

## International Installation, Repair and Service Conditions

### I. Application of the International Installation, Repair and Service Conditions

- These International Installation, Repair and Service Conditions apply to all customers of MAC Hamburg GmbH - hereinafter referred to as "MAC" – in Germany and/or abroad.
- These International Installation, Repair and Service Conditions apply to all contracts made with the customer on or after 01.08.2020 whose preponderant object is the **performance of works ("Werkverträge") and/or the provision of other services ("Dienstverträge") by MAC** (all of the afore-said the "Services") to the customer (any such contract hereinafter a "Contract"), in particular but not limited to
  - the inspection, maintenance and repair of air-conditioning systems aboard vessels,
  - the design and/or planning of air-conditioning systems for vessels,
  - the installation and commissioning of air-conditioning systems aboard vessels,
  - the modification and/or modernization of existing air-conditioning system aboard vessels
  - and any other services related to air-conditioning systems for vessels.

Additional obligations assumed by MAC do not affect the application of these International Installation, Repair and Service Conditions. In respect of the **supply of goods** by MAC including spare parts used in course of the performance of the Services, the International Conditions of Sale for Customers not Resident in Germany of MAC shall apply.

- Terms of business of the customer** conflicting with or differing from these International Installation, Repair and Service Conditions or the provisions applicable according to section XII.-2. or XII.-3. do not bind MAC, even if MAC does not object to them or even if MAC unconditionally renders performance or receives the customer's performance.

### II. Formation of the Contract

- Without prejudice to further reaching obligations pursuant to these International Repair and Service Conditions, the customer is under an obligation to give **written notice to MAC prior to the formation of a Contract** if
  - the Services under the Contract or the particular circumstances of the performance of Services are unusual or dangerous for the employees of MAC. The same shall apply if there are reasons to assume that the customer will not be able to fulfil its obligations according to section IV. of these International Installation, Repair and Service Conditions; or
  - there is a risk of atypical damages or unusual amounts of loss, in particular exceeding the limits set out in section X.-1.,

of which the customer is or ought to be aware of.

- Orders of the customer** have to be submitted in writing. If the customer's order deviates from the proposal or the tender submitted by MAC, the customer will emphasize the differences as such. Illustrations, dimensions, drawings and/or weight indications featuring in MAC's proposals, tenders or offers are only there as guidelines. Such information shall only be binding if and insofar as they are expressly stated as binding in the acknowledgement of the order by MAC or in other documents which become an integral part of the Contract.
- All orders, in particular also those received by employees of MAC, will take effect **exclusively if followed by a written acknowledgement** of the order by MAC. The actual performance of the Services, any other conduct of MAC or silence on the part of MAC does not allow the customer to assume the formation of the contract. MAC can dispatch such written acknowledgement of the order up to and including **fourteen (14) calendar days after** the customer's order has been received by MAC. Until this time, the customer's order is irrevocable.
- The written **acknowledgement of the order** by MAC shall be **received in time**, if it is received by the customer within fourteen (14) calendar days after its date of issue. The customer will inform MAC without delay in writing, if the written acknowledgement of the order is received with delay.
- The written acknowledgement of the order by MAC sets out all the **terms of the Contract** and brings the **Contract into effect** even if - except for the description or the price for the Services to be rendered - the written acknowledgement is not consistent with the declarations of the customer in every respect, especially with reference to the exclusive application of these International Installation, Repair and Service Conditions. The Contract will only fail to come into existence if the **customer objects in writing** that the acknowledgement of the order by MAC is not completely consistent with the declarations of the customer, the customer specifies the deviations in writing and if the objection is received by MAC within a short time, at the latest seven (7) calendar days, after receipt of the written acknowledgement of the order by the customer.
- Particular wishes** of the customer, namely particular guarantees or warranties with reference to the Services or the performance of the Contract, require the express written confirmation by MAC in every case.
- Confirmations of the Contract produced by the customer are of **no effect** without any objection by MAC being necessary. In particular, neither the actual provision of Services nor any other conduct of MAC nor silence on the part of MAC shall give rise to any belief by the customer in the relevance of his confirmation.
- MAC's **employees**, commercial agents or other sales intermediaries are not authorized to dispense with the requirement of a written acknowledgement of the order by MAC or to make promises which differ from its content or guarantees. If and to what extent such persons are authorized to make or receive declarations with effect for or against MAC, is to be determined according to German law.
- Amendments** to the concluded Contract always require written confirmation by MAC.

of which the customer is or ought to be aware of.

