

URACA Terms for Assemblies

Issue 05/2022

1. Scope

- 1.1. The prices shall apply, unless otherwise agreed in writing, “ex works” EXW Sirchinger Straße 15, Bad Urach, Germany (Incoterms®), including loading at works, excluding, however, packing and loading. The prices are exclusive of any sales or value added tax (VAT), import or export tax, customs or similar taxes or duties which Purchaser shall be liable to bear.
- 1.2. These Terms for Assemblies shall apply for assemblies which we undertake, unless otherwise agreed in writing.
- 1.3. The **“URACA General Terms and Conditions”** shall apply additionally.

2. Assembly Price

- 2.1. Assembly shall be charged according to the time required, unless a flat rate has been specifically agreed.
- 2.2. The agreed amounts are without VAT, which shall be paid to us additionally at the legal rate.
- 2.3. The working time fixed in the general pay agreement of the metal industry shall be regarded as normal working time on workdays without Saturday. In urgent cases our fitters shall be obliged, whilst keeping the prescribed rest periods, to work overtime as well as to work on Sundays and public holidays.
- 2.4. Preparation and waiting times shall be regarded as working time. Travelling time shall be charged separately.
- 2.5. Travel allowance shall be charged first for the day of the outward and at the full rate if the journey begins before 12 noon. Travel allowance shall be paid for the last time for the day of the return journey and at the full rate if the return journey has not been completed by 6 p.m. and at half rate if the return journey has been made before 6 p.m. Should the outward and return journeys require an overnight stay, the full travel allowance shall be reimbursed, even if the journey begins after 12 noon.
- 2.6. In case of illness or accident of the dispatched fitters we shall also charge the travel allowance unless the fitter has been hospitalized. Should in the eventuality of particularly serious illnesses a premature return be deemed necessary, the fixed costs for the return journey shall be charged. The dispatching of a new fitter shall be undertaken according to a separate agreement.
- 2.7. In the case of assembly work for which we consider it necessary to carry out occasional inspections and which the Customer requests, we shall dispatch a specialist at a rate of reimbursement that is valid at the time of dispatching and with reimbursement of the travelling expenses.
- 2.8. The invoice for the assembly costs shall follow after completion of assembly or, in the case of assemblies which last for a long period of time, in instalments, at our discretion. The amounts shall be payable to us free of charge after placing of invoice. At our request the Purchaser shall be obliged in the case of lengthy assembly work to pay the fitters appropriate advances weekly.

3. Collaboration of Purchaser

- 3.1. The Purchaser shall support the assembly personnel at his expense in the execution of the assembly.
- 3.2. He shall take the special precautions necessary for the protection of persons and materials. He shall also inform the assembly supervisor of existing special safety regulations if these are of relevance to

the assembly personnel. He shall notify us of violations by the assembly personnel against any such safety regulations. In the case of serious violations, he may, after consulting the assembly supervisor, refuse the offender admission to the assembly hall.

4. Technical Assistance of Purchaser

- 4.1. The Purchaser shall be obliged at his expense to provide technical assistance, especially with:
 - 4.1.1. Providing the necessary, suitable additional workers (bricklayers, carpenters, fitters and other specialist workmen, laborers) at the number that is required for the assembly as well as for the required time; the additional workers shall follow the instructions of the assembly supervisor. We shall accept no liability for the additional workers. If a defect or damage is caused by the additional workers following the instructions of the assembly supervisor, Section 7 and Section 8 shall apply.
 - 4.1.2. The execution of all earth, building, bedding and scaffolding works, including the procurement of the necessary building materials.
 - 4.1.3. Providing the necessary machinery and heavy tools (e.g. lifting equipment, compressors, portable forges) as well as the required commodities and materials (e.g. scaffolding poles, wedges, supports, cement, plastering and sealing material, lubricants, fuels, driving ropes and belts).
 - 4.1.4. Providing heating, lighting, operating power, water, including the required connections.
 - 4.1.5. Providing necessary dry and lockable rooms for keeping the assembly personnel's tools.
 - 4.1.6. Transporting the assembly parts at the place of assembly, protection of the assembly place and materials from damaging influences of any kind, cleaning of assembly place.
 - 4.1.7. Providing suitable secure recreation rooms and workrooms (with heating, lighting, washing facilities, sanitary facilities) and First Aid for the assembly personnel.
 - 4.1.8. Providing materials and executing any other actions that are necessary for adjusting the object to be assembled and for performing a test as defined in the contract.
- 4.2. The technical assistance of the Purchaser must guarantee that assembly can begin immediately after the arrival of the assembly personnel and executed without delay until acceptance by the Purchaser. If special plans or instructions of the assembly supervisor are required, he shall make them available to the Purchaser in good due time.
- 4.3. If the Purchaser does not fulfil his obligations, after setting a deadline the Assembly Contractor shall be entitled, but not obliged, to execute the actions incumbent on the Purchaser in his place and at his expense. Moreover, our legal rights and claims shall remain unaffected.

5. Period of Time for Assembly, Delay in Assembly, Liquidated Damages

- 5.1. The period of time for assembly has been kept if by its expiry the assembly is ready for acceptance by the Purchaser and for performing a test if provided for in the contract.
- 5.2. If assembly is delayed by acts committed within the context of industrial action, especially strikes or lockouts, as well as the occurrence of circumstances for which we are not at fault, an appropriate extension of the period of assembly shall come into effect if the aforementioned impediments are proven to have substantial influence on the completion of the assembly; this shall also apply if such circumstances occur after a delay caused by us.
- 5.3. In case assembly is delayed for reasons exclusively attributable to us and Purchaser is caused damages by this, Purchaser shall be entitled to liquidated damages for delay. These liquidated damages for delay shall be for each full week of the delay 0.5 percent, but a maximum of 5 percent of the assembly

price for the part of the system to be assembled by us which as a consequence of the delay cannot be used in time.

