

Standard terms and conditions for installation works

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I. Scope

These terms and conditions apply to installation and commissioning works, realised by LUEHR FILTER, acting as fitting and installation company, as far as differing agreements have not been reached in particular cases. Additional agreements and changes require the written confirmation of the fitting and installation company.

II. Installation costs

1. The costs will be invoiced in accordance with the annex accord. to expenditure of time, if no inclusive price has been explicitly agreed.
2. The agreed prices have to be understood without VAT, which has to be paid in addition to the fitting and installation company in legal amount.

III. Co-operation of buyer

1. The buyer has to support the assembly staff during the installation works at his own expense.
2. He has to take the special measures necessary for the protection of persons and material at the working place. He also has to inform the chief erector about the existing, special safety instructions, as far as these are relevant for the staff. He informs the fitting and installation company about infringements of staff regarding such safety instructions. In case of serious infringements and after agreement with the chief erector, he may refuse access to construction site to the offender.

IV. Technical assistance of buyer

1. The buyer is obliged to provide technical assistance at his own expense, particularly with regard to:
 - a) provision of necessary, qualified assistants (masons, carpenters, metalworkers and other skilled workers, subworkers) in adequate quantity and time necessary for the job; the subworkers have to follow the instructions of chief erector. The fitting and installation company does not assume any liability for the subworkers. In case of defect or damage caused by the subworkers due to the instructions of chief erector, clause VII or VIII will apply.
 - b) Execution of all civil-, construction-, foundation and scaffolding works, including provision of necessary construction materials.
 - c) Provision of necessary devices and heavy tools (e.g. lifting devices, compressors, mobile forge) as well as the necessary utensils and materials (e.g. scaffolding, wedges, supports, cement, plaster and sealing material, lubricants, fuels, driving ropes and belts).
 - d) Provision of heating, lighting, current and water, incl. the necessary connections.
 - e) Provision of necessary, dry and lockable rooms for the storage of tools of workers.
 - f) Transport of assembly parts at assembly yard, protection of assembly yard against harmful effects of any kind, cleaning of assembly yard.
 - g) Provision of suitable, theft proof rest rooms and working rooms (with heating, lighting, washing and sanitary facilities) and First Aid station for the staff.
 - h) Provision of materials and execution of all activities necessary for the adjustment of delivery item and realisation of the contractually agreed trial run.
2. The technical assistance of buyer has to grant that the installation can be started immediately after arrival of staff and can be continued without delay until acceptance by the buyer. As far as particular plans or instructions of fitting and installation company will be necessary, these will be placed at the buyer's disposal in time.
3. In case the buyer does not fulfil his obligations, the fitting company - after notification - has the right but is not obliged to realise the activities being incumbent on the buyer, on behalf of the buyer and on the buyer's expense. For the rest, the legal rights and requirements of fitting company remain unaffected hereof.

V. Installation time and passing of the risk

1. The installation time is considered to be observed if until its expiry and in case of a contractually provided trial operation, the installation will be ready for acceptance through the buyer.
2. In case of delay of installation and/or commissioning due to measures in connection with labour disputes, especially in case of strike and lockout, as well as due to circumstances the installation company is not responsible for, a reasonable prolongation of time will enter into force as far as such obstructions have a verifiable and considerable effect on the completion of works. This also applies if such circumstances arise after the fitting and installation company has fallen behind with the works. The costs resulting from the delay have to be borne by the buyer. In case the service has went down or worsened prior to acceptance and without fault of the fitting and installation company, they are entitled to claim the installation costs, including the saved expenses. The same applies in case of impossibility of performance of installation the installation company is not responsible for. A repetition of performance can be requested by the buyer if and as far as this can be expected of the installation company, particularly considering the other contractual obligations of the company. In case of a repeated performance, the installation company has to be paid again for the services in accordance with the contract prices.

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VI. Acceptance

1. The buyer is obliged to accept the installation as soon as he has been notified about its termination and a possible, contractually provided trial operation of installed delivery item has been realised. In case the works do not comply with the contract, the fitting and installation company is obliged to remove any defect on their own expense. This does not apply if the defect is not relevant for the interests of the buyer or is due to a fault the buyer is responsible for. In case of a minor defect, the buyer cannot refuse to accept the works, if the installation company explicitly accept their obligation to remove the defect.
2. In case of delay of acceptance the installation company is not responsible for, the acceptance is considered to be valid after expiration of two weeks as of notification of termination of installation works.
3. Upon acceptance the installation company is no longer liable for visible defects, as far as the buyer has not reserved the right to claim a certain defect.

VII. Warranty

1. After acceptance of installation works, the installation company is responsible for the removal of defects of installation, arisen within six months after acceptance and excluding all other claims of buyer. The buyer has to inform the company immediately after detection of defect. His right to claim compensation becomes time-barred six months as of moment of notification. The time of liability for defects is extended by the duration of breakdown due to the repair works.
2. The liability of fitting company does not apply if the defect is not relevant for the interests of the buyer or if it is due to circumstances the buyer is responsible for.
3. The liability of fitting company for defects or consequences resulting from possible, unapproved and inappropriate changes or repair works realised by the buyer or a third party, will be abolished. Only in urgent cases of risk of operational safety and to avoid unreasonably high damages, whereupon the installation company has to be informed immediately, or in case the installation company has fallen behind with the removal of defect, the buyer has the right to remove the defect or have it removed by a third party and to claim reimbursement of the necessary costs from the installation company.
4. If the installation company culpably allows unsuccessful expiry of a reasonable deadline contractually granted to him for the removal of defects or if no removal of defect takes place due to the impossibility or inability of the installation company, the buyer has the right of reduction. Only if it can be proven that in spite of reduction the installation is without interest for the buyer, the buyer can withdraw from the contract after notification.

