

Terms & Conditions for Repairs and Installation Services

(04/2016)

We do business exclusively on the basis of the Terms & Conditions for Repairs and Installation Services (hereinafter referred to as the Conditions) set forth below. These Conditions apply to installation work, supervision of such work in connection with sales contracts and the execution of separate contracts covering installation or repairs.

Any terms and conditions of the Customer that we have not explicitly acknowledged in writing will be immaterial even if we fail to explicitly object to such terms and conditions.

I. Payment

1. We bill our services on the basis of time worked. The rates shown in the currently applicable price list plus value-added tax or – in the case of installation in another country – any tax due in the jurisdiction in which the site of installation is located and any other fiscal charges will be applied.
2. Amounts billed will be based on time sheets signed by the Customer. Invoices will be issued either monthly or upon completion of installation.
3. Payment will be due in full without any deductions. Only undisputed or legally enforceable claims may be offset.

II. Tools, Materials and Supplies

1. We will provide all hand tools required for installation. The Customer must make available all other tools unless specified otherwise in the order confirmation.
2. We can make available hoists, welding equipment, etc., and all necessary mechanical equipment, in which case such equipment will be billed separately. However, the conditions and the amount of compensation must be agreed in writing.
3. The Customer agrees to indemnify us in the case of loss or damage to any equipment or tools made available by us. This will not apply in the case of damage or loss that can be attributed to us.

III. Duties of the Customer

1. The Customer agrees to obtain any necessary regulatory permits, including but not limited to special permits for work under especially dangerous circumstances, night work and work on Sundays and holidays.
2. The Customer must inform our Assembly Manager of the existence of any special safety regulations and, in the case of installation work in other coun-

tries, of any applicable local regulations governing the execution of the work.

3. The Customer will be responsible for any special measures required to protect persons and property on the installation site. The Customer will fulfil any reasonable request for additional safety measures made by our assembly personnel. Assembly personnel may refuse to commence work in the case of – as compared with German standards – inadequate safety measures.
4. The Customer will designate an authorized and responsible contact person on the construction site. The Customer will also make available appropriate skilled and unskilled personnel in such numbers and with such qualifications as are required during installation and start-up. Such personnel must follow the instructions of the Assembly Manager. We will accept no liability for such employees. If the event unskilled personnel of the Customer should cause any damage due to the instructions of our Assembly Manager, the scope of our liability will be limited to that defined in paragraph VIII.3.
5. In the case of installation in another country, the Customer will be responsible for timely procurement of visas, work permits and other official documents. The Customer will also provide the support and assistance required to comply with customs formalities involved in the import and export of equipment and tools.
6. In the event the Customer has agreed to provide for accommodation for our personnel, such accommodation must correspond to a three-star hotel according to European rating standards. The Customer will inform us of the name of the contemplated establishment and obtain our approval before booking the accommodation.

IV. Conditions for Installation

1. In the event delivery by truck is necessary or agreed, the installation/construction site must be able to withstand vehicular traffic.
2. The Customer will assume responsibility for proper unloading and transport of materials, tools, etc., on the site.
3. The installation site must be suitable and ready for installation; in particular, all necessary construction work must be completed prior to commencement of installation. The Customer must therefore ensure that all necessary foundations have been provided, that all penetrations through walls and floors have been made and that all fire protection and masonry

work has been completed. Electrical wiring, including branch circuits and protective devices, as well as, if necessary, a source of compressed air and cooling water must be present. In the event pipe-work to be installed by us cannot be attached to the building structure, the Customer will provide the required support fixtures. We will be under no obligation to provide assistance or support in this connection.

4. The Customer will be responsible for proper installation of equipotential bonding and grounding.

V. Technical Support

1. The Customer will provide electrical power, hoisting equipment, heating, etc., including the required connections.
2. The Customer will also provide dry, lockable rooms for the storage of the tools and equipment of installation personnel. The Customer will make available burglar-proof day rooms and work rooms, including furnishings, heating, lighting, washing and sanitary facilities, as well as first aid facilities for installation personnel.
3. The Customer will make available all materials required to make final adjustments on the equipment covered by the present Conditions or trial operation as called for under the corresponding contract.
4. Technical support provided by the Customer must make it possible to commence installation without delay upon the arrival of installation personnel and carry out all necessary work up to the time of acceptance by the Customer. In the event any special plans or instructions are required from us, we will make such plans or instructions available to the Customer on a timely basis.

VI. Substitute Performance

If the Customer should fail to meet the obligations pursuant to paragraphs III through V above, we may, but will be under no obligation to, take the measures for which the customer is responsible in place of and at the expense of the Customer after giving prior notice and setting an appropriate period for compliance.

