

General Terms and Conditions of Burckhardt Compression (Deutschland) GmbH

1. Scope of Application, Conclusion of Contract

1.1 These General Terms and Conditions of Business (GTCs) shall apply bindingly to all contracts for the provision of installation services provided by us for machinery, valves and other equipment. They shall also apply correspondingly to any repair services accepted by us. In addition, they shall apply to the sale and delivery of spare parts.

1.2 In the relationship to the general terms and conditions of our customer, our GTCs shall have exclusive application; we herewith object to the general terms and conditions of the customer. The objection shall also apply in any event if we do not again object to the customer's general terms and conditions after receipt thereof or if we render our contractual performance without any reservation, although we are aware of the customer's general terms and conditions.

1.3 Our offers are non-binding.

1.4 Any offers or orders of the customer shall be deemed to be accepted by us only with our express declaration of acceptance in writing. Silence with regard to such an offer or order shall not be deemed to be acceptance. We shall be entitled to accept the offer of the customer within four calendar weeks after its receipt by us. The customer shall be bound by this offer during this period.

1.5 Any individual written agreements concluded with the customer in the individual case shall always have priority over these GTCs.

1.6 References to the validity of statutory regulations shall only have clarifying significance. Therefore, the statutory regulations shall also apply without such a clarification insofar as they are not directly changed or are explicitly excluded in these GTCs.

2. Prices, Terms of Payment

2.1 Unless agreed otherwise, our services are charged on the basis of time and effort on the basis of our installation rates.

2.2 We regard 40 weekly hours as regular working hours. Any overtime as well as work on Sundays and public holidays are subject to the following premiums:

- a) for the first two daily extra working hours on Monday to Friday: 25%;
- b) from the third extra working hour on a day or from the 11th extra hour per week and on Saturdays: 50%;
- c) for extra work during the night between 19:00 pm and 6:00 am: 50%;
- d) for work on Sundays as well as on 24 and 31 December: 100%;
- e) for travel time on Sundays as well as on 24 and 31 December: 50%;

f) for work and travel time on legally defined, paid public holidays that fall on working day on which no one usually works or on a Sunday (except for Easter Sunday, Pentecost Sunday and both Christmas holidays): 100%,

g) for work and travel time on paid public holidays that fall on a normal working day as well as on Easter Sunday, Pentecost Sunday and both Christmas holidays: 150%;

h) for late and night work between 24:00 and 6:00 am: 50%.

If several premiums coincide, only the higher premium is charged; however, in the event of night work on Sundays and public holidays, the night premium pursuant to h) is charged in addition to the Sunday and public holiday premium. We will work overtime, insofar as this is necessary at our discretion or has been agreed upon.

2.3 Travel time to and from the workplace is regarded as working hours. Travel time charged is the time needed for the return trip and the time spent looking for accommodation and on making official registrations and deregistrations, but a maximum of 12 hours per travel day. The travel costs including necessary ancillary costs such as for luggage, tools taken along, taxi, etc. are invoiced to the customer. Mileage allowance, accommodation and out-of-pocket expenses are charged as incurred. We reserve the right to choose the means of transportation; we try to use the most economical means of transportation. Travel costs also include the cost of journeys home during the installation period. Other costs, such as for spare parts (see no. 8) and freight are charged separately and evidenced.

2.4 If our installation staff is prevented from providing the agreed services for reasons beyond our control or are retained after the end of the work for any reason, we will charge the waiting time like working hours. All other related costs shall be borne by the customer.

2.5 The time sheets submitted by our installation staff to the customer for signing constitute the evidence of services rendered.

2.6 The prices are net, plus the statutory value added tax. We issue an invoice for the services provided, including any other contractual expenses, every month. The customer is obliged to pay the amount stated without any deductions within 30 days from the invoice date.

2.7 We are entitled to demand from the customer instalment payments for contractual services rendered in respect of completed portions of the work. This also applies to necessary materials or components that are produced or delivered specifically for this purpose. This right only exists, provided that ownership in the portion of the work, the materials or components is transferred to the customer or if security has been provided for this purpose. If the customer is in default with any of its instalment payments by more than four weeks, we shall be entitled to discontinue our work, unless the customer makes the instalment payment due and makes an advance payment or provides security in the amount of the next instalment payment due.

