

General Terms and Conditions of Assembly and Payment
CHIRON-WERKE GmbH & Co. KG, Tuttlingen

I. Conclusion of contract

1. All agreements and offers are subject solely to these terms of assembly and payment; they are deemed to have been accepted once the order has been placed or the purchaser has assisted in the assembly. We will not be bound by any terms and conditions of the purchaser unless we have expressly acknowledged them in writing even if we have not expressly objected to them.
2. Amendments or additions to the agreements are not valid unless we have confirmed them in writing. Any amendment to this written form requirement must be in writing.
3. Our offers are non-binding. Agreements do not become valid until we have confirmed them in writing. The content of the confirmation alone is authoritative. There are no oral collateral agreements.
4. The documents associated with the offer such as illustrations, drawings, weights and dimensions are only approximations. They do not constitute a warranty or guarantee and are only descriptions or designations of the supply or service. We reserve title and copyright in cost estimates, drawings and other documents. These shall not be disclosed to third parties.

II. Assembly deadline, delay

1. Assembly deadlines and dates are only approximate, unless expressly set out otherwise in writing.
2. The assembly deadline shall be deemed kept if - by the deadline- the assembly object is ready for acceptance by the purchaser, or if testing is provided in the contract, for the test run.
3. The term of delivery begins as soon as all technical and design details have been finalised and both parties have agreed to the terms of the contract, unless otherwise agreed.
4. If assembly is delayed due to industrial action, in particular strikes or lock-outs or owing to circumstances for which we are not responsible the agreed assembly term shall be extended by the length of the disruption plus a reasonable start-up time.
5. If a schedule is delayed at the request of the purchaser or for reasons which fall within the purchaser's sphere of responsibility the purchaser shall bear any costs incurred thereby.

III. Cooperation of purchaser, technical assistance

1. The purchaser shall support the assembly personnel during assembly without charge.
2. The purchaser is obliged to provide technical assistance without charge, in particular to
 - a) provide the required suitable assistance, such as bricklayers, carpenters, metalworkers or other specialists and assistance in sufficient number as required for the assembly and term, unless set out otherwise expressly in writing. The assistants shall follow the instructions of the assembly supervisor. We shall not assume liability for these assistants. If there is a defect or damage caused by the assistant on the basis of our instructions our liability shall be subject to VII and VIII of the General Terms and Conditions of Assembly and Payment
 - b) perform all earth, construction, bedding and scaffolding work, including purchase of the necessary construction materials;
 - c) provide the necessary fixtures and heavy tools, such as compressors and the necessary commodity goods and materials e.g. wooden blocks, supports, underlayments, cement, plaster and sealing materials, lubricants, fuels, transmission cables and straps, unless expressly set out otherwise in writing,
 - d) provide heat, light, power, water, including the necessary connections;
 - e) provide the necessary dry and lockable rooms for storing our tools;
 - f) transport the assembly parts on the assembly site, protect the assembly site and materials from detrimental influence of any kind, clean the assembly site,
 - g) provide suitable, theft-proof recreation and work rooms with heat, light, rest room facilities and first aid facilities for the assembly personnel;
 - h) provide parking and access options and areas to store material and containers close to the assembly location;
 - i) provide information regarding the location of gas, electricity, water and other supply lines in the assembly area;
 - j) provide the materials and carry out all other acts which are necessary for the adjustment of the object to be assembled and for performing a contractually agreed test.
3. The purchaser's technical assistance must ensure that the assembly work can be started without undue delay after the arrival of the assembly personnel and continue without any delay until acceptance by the purchaser. We shall provide the purchaser with any diagrams or instructions in due time, if these are required. The plans and instructions shall remain our property, unless expressly set out otherwise in writing.
4. If the purchaser fails to comply with its obligations we shall be entitled, to perform the purchaser's duties in its place and at the expense of the latter. However, there is no obligation in this respect. This shall have no effect on our statutory rights and claims. We shall not be entitled to perform such duties ourselves if the purchaser is not responsible for the breach of duty.

IV. Accident prevention

1. The purchaser shall take whatever special measures are necessary to protect persons and objects on the assembly site. The purchaser shall also notify the assembly supervisor in writing of any specific safety regulations without special request before assembly begins.
2. If the purchaser provides suitable assistants for assembly work in the context of technical assistance such personnel shall observe the instructions of the assembly supervisor, in particular with regard to accident prevention measures.
3. Both the purchaser and we ourselves shall provide the other with the names of those responsible for compliance with and monitoring of accident prevention regulations.

V. Acceptance

1. The purchaser is obliged to accept the assembly provided as soon as notification has been provided of the completion thereof and any contractually agreed testing of the assembled item has taken place. If the work is to be completed in tranches, each individual tranche shall be accepted separately. Should it transpire that the assembly does not comply with the contract we are obliged at our option to either remedy the defect or to reassemble the object concerned. This does not apply if the defect is caused by a circumstance for which the purchaser is responsible. If the defect is not material the purchaser cannot refuse acceptance.
2. If acceptance is delayed without us being responsible therefore acceptance is deemed to have taken place two weeks after notification that assembly has been completed.
3. Upon acceptance our liability for obvious defects shall cease to exist, except for those defects for which the purchaser has reserved the right to make a claim for defect.

