

GENERAL INSTALLATION CONDITIONS

December 2018

proMesh
GmbH

1. Area of validity

- These general installation conditions only apply to companies in the sense of sect. 14 BGB [German Civil Code].
- The general installation conditions apply for the installation, commissioning and customer service works, which are carried out by our staff, outside of the factory.
- Our general sales and delivery conditions, which you can find on our website as well, apply as a complement.

2. Preparation for installation

The customer must bear the costs of and promptly provide the following:

- Support teams and helpers, and if necessary other experts in the quantity deemed necessary by the installation company
- All earthworks, bedding, construction and scaffolding work including the building materials required
- The required equipment for set up and commissioning, such as lifting devices or scaffolding
- Power supply, heating, lighting, water, pressurized air and other media, including the required connections for the building site. Connection points for the existing operating infrastructure, or existing plant components in operation, must be provided with a shut-off valve by the customer.
- Adequately large, suitable, dry and lockable rooms for the storage of machine parts, materials, tools, and appropriate working areas and staff rooms for our staff.

Before the start of installation, the supplied parts required to begin the installation works, must be on site, and all masonry, carpentry, steel construction and other preliminary works must have progressed to such an extent before the start of installation, that the set-up can begin straight away on arrival of the fitters, and can be carried out without interruptions. If the customer does not comply with their obligations, then we have the right, but are not obliged, to carry out the actions incumbent upon the customer, on their behalf, and at their cost. Incidentally, the legal rights of the installation company remain unaffected by this.

3. Occupational safety

The customer must comply with all legal, official and employers' liability insurance association regulations and orders existing at the assembly site regarding occupational safety and must take necessary measures to prevent accidents and to protect our staff and our property. The customer must inform in text form about existing safety regulations at the assembly site.

4. Assembly deadline

All details about the installation deadline are only approximate and non-binding. In the exceptional case that an installation deadline is stated as binding, then it is considered to have been observed, if by its expiry the installation is ready to be accepted by the customer or in the case of a contractually specified trial is ready for its execution. If the installation is delayed due to the occurrence of circumstances, which are not our fault, then an appropriate extension of the installation period will be introduced; this also applies if such circumstances occur, after we have fallen behind. In case of any delays or interruptions for which we are not responsible, the customer must reimburse us for the costs caused in this way.

5. Transfer of risks

The risk is transferred to the customer, on shipping of the equipment, plant sections and installation materials to the installation site; they also bear responsibility for these items at the installation site.

6. Acceptance of installation

The customer is obliged to accept the installation, as soon as they have been notified about its completion, and a contractually specified trial of the assembled delivery object has taken place. If the installation proves not to be as contractually agreed, then we are obliged to eliminate the installation defect. This does not apply if the defect is negligible or is based on a circumstance, which the customer is responsible for. If an insignificant defect is present, then the customer cannot refuse acceptance, if we expressly recognise our obligation to eliminate the defect. If the installation works are not accepted on completion, for any reason that we are not responsible for, then the installation is considered to be accepted on the day of departure of our installation personnel. If further presence of our installation personnel is required at the installation site, then any costs incurred are borne by the customer. On acceptance, our liability for recognisable defects no longer applies, unless the customer has specified the assertion of a certain defect.

7. Claims for defects

- We are liable for defects in installation, regardless of further claims of the customer, according to this clause 7 and clause 8, in the sense that we remedy defects we are liable for, free of charge. The customer must inform us of an identified defect immediately. Otherwise, the assembly service shall be deemed approved, with the effect that claims for defects shall be excluded.
- In the case of interventions or changes to the installation object, carried out by the customer or third parties without our consent, our liability no longer applies, unless the customer shows that these interventions have no effect on a defect.
- The customer must ensure the necessary time and opportunity to carry out all the changes and improvements that we consider necessary, and to deliver spare or replacement parts. Only in urgent cases of endangerment of operational safety, and to prevent disproportionately large damages, or if we allow an appropriate deadline to lapse, set for us to eliminate defects, the customer has the right to eliminate the defect themselves, or have it eliminated by a third party, and demand the reimbursement of the necessary costs from us. We must be informed of this immediately.
- If we allow an appropriate deadline to lapse fruitlessly, set for us to eliminate defects, or if in an exceptional case, setting such a deadline is unnecessary according to the law, or if the defect failed to be eliminated, then the customer has a right to reduce the price. Only if the installation is no longer required by the customer, in spite of the reduction in price, can the customer withdraw from the contract according to the legal requirements.