- Without prejudice to its continuing legal rights, MAC is entitled to fulfil his obligations **after the date or time periods agreed upon or set out in the schedule determined by MAC**, if the customer is informed that MAC will exceed the time limit and of the time period for late performance. Subject to aforesaid conditions, MAC is entitled to make repeated attempts at late performance. The customer can object to late performance within a reasonable time, if the late performance is unreasonable. An objection is only effective, if it is received by MAC before commencing late performance. MAC will reimburse necessary additional expenditure, proven and incurred by the customer as a result of exceeding the time limits to the extent that MAC is liable for this under the provisions laid down in section X.
- Without prejudice to its continuing legal rights and without a previous notice to the customer being necessary, MAC is entitled to **suspend the performance of its obligations** as long as, in the opinion of MAC, there are grounds for concern that the customer will wholly or partly fail to fulfil his obligations in accordance with the Contract. In particular, the right to suspend arises if the customer insufficiently performs his obligations pursuant to section IV.2 or to enable payment to MAC or to a third party or pays late. Instead of suspending performance MAC is entitled at his own discretion to make future deliveries, even if confirmed, conditional upon payment in advance or on opening of a letter of credit confirmed by a major German commercial bank. MAC is not required to continue with the performance of his obligations if a security given by the customer to avoid the suspension does not provide adequate security or could be challenged pursuant to an applicable law.
- Except as provided in section III.4., MAC is only obliged to inform the customer of **possible disruption in performance**, once the commencement of the disruption is definitely certain for MAC.
- In case of an **interruption or cancellation of the performance** of MAC's obligations, in particular the Services, due to reasons arising from the customer's sphere of risk or if the customer is in default with the acceptance of the Services, the risk as to the Services performed passes onto the customer. The same applies if the Services rendered are lost or deteriorate or if the performance of the Services becomes unfeasible due to reasons arising from the customer's sphere of risk.
- MAC shall only be obliged to comply with rules applicable at the customer's site if the customer has instructed the **assigned personnel ("Personnel")** of MAC and/or of his sub-contractors accordingly in writing and the instruction has been confirmed by the Personnel in writing.

classification society's rules and regulations) and/or legal regulations applicable to the vessel to which the Services refer (or, if not a vessel, the object to which the Services refer) at the time of the submission of the proposal or tender by MAC. MAC is **not obliged to perform obligations** not stated in the written acknowledgment of the order by MAC or in these International Installation, Repair and Service Conditions.