VI. Prices

1. Our prices shall apply to the scope of supply and service as set out in our order confirmations. They exclude prevailing VAT. Assembly shall be charged in accordance with time spent, unless expressly set out otherwise in writing.
2. If fixed prices are agreed, they shall be calculated on the basis of assembly in a 40-hour week from Monday to Friday with the exception of public holidays at the place of assembly. A working day shall be no more than 8 hours during the period from 08.00 hours to 17.00 hours. Work which has been ordered by the purchaser or assembly work on Saturdays, Sundays and public holidays which has been ordered by the purchaser shall be paid subject to a special rate as set out in our price list.
3. The fixed price only includes the work and services which are expressly listed. Any auxiliary and additional work over and above this shall be provided by the purchaser or remunerated in addition.
4. We may demand an additional rate for work under difficult conditions if difficult conditions emerge in the course of the assembly work which were not known and which were not apparent at the time the contract was concluded, subject to any express agreement to the contrary.
5. The purchaser shall examine and countersign the weekly reports without undue delay. Any objections shall be reported without undue delay in writing.

VII. Terms of Payment

1. Invoices for repairs and assembly shall be due for payment net immediately on receipt.
2. Even if there are complaints on the grounds of defects or counterclaims the purchaser is only entitled to offset and to retain if the counterclaims are undisputed or final and absolute.
3. All our claims shall be due immediately, irrespective of the term of the bills of exchange accepted and credited if the purchaser is in partial default of payment. In such a case we are also entitled only to carry out outstanding work in return for advance payment or a deposit and, if neither is provided, to rescind the contract after a due deadline and to demand compensation due to nonfulfilment.
4. In the case of payment in the form of bills of exchange
 - a) We reserve the right to accept bills of exchange which are only accepted on account of performance;
 - b) Discount is ruled out.
 - c) The debtor shall bear all expenses for bills of exchange;
 - d) credit notes shall be made so that we may dispose of the equivalent value on the value date.

VIII. Claims for defects

1. After acceptance of assembly we are liable for defects to the assembly excluding all other claims of the purchaser irrespective of VII 5. and VIII in such a way that we must remedy the defects. The purchaser shall inform us in writing without undue delay of defects discovered, at the latest within 10 days.
2. We shall not be liable if the purchaser is responsible for the defect.
3. We shall not bear liability for damage and defects caused by any modifications or repair work improperly carried out by the purchaser or third parties without our prior permission. In urgent cases only, i.e. where operational safety is at risk and to avert disproportionately high damage, which shall be reported to us immediately, or - taking into account statutory exceptions - where we failed to remedy the defect within a reasonable time limit set by the purchaser, the purchaser shall be entitled to remedy the defect itself or have it remedied by third parties - as set out under statute - and to demand reimbursement of the necessary costs from us.
4. If we, taking into account the statutory exceptions, let a reasonable deadline placed upon us for the remedy of defects pass without remedying the defects concerned or if the improvement fails the purchaser has a right of reduction in the context of that which is set out under law. The purchaser may only rescind the agreement if the assembly is of no interest to the purchaser despite the reduction.
5. Claims owing to defects shall be statute-barred within one year from acceptance of assembly, unless the work concerned is work on a building.
6. Further claims of the purchaser shall be determined exclusively under IX. of these General Terms and Conditions of Assembly and Payment. This shall have no effect on the purchaser's claims in as far as we have accepted a guarantee for the quality or the durability of the work supplied. The scope of liability depends of the content of the guarantee.

IX. Liability for damages

1. If an assembly part delivered by us is damaged during assembly and we are responsible therefore we shall choose to either repair the damage or arrange for a new delivers at our own cost.
2. We shall be liable in cases of intent and gross negligence. If we have not acted with intent, liability is restricted to typical, foreseeable damage.
3. We shall also be liable in the event of negligent injury to life, body and health caused by us, our legal representatives or vicarious agents and in the event of fraudulent concealment of a defect or assumption of a guarantee (*Garantie*). In the latter case the extent of liability depends on the guarantee declaration.
4. We shall also be liable if we, our legal representatives or vicarious agents negligently breach duties the fulfillment of which guarantees the proper execution of the agreement in the first place and which the purchaser relies on or is entitled to rely on being fulfilled. If we have not acted with intent, liability is restricted to typical, foreseeable damage.
5. We shall also be liable in instances of mandatory statutory liability, for example pursuant to the Product Liability Act.
6. Otherwise liability is excluded irrespective of the legal ground.
7. The purchaser shall notify and consult us comprehensively and without undue delay if it intends to claim for damages in accordance with the aforementioned provisions. The purchaser shall provide us with an opportunity to examine the loss occurrence.

X. Final provisions

1. The place of jurisdiction for any disputes arising from or related to business relationship between us and the purchaser shall either be Rottweil or the purchaser's place of registration, at our discretion. The exclusive place of jurisdiction for claims against us shall be Tuttlingen, Germany.
2. The relationships between us and the purchaser shall be subject exclusively to the laws of the Federal Republic of Germany. The application of the United Nations Conventions on Contracts for the International Sale of Goods (CISG) shall be excluded.
3. The headings in these General Terms of Assembly and Payment serve only for better orientation. They have no relevance to interpretation of the provisions.
4. If one or more provisions of these General Terms of Assembly and Payment or of this contract should be or become invalid this shall not affect the validity of the other provisions. The parties shall then agree to a new provision which as far as possible reflects the economic intent of the invalid provision. The same shall apply in the event of a lacuna.