

REPARATION 11 - REPAIR 11

Repair & service provisions for mobile machines, tools, equipment and accessories

These general repair and service provisions have been drawn up jointly by MaskinLeverantörerna (ML) [the Swedish trade association for suppliers of mobile machines], Lantbrukarnas Riksförbund (LRF) [the Federation of Swedish Farmers] and Maskinentreprenörerna (ME) [the association of Swedish Earth Moving Contractors].

1. Applicability

The provisions are applicable when the Parties are agreed thereon. Any undertakings collateral to this contract shall be binding only if confirmed in writing by the workshop. When any Party requires it, an order shall be confirmed in writing.

2. Definitions

In these provisions, the expressions below have the following meanings:

machine – mobile working machines such as construction equipment, forklifts, forest machinery, road maintenance equipment, agricultural machinery and professional lawn and garden equipment, as well as tools, equipment and accessories for these

repair – service, repair, preventive maintenance and remedial maintenance on a machine

workshop – the company commissioned to carry out the repair under the terms of this contract

customer – the physical or juridical person who orders the repair

consequential loss – for example, loss as a consequence of a reduction or loss of production or sales, loss as a result of inability to utilise the machine in the intended way, loss of profit as a result of the collapse or incorrect fulfilment of a contract with a third party or other similar loss which was difficult to foresee.

3. Scope of the order

In the order, the customer shall specify the nature and scope of the assignment as accurately as possible. If the assignment cannot be specified precisely without preliminary fault finding, the workshop shall, if the customer so requires, contact the customer for final assessment and order after the fault finding has been completed. Such fault finding, as well as other fault finding carried out within the framework of an assignment, will be at the customer's expense.

4. Execution of the assignment

The workshop shall carry out the assignment in a professional manner and, unless otherwise agreed, supply appropriate spare parts and other material.

5. Price

If the Parties have not agreed on a price, the customer shall pay the workshop's current price for equivalent assignments. The customer is not, however, obliged to pay more than is reasonable in the light of the nature, scope and execution of the assignment.

If the customer so requests, the workshop shall provide a cost estimate after the fault finding has been carried out but before the work commences. This estimated price must not be exceeded by more than 20%.

The agreed price includes labour and materials, but not value-added tax or statutory environmental and recycling charges. Nor will any travel costs, subsistence allowance or transport costs be included.

6. Dissuasion

If the estimated price of a repair is clearly excessive in relation to the estimated value of the machine, the workshop shall inform the customer of this. The workshop shall thereby dissuade the customer from ordering the assignment. If, nevertheless, the customer wishes to have the repair carried out, this shall be noted on the confirmation. In that event, the workshop will also have the right to require payment in advance.

7. Additional work

If it emerges during the repair assignment that work which was not covered by the original assignment is necessary, but which is sufficiently related to the assignment that it would be appropriate to carry out this additional work simultaneously, the workshop shall inform the customer and request instructions.

If it is not possible to contact the customer or, for any other reason, the workshop does not receive instructions within a reasonable period, the workshop may carry out the additional work:

- if the price of the additional work is low in relation to the price of the agreed assignment, or
- if there is a particular reason to assume that the customer wishes to have the additional work carried out in connection with the assignment

The workshop has the right to charge a supplementary price for the additional work over and above the originally agreed price in accordance with section 5.

8. Replaced parts

Replaced components that are not of negligible value shall be kept available for the customer's inspection until the machine is returned to the customer. If a dispute arises over the repair in relation to this, the workshop shall, if possible, retain the replaced components, which may constitute evidence, until the dispute has been resolved.

If the price of a new or renovated part is based on trading in the replaced part (replaced component), ownership of the replaced part shall pass to the workshop.

9. Time for the execution of the work

The customer is responsible for providing the workshop with access to the machine at the agreed location and at the agreed time. The repair shall, unless otherwise agreed, be carried out during the workshop's normal working hours.

The repair shall be completed by the agreed time. If additional work is carried out in accordance with section 7 above, the agreed time shall be extended by a reasonable amount in relation to the scope of the work and other circumstances. If a set time has not been agreed, the repair shall be completed within a reasonable time.

