

General Terms and Conditions of Repair 公司维修通用条款

1. Conclusion of contract 合同订立

The Contractor's written order confirmation is exclusively definitive for the content of the contract and the repair to be carried out.

承包商的书面订单确认书仅对合同内容和需要的维修工作具有决定性。

Unless otherwise agreed, the Contractor is also entitled to use a sub-contractor for the repair to be completed.

除非另有约定，否则承包商也有权使用分包商进行待完成的维修。

2. Repairs that cannot be completed 无法完成维修

The services provided for issuing an estimate of costs and the other costs incurred and documented (time searching for faults is the equivalent to working time) shall be charged to the Customer if the repair cannot be carried out for reasons for which the Contractor is not responsible.

如果由于非承包方原因而无法进行维修，客户应支付准备用于维修而发布成本估算以及产生和记录的其他所有成本（排查故障的时间相当于工作时间）。

3. Price and payment 价格和付款

1. The Contractor is entitled to agree an appropriate advance payment on conclusion of contract; the Contractor is not obliged to begin the repair before the advance payment has been received.

承包人有权在签订合同时约定适当的预付款且没有义务在收到预付款之前开始维修工作。

2. Prices are understood to be plus VAT at the statutory rate; invoices are due for payment on receipt, regardless of any other written agreements.

价格应按法定税率加上增值税；无论是否有其他书面协议，收到付款时应开具发票。

3. Retention and offsetting against the Contractor's claims is permissible only if the claims are uncontested and legally established.

只有在索赔无争议且合法成立的情况下，才允许保留和抵消承包商的索赔。

4. The Customer is entitled to exercise a right of retention only if the counter-claim is based on the same contractual relationship.

只有当反索赔基于相同的合同关系时，客户才能行使保留权。

4. Cooperation and technical assistance from the Customer in the case of repairs away from the Contractor's premises 在承包商场地以外进行维修时，客户提供的合作和技术援助

1. The Customer shall support the repair personnel in completing the repair at his cost.

客户应自费支持维修人员完成维修。

2. The Customer shall take the special measures required to protect personnel and property at the repair location. He shall also inform the repair foreman of any existing safety regulations, insofar as these are relevant to the repair personnel. He shall notify the Contractor of breaches of such safety regulations by the repair personnel. In the case of serious breaches, he may, in consultation with the repair foreman, refuse entry to the repair location to the person who is at fault.

客户应采取必要的措施保护维修地点的人员和财产安全。还应将与维修人员相关的任何现有安全规定告知维修主管。并应将维修人员违反此类安全规定的情况通知承包商。在严重违规的情况下，可以与维修主管协商，拒绝违反安全规定的人员进入维修场地。

3. The Customer is obliged to provide technical assistance at his cost, in particular:

客户需要自费提供的技术支持包括：

- a) Provision of suitable auxiliary personnel in the numbers

提供数量合适的辅助人员。

- b) required for the repair and for the time required; the auxiliary personnel shall follow the instructions of the repair foreman. The Contractor cannot accept any liability for the auxiliary personnel. If a defect or damage is caused by the auxiliary personnel as a result of instruction given by the repair foreman, the regulations under Sections VIII and IX shall apply accordingly.

确保维修所需的时间；辅助人员应遵守维修班长的指示。承包商对辅助人员不承担任何责任。如果辅助人员根据维修班长的指示造成缺陷或损坏，则适用第八项和第九项中的规定。

- c) Execution of all construction, bedding and scaffolding work, including procurement of the building materials required.

完成所有土建、基础建设和脚手架工程，包括采购所需的建筑材料。

- d) Provision of the equipment and heavy tools required and the necessary consumables and other materials.

提供所需的设备和重型工具以及必要的耗材和其他材料。

- e) Provision of heating, lighting, operating power, water, including the connections required.

提供供暖、照明、操作电源和水，包括所需的连接设备。

- f) Provision of dry, lockable rooms as required for storage of the repair personnel's tools.

根据需要提供干燥、可上锁的房间，用于存放维修人员的工具。

- g) Protection of the repair location and materials against harmful factors of any sort, cleaning of the repair location.

保护维修点的材料免受任何有害因素的影响，清洁维修场所。

- h) Provision of suitable, theft-proof rest rooms and work rooms (with heating, lighting, washing and toilet facilities) and first aid for the repair personnel.

为维修人员提供合适的防盗休息室和工作室（配有供暖、照明、洗涤和厕所设施）以及急救设备。

- i) Provision of the materials and carrying out of all other actions required for adjustment of the repair item and performance of a contractually agreed test.

提供材料及执行调整维修项目所需物资并执行合同约定的测试。

4. The technical support provided by the Customer must ensure that the repair can begin as soon as the repair personnel arrive and continue without delay until acceptance by the Customer can be completed. If special plans or instructions from the Contractor are required, the latter shall make them available to the Customer in good time.

