

# General Conditions of Contract for Training

## 1. Scope of validity

1.1 These General Conditions of Contract for Engineering Training (the "Conditions") are valid for work undertaken by Burckhardt Compression AG, Winterthur, Switzerland (the "Contractor") in connection with training provided to its Clients, (hereinafter referred to as "Training").

## 2. General

2.1 The Contract shall be deemed to have been entered into upon receipt of Contractor's written acknowledgement stating its acceptance of the Offer.

2.2 Offers shall remain open for acceptance by the period stated in the tender unless it is previously withdrawn but no longer unless a further period is expressly agreed between the parties in writing.

2.3 Offers which do not stipulate an acceptance period shall not be binding.

2.4 These Conditions shall be binding if declared applicable in the Offer or in the written order acknowledgement. Any conditions stipulated by the Client which are in contradiction of these Conditions shall only be valid if expressly acknowledged by the Contractor in writing.

2.5 All agreements and legally relevant declarations of the parties to the contract must be in writing in order to be valid.

## 3. Scope of supply for Training

3.1 The extent of the Training is specified in the Offer and order acknowledgement of the Contractor (the "Agreement").

3.2 The Contractor shall render its Training in accordance with generally accepted engineering practices using currently recognized engineering principles and practices. Contractor makes no other warranty, either express or implied.

3.3 It is expressly acknowledged that information and data provided by others, which may constitute the basis for these Training, have not been independently verified by the Contractor.

3.4 It is expressly acknowledged that Contractor's review and/or translation and conversion of design information and interface prepared by Client shall in no way serve to transfer to Contractor responsibility for the correctness and/or accuracy of the work performed by Client and/or others.

3.5 Any documents submitted by the Contractor during the course of the training shall be solely for training purposes and do not relate to the customer's plant or operations.

## 4. Variations

4.1-The Client has the right at any time to request a change to the Scope of Work. If such change results in higher cost or an extension of time, Contractor shall be reimbursed for all such extra costs and shall receive the respective extension of time.

## 5. Intellectual Property, Patents and Licensing

Patent and invention rights will be in accordance with the following:

### 5.1 Intellectual Property Ownership

5.1.1 "Intellectual Property" means inventions, whether or not patentable, copyrightable works, know-how, trade secrets, software, including source code and object code, compositions of matter, procedures, and experimental results created pursuant to the Agreement.

5.1.2 Intellectual Property created by the Contractor in performance of the Agreement shall be owned by the Contractor (hereinafter "Contractor Intellectual Property").

5.1.3 Intellectual Property created by the Client in the performance of the Agreement, shall be owned by the Client (hereinafter "Client Intellectual Property").

5.1.4 Intellectual Property jointly created by the Contractor and Client (hereby defined as "Joint Intellectual Property") and specified in the order acknowledgement of the Contractor as a joint task in the performance of the Training under the Agreement, shall be owned jointly by the Contractor and Client. Intellectual Property jointly created by the Contractor and Client but not as a result of work specified as a joint task in the statement of work of the Agreement shall be owned by the Contractor and considered Contractor's Intellectual Property and Client's right to use such shall be subject to the terms of the Agreement. In the event that either party registers, files, prosecutes, maintains or licenses a copyright, trademark, or patent upon Joint Intellectual Property, the other party agrees to execute documentation necessary for such registration, filing, prosecution, maintenance or licensing providing for joint ownership.

5.1.5 All Intellectual Property in any webinar and/or online session provided by the Contractor belongs to the Contractor. Any unauthorized recording in any form of any webinar and/or online session is strictly forbidden.

### 5.2 Intellectual Property Rights: Patent Prosecution; Copyright Registration.

5.2.1 The Contractor may, at its discretion, file an application for, and take steps to obtain and maintain the validity of a patent(s) related to Contractor Intellectual Property in any country, and/or may take any other action (such as Copyright registration) to obtain other protection for Contractor Intellectual Property or Joint Intellectual Property in any country.

