

### Conditions of Assembly

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#### 1. Area of Application

These conditions shall apply to all applications to which we delegate skilled workers, in particular for

- Assembly and commissioning of machinery and equipment sold ex works
- Assembly of machinery and equipment of other companies involved in connection with our machines
- Assembly on occasion of repairs
- Delegations for test applications

All assembly work is exclusively subject to our Conditions of Assembly. Any additional agreements, or general conditions, which are in contrast to or deviating from our Conditions of Assembly, will not be valid unless explicitly approved by us in writing.

#### 2. Working Conditions

The customer is responsible, at his expense, for the following technical aids:

- 2.1. Providing the required skilled workers such as crane operators, fork lift truck operators, bricklayers, fitters, electricians, assistants etc. These workers should be selected in agreement with our representative. Unsuitable personnel may be rejected. The workers must obey orders of our assembly personnel. We are responsible for damages only if our assembly personnel has evidently given false orders to the workers.
- 2.2. Providing the required assembly and lifting equipment (fork lift trucks, cranes), lubricants, cleaning materials, hardware, cutting gas, compressed air, electricity.
- 2.3. Providing proper residence and working rooms to store personal property, tools and equipment of our assembly personnel. Should the above-mentioned equipment be lost, the customer shall be responsible for replacement.
- 2.4. Providing all construction needs, particularly the construction of the required foundations before assembly.
- 2.5. The customer is responsible for suitable working conditions, for the structural safety of the working site, and the observation of the existing safety regulations.
- 2.6. If the customer does not fulfil the afore-mentioned obligations, we are entitled, however not obliged, to employ workers and equipment, respectively, on our own or by third parties at the customer's expense.

#### 3. Risks and Delays

- 3.1. In case of labour unrest and delays incurred through no fault of us, the customer will extend the time period for assembly to a proper extent. Costs incurred due to the delay will be borne by the customer.
- 3.2. Point 6.6 of these Conditions of Assembly shall apply exclusively to any claims of the customer resulting from delay.
- 3.3. In case of loss or deterioration of assembly parts in transit to the assembly site through no fault of our own, the customer will pay the costs of assembly minus our expenditures. If the assembly work ordered cannot be carried out or completed, the costs incurred also have to be borne by the customer. Repeating the assembly work requires a separate agreement.

#### 4. Costs Borne by the Customer

- 4.1. Our machinery is delivered in accordance with the delivery contract. Assembly material such as feeder and discharge lines for water, waste water, steam, electricity, air-conditioning etc. are not part of our delivery and must be provided by the customer. If the assembly material is to be provided by us, this will be billed separately.
- 4.2. We compute the costs for delegating our assembly personnel and tools in accordance with the attached assembly rates.
- 4.3. The cost for trips and for local transportation of our assembly personnel (including the cost of transportation and shipping insurance of personal property as well as hand carried and shipped tools) plus special expenditures accounted for by receipts will be billed. When using the railways, engineers are entitled to first class, other assembly personnel to second class transportation up to 500 km and to first class over 500 km. When using our own vehicles or those of our assembly personnel, the customer will pay a mileage fee or a lump sum as agreed.
- 4.4. When assembling outside the Federal Republic of Germany, duties, fees, taxes and charges levied by local authorities are to be refunded by the customer.
- 4.5. Our assembly personnel will submit properly completed work proofs (man-hour slips) to the customer for authorisation. Upon recognition by the customer, the work proof is binding for both parties and will form the basis for billing.

4.6. All assembly invoices are to be paid immediately upon receipt without any discount. Retention and offset are prohibited. Billing the cost of assembly will be weekly, monthly or upon completion of assembly at our discretion.

4.7. In case of tax liability the value added tax will be added to the net amounts of actual costs such as hourly rates, daily allowances, expenses, laundry, medicine, phone calls (with and without receipt), exchange fees, bank fees and the like.

#### 5. Acceptance and Claims under Warranty

- 5.1. Upon termination of the assembly work, the customer must accept the completed assembly. Contractual damages of the assembly will be repaired as agreed. We are not liable to repair defects non-essential for the interest of the customer or attributable to customer action. The repair of the defect or the detection, resp. of a non-essential defect or one attributable to customer action obliges the customer to accept the assembly.
- 5.2. Notification of assemblies that have not been accepted is to be made in writing within 10 working days. After that period acceptance is considered to have taken place.
- 5.3. We are liable for defects of assembly occurring within six months after acceptance of the assembly. Notification of such damages must be made in writing within 10 working days of occurrence. We are liable to the exclusion of all other claims of the customer to the extent of having to repair the defects. This does not apply to defects non-essential for the interest of the customer or defects attributable to customer action. The period of limitation of the warranty for defects is extended for the time period during which operations had been interrupted due to repair work.
- 5.4. In urgent cases, i.e. when:
  - the safety of operation is impaired.
  - unproportionally great damages are to be avoided
  - the repair of the damage is delayed by BHSthe customer has the right to repair the defect himself or have it repaired by a third party and to demand a refund of the required expenditures.
- 5.5. The customer is entitled to a reduction:
  - if we allow a suitable additional time period granted to remove the defects to pass without action on our part
  - if we cannot repair the defect because it is impossible or if we are incapable to do so.

#### 6. Liability

- 6.1. If part of the assembly delivered by us is damaged during assembly through our fault, the costs for repairing this part are to be borne by us.
- 6.2. The customer is obliged, at his expense, to protect our assembly parts and our tools against fire and theft properly by taking out a corresponding insurance, irrespective of whether the liability for the delivered parts has passed on to him according to the contract of purchase, or not. We shall not accept any liability for damages as a result of fire and theft.
- 6.3. The customer may install outside assembly parts with our assembly personnel only upon our permission. We do not accept any liability for such an assembly.
- 6.4. Repairs and changes will be performed by us without warranty and at the risk and the responsibility of the customer.
- 6.5. If equipment or tools provided by us are lost or damaged through no fault of our own, the customer is held liable to replace them.
- 6.6. We shall only be liable for damages not occasioned to the assembly part itself – irrespective of the legal grounds – in the case of intent or gross negligence on the part of the proprietor, the institutions or the managerial staff, in the case of culpable loss of life, physical injury or damage to health and in the case of defects which we maliciously failed to disclose or whose absence we had guaranteed, provided that liability is incurred according to the product liability laws for personal injury or damage to property in relation to items of private use. In case of culpable violation of essential contractual obligations, we shall be responsible for cases of gross negligence of staff members and in cases of ordinary negligence only for damage inherent to the contract, foreseeable in a reasonable way. Any further claims are excluded.

#### 7. Duration, Applicable Law, Place of Jurisdiction

The above Conditions of Assembly and assembly rates are based on the Collective wage agreement in force on the date of conclusion of the contract. Any modification of these industrial agreements authorises us to modify these Conditions of Assembly accordingly. The assembly contract is subject to German law as far as permissible by the law of the country where the work is performed. Place of jurisdiction for all litigation under this contract is Munich. However, we also reserve the right to appeal to a court of competent jurisdiction for the customer.