2.8 The customer is only entitled to retain payments or to offset against counter-claims, insofar as its counter-claims are undisputed or finally adjudicated.

3. Scope of Installation

3.1 Unless otherwise explicitly agreed in writing, installation work accepted by us includes rendering the objects supplied by us (components, parts, spare parts, etc.) or certain objects/equipment/machinery of the customer in a mechanically operational condition.

3.2 As a rule, our services do not include any civil engineering work on site or additional work to be performed by the customer, in particular any electrical installation work.

3.3 In addition, any acceptance that may be necessary pursuant to applicable accident prevention regulations is not included in our scope of services, unless otherwise agreed explicitly in writing.

4. Cooperation of the Customer

4.1 During execution of the installation services, the customer shall support our installation staff regarding performance of the services accepted by us by the agreed dates and deadlines at its own risk and cost. In particular, these mean the following cooperation services and activities of the customer:

Provision or, if necessary, creation of an access route to the installation site for non all-wheel-drive lorries and automotive cranes; unloading of the arriving materials, transportation and properly protected storage of all materials supplied at the installation site; interim transportation to the installation site including loading and unloading; preparations for the installation of required lifting and fixing equipment (e.g. fork lift trucks, slinging ropes); provision of all energy sources required for installation (including electricity, water, compressed air, welding gases) as well as of the necessary connections at the installation site; adequate lockable rooms in the direct vicinity of the installation site for storing special parts, tools, etc.; disposal of oil, packaging materials and mud guards, etc.

If necessary, this also applies to suitable auxiliary staff, for whom we do not assume liability.

4.2 The customer shall be responsible for the protection of people and objects at the place of installation. The customer shall ensure adequate working conditions and safety at the installation site.

4.3 Our installation supervisor shall be notified on site of any safety regulations to be observed.

4.4 The customer shall ensure that installation work can be commenced immediately after the arrival of installation staff. The customer shall be liable for any delays under the customer's control. If the customer fails to fulfil its duties of support, we are entitled to specify a reasonable period of grace for performance, which may be a few hours only under the relevant conditions. After this period has passed to no avail, we shall be entitled, but not obliged, to perform any activities of the customer in lieu of the customer at the latter's cost. Any additional statutory rights and claims on our part shall not be affected.

4.5 The customer has to give proof of the working hours and the work performed by our installation staff when submitting the time sheets.

5. Dates and Deadlines

5.1 Binding dates and deadlines for performance are agreed upon individually or specified by us upon acceptance of the purchase order. In the event of non-binding or approximate (e.g. ca.,

about, etc.) dates and deadlines for performance, we shall take all efforts to adhere to them. The deadlines commence on the date of confirmation of the order or of the individual agreement, however, not before all necessary questions and details of the installation order have been clarified fully. The installation period is regarded as observed if the installation is ready for acceptance as defined in no. 6 until expiry of the period.

5.2 If we do not receive any deliveries or services from our supplies at all, not in time or not without any defects for reasons beyond our control or if any events of force majeure occur at our company or at our suppliers, we shall notify the customer thereof immediately and at the same time specify a new deadline that is reasonable under the relevant circumstances. If the service is not available within the new delivery period either, we shall be entitled to withdraw from the contract in whole or in part; we will reimburse immediately any consideration of the customer already provided. Deemed as a case of non-availability of the service is, in particular, the late self-delivery by our supplier if we have concluded a congruent hedging transaction. Force majeure means strike, lock-out, interventions by the authorities, shortages of energy and raw materials, transportation bottlenecks, operational disturbances through no fault of our own, e.g. due to fire or water, which have not been culpably caused by us in objective terms. The aforementioned regulations shall also apply if any of the said circumstances occur after we are in default.

5.3 If we are in default, the customer may specify a reasonable period of grace and withdraw from the installation order in whole or in part after expiry of this period to no avail. Claims for damages due to delayed performance or due to non-performance - regardless of the cause - only exist in line with the regulations in clauses 5.4 and 9.

