

## Assembly Conditions based on the German VDMA conditions

As of date: 01/01/2014

To be used with:

1. a person who, when concluding the contract, acts in the exercise of their commercial or self-employed professional activities (entrepreneur / contractor);
2. corporate bodies under public law or a special fund under public law.

### I. Scope

These assembly conditions are applicable to assembly work, which is carried out by Bornemann Maschinenbau GmbH (hereinafter referred to as the "assembly contractor"), unless other agreements have been made in individual cases.

### II. Assembly price

1. The assembly work is invoiced according to the current service price list on a time basis, unless a flat price has expressly been agreed.
2. The agreed amounts are exclusive of turnover tax, which is to be paid to the assembly contractor at the applicable legal rate in case of domestic business.

### III. Cooperation of the purchaser

1. The purchaser shall support the assembly personnel with the implementation of the assembly work at his own cost.
2. He shall take the necessary special measures for the protection of people and property on the assembly site. He shall also brief the assembly manager about existing special safety regulations if these are of importance to the assembly personnel.

### IV. Technical assistance by the purchaser

1. The purchaser is obliged to give technical assistance at his own cost, including in particular the:
  - a. Provision of the required suitable supporting personnel (bricklayers, carpenters, metal workers and other qualified personnel as well as unskilled labourers) in the numbers that are required for the assembly work and for the required period of time. The supporting personnel must observe the instructions that they are given by the assembly manager. The assembly contractor shall not be liable for the supporting personnel. If the supporting personnel have caused a defect or damage as a result of the assembly manager's instructions, sections VII and VIII shall apply.
  - b. Implementation of all earth moving, construction, bedding and scaffolding work including the procurement of the necessary building materials.
  - c. Provision of the required facilities and heavy tools (e.g. lifting equipment, compressors, field smithies) as well as the required consumables and materials (e.g. assembly wood, wedges, supports, cement, rendering and sealing materials, lubricants, fuels, driving ropes and belts).
  - d. Provision of heating, lighting, power / energy, water, including the necessary connections.
  - e. Provision of the required dry and lockable rooms for storing the tools of the assembly personnel.
  - f. Transport of the assembly parts on the assembly site, protection of the assembly site and materials against damaging influences of any kind, cleaning the assembly site.
  - g. Provision of suitable secure lounges and workrooms (with heating, lighting, washing facilities, toilets) and First Aid facilities for the assembly personnel.
  - h. Provision of the materials and implementation of all other actions that are required for the setting and adjustment of the assembled object and for implementing any contractually specified tests.
2. The technical assistance by the purchaser must ensure that the assembly can begin immediately after the arrival of the assembly personnel and without delay until the time of the acceptance by the purchaser. If special plans or instructions by the assembly contractor are required, the assembly contractor shall provide such plans and instructions to the purchaser in due time.
3. If the purchaser does not fulfil his obligations, the assembly contractor, after having given the purchaser reasonable notice, shall be entitled but not obliged to carry out the actions that are the purchaser's responsibility on the purchaser's behalf and at the purchaser's costs. Otherwise, the legal rights and entitlements of the assembly contractor shall remain unaffected by the above.

### V. Assembly deadline, delayed assembly

1. The assembly deadline shall be regarded as kept if the assembly is ready for acceptance by the purchaser or - in the case of a contractually specified test, the implementation of such tests - by the due date.
2. If the assembly is delayed due to actions relating to labour disputes, especially strike and lockout, and due to events that are outside the assembly contractor's control, and if such obstacles have evidently significant influence on the completion of the assembly work, the assembly deadline shall be reasonably extended. This also applies if such circumstances occur after the assembly contractor has become delayed with his performance.

### VI. Acceptance

1. The purchaser shall be obliged to accept the assembly work as soon as he has been notified of its completion and possible contractually specified tests of the assembled object have been carried out. If the assembly proves not to be according to the contractual specifications, the assembly contractor shall be obliged to correct the defect. The above shall not apply if the defect is insignificant with regard to the interests of the purchaser or if it is due to a circumstance, for which the purchaser is responsible. In the event of an insignificant defect, the purchaser shall not be entitled to reject the acceptance.
2. If the acceptance is delayed for reasons, for which the assembly contractor is not responsible, the acceptance shall be regarded as having been completed after two weeks from the notification of the completion of the assembly work.
3. The acceptance voids any liability of the assembly contractor for visible defects, unless the purchaser has reserved the right to claim for a specific defect.