5.2.2 If the Contractor declines to apply for and/or to maintain patent and/or any other Intellectual Property protection in any country, the Client may request (under any licensing option) that the Contractor pursue such protection in the Contractor's name in any country at the Client's expense.

### 5.3 Intellectual Property Rights and Licensing Rights

5.3.1 All Intellectual Property Rights created in the performance of the Agreement shall be owned by the Contractor.

5.3.2 Contractor agrees to grant to the Client a worldwide, transferable license for the duration of the intellectual property rights, to use the Contractor's Intellectual Property in so far as required to benefit from to the fullest from the performance of the Agreement. The price of such license shall be included in the price of the Agreement.

### 5.4 Background Intellectual Property.

5.4.1 "Contractor Background Intellectual Property" means all Intellectual Property which has been created by or in the possession of the Contractor prior to the date of the Agreement or which is developed independently of the Agreement by the Contractor, whether or not patentable, patented or the subject of a pending application for patent in any country, including, but not limited to, any art, method, process, or procedure, machine, manufacture, design, composition of matter, or any new and useful improvement of any of the foregoing. The Contractor shall retain the entire right, title and interest in and to Contractor Background Intellectual Property under the Agreement. If Client desires to license Contractor Background Intellectual Property a license may be negotiated with Contractor on economic conditions.

5.4.2 Client Background Intellectual Property" means all Intellectual Property which has been created by or in the possession of the Client prior to the date of the Agreement or which is developed independently of the Agreement by Client, whether or not patentable, patented or the subject of a pending

application for patent in any country, including, but not limited to, any art, method, process or procedure, machine, manufacture, design, composition of matter, or any new and useful improvement of any of the foregoing. The Client shall retain the entire right, title and interest in and to Client Background Intellectual Property under the Agreement.

## **6. Limitation of liability / Indemnification**

6.1 Any information, materials, Training, resources, Intellectual Property or other property rights granted, granted access to, or provided by the Contractor pursuant to the Agreement (the "Deliverables") are on a "as is" basis. The Contractor makes no warranties of any kind, either expressed or implied, as to any matter including but not limited to warranties of fitness for particular purpose, merchantability, exclusivity or results obtained from Deliverables, including but not limited to, any use of any Intellectual Property developed under the Agreement, nor shall either Party hereto be liable to the other for indirect, special, or consequential damages and loss of profits or inability to use said Intellectual Property or any applications and derivations thereof. The Contractor does not make any warranty of any kind with respect to freedom from patent, trademark or copyright infringement information content, integration or theft of trade secrets and does not assume any liability hereunder for any infringement of any patent, trademark, or copyright arising from the use of the Deliverables or rights granted or provided by it hereunder.

6.2 The Client will defend, indemnify and hold the Contractor harmless from any claim, suit, loss, cost, damage, liability or expense arising out of Client's performance or actions under this Agreement and the Client's use of any information, results, or Deliverables. Such defense will be conducted by attorneys reasonably acceptable to both parties. This obligation shall survive termination of the Agreement.

6.3 The remedies of the Client set forth herein are exclusive, and except in respect of Contractor's legal liability for personal injury or death, Contractor's liability with respect to any contract, indemnity, tort (including negligence), under any warranty, strict liability or otherwise shall not exceed hundred percent (100%) of the respective order value.

6.4 Disclaimer: Notwithstanding anything to the contrary, the Training is provided without any representation or warranty, expressed or implied regarding its accuracy or correctness including, but not limited to, any implied warranty or fitness for a particular purpose. The Contractor expressly assumes no liability for any loss of profit, loss of contracts, interruption or loss of production, loss of opportunity or business, indirect, punitive, special or consequential damages whatsoever that may be suffered by the customer unless claims arise from gross negligence or willful misconduct.

## **7. Terms of payment**

7.1 Unless otherwise agreed, the price and the costs are invoiced after the training and are to be paid by the Client within 30 days of the date of the invoice. The Contractor reserves the right to require partial or complete payment in advance of the presumed amount.

