

Appendix: Additional Conditions for Assembly Work

These additional conditions apply together with the contract and in addition to the underlying General Conditions of Sale of Mehler Engineering + Service GmbH. Unless otherwise stipulated in these additional conditions, the General Conditions of Sale of Mehler Engineering + Service GmbH apply.

I. Area of validity

1. These assembly conditions apply to assembly work which an engineering company (assembly contractor) undertakes unless otherwise agreed in an individual case.
2. Unless something to the contrary is stipulated in these additional conditions, the General Conditions of Sale of Mehler Engineering + Service GmbH apply.
3. The regulation referred to in the order of sequence below applies to the implementation of the order
 1. The order according to the order confirmation
 2. Additional conditions for assembly work
 3. General Conditions of Sale of Mehler Engineering + Service GmbH.

II. Assembly price

1. The assembly work is invoiced based on timing in accordance with the appendix unless a lump-sum price is expressly agreed.
2. The agreed amounts do not include VAT which is to be additionally paid to the assembly contractor at the statutory rate.

III. Co-operation provided by the customer

1. The customer has, at his expense, to support the personnel carrying out the assembly work.
2. In order to protect persons and property at the place of assembly, the customer must take the necessary special measures. He also has to inform the person in charge of assembly work about existing special safety regulations if these are of importance for the personnel carrying out the assembly work. He will notify the assembly contractor if the personnel carrying out the assembly work are in breach of these safety regulations. In the event of serious breaches, he can, in consultation with the person in charge of assembly work, refuse to allow the offender access to the assembly site.

Appendix: Additional Conditions for Assembly Work

IV. Technical assistance provided by the customer

1. The customer is obliged to provide technical assistance at his expense, in particular to:
 - a) supply the necessary qualified support staff (bricklayers, carpenters, locksmiths and other skilled workers, labourers) in the quantity needed for the assembly work and for the required time; the support staff must follow the instructions of the person in charge of assembly work. The assembly contractor does not assume any liability for the support staff. If a defect or damage is caused by the support staff due to instructions from the person in charge of assembly work, then the regulations in Sections VII and VIII apply.
 - b) undertake all the work related to excavations, construction, foundation and scaffolding, including the provision of the necessary building materials.
 - c) provide the necessary equipment and heavy tools (for example, lifting gear, compressors, portable forges) as well as the required commodities and materials (for example, scaffold timber, wedges, supports, cement, cleaning and sealing materials, lubricants, fuel, driving cables and belts).
 - d) supply heating, lighting, power and water, including the necessary connections.
 - e) provide the required dry and lockable rooms for the safe storage of the assembly personnel's tools.
 - f) transport the assembly parts to the assembly site, protect the assembly site and materials from harmful influences of any kind, cleaning the assembly site.
 - g) provide suitable theft-proof rest rooms and work rooms (with heating, lighting, washing and sanitary facilities) and first aid for the assembly personnel.
 - h) provide materials and carry out any other action that is necessary in order to adjust the object to be assembled and to carry out a test as contractually provided for.
2. Technical assistance provided by the customer must guarantee that the assembly work can be started immediately once the assembly personnel arrive and that it can be carried out without delay until it is accepted by the customer. If special plans or instructions are required from the assembly contractor, he will make these available to the customer in good time.
3. If the customer does not fulfil his duties, the assembly contractor is entitled but not obliged, after the fixing of a time limit, to carry out the work that was incumbent upon the customer in the place of and at the expense of the customer. In addition, the statutory rights and claims of the assembly contractor remain unaffected.

V. Assembly period, assembly delay

1. The assembly period is adhered to if, up until its expiry, the assembly work is ready to be accepted by the customer and, in the event of a test as contractually provided for, the assembly work is ready to be tested.
2. If the assembly work is delayed due to measures such as industrial disputes, particularly strikes and lock outs, and due to circumstances occurring that are not the fault of the assembly contractor, the assembly period will be reasonably extended if, as proven, such hindrances have a considerable influence on the completion of the assembly work;

Appendix: Additional Conditions for Assembly Work

this applies even if such circumstances occur after the assembly contractor has fallen into arrears.

3. If, after the due date, the customer grants the assembly contractor a reasonable time limit for performance and the deadline is not met, then - allowing for statutory exceptions - the customer is entitled to withdraw from the contract within the scope of the statutory provisions. Further claims on account of delay are determined exclusively by Section VIII.3 of these conditions.