5.4 If we are in delay with delivery and this results in a damage to the customer, the customer shall be entitled to claim liquidated damages in the amount of 0.5 % per full week of delay, but not exceeding 5 % of the value of that part of the total scope of supply which cannot be used on time or not in accordance with the contract as a result of the delay. We are entitled to provide evidence that the customer has not suffered any losses or that the losses are significantly lower than the lump sum. Any further rights of the customer are only subject to clause 9.

5.5 Should the installation performance perish or deteriorate prior to acceptance for reasons under the customer's control, we shall be entitled to charge the agreed price minus any savings in expenses. The same applies to any impossibility of installation for which the customer is liable.

6. Acceptance

6.1 The customer is obliged to accept the work or the installed delivery object as soon as it has been notified of completion thereof and the installed delivery object is in a mechanically functioning condition or if the contractually agreed trial operation of the installed delivery object has been carried out, if applicable. The parties shall prepare and sign a protocol on acceptance.

6.2 In the event of an insignificant deficiency, the customer is not entitled to refuse acceptance, provided that we explicitly acknowledge our duty to rectify the deficiency.

6.3 The acceptance shall take place immediately after the prerequisites pursuant to 6.1 have been fulfilled. We shall bear the acceptance costs related to the work that takes place in our premises;

the other costs incurred in connection with the acceptance or any costs charged by third parties shall be borne by the customer.

6.4 If the customer fails to carry out acceptance, although the prerequisites pursuant to 6.1 are fulfilled, acceptance is deemed to be carried out bindingly for both parties after one week of giving notice of completion of installation. Acceptance is deemed to be carried out in any case, if the customer uses the installed delivery object or the work.

7. Warranties

7.1 Warranty claims shall be statute-barred after 12 months. The period of limitation begins with the acceptance.

7.2 If acceptance is not carried out in time or not in full without our fault, acceptance shall be deemed to be effected after the end of two weeks from the notice of completion of the installation or repair work. Acceptance is deemed to be effected in any case, if the customer uses the work or the installed delivery object.

7.3 If any deficiencies occur in the work during this warranty period, the customer may choose to demand subsequent performance through improvement or substitute delivery. If the deficiency has not been rectified after a specified reasonable period, the customer itself may rectify the deficiency and demand reimbursement of the necessary expenses, withdraw from the contract, reduce the price or claim for damages.

7.4 The customer shall notify us immediately in writing of any deficiencies identified, including a detailed description.

7.5 If the customer, without our consent, has improperly carried out any installation or repair work or has had such work carried out by third parties, our warranty obligation shall lapse.

7.6 In the event of justified claims for subsequent improvement, we shall only bear the costs that are necessary for subsequent improvement.

8. Spare Parts Business

8.1 Our sales transactions and the delivery of spare parts, components or parts are based on the following supplementary terms and conditions.

8.2 Prices, Terms of Payment

8.2.1 Unless agreed explicitly otherwise, the prices specified in the price list valid upon conclusion of the contract shall be apply. The prices are net, plus applicable value added tax. We issue an invoice for the deliveries rendered, including any other contractual expenses such as our customary packaging, other delivery costs, etc. The customer is obliged to pay the amount specified in the invoice without any deductions within 30 days from the invoice date.

8.2.2 We reserve the right to increase our prices correspondingly if cost increases, in particular due to collective agreements or increases in material prices, occur subsequent to the conclusion of the contract and if at least 3 months have passed between the conclusion of the contract and the planned delivery.

8.2.3 The customer is only entitled to retain payments or offset against counter-claims, insofar as its counter-claims are undisputed or finally adjudicated.

8.3 Quality

The quality of the spare parts results from the brochures and other detailed product descriptions, which can be inspected at any time at our company and can be sent at any time on request. The indicated information is neither warranted nor guaranteed. Customary deviations from drawings, illustrations, dimensions, weights and other performance data are permissible.

8.4 Delivery and Performance Periods, Passing of Risk

Unless otherwise agreed, our deliveries are made ex works (EXW) pursuant to Incoterms 2010. The place of performance for the delivery is the place of the delivery factory or the warehouse, and for the customer's payment obligation, the place of the bank data specified in our invoice. Delivery periods are deemed to be observed if the shipment is ready for dispatch within the period and if the customer has been notified thereof or if it leaves our business premises.