If the Purchaser – taking into account the legal exceptions – after the deadline sets us a reasonable time limit for completion and if this time limit is not kept, the Purchaser shall be entitled to terminate the contract within the framework of the legal regulations.

Any further claims due to delay are defined exclusively in Section 8.3 of these Terms.

6. Acceptance

- 6.1. The Purchaser shall be obliged to accept the assembly as soon as he has been notified of its completion and a test of the assembled object provided for in the contract has taken place. If the assembly turns out to be not in accordance with the contract, we shall be obliged to remove the defect. This shall not apply if the defect is insignificant for the interests of the Purchaser or is due to a circumstance that is attributable to the Purchaser. If there is an insignificant defect, the Purchaser cannot refuse acceptance.
- 6.2. If acceptance is delayed through no fault of our own, acceptance shall be regarded as completed after the expiry of two weeks following notification of the completion of assembly.
- 6.3. With acceptance our liability for detectable defects comes to an end, unless the Purchaser has reserved the right to assert a particular defect.

7. Liability for Defects

- 7.1. After acceptance of the assembly we shall be liable for defects in the assembly, excluding any other claims by the Purchaser regardless of Section 7.5 and Section 8 in the way that we shall remove the defects. The Purchaser shall notify us of a detected defect without delay.
- 7.2. Liability on our part shall not exist if the defect is insignificant for the interests of the Purchaser or is based on a circumstance which is attributable to the Purchaser. This shall apply in particular with regard to free issued items by Purchaser.
- 7.3. In the case of alterations or maintenance work performed improperly by the Purchaser or third parties without our prior authorization, our liability for the any consequences arising from this shall be cancelled. Only in urgent cases of risk to operating safety and to prevent excessively major damage, of which we are to be notified immediately, or if we have let a reasonable deadline set to remove defects pass, shall the Purchaser be entitled to remove or have the defect removed by a third party and to demand reimbursement of the necessary costs.
- 7.4. In case of justified complaint, we shall bear the costs necessary to remedy the defect, insofar as this does not give rise to a disproportionate burden.
- 7.5. If we let – taking into account the legal exceptions – a reasonable deadline set for us to remove any defects – pass unsuccessfully, the Purchaser shall be entitled to a reduction within the framework of the legal regulations. The Purchaser's right to have a reduction shall also apply in other cases of failure to remove defects. Only if the assembly is proven to be insignificant for the Purchaser in spite of the reduction, can the Purchaser cancel the contract.
- 7.6. Any further claims are defined exclusively in Section 8.3 of these Terms.

8. Limitation of Liability

- 8.1. If an assembly part delivered by us is damaged during assembly through our fault, we shall have the choice of repairing the part at our expense or of delivering a new part.

- 8.2. If through a fault of our own the assembled object cannot be used by the Purchaser in accordance with the contract as a consequence of non-performance or poor execution of suggestions and deliberations prior to or after conclusion of the contract as well as of other additional contractual obligations – particularly instructions for operating and maintenance of the assembled object –, the respective clauses in Sections 7, 8.1 and 8.3 shall apply, excluding any other claims by the Purchaser.
- 8.3. We shall be liable for damage which has not occurred on the assembled object itself – for whatever legal reasons – only in case of:
- willful intent and gross negligence,
 - of culpable injury to life, body or health,
 - if we have fraudulently concealed defects or guaranteed their absence,
 - if there is liability in accordance with the German Product Liability Act for damage to persons or property on privately used objects.

In the case of negligent breach of a fundamental contractual condition we shall also be liable for slight negligence, but limited to the reasonable foreseeable damage which is intrinsic to the contract.

Any other claims are excluded.

9. Limitation Periods

Any claims by the Purchaser – for whatever legal reasons – shall elapse in 12 months. For damages claims arising from culpable harm of life, body or health; gross negligence, willful intent or malicious behavior; as well as according the German Product Liability Act, the legal periods shall apply. If we perform an assembly on a building and in doing so cause it to be damaged, the legal periods shall also apply.

10. Compensation by the Purchaser

If through no fault of our own the devices or tools provided by us are damaged at the place of assembly or if through no fault of our own they are lost, Purchaser shall be obliged to compensate for these damages. Damage arising from normal wear and tear shall not be taken into consideration.

11. General

These “URACA Terms of Assemblies” are a translation of the original “URACA Montagebedingungen”. In case of any differences between the German and the English version, the German version shall have binding force.

12. Applicable Law and Place of Jurisdiction

- 12.1. If the Purchaser’s head office is in the Federal Republic of Germany, the place of jurisdiction shall be our head office. We reserve the right to file an action at the legal place of jurisdiction of the Purchaser.
- 12.2. If the Purchaser’s head office is located outside of the Federal Republic of Germany, all disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (ICC) by one or more arbitrators appointed in accordance with the said Rules. Arbitration shall take place in Stuttgart, Germany. The language of the arbitration shall be English. The collaboration of our insurer in line with the possibilities of collaboration in ordinary legal proceedings shall be possible.
- 12.3. The contract shall be governed and construed according to the laws of the Federal Republic of Germany without regards to its conflict of law principles. The United Nations Convention on Contracts for the International Sales of Goods (CISG) shall not apply.