VI. Acceptance

1. The customer is obliged to accept the assembly work as soon as he is notified that it has been completed and a test as contractually provided for has been carried out on the assembled object. If the assembly work proves to be non-conforming, the assembly contractor is obliged to remove the defect. This does not apply if the defect is irrelevant in terms of the customer's interests or is due to a circumstance that is attributable to the customer. If there is a minor defect, the customer cannot refuse acceptance.
2. If acceptance is delayed through no fault of the assembly contractor, then acceptance is deemed to have taken place when two weeks have elapsed following notification of completion of the assembly work.
3. Once the assembly work is accepted, the assembly contractor's liability for identifiable defects lapses unless the customer has reserved the right to assert a specific defect claim.

VII. Defect claims

1. Once he has accepted the assembly work and to the exclusion of any other claims by the customer, the assembly contractor is liable for defects in the assembly work, irrespective of No. 5 and Section VIII, to the extent that he must remove the defects. The customer must notify the assembly contractor of a detected defect immediately and in writing.
2. The assembly contractor is not liable if the defect is irrelevant in terms of the customer's interests or is due to a circumstance that is attributable to the customer. This applies in particular to parts provided by the customer.
3. If improper changes or repairs are carried out by the customer or third parties, without the assembly contractor's prior approval, the assembly contractor's liability for the ensuing consequences is annulled. The customer only has the right to remove the defect himself or to arrange for a third party to remove it and to demand a refund of the necessary costs from the assembly contractor in urgent cases, where operational safety is jeopardised or in order to avert excessive damage (and the assembly contractor must be informed of this immediately). He also has the right to remove the defect himself or arrange for a third party to remove it and to demand a refund of the necessary costs if the assembly contractor has missed a reasonable deadline set for him to remove the defect.

Appendix: Additional Conditions for Assembly Work

4. The costs directly ensuing as a result of removing the defect and the costs of replacement including dispatch are borne by the assembly contractor if the complaint turns out to be justified. He also bears the costs of installation and removal as well as the costs of the provision of assemblers and support staff that may be required, including travel expenses, unless this would impose a disproportionate burden on the assembly contractor.
5. If, allowing for statutory exceptions, the assembly contractor lets a reasonable deadline set for him to remove the defect lapse in vain, the customer has the right to a price reduction within the scope of the statutory provisions. The customer's right to a price reduction also exists in other cases of failure to remove the defect. The customer can only withdraw from the contract if, despite the price reduction, the assembly work is demonstrably of no interest to the customer.

VIII. The assembly contractor's liability, exemption from liability

1. If, when carrying out the assembly work, an assembly part delivered by the assembly contractor is damaged and it is the assembly contractor's fault, then he must opt to either repair it or deliver a new part at his expense.
2. If the assembled object, through the fault of the assembly contractor as a consequence of failing to follow or following incorrectly proposals and advice provided by the customer before or after the contract is concluded or due to the breach of other contractual accessory obligations, particularly instructions concerning the servicing and maintenance of the assembled object, cannot be used by the customer in accordance with the contract, the regulations contained in Sections VII and VIII. 1 and 3 apply accordingly to the exclusion of further claims by the customer.
3. The assembly contractor is only liable for damages that have not occurred to the assembled object itself, for whatever legal reasons
 - a) in the event of intent,
 - b) in the event of gross negligence by the owner/the executive bodies or executive personnel,
 - c) in the event of culpable injury to life, body or health,
 - d) in the event of defects which he has fraudulently concealed or whose absence he has guaranteed,
 - e) to the extent that he is liable under product liability law for personal or material damages to privately used objects.
4. In the event of a culpable breach of fundamental contractual duties, the assembly contractor is also liable in the event of gross negligence by non-executive personnel and in the event of slight negligence, in the latter case liability is limited to contract-typical reasonably foreseeable damage. Further claims are ruled out.

Appendix: Additional Conditions for Assembly Work

IX. Statutes of limitation

All claims by the customer, for whatever legal reasons, become statute-barred in 12 months. The statutory periods apply to claims for damages according to Section VIII. 3 a - e. The statutory periods also apply if the assembly contractor carries out the assembly work on a construction and this causes its defectiveness.

X. Indemnification by the customer

If the equipment set up by the assembly contractor or tools at the assembly site are damaged or lost through no fault of the assembly contractor, the customer is obliged to make good the damage. Damages that are due to normal wear and tear are disregarded.

XIV. Applicable law, place of jurisdiction

1. The law of the Federal Republic of Germany which is authoritative for the legal relationships between German parties applies exclusively to all the legal relationships between the assembly contractor and the customer.
2. The place of jurisdiction is the court that has jurisdiction over the assembly contractor's registered office. The assembly contractor is entitled however to institute legal proceedings at the customer's headquarters.