8.5. Warranty, Duty to Inspect and Give Notice of Defects

8.5.1 Warranty claims shall be statute-barred after 12 months. The period of limitation begins to run upon the delivery of the work.

8.5.2 In the event of defects of quality or title, we are obliged to provide subsequent improvement or subsequent delivery at no charge. Otherwise, the statutory provisions apply to the rights of the customer.

8.5.3 In order to exercise any warranty rights, the customer must have duly fulfilled its duties of inspection and notification owed under Section 377 of the German Commercial Code (HGB). The customer shall notify in writing of any deficiencies that are apparent and identifiable upon proper inspection within 8 days from delivery. Any deficiencies that are not apparent and not identifiable upon proper inspection are to be reported by the customer in writing within 8 days from their discovery. If the customer fails to fulfil its reporting duty, any warranty for the defects concerned shall be excluded.

8.5.4 We are obliged to pay the expenses necessary for subsequent improvement, in particular, transportation, travel, labour and material costs, insofar as these are not increased because the delivered object has been moved to a location other than the place of performance. If the deficiency cannot be identified, the customer shall bear the cost of examination. In the case of insignificant defects, the customer has no right of cancellation.

8.6 Retention of Title

8.6.1 We reserve title to the delivered objects until all claims that we have or will have under the business relationship have been fulfilled in full.

8.6.2 If any maintenance or inspection work is to be carried out to the goods subject to the retention of title, the customer has to perform these in due time at its own cost.

8.6.3 The customer is entitled to process or combine the delivered objects within the normal course of its business. We acquire co-ownership in the products resulting from processing or combining in order to secure our claims set forth in no. 8.6.1; the customer hereby now assigns to us such co-ownership. The customer shall safeguard the objects subject to our co-ownership free of charge as an ancillary contractual duty.

8.6.4 The customer is entitled to sell the objects within the normal course of its business against cash payment or with a retention of title. The customer hereby now assigns all claims, including ancillary rights, accruing to it from the resale to their full amount, regardless of whether or not the

delivered objects were processed. The claims assigned serve to secure our claims set forth in 8.6.1. The customer shall be entitled to collect the claims assigned.

8.6.5 If the value of the securities existing in our favour exceeds our claims by more than 10% in total, we will release the securities in this amount at our option at the request of the customer.

9. General Exclusion and Limitation of Liability

9.1 For all claims for damages made against us or against any of our vicarious agents or legal representatives due to culpable breach of duty, regardless of the legal cause, in particular due to impossibility of performance, default, defective delivery and installation work, violation of duties in contractual negotiations, unlawful acts, product liability duties, we shall only be liable

- for intent and gross negligence
- in the event of slight negligence regarding the violation of life, limb or health
- if we fraudulently concealed a deficiency or in the event of deficiencies for whose absence we have assumed a warranty
- if we are liable for personal injury or property damage pursuant to the Product Liability Act
- damage resulting from culpable breach of an essential contractual duty (cardinal obligation). In this case, our liability shall be limited to the typically foreseeable damage. Material contractual duties are duties the performance of which is a prerequisite for the proper execution of the contract and on the compliance of which the contracting parties regularly rely.

9.2 Any further claims shall be excluded.

10. Place of Jurisdiction, Applicable Law

10.1 Without prejudice to places of jurisdiction for preliminary injunction proceedings, the exclusive place of jurisdiction for all present and future claims under the business relationship - including for actions involving cheques and promissory notes - shall be our corporate seat if the customer is a merchant, a legal person in public law or special assets of government. However, we are entitled to sue the customer before the courts at its general place of jurisdiction.

10.2 All legal relations between us and the customer shall be subject exclusively to the laws of the Federal Republic of Germany, the UN Sales Convention on Contracts for the International Sale of Goods (GISG) being excluded.

11. Severability Clause

If a provision in these Terms and Conditions of Business is or becomes invalid, the validity of all of the remaining provisions or agreements shall not be affected. The invalid provision shall be replaced by a valid agreement that comes as close as possible to the commercial purpose of the invalid provision.