VIII. Further liability of fitting and installation company

If an assembly part supplied by the installation company is damaged during installation and/or commissioning and as a result of a fault of the company, they can, of their own choice and on their own expense, repair the part or supply a new one.

IX. Limitation of liability

The buyer may, as far as such exclusions of claims and rights are admissible by law, and beyond the claims granted to him in the clauses above, not claim from the installation company compensation, particularly not for damages, as well as not for inadmissible action or for other rights due to possible disadvantages in connection with the installation and/or commissioning, irrespective of which legal grounds he may refer to.

X. Indemnification of buyer

In case of damage or loss of devices or tools provided by the fitting and installation company on the assembly yard through no fault of their own, the buyer is obliged to compensate these damages. Damages which are due to normal wear will not be taken into consideration.

XI. Conditions of buyer

The general purchase conditions of buyer are not binding for the fitting and installation company, even if they have not explicitly been excluded.

XII. Legal venue

Regarding all disputes resulting from the contract, and if the buyer is a registered trader, a body corporate organised under public law or a special entity under public law, the court at the head office of fitting and installation company will be responsible. The company can also take legal action at the court responsible for their branch office, in charge of the installation works or the court responsible for the buyer.

ANNEX to 'Standard terms and conditions for installation works'

I. Travel costs

1. The travel costs of staff (incl. costs for the transport and the transport insurance for the personal luggage as well as for the tools carried along and forwarded) will be invoiced according to expenditure. In case of travel by passenger car, EUR 1,00/km will be charged. The travel costs also include the costs for the agreed trips home according to the Federal wage and salary agreement for staff working away from home, incurring in the course of duration of job.
2. If accommodation near construction site will not be possible, invoicing takes place accord. to federal wage and salary agreement for staff working away from home.

II. Daily allowance

1. The daily allowance will be invoiced per day of absence from the works in Stadthagen (including Saturday, Sundays and holidays). If it turns out that in case of foreign deployments, the amount of the daily allowance will not be enough for an adequate living and a corresponding allowance, reasonable higher rates will be charged. The daily allowance will also be charged for the period of disability due to illness or accident, if the fitter is not in a position to return home immediately.
2. In case of changes regarding the pay rates, the rate of daily allowance will be adapted accordingly.

III. Working hours and payment

1. As far as possible the staff will accommodate to the customer's working hours.
2. Even in case of fixed price installation or warranty works, the customer has to certify the working hours and performance of staff on the form presented to him on a weekly basis.
3. Waiting time as well as the time necessary for room hunting and possible official declarations, as far as the working time will be omitted due to this, will be charged accord. to the federal wage and salary agreement for staff working away from home. The full daily standard working time will be charged, even if the assembly staff will not be able to work the full time without being responsible for it.
4. Each working hour at a working day within a normal weekly shift totalling to 35.0 hours will be charged with the corresponding hourly rates. In case of changes regarding the standard hourly rates, the daily rate will be adapted accordingly. If the ordering company demands the provision of an installation inspector for the installation works, a settlement still to be agreed upon will apply.
5. Overtime as well as works on Sundays and holidays will be charged in accordance with the agreed hourly rates including the percentage rate defined in the wage agreement. The resulting amount will be charged to the purchaser's account as extra pay. Overtime will only be worked as far as this will be necessary and agreed. Works under very hard, dirty and extremely difficult or dangerous conditions have to be paid for in accordance with a corresponding extra charge accord. to the federal wage and salary agreement for staff working away from home, as far as this has not been stated otherwise in our order confirmation.
6. All hours worked beyond the standard working time are considered as overtime.

IV. Ancillary services of customer

Equipment to be provided in time by ordering company and on their own risk and expense: welding apparatus with welding accessories such as carbide, acetylene, oxygen, welding wire (even in case of all-inclusive installation).

V. General

1. All given data concerning the duration of works are only approximately decisive. Start and duration can be postponed due to unforeseeable circumstances beyond control. The works will be realised in maximised speed. Exceeding the stated deadlines does not entitle the purchaser to make deductions or to claim compensation.
2. In case of belated installation or commissioning the contractor is not responsible for the ordering company has to continue to pay for the waiting time of staff in accordance with the rates specified clause II and III. The corresponding will apply if additional travels of staff will become necessary in this connection.
3. If the replacement of staff becomes necessary due to a reason the installation company is not responsible for, the costs arisen in this respect will be charged to the purchaser's account.
4. The fitting and installation company is liable for a proper installation in such way that they have to change or remount faulty mounted items according to their choice. Further claims of ordering company resulting from damages caused by the staff during execution of works are excluded. LUEHR FILTER is not responsible for works which do not belong to the agreed scope of services. We also do not take over any responsibility for defects resulting from interventions of ordering company.
5. The liability for damages inflicted on a third party by the staff during execution of works will be borne by the ordering company.

VI. Miscellaneous provisions

1. As far as the present wording concerns the further calculation of actually arisen costs such as daily allowance, travel costs or similar, the VAT will be added as far as necessary according to the VAT regulation.
2. The provisions above are completed by the currently valid, legal and agreed prescriptions and stipulations. They will be changed in case of alterations of the stated provisions and stipulations.
3. The costs have to be paid immediately after receipt of invoice, without any deduction. Withholding and offsetting are excluded. The invoicing of costs takes place in accordance with the judgement of works either on a monthly basis or after termination of works.