



INTRODUCTORY NOTE

ORGALIME GENERAL CONDITIONS FOR THE REPAIR OF MECHANICAL, ELECTRICAL AND ELECTRONIC EQUIPMENT - R 17

SCOPE OF USE

The ORGALIME-General Conditions for the repair of mechanical, electrical and electronic equipment (R 17) are intended to be used where one company, the customer, employs another company, the contractor, to carry out the repair of a defect which has occurred in the customer's equipment. It is this single service which determines the type of contract. A clear distinction must be made from a maintenance contract, which is generally entered into on a long term basis and which may, apart from preventive maintenance, provide for corrective maintenance to be performed if a defect occurs during the contract period. ORGALIME has also drafted general conditions for maintenance of this type (ORGALIME M 17 conditions).

Neither should these General Conditions be used in a situation where a supplier of goods under a sales contract is obliged to repair defects during any warranty period, which has been agreed upon. In this situation, the respective obligations of the parties will be defined in the sales contract and in the general conditions often being part of this contract. The parties may use the ORGALIME-supply conditions (S 2012 and SI 14) in that respect.

These General Conditions for repair are meant for situations where the contractor performs repair at the cost of the customer. The contractor may be the original supplier of the equipment, who is no longer obliged to repair under a warranty obligation, but it may also be another company.

The repair work performed under ORGALIME R 17 mainly consists of traditional technical work. But since computer software today often forms a part of machinery and other industrial equipment, repair work may as well partly or solely consist of updating or adapting computer software. Such work is also covered by ORGALIME R 17.

PRICE FOR REPAIR SERVICES

When a defect occurs, it is sometimes difficult to trace the cause of the defect. It may take much time to analyse the defect (test runs may for instance be necessary) and to decide on an adequate way to remedy the defect. It is therefore usually appropriate for a contractor to charge his repair services on a time and cost basis and not agree on a fixed price. A customer will, however, often prefer a fixed price.

Although these General Conditions allow for an agreement on a lump sum price, they start from the assumption that the parties have agreed on a time and cost basis-system. In order to decrease the uncertainty for the customer on the total price to be charged, the conditions provide for a price estimate by the contractor after fault tracing, but before undertaking any remedial or other work. The customer may then decide not to proceed with the repair work.

CONTENTS OF THE INDIVIDUAL CONTRACT

The parties must specify the extent of their respective obligations. They should do so in a separate written contract. Among the points to be covered are:

- a reference which makes it clear that the R 17 apply to the contract;
- a specification of the equipment which is subject to the repair work;
- a description of the defect to be repaired or the repair work to be undertaken;
- the lump sum, if the parties decide not to apply the time and cost basis-system;
- technical documentation to be provided by the customer.

For some of the items in R 17 the parties may prefer to have a different rule from the one specified in the General Conditions. They may, for example, provide for a different liability period than the one specified in Clause 22 or change the liability of the contractor for damage to the customer's property under Clause 26.

Amendments should however not be undertaken without expert legal advice.

The contractor is advised to seek adequate insurance to cover his liability.

If the parties have their domicile in the same country they may consider to have possible disputes arising in connection with the contract settled by the ordinary courts of their country. Court proceedings may often be cheaper and more practical than arbitration administered by the International Chamber of Commerce. By deleting the first paragraph of Clause 33 arbitration would be excluded in favour of settlement of disputes by the competent national courts. In that case the parties should preferably appoint a specific court.