

**1.1** Unless otherwise stipulated in writing, the following *Conditions* will govern the supply of personnel abroad.

**1.2** The conclusion or modification of a contract covering the supply of personnel will become effective only after written confirmation by BMA.

In the event of such written confirmation containing any extensions, limitations or other modifications as compared with the order, the orderer will be deemed to have given his consent unless he lodges a written objection without delay.

**2.1** The rates, fringe benefits and travelling expenses to be paid by the orderer for the supply of personnel will follow from the written confirmation of BMA.

**3.1** The conditions of payment will follow from the written confirmation of BMA.

The orderer will not be entitled to withhold the agreed payments or set them off against counterclaims he may hold on BMA, unless the counterclaims are undisputed or non-appealable. All payments by the orderer will be deemed as having been effected only after they have been credited to BMA on a German banking account without deduction of any bank charges arising abroad. If a time for payment has been specified by reference to the calendar, the orderer will be in default without a reminder if he fails to pay at the specified time. For delayed payments, the orderer will pay interest for default from the due date. The rate will be 8,0% p.a. over the basis interest rate according to § 247 BGB.

**4.1** The regular weekly working time will be 35 hours, in accordance with collective agreements as applicable in the Federal Republic of Germany. The weekly working time will be spread over 5 workdays.

The normal working time will be between 6:00 a.m. and 8:00 p.m. German public holiday regulations will apply.

**4.2** The hourly rates stipulated by BMA in the confirmation will be increased in the following manner:

for the first two hours of over-time between	
Monday and Saturday	25 %
for every additional hour of overtime	50 %
for every hour worked on Sundays	50 %
for nightwork	
between 8.00 p.m. and 06.00 a.m.	25 %
for every hour worked on a public holiday	
that falls on a Sunday	100 %
for every hour worked on a public holiday	
that falls on a weekday	140 %

Should more than one of the extra rates apply, the higher rate will be charged, the extra rate for nightwork will however always be charged in addition.

**4.3** The travelling time will be charged on the basis of a maximum of 12 hours per calendar day at the hourly rates stipulated in the written confirmation of BMA without any increases.

**4.4** In cases where the personnel does not work on the legal (= public) holidays applicable at the place of destination, such days will be calculated as standby time on the basis of the rates following from the written confirmation of BMA. The orderer will, however, be obliged to pay the personnel the fringe benefits following from the written confirmation of BMA.

**5.1** All customs duties, taxes, tax penalties and other dues arising in connection with the performance or execution of the contractually stipulated services outside of the Federal Republic of Germany will be borne by the orderer. Furthermore, the orderer will furnish all necessary notifications, information and any other statement to be made to the competent authorities outside of the Federal Republic of Germany, also in cases where this would have to be done by BMA under the applicable foreign laws and regulations.

**6.1** The costs for the travelling preparations of the personnel, e.g. for medical examinations, vaccinations and the visa procurement

as well as the expenses for the transport and re-transport of the handtools usually taken along by the personnel will be charged to the orderer; the orderer will arrange for the fulfilment of the formalities incidental to the transport and re-transport of the said normal handtools.

**7.1** In case of accidents or illness, the following expenses will be borne by the orderer:

**7.1.1** the costs of proper medical care for the personnel, inclusive of all remedies, medicines, appliances and the like, as well as of hospitalisation if necessary, and of all ancillary services;

**7.1.2** the continued payment of the fringe benefits to the personnel at the rates following from the written confirmation of BMA (in case of hospitalisation this will be limited to the continued payment of the allowance for out-of-pocket expenses);

**7.1.3** all expenses resulting from an exchange of personnel, if any. BMA will however transfer any amount refunded by German health insurance institutions to the orderer.

**8.1** BMA recommends the orderer to take out an assembly insurance and a theft insurance for the assembly tools mentioned in 6.1 above.

**9.1** The orderer will be obliged to establish, at his own cost, all necessary prerequisites for the proper and timely performance of the services stipulated in the written confirmation of BMA. This includes in particular:

**9.1.1** the timely and proper completion of all the required construction, foundation and steel construction work;

**9.1.2** the supply of all requisites and materials such as water, electric power, welding gas, oil, transport facilities, scaffolding wood, etc. in the quantities and qualities;

**9.1.3** the making available of suitable transport routes and storage sites;

**9.1.4** dry, lockable storage facilities for tools, supply parts, drawings and other property of the personnel;

**9.1.5** the supply of suitable and sufficient skilled and unskilled help.

**9.1.6** all the necessary safety and precautionary measures.

**10.1** BMA will within a period of 12 months from taking-over or put into use of the Works be liable for the proper execution of the services stipulated in the written confirmation of BMA only to the effect that any remedial works on the machines, apparatus and equipment supplied by BMA necessitated by defects to be ascribed to faulty performance of the BMA personnel and given immediate notice of to BMA by the orderer will be carried out by BMA and at the expense of BMA within a reasonable period of time. If, within reasonable time, BMA does not fulfil this obligations the orderer may fix a final time for completion of BMA's obligations. If BMA fails to fulfil this obligations within such final time and the defect has not been successfully remedied, the orderer is entitled to a reduction of the actual amount of the order for the supply of personnel, provided that under no circumstance shall such reduction exceed 2% of the actual amount of the order for the supply of personnel. Only if, despite the reduction, the orderer can furnish proof of his not being interested in such services and erection work, the orderer shall have the right to withdraw from that part of the order or contract which covers the assignment of personnel.

The liability of BMA for defects to be ascribed to faulty performance, including, as the case may be, avoidable delay in the dispatching of personnel will be limited to 10% of the actual amount of the order for the supply of personnel, to the exclusion of any further liability of BMA and /or the personnel.

In no event will BMA be liable for indirect, incidental, consequential damages or injuries, including, but not limited to, losses in production, loss of profit or any other commercial loss.

The aforesaid limitation and this exclusion of liability shall not apply in the case of intent or gross negligence by BMA or if BMA negligently causes damage to life, body or health. Furthermore,

the limitation and exclusion of liability shall not apply in cases of negligent breach of condition which goes to the root of the contract („wesentliche Vertragspflichten“). In the case of slight negligence, BMA shall be liable only for reasonably foreseeable damage which is intrinsic to the contract. Nor shall the limitation and exclusion of liability apply in the cases of strict liability under the Product Liability Act („Produkthaftungsgesetz“) for defects of the works causing death or personal injury, or damage to items of property used privately. Neither does the said limitation and exclusion apply in the case of damage attributable to fraudulent concealment or despite specific guarantees.

**10.2** The timely dispatching of the personnel presupposes the granting of the necessary official certificates and permits (e.g. visa) in good times as well as the fulfilment of his contractual obligations by the orderer.

BMA will be entitled to change dispositions with regard to the respective personnel.

**11.1** In the event that the performance of the services is made impossible for BMA by war, civil commotion, strike, lockout, epidemics, earthquakes, fire, windstorm or flood, impediments of transport or transportation damage or any other circumstances outside of BMA's control, BMA will be exonerated from the services for the duration of the effects of such impediments. BMA is liable to inform the orderer immediately upon occurrence of a case of force majeure and to substantiate the existence thereof at the orderer's request.

**12.1** All disputes arising from the supply of personnel shall be finally settled under the Rules of Arbitration and Conciliation of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the Rules.

The order or contract for the supply of personnel shall be governed by and the board of arbitration will apply substantive German Law.