VII. Duration of Installation, Acceptance

1. The Customer agrees to accept the installation services at the time announced. Our verbal announcement prior to departure for the installation site will also constitute such announcement. In the event installation cannot be carried out at the agreed time for reasons attributable to the Customer, the Customer will reimburse us for any costs, expenses or losses incurred. The same will apply in the case of any interruptions of our work attributable to the Customer.
2. All information provided as regards the likely duration of installation must be considered to represent a non-binding estimate. The duration of installation will to a considerable extent depend upon condi-

tions on the site of installation and the assistance and support provided by the Customer. The duration of repair work will depend upon the scope of the work as determined on site.

3. Any date specified for completion of installation will be extended commensurately if installation is delayed by events occurring in connection with labour disputes, including but not limited to strikes and lockouts or the occurrence of circumstances beyond our control, e.g., an increase in the planned scope of work.
4. The Customer will accept installation work after notification of completion and completion of any trial run agreed previously.
5. In the event acceptance is delayed for reasons beyond our control, the work will be considered to have been accepted two weeks after notification of completion of the work. We will expressly inform the Customer of this fact upon notification of completion of the work.

VIII. Warranty

1. Once the installation/repair work has been accepted by the Customer, our liability for defects will be limited to correction and, unless stipulated otherwise herein, all further claims of the Customer will be excluded. The Customer must notify us in writing without delay in the event any defects are ascertained.
2. We will not be liable for defects of a negligible nature.
3. We can assume no liability in the case of modifications or maintenance carried out by the Customer or third parties without our consent.
4. The Customer may proceed to correct defects or have defects corrected by third parties in compliance with the provisions of law in emergencies or in the case of the existence of imminent danger or to prevent disproportionate damage or if a period of cure set by the Customer has lapsed with no response on our part. The Customer must notify us without delay in any such case.
5. In the event the Customer's complaint should prove unjustified, the Customer will reimburse us for costs and expenses incurred.
6. If we should fail to react within an appropriate period of time set by the Customer, the Customer may reduce the contract price to the extent allowed by law. The Customer may cancel or withdraw from the contract only if it can be demonstrated that installation would be of no interest to the Customer even if the price is reduced.
7. Claims for damages arising from defects will be limited as follows: We will not be liable in the case of slightly negligent breach of non-material contractual obligations. We will not be liable for consequential damages except in the case of wilful misconduct, gross negligence or breach of material contractual obligations. Any liability on our part for consequential damages will be limited to liability for

foreseeable damage not due to unusual circumstances. The above limitation of our liability will not restrict claims of the Customer arising from bodily injury, illness or loss of life suffered by the Customer or agents of the Customer. Claims of the customer under the German Product Liability Act (*Produkthaftungsgesetz* – ProdHaftG) and claims under any warranty extended by us or arising from fraudulent concealment will also remain unaffected.

IX. Liability, Limitation of Liability

1. The following restrictions will apply as regards our contractual and non-contractual (for tortious acts) liability as well as liability arising from fault in conclusion of contract (*culpa in contrahendo*). We will bear the burden of proof as regards the existence of facts concerning limitation or exclusion of liability.
2. We will not be liable for any slightly negligent breach of non-material contractual obligations.
Our liability will be limited to claims for typically foreseeable damages in the case of slightly negligent breach of material contractual obligations. Material contractual obligations are such obligations as must be fulfilled to permit proper performance of the contract and upon which the Customer may rely.
In the case of grossly negligent breach of non-material contractual obligations, our liability will be limited to claims for typically foreseeable damages. Our liability will otherwise not be limited.
In the case of slightly negligent default our liability will be limited to 5% of the agreed price.
3. Our liability will not be limited in the case of loss of life, bodily injury or illness.

X. Limitation Periods

All claims of the Customer will become time-barred after 12 months. The limitation periods prescribed by law will apply for claims for damages pursuant to section IX. The legal limitation periods will also apply in the

event we carry out installation work involving a structure and thereby cause it to become defective.

XI. Applicable Law and Jurisdiction

1. The Agreement will be governed by and construed exclusively in accordance with German law to the exclusion of the CISG.
2. Any disputes arising from this contractual relationship will be submitted to the jurisdiction of the courts of Bad Oeynhausen, Germany, if the Customer is a businessman, a public law corporation or special fund under public law. We may, however, at our discretion, take action before the courts having jurisdiction over the registered place of business of the Customer.
3. If the Customer maintains its registered place of business outside Germany, disputes will be submitted to arbitration in Basel pursuant to the Rules of International Arbitration of the Swiss Chambers of Commerce. The court of arbitration will consist of a single arbitrator if the amount in controversy is under € 100,000 and three arbitrators in the case of higher amounts. Arbitration proceedings will be conducted in English.

XII. Data Protection

1. We collect data on customers as required to carry out our work. In so doing, we comply with the provisions of the Federal Data Protection Act (*Bundesdatenschutzgesetz* – BDSG) and the Telecommunications Act (*Telemediengesetz* – TMG). We will not collect, process or use personal or other data on the Customer without consent except insofar as necessary to fulfil our obligations under the respective contract and to use and invoice telecommunication services.
2. We will not use data on the Customer for the purposes of the advertising, market research or opinion polling without consent.