

General Terms and Conditions of Assembly

I. General

(1) All assemblies shall be made on the basis of the following General Terms and Conditions of Assembly. Deviating terms of the purchaser that have not been accepted explicitly and in writing shall not be binding to us, even if we did not reject them explicitly.

(2) Verbal agreements have not been made.

II. Prices and billing

(1) Charging rates

For the provision of assembly personnel we charge for the time being, rates as stated in our submitted proposal, per travelling hour, working hour and waiting hour each at a weekly working time of 40 hours, from Monday to Friday.

(2) Overtime - Premium

Overtime will be charged based on the charging rates, namely:

- For the first two hours of overtime a day, and the first two working hours on Saturdays as well **25 %**
- From the third hour of overtime a day respectively from the third working hour on Saturdays as well as for Night Shift hours **50 %**
- For work on Sundays **70 %**
- For work on public holidays and for Night shifts prior to Christmas and New Year's Day **150 %**

(3) Night shift is the working time between 08:00 p.m. and 06:00 a.m.

Public holidays are those statutory in the country where the site is located.

Travelling time is deemed to be working time. In the event normal working time (8 hours/day) is exceeded due to travelling and working or only due to travelling, these hours will be charged with the respective overtime premium.

(4) For the provision of a mobile workshop or a tool kit container we charge separately per working and travelling day as informed in the proposal. We state furthermore the extra-costs for each kilometre driven.

(5) Daily allowance per day of absence from Düren is either included in the daily rates or mentioned separately.

(6) Expenses for overnight accommodation will be charged according to receipt or flat as per quote.

(7) If the assembly necessitates the permanent absence of the assembly personnel from Düren, a journey home is due to a person who is married every 8 weeks and to a person who is unmarried every 12 weeks. Journey time and journey costs will be charged.

(8) In the event that collective agreement will be changed during the assembly or that the Daily Allowance is not sufficient, ZMK reserves the right to adjust the rates.

(9) Baggage and tool kit transportation costs from Düren to the assembly site and back, transportation costs for valves and spare parts as well as the daily transportation costs at the place of assembly, furthermore telephone, telegram and postal charges, will be charged in the accumulating amount.

(10) Daily home-to-office time will be charged, if the time between accommodation and site and back adds up to a total of 1 hour and more.

(11) Work preparation and completion costs will be charged according to requirements, but at least with 1 hour for each job at the charging rate.

(12) Extra charges for heat, height, mud, dust, sulphur and water will be charged up to max. 50 % of the hourly charging rate.

(13) The extra charges have to be attested on the time sheets. Possible incorrectness has to be noted by the purchaser on the time sheets. The information of the time sheets is used as a basis for the invoices, also in the event that the purchaser has not attested the hours, although the time sheets were presented to him.

(14) If our assembly personnel carries out works which necessitate special working clothes (waterproof respectively acid-proof protective clothing, rubber boots, face masks, breathing protection equipment and special gas warning devices etc.), the protective clothing and equipment has to be provided free of charge for the duration of the works

by the purchaser. In the event that the acquisition is carried out by ZMK, the parts will be charged against receipt.

(15) We are entitled to monthly billing; in case of briefer assemblies immediately after the completion of assembly. Invoices are payable immediately after receipt.

III. Technical support of the purchaser

(1) The purchaser has to support the assembly personnel during the assembly at his own expense.

(2) He has to take all the special measures which are necessary to protect persons and property at the assembly site. He also has to inform the site supervisor about existing specific safety regulations, as far as those safety regulations are of significance for the assembly personnel. He informs ZMK or our authorized site supervisor on site about offences of the assembly personnel against such safety regulations. In the event of severe offences he is entitled to refuse access of the offender to the site in consultation with the site supervisor.

