

General Terms and Conditions for Sales Contracts and Contracts for Work and Services -
Bauer Kompressoren GmbH

I. General Points/ Scope of Application

1. These General Terms and Conditions (GTC) are the sole conditions pertinent to all sales contracts and contracts for work and services agreed in connection with products and devices, including accessories and spare parts, sold by BAUER Kompressoren GmbH (hereinafter referred to as the "Selling Party"), as well as to services such as installation and maintenance. They shall apply to contracts for work and services accordingly, insofar as their application is not ruled out due to the nature of the contract for work and services. Stipulations differing from these GTCs, in particular any Purchaser's terms and conditions which contradict these GTCs, shall only be deemed to be agreed if they are specifically confirmed in writing by the Selling Party as being applicable in place of these terms and conditions. These GTCs shall also apply if the Selling Party supplies to the Purchaser without reservation, despite being aware of contradictory or differing Purchaser terms and conditions.
2. These GTCs shall not apply in a personal respect to consumers in accordance with Section 13 BGB [German Civil Code].
3. In the event of an ongoing business relationship, the valid version of these GTCs shall also apply to all future business transactions without specific notification of this or reference to it. This shall apply particularly in the event of call-off or follow-up orders.
4. Business correspondence, such as order confirmations, invoices, credit notes, account statements and payment reminders, printed by the Selling Party by means of data processing or sent by e-mail are valid and legally binding even without a signature.

II. Offers and Conclusion of a Contract

1. Selling Party offers are non-binding and are subject to appropriate supplies to the Selling Party, insofar as nothing to the contrary has been specifically agreed in writing. Orders shall only become binding on the basis of written order confirmations unless the performance ordered has already been provided by the Selling Party or has been invoiced.
2. With respect to electronic business dealings, the parties hereby waive application of the stipulations in Section 312e, Paragraph 1, Sentence 1 no. 1 to 3 BGB. Confirmation of the receipt of electronic orders (e-mail) does not constitute binding acceptance of the order. However the confirmation of receipt may be sent together with the declaration of acceptance. In the event of orders by electronic means, the text of the contract will be stored by the Selling Party and will be sent to the Purchaser together with these GTCs by e-mail, if the purchaser requests.
3. In the event that the Selling Party requires an export licence to fulfil its obligations, the contract shall be concluded subject to the condition precedent that an export licence is granted. The Selling Party shall undertake to apply for the relevant licence from the appropriate authority. Should the application be refused, the Selling Party shall not be subject to any further obligations.
4. Property rights and copyrights, especially rights with respect to reproduction and distribution, concerning illustrations, drawings, costings and other documents which the Purchaser obtains in connection with an offer from the Selling Party, shall remain with the Selling Party. These documents shall not be made available to third parties, except for in cases of resale in accordance with stipulations, and are to be returned

to the Selling Party on request if the contract does not come about or falls through.

5. The Purchaser shall be liable for the correctness of the documents to be provided by the Purchaser, such as samples and drawings. If production of the goods based on drawings, samples or other information provided by the Purchaser involves a breach of third party property rights, the Purchaser shall indemnify the Selling Party against all claims made by the owner of the property rights.

III. Prices

1. If no other agreements have been made to the contrary, the prices stipulated by the Selling Party refer to unpacked goods, ex works, in Munich. Packaging and shipping costs shall be borne by the Purchaser. For transactions with businessmen, the prices indicated are net prices, plus statutory VAT.
2. Unless anything to the contrary has been specifically agreed, if the valid book price at the time of supply is higher than that agreed with the Purchaser, the higher book price shall apply if the items are supplied more than four months after the contract has been concluded for reasons answerable for by the Purchaser, unless the invoice has already been issued and has been paid by the Purchaser.