- MAC's obligations under the Contract are owed only to the customer. **Third parties not involved** in the formation of the contract, in particular the customer's clients, are not entitled to request the performance of the Services or to assert any other claim arising from the customer's Contract with MAC. MAC remains entitled to render the Services to and to demand acceptance from the customer even if the customer **assigns his rights under this Contract to third parties**.
- If further **specification** is required in relation to the Services, MAC will carry this out having regard to his own interests and to the identifiable and legitimate interests of the customer. A request to the customer to specify the Services, or to participate in the specification, is not required. MAC does not undertake to inform the customer of the specification he has made or to give the customer the option of a differing specification. In any event, where the customer has provided a specification and/or has provided requirements by the classification society in charge of the vessel, MAC is not obliged to check such specification or requirements except for immediately apparent errors. Immediately apparent errors for the purposes of this section are errors which are obvious without a verification or recalculation of the specifications or requirements or the facts taken as a basis thereof.
- Compliance with agreed **dates and time periods** for the performance of the Services is subject to the customer's procuring any required documents, releases, permits, approvals, licences or any other authorizations or consents in sufficient time and/or making down-payments as agreed and performing all other obligations incumbent upon him properly and in good time. Moreover, agreed completion time-periods begin on the date of the written acknowledgement of the order by MAC. After informing the customer, MAC is entitled to perform the Services earlier than at the agreed date or to select the date of performance within the agreed time period.
- If no dates or time periods have been agreed upon between the parties, MAC shall determine a **schedule** for the performance of the Services taking into account both its own interests as well as the apparent and legitimate interests of the customer.
- Without prejudice to its continuing legal rights, MAC is entitled to fulfil his obligations **after the date or time periods agreed upon or set out in the schedule determined by MAC**, if the customer is informed that MAC will exceed the time limit and of the time period for late performance. Subject to aforesaid conditions, MAC is entitled to make repeated attempts at late performance. The customer can object to late performance within a reasonable time, if the late performance is unreasonable. An objection is only effective, if it is received by MAC before commencing late performance. MAC will reimburse necessary additional expenditure, proven and incurred by the customer as a result of exceeding the time limits to the extent that MAC is liable for this under the provisions laid down in section X.
- Without prejudice to its continuing legal rights and without a previous notice to the customer being necessary, MAC is entitled to **suspend the performance of its obligations** as long as, in the opinion of MAC, there are grounds for concern that the customer will wholly or partly fail to fulfil his obligations in accordance with the Contract. In particular, the right to suspend arises if the customer insufficiently performs his obligations pursuant to section IV.2 or to enable payment to MAC or to a third party or pays late. Instead of suspending performance MAC is entitled at his own discretion to make future deliveries, even if confirmed, conditional upon payment in advance or on opening of a letter of credit confirmed by a major German commercial bank. MAC is not required to continue with the performance of his obligations if a security given by the customer to avoid the suspension does not provide adequate security or could be challenged pursuant to an applicable law.
- Except as provided in section III.4., MAC is only obliged to inform the customer of **possible disruption in performance**, once the commencement of the disruption is definitely certain for MAC.
- In case of an **interruption or cancellation of the performance** of MAC's obligations, in particular the Services, due to reasons arising from the customer's sphere of risk or if the customer is in default with the acceptance of the Services, the risk as to the Services performed passes onto the customer. The same applies if the Services rendered are lost or deteriorate or if the performance of the Services becomes unfeasible due to reasons arising from the customer's sphere of risk.
- MAC shall only be obliged to comply with rules applicable at the customer's site if the customer has instructed the **assigned personnel ("Personnel")** of MAC and/or of his sub-contractors accordingly in writing and the instruction has been confirmed by the Personnel in writing.

### IV. Obligations of the Customer

- The customer **shall fully support** the Personnel during the performance of the Services and shall make fully qualified employees available for this support. The customer's employees shall be fully insured and must be able to communicate with the Personnel in German or English. The customer shall also name a representative authorised to take decisions with regard to and in connection with the Services and the Contract in writing.
- Despite any further statutory legal duties, during and in relation to the performance of the Services the customer shall free of charge
  - obtain and maintain** all permits, licenses and/or approvals required for the Services. The customer shall support MAC in obtaining information about the rules and regulations applicable to the Services at the place where the Services are to be carried out;
  - provide MAC with access** to all data necessary to prepare and perform the Services;
  - where the Services are executed outside MAC's premises**, provide shuttle and/or launch services for the Personnel, the material and tools required for performing the Services to and from the vessel or other worksite from the Personnel's hotel or other point of arrival;
  - ensure an unlimited and safe **access to the working place and devices** where the Services shall be performed, including but not limited to providing scaffolding and/or cherry pickers. In particular, the customer must advise MAC and the

Personnel in writing of any particular risks or dangers inherent to the working place and the working place and devices shall be maintained gas free, cleaned and properly ventilated;

- e) ensure the **health and safety of the Personnel**, in particular and without prejudice to Clause IV.2.d) guarantee a safe working place and the compliance with all applicable health and safety regulations;
  - f) in case of hot works provide a fire watch and procure that fire protection is put into place in the work area and in all adjacent spaces as deemed necessary by the customer;
  - g) ensure that all **preliminary works** are duly completed prior to the commencement of the Services by MAC. The customer is responsible for the coordination with third suppliers, service providers or other contractors who provide such preliminary works as well as for all other interfaces of the Services with third parties;
  - h) inform MAC about all **requirements and documents needed** to obtain entry, exit and the work permits necessary in the country where the Services shall be rendered and assist the Personnel to fulfil these requirements and to provide MAC with the required documents;
  - i) make **medical treatment** available to the Personnel;
  - j) make appropriate **accommodation and catering** available to the Personnel;
  - k) **arrange for inspection and/or acceptance by the relevant classification society**, the flag state or any other authority or state or the fulfilment of any other class or statutory requirements.
3. The customer is obliged to **maintain sufficient hull & machinery and protection & indemnity insurance** during the performance of the Services aboard the vessel. Such insurance shall name MAC as co-assured with a waiver of recourse except within MAC's limits of liability set out in these International Installation, Repair and Service Conditions. Upon request by MAC the customer shall provide written evidence of such insurance and waiver of recourse within 10 calendar days and in any event before the Services are commenced.
4. In case the customer **fails to duly fulfil one of his obligations** according to section IV.1, IV.2. or IV.3.