(3) The purchaser is obliged to render technical support at his own expense, in particular;

- provision of a German or English speaking liaison officer and the necessary miscellaneous qualified persons (e.g. electricians, scaffolders etc.) in the required number for the assembly order and for the time needed; the back staff has to follow the instructions of the site supervisor. ZMK assumes no liability for the back staff of the purchaser; ZMK is entitled to demand the replacement of unqualified persons from the purchaser. If the back staff caused a defect or damage due to instructions of the site supervisor, section VI. of these general terms applies respectively.
- execution of all earthworks, construction works, foundation works and scaffold works including the acquisition of the needed materials.
- provision of the necessary devices and heavy implements (e.g. hoisting devices), as well as the necessary utensils and material (e.g. construction wood, cement, cleaning and sealing material, lubricant, fire extinguisher) including the disposal of problematic substances like e.g. waste oil, waste grease, asbestos materials etc.
- provision of heating, light, current and compressed air, water, including the necessary connections at close range of the assembly site.
- provision of the necessary, dry and lockable rooms for the storage of the tools of the assembly personnel.
- transportation of the assembly components at the assembly site, protection of the assembly site and of the components against harmful effects of any kind, cleaning of the assembly site.
- provision of adequate theft proof lounges and workrooms (including heating, lighting, washing facility, sanitary facilities) and of first aid for the assembly personnel.
- provision of the materials and execution of all other activities, that are necessary for the adjustment of the item that is determined for the assembly, and that are necessary for the execution of test that are contractually scheduled.

(4) The purchaser is obliged to care for the safety at the assembly facility. ZMK has the right to decline operations or to cease running operations, if adequate safety is not ensured. The purchaser is liable for any injury to persons and material damage caused by the violation of this obligation. In case of illness or accident of our personnel, the purchaser has to take care for an adequate medical treatment and has to contact ZMK immediately.

(5) The technical assistance of the purchaser has to warrant an immediate start on the assembly after the arrival of the assembly personnel and that it can be executed without any delay until the acceptance of the completed work by the purchaser. In case specific drawings or instructions are necessary, ZMK will provide them to the purchaser in due time.

(6) If the purchaser does not fulfil his obligations, ZMK has the right, after a corresponding notice, but not the duty, to execute those obligations, that are incumbent on the purchaser, on his behalf and at his expense.

(7) For the rest, all legal rights and claims of ZMK remain unaffected.

IV. Assembly period - risk taking

(1) The assembly period is met if the assembly is ready for the acceptance of the completed work by the purchaser within the contractually agreed period of time.

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Geschäftsführung / Management

Rüdiger Klein

Amtsgericht Düren
Handelsregister: HRB 6853

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Bankverbindungen / Bank accounts

Commerzbank Düren
IBAN DE92 3954 0052 0570 0299 00
SWIFT COBADEFFXXX
HypoVereinsbank (Member of UniCredit)
IBAN DE87 3702 0090 0022 8462 48
SWIFT HYVEDEMM429

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(2) In case of delay of the assembly caused by measurements in context with labour disputes, particularly strike and lockout, or caused by the occurrence of any circumstances without ZMK's fault, an adequate extension of the assembly period will come to effect if those circumstances are evidently of timely intense effect on the assembly. This is also the case if the circumstances occur after ZMK is behind the schedule.

(3) In case the purchaser suffers any damage caused by ZMK's delay he has the right to claim a flat compensation for delay. The compensation for each full week of delay is 0.5 %, but limited to 5 % maximum, of the assembly price of the part of the facility that cannot be used in time as a result of ZMK's delay. All other claims regarding the delay of assembly are determined by section VI. of these conditions.

(4) In case the contractually owed performance of assembly is destroyed or corrupted prior to the acceptance of the completed work without ZMK's fault, ZMK has the right to claim the assembly price less saved disbursements. The same applies in case of impossibility of performance of the assembly without ZMK's fault. The purchaser has the right to claim a repetition of the owed performance of assembly as far as this repetition can be reasonably expected by ZMK, especially regarding under consideration of ZMK's other contractual obligations. In case of repetition, a fee based on the contractual agreed fees has to be paid to ZMK.

V. Acceptance of the completed work

(1) The purchaser is obliged to execute the acceptance of the completed work of the assembly as soon as he has been notified of the completion and a contractual scheduled test of the delivery item has taken place. The purchaser has to deliver a written confirmation of the acceptance of the completed work to ZMK's assembly personnel. In case the performance of the assembly is not done as owed in the contract, ZMK has the duty to remedy the deficiency at ZMK's expense. This does not apply in case the fault is insignificantly or in case ZMK is not responsible for the fault. In case of a non-essential fault the purchaser is not entitled to refuse the performance of the assembly.

