, governing law, language of contract and binding nature

a) Place of fulfilment shall be **Pune, India**

b) Place of jurisdiction for all disputes arising from this contract shall be **Pune, India** if the Buyer is merchant entered in the commercial register, body corporate organized under public law or fund assets subject to public law. The Supplier shall also be entitled to file a suit at the Buyer's place of business.