客户提供的技术支持必须确保维修人员到达现场可以立即开始维修，直到客户验收完成。如果需要承包商的特殊计划或指示，应及时向客户提供。

5. If the Customer does not meet his obligations, the Contractor is entitled but not obliged to carry out the actions required of the Customer in his place and at his cost on expiry of a notice period. Otherwise, the statutory rights and claims of the Contractor remain unaffected.

如果客户未履行其义务，承包商有权但没有义务在通知期到期时替客户采取要求的行动并承担费用。否则，承包商的法定权利和索赔不受影响。

5. Transport and insurance in the case of repair on the Contractor's premises

在承包商场地进行维修时的运输和保险

1. Unless otherwise agreed in writing, transport of the repair item to and from the Contractor's premises – including any packaging and loading – shall be carried out at the request of the Customer at his expense, otherwise the repair item shall be delivered to the Contractor by the Customer at his cost and picked up again from the Contractor on completion of the repair by the Customer.

除非另有书面约定，否则根据客户的需求，将维修物品运输往返于承包商的场地，包括任何包装和装载的费用由客户承担。或将维修物品交付给承包商，并由客户在维修完成后再次从承包商处取回，其费用由客户承担。

2. The Customer shall bear the risk of transport.

客户应承担运输风险。

3. At the request of the Customer, transport to the Contractor's premises and, if required, return transport shall be insured against insurable transport risks, e.g. theft, breakage, fire.

根据客户需求，运输至承包商的经营场所，如有需要，还应为回程运输投保可能的运输风险，如盗窃、破损、火灾。

4. There is no insurance protection during the period of the repair on the Contractor's premises. The Customer shall arrange for continuation of the existing insurance protection for the repair item, e.g. fire, water and storm damage, machine breakage insurance cover. Only at the express request of the Customer and at his cost can insurance cover be arranged for these risks.

在承包商的场地进行维修期间，没有保险保障。客户应妥善安排维修项目的现有保险，例如火灾、水和风暴损坏、机器损坏保险。只有在客户明确要求的情况下，承包方才会在维修项目投保，且费用由客户承担。

5. If there is a delay in the Customer collecting the item, the Contractor may charge a storage fee for storage on its premises. At the discretion of the Contractor, the repair item may be stored elsewhere. The costs and risk of storage shall be borne by the Customer.

如果客户延迟领取物品，承包商可就其场地内的储存收取储存费。承包商可自行决定将维修项目物品存放在其他地方。储存的费用和风险应由客户承担。

6. Acceptance

验收工作

1. The Customer is obliged to accept the repair work as soon as he is notified of its completion and any contractually agreed testing of the repair item has taken place. If the repair proves not to be as contractually agreed, the Contractor is obliged to rectify the defect. This does not apply if the defect is insignificant in relation to the Customer's interests or is the result of a circumstance for which the Customer is responsible. If there is a minor defect, the Customer may not refuse acceptance.

客户有义务在收到维修工作完成的通知后立即验收维修成果，并且对维修项目进行任何合同内约定的测试。如果维修不符合合同约定，承包商有义务纠正缺陷。如果缺陷对客户的利益来说是微不足道的，或者是由客户负责的情况造成的，则此项规定不适用。如果存在轻微缺陷，客户不得拒绝接受。

2. If acceptance is delayed through no fault of the Contractor, acceptance shall be deemed to have been given two weeks after notification of completion of the repair.
如果验收不是由于承包商的过错而延迟，则视为在维修完成通知后两周内进行了验收。
3. On acceptance, the Contractor's liability for recognisable defects comes to an end, unless the Customer has reserved the right to assert a claim for a specific defect.
验收后，承包商对可识别缺陷的责任终止，除非客户保留对特定缺陷提出索赔的权利。

7. Reservation of title, extended lien

保留所有权、延长留置权

1. The Contractor shall reserve title to all accessories, spare parts and replacement assemblies used until receipt of all payments due under the repair contract. Further collateral agreements may be made.
承包商应保留所使用的所有配件、备件和更换组件的所有权，直到收到维修合同项下的所有应付款项。可以签订进一步的担保协议。
2. The Contractor has a right of lien in respect of its claim under the repair contract to the repair item which belongs to the Customer and is in its possession on the basis of the contract. The right of lien may also be asserted in respect of claims for work completed previously, deliveries of spare parts and other services, insofar as they are connected with the repair item. The right of lien shall apply to other claims under the business relationship only insofar as they are uncontested or legally established.
承包商根据维修合同对属于客户但合同约定占有的维修设备享有留置权。还可以就先前完成的工作、备件交付和其他服务的索赔主张留置权，只要这些索赔与维修项目有关。留置权仅适用于商业关系下的没有争议或合法成立的其他索赔。