#### V. Price and Payment

1. Irrespective of continuing obligations of the customer to guarantee or to enable payment, the customer undertakes to pay the **agreed price for the Services** in the currency specified in the written acknowledgement of the order **transferring it** without deduction and free of expenses and costs to one of the financial institutions designated by MAC. To the extent that a price for the Services has not been agreed, the price which is at the time of performance MAC's usual selling price for the Service will apply. MAC's employees, commercial agents or other sales intermediaries are not authorized to accept payments.
2. The payment to be made by the customer is in any event **due for payment** at the time specified in the written acknowledgement of the order or - if a time for payment is not indicated - on receipt of the invoice. The due time for payment arises without any further pre-condition and, in particular, does not depend on whether the customer has already accepted the Services. The **periods granted for payment** will cease to apply and outstanding accounts will be due for immediate payment, if insolvency proceedings relating to the assets of the customer are applied for, if the customer does not meet fundamental obligations due towards MAC or towards third parties without providing a justifiable reason, if the customer has provided inaccurate information regarding his creditworthiness or to the extent that the cover given by a credit insurer for the customer is reduced on grounds for which MAC is not responsible.
3. Regardless of the currency and of the jurisdiction of any arbitral tribunal or court, MAC is entitled at his own discretion to **set off** incoming payments against claims existing against the customer (whether such claims are own claims or based on assigned rights) at the time of payment.
4. Any statutory rights of the customer to **set-off** against claims of MAC, to **withhold payment** or acceptance of the Services, to **suspend** the performance of his obligations or to **raise defences or counterclaims** are excluded, except where the corresponding claim of the customer against MAC is in the same currency, is founded in the customer's own right and is either due and undisputed or has been finally adjudicated or where despite written warning by the customer MAC has committed a fundamental breach of his obligations due and arising out of the same contractual relationship, and has not offered any adequate security.
5. Notwithstanding any further statutory or contractual legal rights of MAC, if the contract is terminated prior to the completion of the Services the customer **shall pay the agreed price pro rata** for the Services completed by that time.

#### VI. Changes and Modification/Additional Work

1. If the Services need to be changed and/or modified and/or additional Services must be carried out **due to legal requirements or technical reasons**, the time periods set out in the written acknowledgement of the order shall be prolonged correspondingly. If, in the opinion of MAC, the changes and/or modifications require an adjustment of the price or the payment, MAC has the right to request invoicing on a time and material basis applying the standard hourly rates by MAC as specified in the written acknowledgement of the order. Such invoice as well as worksheets presented by MAC in support of the invoice shall be binding on the customer unless a written objection specifying the grounds of such objections is received by MAC within 10 (ten) working days of the date of the invoice having been sent to the customer. If the customer objects the invoicing on a time and material basis within the aforementioned timeframe, MAC will propose the adjusted price or payment conditions to the customer. Alternatively, MAC shall be entitled to terminate the contract.
2. Any other changes and/or modifications of the Services and/or the performance of additional Services **may be agreed but are subject to a written agreement** between the parties including necessary adjustments of the working schedule or the agreed price for the Services or both. MAC shall under no circumstances be obliged to accept changes and/or modification of the Services and/or to render additional Services and may refuse to execute same. This applies irrespective of any reasons for MAC's refusal to implement changes and/or modifications of the Services and/or the performance of additional Services, but in particular if the changes and/or

modifications and/or additional Services – in MAC's reasonable judgement - interfere with the other commitments on the side of MAC to other customers.

3. Notwithstanding any rights of the customer pursuant to the contract or these International Installation, Repair and Service Conditions, MAC shall be entitled to **carry out minor changes and/or modifications** of the Services in order to improve the quality of the Services or to accelerate the Services or due to technical reasons without informing the customer in advance.