8. Compensation

- We are liable for compensation in the case of intent and gross negligence. In the case of simple negligence, we are liable
 - for damages due to harm to life, body or health;
 - for damages due to infringement of significant contractual obligations, whose fulfilment is necessary for the proper implementation of the contract; in this case, our liability is restricted to the compensation of foreseeable, typically occurring damages.
- The restrictions to liability arising from clause 8 letter a do not apply, if we fraudulently concealed a defect, or have taken on a guarantee, or for liability according to the product liability law.
- The legal regulations for the burden of proof, remain unaffected by the above regulations.

9. Statute of limitations

- Unless subsequently otherwise determined, the general statute of limitations for customer claims for material and legal defects is one year from acceptance. This statute of limitations also applies to contractual and non-contractual compensation claims by the customer, which are based on a defect.
- The legal statutes of limitations apply
 - for compensation claims due to harm to life, body or health;
 - for liability according to the product liability law;
 - if we fraudulently concealed a defect;
 - if we accepted a guarantee;
 - if we provided the installation service at a structure, and therefore causes its defectiveness.

10. Wage rates

For every normal hour of work, subject to other agreements, the installation company invoices the following for:

Foreman / installation supervisor Euro 75,- per hour

Fitter Euro 65,- per hour

Trainee Euro 45,- per hour

Travel, waiting, preparation and follow up times will be invoiced like working hours, at 50% of the hourly wage.

11. Accommodation allowance / accommodation costs

The costs are accrued for every day of absence from the factory. The accommodation allowance includes the fee for catering and travel costs.

Inland

For absence from the factory / residence up to 6 hours daily, the accommodation allowance inland is Euro 26.00. For an absence from the factory / residence of more than 6 hours daily, the allowance inland is Euro 37.50.

Abroad

In the case of installations abroad, the costs are defined according to country and place of fulfilment, for an order before award of contract. The costs for overnight accommodation will be billed as per receipts.

12. Travel costs

The travel costs of our personnel incurred by us (including the costs of transport and transport insurance of personal luggage, of the tools carried or shipped) will be billed on production of evidence. For a company car, 0.90 will be billed per km.

13. Working hours

The normal working hours are currently 38 hrs / week and are broken down as follows:

Monday to Thursday 8 hrs / day

and Friday 6 hrs

Usual working hours:

Monday to Thursday 07.00 to 16.00

and Friday 07.00 to 13.00

Overtime can only be provided to the extent allowed by the work time regulations [AZO]. The customer is obliged to obtain any approvals that become necessary from the relevant commercial supervisory authorities.

14. Overtime surcharges

For the 1st and 2nd daily additional working hours (overtime hours) 25%

For the 3rd and further additional working hours (overtime hours), Saturday work 50%

For every working hour on public holidays and Sundays with an obligation for continued payment of wages 100%

For works under difficult circumstances and in hazardous operations, e.g. excessively hot or cold rooms, especially dirty operations, in the case of vapours or gases that are harmful to health, or when working at free heights without fixed scaffolding, the hourly charge rate increases by 20%

15. Change to charge rate

If an increase in applicable wages, salaries, allowances, overtime surcharges and mileage allowances occurs during the period of submission of tenders, then the installation company has the right to increase its charge rate accordingly.

16. Report notice

Our installation personnel are obliged to have the work, travel, waiting and preparation times, and the processed material confirmed on appropriate forms. If confirmation is not provided, then the entries of our installation personnel are binding. The customer receives a copy of the report sheets.

17. Invoicing and payment

Installation, commissioning and customer service works will be invoiced separately. We have the right to demand an advance payment according to installation progress, in the case of longer lasting installations. Invoices must be paid immediately on receipt, without deductions, plus VAT. The customer may offset only against a counterclaim which is undisputed or has been declared final and absolute by a court. The customer shall be allowed to assert a right of retention only if it is based on the same contractual relationship.

18. Place of jurisdiction, applicable law

- Place of jurisdiction for all legal disputes arising from the contractual relationship, and about its emergence and validity, is the relevant court for our headquarters, for both parts, in the case of merchants. We can also file a suit at the customer headquarters, at our discretion.
- The contractual relationship is exclusively subject to German law. Transactions with customers based abroad shall be governed by the UN Sales Law (CISG).