### VII. Defect claims

1. After the acceptance of the assembly work, the assembly contractor shall not be liable for defects of the assembly under the exclusion of all other claims by the purchaser and irrespective of sections VII.5 and VIII in the way that he must correct the defects.  
The purchaser must notify the assembly contractor of an identified defect immediately.
2. The assembly contractor's liability shall not apply if the defect is insignificant with regard to the interests of the purchaser or if it is due to a circumstance, for which the purchaser is responsible.
3. In the event that the purchaser or a third party has carried out incorrect alterations or maintenance without the prior permission of the assembly contractor, the assembly contractor's liability for any damage resulting thereof shall be void. Only in urgent cases when the operational safety is threatened or for the defence against disproportionately big damage when the assembly contractor must be notified immediately, or if the assembly contractor has not observed a reasonable deadline that was given to him for correcting the defects, the purchaser shall be entitled to correct the defect himself or have it corrected by third parties and to demand compensation for the necessary expenses from the assembly contractor.
4. Of the direct costs that were incurred due to the correction of the defect, the assembly contractor shall bear the costs for the replacement part including shipment, provided that the complaint proves to be justified. He shall also bear the

costs of the disassembly and assembly as well as the costs of possible required engineers and supporting personnel including travel costs, unless this poses a disproportionate burden for the assembly contractor.

5. If the assembly contractor, subject to legal exceptions, does not observe a reasonable deadline that was given to him for correcting the defects, the purchaser shall be entitled to demand a price reduction subject to applicable laws and regulations. The purchaser's right to demand a price reduction shall also exist in other cases where the defect correction has failed. Only if the assembly is evidently not of interest to the purchaser despite the price reduction, shall the purchaser be entitled to withdraw from the contract.

### VIII. Liability of the assembly contractor, exclusion of liability

1. If an assembly part, which is delivered by the assembly contractor, is damaged during the assembly due to the assembly contractor's fault, the assembly contractor must either repair the part or deliver a new part at his own costs and discretion.
2. If the assembled object cannot be used according to the contractual use by the purchaser due to the assembly contractor's fault as a result of the omitted or incorrect implementation of proposals and consultations before or after the conclusion of the contract or the non-observance of other contractual side obligations, especially instructions for operating and maintaining the assembled object, the provisions of sections VII and VIII.1 and 3 shall apply accordingly, subject to the exclusion of further claims by the purchaser.
3. The assembly contractor shall be liable for damage, which has occurred to other items than the assembly object itself, and for whatever legal reasons, only:
  - a. if he has acted intentionally,
  - b. in the event of gross negligence by the owner / executive boards or senior executives,
  - c. in the event that life, body and health of people have been culpably injured,
  - d. for defects, which the assembly contractor has intentionally concealed or whose absence he has guaranteed,
  - e. as long as the liability is according to the German Product Liability Act for personal injury or damage to property (for objects in private use).

In the event that material contractual obligations are culpably contravened, the assembly contractor shall be liable also for gross negligence by non-executive employees and for slight negligence. In the latter case, his liability shall be limited to damage that is typical for the type of contract as well as being reasonably to be expected. All further claims shall be excluded.

### IX. Statute of limitation

All entitlements of the purchaser, for whatever legal reason, shall become statute-barred after 12 months. For claims for compensation according to section VIII.3.a to 3.e, the legal periods of time shall apply. If the assembly contractor renders the assembly performance at a building and if he causes a defect of the building as a result, the legal periods of time shall also apply.

### X. Replacement performance by the purchaser

If the assembly contractor's facilities or tools that are provided by him on the assembly site are damaged or lost without him being culpable for such damage or loss, the purchaser shall be obliged to compensate the assembly contractor for this damage or loss. Damage, which is due to normal wear and tear, shall be excluded from the above.

### XI. Applicable law, place of jurisdiction

1. All legal relationships between the assembly contractor and purchaser shall exclusively be subject to the laws of the Federal Republic of Germany, which are relevant for the legal relationships between domestic parties.
2. The place of jurisdiction is Hildesheim, Germany. However, the assembly contractor shall be entitled to file a lawsuit at the location of the purchaser's headquarters.