#### VII. Completion and Acceptance of the Services

1. MAC shall **notify the customer** about the completion of the Services in writing.
2. The customer shall examine the Services at the time of their completion within short time after having received the notification of completion of the Services. The customer is **obliged to notify MAC about any defects or deficiencies** immediately, but in no case later than ten days after the examination in writing. MAC's employees, commercial agents or other sales intermediaries are neither authorized to receive notifications of deficiencies nor to make declarations with regard to guarantee rights.
3. After the examination of the Services set out under VII.2. the customer **shall accept** the Services. The obligation of acceptance shall also apply if the Services have been interrupted or terminated prior to the completion due to circumstances for which the customer is responsible. The acceptance shall be deemed to have taken place not later than one week after the customer has started to use the Services, or, if the customer has not started to use the Services, two weeks after the information of the completion of the Services, unless the customer does object to the acceptance or requests a joint meeting for the acceptance.
4. Defects and/or deficiencies shall **not release** the customer from the acceptance of the Services according to VII.3. unless the defects and/or deficiencies constitute a fundamental breach of the contract in which case the customer shall have the duty to accept those parts of the Services which have been performed free of such defects and/or deficiencies.

#### VIII. Defects and Deficiencies of the Services

1. Without prejudice to any exclusion or reduction of liability of MAC provided by law, the Services do **not conform with the Contract** if the customer proves that, taking into account the terms in section III., at the time of the completion of the Services the quantity or quality of the Services is significantly different to the specifications laid down in the written acknowledgement of the order or in these International Installation, Repair and Service Conditions, or do not comply with the contractual requirements made to the Services, or in the absence of agreed specifications or contractual requirements, the Services are not fit for the use aboard cruise vessels or commercial cargo ships, as the case may be.
2. To the extent that the written acknowledgement of the order by MAC does not contain an explicit statement to the contrary, MAC is in particular **not liable** for the Services being fit for a purpose which is not usual for use aboard cruise vessels or commercial cargo ships, as the case may be. To the extent that the customer, either himself or through third parties, initiates the removal of non-conformities without the prior consent of MAC in writing, MAC will be released from his liability.
3. Following **due notice** according to section VII.2., the customer can rely on the remedies provided by these International Installation, Repair and Service Conditions. The customer has no other rights or claims whatsoever and no claims of a non-contractual nature due to performance of non-conforming Services. The remedy of non-conforming Services by MAC shall have no effect to the time bar period for guarantee claims of the customer. In the event of **notice not having been properly given**, the customer may only rely on remedies if MAC has intentionally concealed the lack of conformity of the Services with the Contract. Statements by MAC as to the lack of conformity with the contract or as to the deficiency in title are for the purpose of explaining the factual position only, but do not entail any waiver by MAC of the requirement of proper notice.
4. If the customer instructs a third party with the remedy of a defect or deficiency, **MAC shall only be liable** for the costs of such remedy to the extent these costs would have been incurred if MAC remedied the defect/deficiency.
5. To the extent that the customer in accordance with the terms of these International Installation, Repair and Service Conditions is entitled to remedies because of the non-conformity of the Services, the customer is entitled to **demand rectification of the defect or deficiency by MAC or to reduce the price for the Services**. The customer shall only be entitled to damages according to section X.1. Further rights to demand performance are not available to the customer. Irrespective of the customer's remedies, MAC is always entitled to rectify defects and/or deficiencies in accordance with the Contract and these International Installation, Repair and Service Conditions or to avert the customer's remedies by giving him a credit note of an appropriate amount.

#### IX. Avoidance and Termination of the Contract

1. The **customer** is only entitled to declare the Contract avoided in case of a fundamental breach of the Contract and, if the respective applicable legal requirements are complied with, after he has threatened MAC within a reasonable time after the facts justifying the avoidance of the Contract have occurred with avoidance of the Contract in writing and an additional period of time of reasonable length for performance fixed in writing has expired to no avail. If the customer claims rectification of a defect and/or deficiency or reduction of the price, the customer is bound for a reasonable period of time to the chosen remedy, without being able to exercise the right to avoidance of the Contract. In any event, the customer must give notice of avoidance of the Contract within reasonable time after the additional period of time has expired in writing and to MAC directly.
2. Without prejudice to his continuing legal rights, **MAC** is entitled to avoid the Contract in whole or in part if the customer objects to the application of these International Installation, Repair and Service Conditions, if the implementation or performance of the Contract is prohibited by the law in whole or in part, if on grounds for which MAC is not responsible the written acknowledgement of the order by MAC is received by the customer more than fourteen (14) calendar days after its date of issue, if insolvency proceedings relating to the assets of the customer are applied for, or if for other reasons MAC cannot be expected to fulfil his obligations by means which - taking into consideration his own interests and that of the customer as far as ascertainable and legitimate at the time of formation of the Contract - are unreasonable, in particular in relation to the agreed counter-performance.