(2) In case of delay of the acceptance of the completed work without ZMK's fault, the acceptance of the completed work will be presumed to have taken place after the expiration of two (2) weeks past notification.

(3) With date of the acceptance of the performance of the assembly ZMK's liability for visible deficiencies will be waived as far as the purchaser did not reserve the right of assertion of a specific deficiency.

VI. Warranty

(1) The purchaser is obliged to notify ZMK all visible deficiencies of the performance of the assembly immediately past recognition respectively past the time when the purchaser would have been able to recognize the deficiency. Otherwise the performance of the assembly will be considered as approved.

(2) ZMK is not liable in cases where the detected deficiency is based upon a cause that can be assigned to the purchaser. The purchaser has no right of withdrawal in cases of non-essential deficiencies.

(3) ZMK is also not liable for inappropriate modifications or maintenances made by the purchaser or any third party without ZMK's explicit written consent. The same applies for deficiencies caused by circumstances or influences that can be assigned to the purchaser or that arise by natural abrasion, by incorrect or careless treatment, by improper utilities, insufficient construction work, improper building ground, chemical, electrochemical or electronic influences, as long as these circumstances are not ZMK's fault. The purchaser has just in urgent cases for the operational safety or for the avoidance of unreasonably huge damages - in which ZMK has to be notified immediately in writing - or in those cases in which ZMK is behind schedule with the remedy of the deficiency, the right to remedy the deficiency by himself or by a third party and to demand the needed expenses from ZMK.

(4) As far as the claim is legitimate, of those costs directly caused by the remedy ZMK will pay for the costs of the replacement including shipment. ZMK will also pay for the costs dismantling and assembly as well as the costs of the necessary technicians and back staff including travelling costs, as long as ZMK will not be burdened unreasonably. Necessary costs of assembly and travel expenses in connection with unjustified notification of defects have to be paid by the purchaser.

(5) Further claims of the purchaser including, but not limited to, damage in lieu of performance and any other direct or indirect damages including consequential damages irrespective of legal basis, in particular due to violation of contractual obligations and from tort, are excluded. However, that does not apply, if:

a) ZMK has fraudulent concealed a deficiency in title or quality, or guaranteed a certain condition of the work,

b) the damage is based on intent or gross negligence by ZMK, our statutory representatives or vicarious agents or on a violation of essential contractual obligations by any of these persons,

c) a culpable violation of obligations by ZMK, our statutory representatives or vicarious agents has led to injury to persons or damage to someone's health, or

d) ZMK is liable for compelling reasons. On culpable violation of essential contractual obligations ZMK is liable, also in cases of gross negligence of non-executive staff and in case of slight negligence, limited in the latter case, to the typical for the contract, reasonably foreseeable damage.

(6) The provisions according to para. 5 shall apply for direct claims made by the customer to ZMK's legal representatives or agents.

VII. Limitation of time

All claims of the purchaser - irrespective of legal basis - become time - barred within twelve (12) months after the acceptance of the performance of assembly by the purchaser or according to section V. (2).

VIII. Law, jurisdiction

(1) The contract shall be governed by the law of the Federal Republic of Germany exclusively. The United Nations Convention on Contract for the International Sale of Goods shall not apply.

(2) Düren shall be the venue. However, ZMK is also entitled to bring action against the purchaser at his place of residence.

(3) In the event of individual provisions of these terms being ineffective, the effectiveness of the contract shall not be affected. Ineffective provisions shall be replaced by the statutory provisions.

IX. Severability clause

In the event of individual provisions of these General Terms and Conditions of Assembly are being ineffective or will be ineffective, the effectiveness of the remaining provisions of the General Terms and Conditions of Assembly shall not be affected. Ineffective provisions shall be replaced by provisions, which are legally allowed and which will come as close as possible to the original provision.

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Amtsgericht Düren
Handelsregister: HRB 6853

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