8. Claims for defects

缺陷索赔

1. On acceptance of the repair, the Contractor shall assume liability for defects in the repair, with exclusion of all other claims by the Customer regarding the way in which the defects are to be repaired. The Customer shall notify the Contractor, immediately and in writing, of any defect identified.
在接受维修后，承包商应对维修中的缺陷负责，但不包括客户就修复缺陷的方式提出的所有其他索赔。客户应在发现的任何缺陷时立即以书面形式通知承包商。
2. If any improper modifications or repair work are carried out by the Customer or a third party without the prior consent of the Contractor, the Contractor's liability for the consequences thereof is cancelled. Only in urgent cases in which operational safety is at risk or to prevent disproportionate additional damage, in which case the Contractor shall be notified immediately, or if the Contractor – taking account of the statutory exceptions – has allowed an appropriate period set for it to rectify the defect to pass without having done so, does the Customer have the right within the statutory provisions to rectify the defect himself or to arrange for this to be done by a third party and to demand reimbursement of the costs from the Contractor.
如果客户或第三方在未经承包商事先同意的情况下进行了任何不当的修改或维修工作，则承包商不再对设备出现的问题负责。当面临重大操作安全风险或为了防止额外损害的紧急情况时，客户应立即通知承包商。上述以及承包商考虑到的特殊情况下，允许客户在未通知承包商的情况下在法律规定范围内自行纠正缺陷，或安排第三方纠正缺陷，并要求承包商偿还费用。
3. The Contractor shall meet the costs incurred directly by rectification of the defect – provided that it transpires that the complaint is legitimate – together with the costs for the replacement part, including shipping. It shall

also bear the costs of disassembly and installation, and the costs of provision of any fitters and auxiliary staff required, plus travel costs, provided that the burden on the Contractor is not disproportionate.

承包商应承担纠正缺陷直接产生的合法费用以及更换零件的费用，包括运输费用。承包商还应在特定条件下承担拆卸和安装的费用，以及提供所需安装工和辅助人员的费用及差旅费。

4. If the Contractor allows an appropriate period set for it to rectify a defect to elapse without having done so – and taking account of the statutory exceptions – the Customer has a right to a price reduction within the framework of the statutory regulations. Only if the repair is demonstrably of no interest to the Customer despite the price reduction may the Customer withdraw from the contract.

如果承包商在约定期间内未按时完成维修调试工作，客户有权在规定的范围内降价。只有价格降低，但客户仍明确无意愿的情况下，客户才能退出合同。

5. Further claims are regulated exclusively by Section IX.3 of these Terms & Conditions.

其他索赔仅受本条款第四项第3条的规定。

9. Liability of the Contractor, exclusion of liability

承包商的责任及责任免除

1. If the Contractor is responsible for damage to parts of the repair item, the Contractor shall repair them or replace them, at its discretion. The compensation obligation is restricted in amount to the contractual cost of the repair.

如果承包商对修理项目的部件损坏负责，承包商应自行决定修理或更换。赔偿义务的金额仅限于合同规定的维修费用。

2. If, through the fault of the Contractor, the Customer's repair item cannot be used in accordance with the contract as a result of a failure to implement suggestions and advice given before or after conclusion of contract, of having done so improperly, or of failure to fulfil other ancillary contractual obligations – in particular, the obligation to follow instructions for operation and maintenance of the repair item – the provisions of Section VIII shall apply, to the exclusion of any other claims by the Customer.

如果由于承包商的过错，客户的维修项目无法根据合同使用，原因是未能执行或不恰当地执行在签订合同之前或之后提出的建议，或未能履行其他附属合同义务，特别是遵守维修项目操作和维护说明的义务——则参考第八项的相关规定，客户的任何其他索赔除外。

3. The compensation obligation under (1) shall not apply if statutory liability is mandatory, and:

如果法定责任是强制性的，则第1条下的赔偿义务不适用，并且：

- in the case of the Contractor's own intentional or grossly negligent breach of obligation or intentional or grossly negligent breach of obligation by its legal representatives or vicarious agents;

如果承包商自身故意或严重过失违反义务，或其法定代表人或代理故意或严重疏忽违反义务；

- in the case of breach of material contractual obligations; "material contractual obligations" are obligations that protect the legal rights of the Customer which are granted to the Customer by the subject matter and purpose of the contract; contractual obligations are material if their fulfilment makes proper performance of the contract possible in the first place, and if the Customer normally relies and may expect to rely on them;

在违反重大合同义务的情况下；“重大合同义务”是指根据合同标的和目的授予客户的保护客户合法权益的义务；

- in the event of physical injury, loss of life, and damage to health, including if this is caused by legal representatives or vicarious agents;

