

## Terms and Conditions of Repair and Assembly of Otto Zimmermann GmbH

valid from 01.01.2015

The present Terms and Conditions of Repair and Assembly shall apply to all services rendered by us towards entrepreneurs and enterprises, public-law entities and public-law funds (Customer). To the extent not expressly stated to the contrary, our following terms and conditions shall apply exclusively. They shall likewise apply to future business relationships, even if they are not expressly agreed again. Contradictory or deviating terms and conditions of Customer shall not become contents of the agreement, even if we do not expressly contradict them.

1. The service technician shall be dispatched as soon as possible after origination of the repair agreement or agreed assembly obligation, as the case may be, and Customer's call, to the extent that no specific deadlines have been agreed and Customer has rendered the following previous services at its own expense and risk:

- a) proper set-up of the place of repair or assembly and provision of the material to be provided by Customer,
- b) protection of the place of repair or assembly against the influences of the weather,
- c) dry and frost-free storage secure against theft and damage of all and any materials and appliances supplied in advance by Supplier, also during all and any interruption of the assembly work,
- d) provision of suitable rooms in the direct vicinity of the assembly work for work preparation by the service technician,
- e) provision of suitable assistants in the scope required by Supplier and necessary for performance of the contractually agreed repair or assembly, who are to obey the service technician's instructions during the repair or assembly. Supplier may reject unsuitable assistants. The third-party liability for the assistants in an employment relationship to Customer shall be a matter for Customer, the supervision duty for Supplier,
- f) provision as well as set-up and removal of assembly scaffolds and appliances, lighting and heating possibly needed, ventilation and air removal at the place of repair or assembly, provision of fuels, water and electrical energy, compressed air, drilling and lifting tools, welding devices, ladders, means of communication (telephone, fax, e-mail) including their installation up to the place of use,
- g) Customer shall ensure that the applicable accident prevention directives are complied with for the entire term of the assembly or repair. Industrial protection equipment shall be provided by Customer. In the event of our service technician suffering an accident, Customer engages to inform us without delay.
- h) provision of the operating equipment necessary for commissioning and function of the system and their removal,
- i) unloading of the tools and the special appliances possibly to be provided by Supplier and their transport to the place of use.

**The following shall apply additionally in the event of assemblies or repairs lasting a number of days:**

- j) proof of possibilities of accommodation and catering in the vicinity of the workplace for the service technician dispatched. If it is not possible to find accommodation in the vicinity of the place of assembly, Customer shall bear the daily travelling expenses between accommodation and place of assembly.
- k) provision of suitable, lockable rooms for the service technicians with illumination, heating, a possibility of washing and sanitary devices.

2. For provision of qualified service technicians, to proper selection of whom we commit ourselves, we shall charge the hourly and allowance rates to be seen from the enclosed price list. The price list becomes an integral part of the Terms and Conditions of Repair and Assembly. In addition, the charging rates shall contain the costs to be borne by us for insurances against accident and illness as well as the statutory social payments.

The allowance rates stated in the price list for each day of absence of the service technician from the factory, also for Sundays and public holidays on which work is not done, shall serve lump-sum settlement of expenditure and catering. If the actual costs are above the lump-sum amounts stated, the costs shall be charged against corresponding proof.

If the service technician has to look for his own accommodation, the costs of the accommodation and the search (travelling time and travelling expenses) shall be charged to Customer.

Our service technicians' normal working time shall be 40 hours per week, 8 hours per working day.

Our current charging rates for services shall apply to travelling and waiting times.

3. Journeys shall be with our own after-sales vehicle as a matter of principle. The travelling expenses stated in the enclosed price list shall be charged for this.

In the event of rail travel, Customer shall be charged for a second class ticket from the service technician's place of residence to the destination, including surcharges, costs of baggage and expenditure for tram, bus, taxi etc.; in cases of travel by night, a couchette shall be charged.

Flight expenses shall be charged to Customer as a matter of principle.

On arrival days, the maximum shift time shall be 10 hours (travelling time and working time). If the travel time amounts to more than 6 hours, the service technician does not have to start the work on the same day.

Journeys home shall be charged like journeys to and from the workplace.