If the workshop has expressly undertaken to complete the repair by a set time, the workshop is obliged, in the event of delay in completing the repair, to make another machine which is appropriate for the purpose available to the customer. In the event that the workshop fails to make another machine which is appropriate for the purpose available to the customer, the customer has the right, after notifying the workshop in writing, to hire such a machine at the workshop's expense.

10. Responsibility for the machine

The workshop is responsible for ensuring that the machine is not damaged while in the workshop's possession. This responsibility passes to the workshop when the machine has been put in a location advised by the workshop.

The workshop is not, however, responsible for items left, for example, in the machine shed, and which are not part of the normal equipment.

In the event that the repair is carried out on the customer's premises, responsibility for the machine remains with the customer.

11. Payment

Unless otherwise agreed, the customer shall pay in cash when the repair is completed.

If the customer does not pay at the correct time, interest on overdue payments shall be payable in accordance with the Swedish Interest Act.

If the machine is left with the workshop for the work to be carried out, the workshop has the right to retain the machine as security for the amount due for the assignment.

12. Liability for defects

At the commencement of the contract, the workshop shall provide a written warranty commitment for spare parts, replacement components and repair work. This commitment shall clearly set out the number of operating hours or months during which the workshop shall be liable for defects. With respect to the repair of machinery which is used only during certain seasons and is repaired between seasons, the warranty period begins to run from the date on which the next season commences. For spare parts and accessories used in carrying out the assignment, the warranty provisions provided by the respective suppliers apply. The warranty commitment shall be explained to the customer.

Unless otherwise agreed, rectification of a defect during the warranty period shall not entail the total warranty period being extended. The commitment does not cover defects caused by parts which are not approved by the workshop.

The workshop's liability for defects applies only on condition that the machine is used in normal operations. The liability does not cover defects caused by inadequate maintenance or normal wear and tear. Nor does it cover makeshift repairs, repairs which the customer ordered despite the workshop clearly advising against carrying them out, as well as repairs for which the customer supplied spare parts or other materials. It does not cover defects caused by incorrect installation by the customer or changes carried out without the workshop's consent.

Wearing parts and consumables are not covered by the warranty commitment.

13. Complaints/claims

Complaints/claims in respect of work carried out shall be lodged with the workshop without delay. Complaints/claims shall be made in accordance with the workshop's instructions. The workshop shall reach a decision on the complaint/claim without delay and inform the customer of the result. If the workshop finds that the complaint/claim is justified, the associated defect shall be rectified within a reasonable time at no cost to the customer.

14. Limitation of liability

The workshop is not obliged to pay any compensation to the customer for loss of production, loss of profit or other consequential loss. This limitation of the workshop's liability does not, however, apply if the workshop is guilty of gross negligence.

15. Force majeure

The Parties do not have the right to invoke failure to fulfil the contract against each other if fulfilment is frustrated as a result of a circumstance outside the Party's control. This may apply to industrial disputes, war, decision of a government agency, serious operational disruption in the Party's business or that of the Party's suppliers, delays caused by independent transport companies or other circumstance not caused by that Party that materially affects the fulfilment of the contract and which the Party could not have foreseen or the prejudicial effect of which could not reasonably be avoided.

A Party shall inform the other Party without delay that such a circumstance has arisen.

If the fulfilment of the contract is not possible within a reasonable time as a result of a circumstance as mentioned above, either Party has the right to terminate the contract in writing to the extent that the fulfilment of the contract has been frustrated.

16. Disputes

Should a dispute arise between the Parties in relation to the contract and/or these repair and service provisions, the parties shall first attempt to resolve the dispute on the matter. If this is not successful, the dispute should, where appropriate, be referred to the industry's Complaints Committee.

If no resolution of a dispute that has arisen between the Parties can be arrived at in the manner stated in the first paragraph, the dispute shall be settled by a court of general jurisdiction unless another method of dispute resolution is agreed.