3. If the customer **fails to duly fulfil one of his obligations** and does not remedy his breach of the contract at the latest within five calendar days after the corresponding notification by MAC according to IV. 3. MAC shall be entitled to terminate the contract with immediate effect.

## X. Damages

1. Without waiving the legal requirements, **MAC** is only obliged to **pay damages** due to the breach of obligations resulting from the Contract with the customer, the contractual negotiations carried out with the customer, the business relation with the customer or non-contractual duties in accordance with the following provisions. These provisions apply equally for all of MAC's obligations to **reimburse expenses**.
  - a) In case of defect or deficiencies of the Services, the **customer is required in the first instance to rely** on other remedies and can only claim damages in the event of a continuing deficiency. The customer cannot claim damages as an alternative to other remedies.
  - b) MAC is not liable if the **Contract cannot be performed** as agreed at the time of its formation due to subsequent statutory or sovereign measures. Neither is MAC liable for impediments which occur, as a consequence of natural or political events, acts of state, industrial disputes, sabotage, accidents, terrorism, biological, physical or chemical processes, epidemics or pandemics, or comparable circumstances and which cannot be controlled by MAC with reasonable means.
  - c) Subject to the provisions below, **MAC shall only be liable for loss and damages** caused by an intentional or grossly negligent breach of its contractual or legal duties.
  - d) **In case of damages to the vessel or the other object of the Services** incurred during the performance of the Services, MAC shall only be liable if the loss or damage is caused by an intentional or grossly negligent breach of contractual or legal obligations by the corporate bodies or senior management of MAC. MAC shall not be liable for any loss of or damage to the vessel or other object of the Services suffered by the customer resulting from a grossly negligent violation of duty, including, but not limited to, the violation of the duty of care and supervision by non-managerial persons employed by MAC in the performance of his obligations.
  - e) The limitations and exclusions of liability under c) and d) **shall not apply** if the claims for damages arise from the provisions of the Product Liability Act, personal injury or impairment of health of the customer or its employees or representatives caused by a breach of duty for which MAC is responsible, or the violation of MAC's essential contractual obligations. Obligations that are essential to the Contract are those the fulfilment of which allows MAC to properly perform its primary contractual obligations in the first place and the observance of which the customer regularly trusts and is entitled to expect.
  - f) In the event of the **violation of an essential contractual obligation**, the customer's claim for damages against MAC shall be limited to the foreseeable damage typical for this type of contract, to the extent that there is neither a willful misconduct or gross negligence, nor is MAC liable for injury to health and physical injury of the customer or its employees or representatives. A loss or damage that must be typically expected when the essential contractual obligation has been violated is deemed typical of this type of contract/foreseeable.
  - g) A violation of any of MAC's obligations **shall also be deemed to have occurred** if committed by MAC's duly authorized representative or any person employed by MAC in the performance of its obligations.
  - h) MAC is **not liable** for loss of profit or damage to reputation. Moreover, the amount of damages for late or non-existent performance is limited to 0.5 per cent for each full week of delay, up to a maximum of 5 per cent of the net contract price, and in case of remedies because of another breach of contract is limited to an amount of 200 per cent of the value of the non-conforming part of the contract. However, this subparagraph does not apply to injury of life, body or health, to intentional concealment of the non-conformity of the Services and to breaches of contractual obligations due to intentional harm or gross negligence for which MAC is liable.
  - i) For breach of contractual, pre-contractual or obligations resulting from the business relation owed to the customer, MAC is **obliged to pay damages** exclusively in accordance with the provisions of these International Repair and Service Conditions. Any recourse to concurrent bases of claim, in particular of a non-contractual nature, is excluded. ]
  - j) Any recourse against MAC's **company organs, employees, servants, members of staff, representatives and/or those employed by MAC** in the performance of his obligations on grounds of breach of contractual obligations owed by MAC shall be excluded.
  - k) Insofar as the limitation period may not already have barred the claim, claims for damages brought by the customer **are excluded** after six (6) months beginning with the rejection of the claim for damages by MAC.
2. Irrespective of continuing statutory or contractual claims, the **customer** is obliged to pay **damages** to MAC as follows:
  - a) In the event of **delay in payment**, the customer will pay a lump sum of EUR 50.00, the costs of arbitral, judicial and extra-judicial means and proceedings, usual and accruing within the country and abroad, as well as (without evidence being necessary) interest at the rate applicable in 22041 Hamburg/Germany for unsecured short-term loans in the agreed currency, at least however interest at 9 percentage points over the base rate of the German Federal Bank (Deutsche Bundesbank).
  - b) In the case of a **late performance** of the Services or additional travelling due to circumstances for which the customer is responsible, the customer shall reimburse on first demand any costs and expenses claimed by MAC irrespective of later proof by the customer that the costs and expenses did not incur at all or were significantly lower.