7.2 Payments are to be made by the Client at the Contractor's registered office without deductions of any kind (discount, expenses, taxes, fees, etc.). Payment is regarded as carried out when the amount(s) invoiced are made freely available to the Contractor.

7.3 The Client is not allowed to withhold or decrease payments because of complaints, claims or counterclaims not accepted by the Contractor. The payments are also to be made should the work be delayed or have been made impossible for reasons beyond the control of the Contractor.

7.4 If the Client fails to effect payment on the agreed date(s), he shall – under the proviso of other rights being claimed and

without formal notice – be liable to pay interest on the overdue amount with effect from the agreed date on which the payment was due at a rate of seven (7%) percentage points. Payment of default interest shall not release the Client from its contractual obligations.

## **8. Cancellation of the Contract by the Client**

### **8.1 Cancellation Policy for on-site Training:**

- One to five business days prior to training date: 70% of the agreed amount shall be paid by the Client.
- Six to ten business days prior to training date: 50% of the agreed amount shall be paid by the Client.
- Before ten business days prior training date: No charge.

### **8.2 Reschedule Policy for on-site Training:**

- One to five business days prior to training date: 50% of the agreed amount shall be paid by the Client.
- Six to ten business days prior to training date: 30% of the agreed amount shall be paid by the Client.
- Before ten business days prior training date: No charge

### **8.3 Cancellation Policy for in-house Training in Winterthur:**

- One to five business days prior to training date: 70% of the agreed amount shall be paid by the Client.
- Six to ten business days prior to training date: 50% of the agreed amount shall be paid by the Client.
- Before ten business days prior training date: No charge

### **8.4 Reschedule Policy for in-house Training in Winterthur:**

- One to five business days prior to training date: 50% of the agreed amount shall be paid by the Client.
- Six to ten business days prior to training date: 30% of the agreed amount shall be paid by the Client.
- Before ten business days prior training date: No charge

### **8.5 Purchase Order Conditions:**

Once the Offer has been submitted to Client, the required training dates will be provisionally reserved. Dates of the training will be finalized on the receipt of the PO (Purchase Order) and when the final order confirmation is issued by Contractor. If the customer fails to finalize the PO within the given time, the Contractor has the right to cancel the training date.

## **9. Force Majeure**

9.1 Contractor shall not be liable for any non-performance, loss, damage, or delay due to war, riots, fire, flood, strikes or labour difficulties, governmental acts such as, but not limited, to trade restrictions including embargoes, acts of God, acts of the Client, its Client or the end-user, delays in transportation, inability to obtain necessary labour or material from usual sources, or other causes beyond the reasonable control of Contractor.

9.2 In the event of delay in performance due to any such cause, the delivery date or time for completion of Training will be extended to reflect the length of time lost by reason of such delay. Payment obligations shall not be affected by Force Majeure events if the grounds for Force Majeure continue for more than six (6) months, either Contractor or Client may

terminate the Contract upon seven (7) days written notice to the other Party.

9.3 Contractor shall be entitled to be compensated for the extra costs caused by the interruption, or, in case of termination, or the work done prior to termination, and the expenses for non-cancellable procurements. Client shall be entitled to receive the work for which it has paid

#### **10. Place of jurisdiction and applicable law**

10.1 The Contract is construed and shall be interpreted in accordance with the laws of Switzerland.

10.2 In case of a dispute, the parties shall make their best effort to solve such dispute amicable. If such dispute has not been settled between the parties within sixty (60) days from the date of the relevant party's written notification of a claim to the other party, the courts at the registered office of the Contractor shall have exclusive jurisdiction. Contractor reserves the right to claim against Client at Client's registered office.

#### **11. Final conditions**

11.1 Any changes to the contract are only valid if agreed upon in writing.

11.2 Should any provisions herein prove to be ineffective, this shall not affect the validity of the remaining conditions. The parties agree to replace non-valid conditions by new ones, which are consistent as far as possible with the economic objective of the contract.