If Customer demands that the assembly or repair is started punctually at Customer's start of work on a Monday or following a public holiday, the journey to the workplace shall be on

the previous day in the event of a journey of more than 100 km. In such a case, the travelling time shall be charged with the customary Sunday or public holiday surcharges.

4. The service technician shall start the journey home on the same day after conclusion or interruption of the repair or assembly if the working and travelling time on this day does not exceed 10 hours including breaks. Otherwise, the journey home will be on the next day.
5. The work shall be done by our service technicians as quickly as possible. Nevertheless, our statements on the duration of the assembly or repair shall be non-binding to the extent that we have not committed ourselves contractually to comply with binding periods. We shall only be liable for exceeding of binding periods for which we are answerable according to the provisions of number 5 of the present Terms and Conditions of Repair and Assembly.

6. We shall assume liability for personal damage incurred by Customer as a result of the rendering of the repair or assembly services to the extent that it has been caused by us through malice aforethought or negligence.

We shall further assume liability for property damage incurred by Customer as a result of the rendering of the repair or assembly services to the extent that it has been caused by us through malice aforethought or gross negligence.

Under the same preconditions, we shall assume liability for other damage as a result of previous property damage and also for damage incurred by Customer and based on a breach of a cardinal duty (duty essential for the contract).

In the event of a merely negligent breach of our duties, our liability shall be limited to the foreseeable damage typical for the contract. Further-reaching contractual or tort claims of Customer have been ruled out.

7. Customer shall confirm the correctness of the working and travelling hours stated in the proofs of work as well as hardship allowances to the service technician by the signature of an authorised person on every working day. In addition, Customer shall confirm ordered material journeys for reasons for which we are not answerable, likewise by signing on the proofs of work. The statements shall be decisive for both contracting parties for calculation and control. Only the hours actually performed shall be stated on the proofs of work. The surcharges for overtime, Sunday and night work shall be determined separately by us on the basis of the working time recorded. Customer shall receive a copy of the proofs of work.
8. Each contracting party can demand a formal acceptance of the finished services. Minutes to be signed by both parties shall be produced concerning the outcome and the establishment of all and any defects. Slight defects shall not entitle to rejection of the acceptance.

If there is no acceptance despite a request by Supplier, although essential defects are not being claimed, the system shall be deemed accepted on the 8<sup>th</sup> working day following the first commissioning, albeit no later than 8 working days after the request for acceptance. We engage to inform Customer of the fact that non-acceptance of the repaired or assembled machine shall be deemed acceptance after no more than 8 working days (§ 308, sub-section 5 b, German Civil Code) no later than the moment of the commissioning of the repaired or assembled machine or no later than the moment at which Customer is asked to accept it.

9. In cases of repair in which the repair is carried out on the premises of our enterprise by agreement, the device to be repaired has been sent to us by agreement or has come into our possession in any other way, a lien to the object provided to us shall exist for our claims from the repair agreement.

In cases of repairs in which the object to be repaired remains in Customer's possession on its premises, there shall be agreement between Customer and ourselves that a lien to the objects repaired or assembled by us shall originate in our favour for our claims from the repair or assembly agreement at the moment of the start of the repair or assembly. There is agreement about the fact that Customer takes the repaired or assembled object into its custody on our behalf.

10. The period for barring by limitation of claims based on defects in quality from assembly and repair shall be 1 year from acceptance.
11. The repair or assembly invoice shall be due for payment immediately after receipt of the invoice without deduction. We shall be entitled to produce down-payment invoices. If payments are made with a delay, we reserve the right to charge default interest according to the statutory directives. Offset against invoice amounts shall only be admissible with undisputed or legally effective claims.
12. Our service technicians have not been authorised to make legally binding declarations on our behalf. They have also not been authorised to accept additional orders from Customers and to make decisions with a binding effect on our behalf concerning scope of contract, prices or periods. Rights from defects in quality shall also exclusively be made against us; all and any comments by our service technicians on defects or complaints shall not be binding for us.
13. As a supplement, the General Terms and Conditions of Delivery and Payment of Otto Zimmermann GmbH shall apply.
14. Place of performance and place of jurisdiction for both parties shall be Saarbrücken.
15. The contract shall exclusively be governed by German law, ruling out UN purchase law (CISG).