在发生人身伤害、生命损失和健康损害的情况下，包括由法定代表人或代理人造成的情况；

- in the event of default if service by a fixed date has been agreed;

如果约定了固定日期的服务发生违约情况；

- insofar as the Contractor has assumed the guarantee of the success of the repair or successful performance of the service;
只要承包商担保了成功完成维修或成功履行服务职责；
 - in the case of other statutory grounds for liability that are mandatory.
在其他强制性责任法定理由承担责任的情况下。
4. If the Contractor or its vicarious agents are guilty of only minor negligence and none of the cases specified under paragraphs 4, 5, and 6 above obtains, the Contractor shall be liable only for foreseeable damage typical of this type of contract, even in the case of breach of material contractual obligations.
如果承包商或其代理仅犯有轻微过失，且未发生上述第 4、5 和 6 点规定的任何情况，则承包商应仅对此类合同中典型的可预见损害负责，即使是在违反重大合同义务的情况下。
5. The Contractor's liability shall be limited to each individual case of damage in the amount of the respective order value. This shall not apply if the Contractor is guilty of fraudulent intent, intentional or gross negligence, to claims due to physical injury, loss of life or damage to health, to any claim arising from tort, to a guarantee expressly provided, or to cases of higher liability amounts prescribed by law.
对于每一种单独的损坏情况，承包商的责任应以订单的相应价值为限。如果承包商有欺诈意图、故意或重大过失，客户因人身伤害、生命损失或健康损害而提出索赔，以及因侵权行为或明确承担的担保而提出索赔或法律规定的更高责任金额，则此规定不适用。
6. Any further liability shall be excluded.
不包括任何其它额外的责任。
7. The liability exclusions and restrictions pursuant to the above sections 1 to 5 shall apply to the same extent in favour of the Contractor's bodies, executive and non-executive employees and other vicarious agents and of the sub-contractors employed by the Contractor.
根据上述第 1 节至第 5 节的责任免除和限制应同样适用于承包商的机构、执行和非执行员工、其他代理以及承包商雇佣的分包商。
8. Claims by the Customer for compensation arising from this contractual relationship may be asserted only within a preclusion period of one year from commencement of the statutory limitation period. This shall not apply if the Contractor is guilty of malicious intent or gross negligence, to claims due to physical injury, loss of life or damage to health, to a claim arising from tort, to guarantee expressly provided, or to cases where a longer limitation period is prescribed by law.
客户对本合同关系产生的赔偿要求只能在法定时效期开始后一年内提出。如果在因人身伤害、生命损失或健康损害而提出索赔的情况下，以及在因侵权行为或明确承担的担保而提出索赔或法律规定更长的时效期的情况下犯有恶意或重大过失，则这一规定不适用。

10. Limitation period 时效期限

The statutory limitation periods shall apply to compensation claims under section V, including if the Contractor carries out the work on a building and causes damage to the building as a result.

法定时效期应适用于第五项下的赔偿要求，包括承包商在建筑物上进行工程并因此对建筑物造成损坏的情况。

Other claims by the Customer, whatever the legal grounds, shall expire in 12 months.

客户的其他索赔，无论法律依据如何，应在12个月后到期。

11. Customer's compensation obligation

客户的赔偿义务

If, during repair work away from the Contractor's premises, the equipment or tools provided by it are damaged at the repair location or if they are lost through no fault of the Contractor, the Customer is obliged to compensate for this damage or loss.

如果在远离承包商场地的维修工作中，其提供的设备或工具在维修地点损坏，或者如果这些设备或工具不是由于承包商的过错而丢失，客户有义务赔偿这种损坏或损失。

Damage that results from normal wear cannot be considered.

不考虑正常磨损造成的损坏。

12. Applicable law, place of jurisdiction

适用法律、管辖地

1. The law of the China covering the legal relations between domestic parties shall apply exclusively to all legal relations between the Contractor and the Customer.

中国关于国内各方之间法律关系的法律应仅适用于承包商和客户之间的所有法律关系。

2. The place of jurisdiction is the court with jurisdiction over the Contractor's registered office. The Contractor is, however, entitled to take legal action at the location of the Customer's main office.

管辖地为对承包商注册办事处具有管辖权的法院。同时承包商有权在客户主办公室所在地采取法律行动。

3. All agreements between the Contractor and Customer shall be made in writing; the written form requirement shall also apply to all changes and/or ancillary agreements before or after conclusion of the contract.

承包商和客户之间的所有协议均应以书面形式订立；书面形式的要求也适用于合同签订之前或之后的所有变更和/或附属协议。

4. If individual provisions prove invalid, the rest of the contract shall remain valid; the invalid provision shall be replaced by a provision that comes as close as possible to the original commercial intention.

如果个别条款被证明无效，合同的其余部分仍然有效；无效条款应替换为尽可能接近最初商业意图的条款。