## XI. Other Provisions

1. In relation to pictures, drawings, calculations and other documents and computer-software, which have been made available by MAC in a material or electronic form, the latter reserves **all proprietary rights, copyrights, other industrial property rights as well as know-how rights**.

2. Subject to written objection by the customer, **personal data**, which MAC receives from the customer in the execution of activities covered by these International Installation, Repair and Service Conditions, are processed by MAC and also by service providers located in Germany or abroad.
3. MAC is entitled to place his logo onto his installations and other products of the Services, which may not be removed.
4. All communications, declarations, notices etc. are to be drawn up exclusively in **German or English**. Communications by means of fax or e-mail fulfil the requirement of being in **writing**.
5. MAC is **entitled to sub-contract** any of his obligations under the Contract or these International Installation, Repair and Service Conditions to third parties.
6. Except as otherwise provided in these International Installation, Repair and Service Conditions, any right of the customer under this Contract shall become **time-barred** upon the expiry of twelve months after the statutory commencement of the limitation period. In case of a remedy of a defect or deficiency of the Services, a further time bar period of twelve months shall apply to the remedied part of the Services for claiming defects or deficiencies beginning with the completion of the remedy, but in no case exceeding a maximum of eighteen months after the commencement of the time bar period pursuant to the preceding sentence. The time bar periods applicable to the contractual claims of the customer against MAC shall also be applicable to any other claims of the customer against MAC out of the same factual reason. Insofar as the limitation period may not already have barred the claim, any claims brought by the customer are excluded after **six (6) months** beginning with the rejection of the claim for damages by MAC.

## XII. General Basis of Contracts

1. The formation of Contract, including agreements as to the jurisdiction of courts and arbitrators, its amendments or alterations, and the contractual rights and obligations of the parties, also including the liability for death or personal injury caused by the goods to any person and breach of pre-contractual and collateral obligations, as well as the interpretation are exclusively governed by these International Installation, Repair and Service Conditions and **German law, however** excluding sections 305 to 310 of the German Civil Code.
2. All contractual and extra-contractual disputes as well as disputes under insolvency law, arising out of or in connection with contracts to which these International Conditions of Sale apply, including their validity, invalidity, breach or cancellation as well as other disputes arising out of the business relationship with the customer shall be finally resolved, without recourse to the ordinary courts of law, by arbitration according to the **Arbitration Rules of the German Maritime Arbitration Association (GMAA Rules)** in force on the date when the Notice of Arbitration is received in accordance with these Rules. The tribunal shall consist of three (3) arbitrators, one (1) of them shall be nominated by the claimant, one (1) of them by the respondent and the chairman of the tribunal shall be designated by the two arbitrators so nominated, or if the amount in dispute is inferior to €250.000, there shall be one (1) arbitrator appointed according to the GMAA Rules. The place of the arbitration shall be Hamburg/Germany, the languages used in the arbitral proceedings shall be German and/or English. The competence of the Arbitral Tribunal excludes especially every statutory competence of state courts, which is provided by reason of a personal or substantive relation. If this arbitration clause is ineffective or ceases to be effective, the non-exclusive jurisdiction of the courts which have jurisdiction for 22041 Hamburg/Germany is agreed for all disputes instead. If the relevant place of business of the customer is within the European Economic Area (EWR) or Switzerland, irrespective of any ineffectiveness of the arbitration clause and instead of bringing an action before the arbitral tribunal, MAC is also entitled to bring an action before the State Court which has jurisdiction for 22041 Hamburg/Germany or the State Court of the customer's place of business.
3. If provisions of these International Installation, Repair and Service Conditions **should be or become partly or wholly ineffective**, the remaining arrangements **will continue to apply**. The parties are bound to replace the ineffective provision with a legally valid provision, as close as possible to the commercial meaning and purpose of the ineffective provision.