IV. Performance Data Tolerances

1. The product description from the Selling Party/ the manufacturer shall hereby be accepted as defining the nature of the goods or services. The Selling Party shall only be answerable for public statements, in particular those in connection with advertising, if the Selling Party has instigated them and if the Purchaser's decision to buy was actually influenced by them. Information, drawings, illustrations, performance descriptions, dimensions, weight information or other performance data contained in catalogues, price lists, brochures, flyers, other advertising material, other publications or in the documents related to the offer are, within the framework of accepted practise in the industry, approximate in their correctness and are therefore limited in their authority. They only contain guarantees if they are specifically designated as such by us in writing. References to DIN standards are only intended to describe the goods in more detail and do not constitute a guarantee unless this has been specifically agreed.
2. Reasonable deviations (tolerances) from performance data do not constitute a fault. This applies to the following tolerances in particular.
Delivery quantity for respiratory air compressors: measured with cylinder filling from 0-200bar- +/-5%
Delivery quantity for industrial air and gas compressors: measured in accordance with VDMA 4362 with flow meter against 0.8-fold final pressure - +/- 5%
Power consumption: KW +/- 5%
Compressor speed: 1/min +/- 5%
Operating pressure (final pressure): bar +/- 5%
Safety valve set pressure: bar +/- 5%
Operating voltage: Volt +/- 10%, frequency Hz +/- 1%
Sound pressure in decibels at a distance of 1m: +/- 2 db
Net weight: kg +/- 10%
Dimensions: m +/- 10%
3. The Selling Party reserves the right to make design modifications to devices without prior notice, if they are usual for the industry and are reasonable for the contractual party. The Purchaser cannot demand the retrofitting of devices which have already been supplied in the event of design modifications within an ongoing batch.

V. Title Retention

1. The Selling Party shall retain the title to moveable items until the purchase price has been paid in full.
2. In the event of an ongoing business relationship with the Purchaser, the Selling Party shall retain the title to moveable items until all the receivables ensuing from the business relationship have been paid.
3. Within the framework of normal business activities, the Purchaser is entitled to resell or transfer the goods supplied by the Selling Party. The Purchaser shall hereby assign his receivables from the resale of the goods supplied by the Selling Party to the latter. In the event that the Purchaser places the receivables from the resale of the goods into a current account, the Purchaser shall assign the receivables from the final balance to the Selling Party, the amount of which shall be limited to the Selling Party's purchasing price claim for the items resold by the Purchaser. The Selling Party shall accept these assignments of receivables.
4. In the event that the Purchaser processes the items supplied by the Selling Party, the Selling Party shall retain the title of the new moveable items produced. If the items produced are not manufactured solely from Selling Party items, the Selling Party shall receive co-ownership of the items produced. The Selling Party's co-ownership share shall be determined in line with the ratio of the value of its own items in comparison to the value of the other items which were used to produce the new item.
5. Within the framework of normal business activities, the Purchaser is entitled to resell or transfer the new items produced in this way. The Purchaser shall assign his receivables from a resale of this nature to the Selling Party, to the proportion of the Selling Party's co-ownership share of the item sold. In the event that the Purchaser places his receivables into a current account, the Purchaser shall assign his receivables from the final balance to the Selling Party, the amount of which shall be limited to the part of the Purchaser's receivables which corresponds to the Selling Party's co-ownership share of the item sold. The Selling Party shall accept this assignment of receivables.
6. The Selling Party shall grant the Purchaser the revocable authorisation to collect the receivables assigned to the Selling Party. This collection authorisation shall be terminated even without retraction if the Purchaser becomes insolvent, is threatened with insolvency, if he becomes heavily in debt or if his assets diminish considerably. In the event that the collection authorisation is terminated, the Purchaser shall undertake to notify the third party debtors in writing immediately of the assignment of the receivables to the Selling Party and to notify the Selling Party of this notice of assignment. The Purchaser shall also undertake to provide the Selling Party with all information and documentation required to assert the assigned claims, if requested to do so.
7. If requested by the Purchaser, the Selling Party shall surrender its security interests if the recoverable value of the items still owned by the Selling Party and the receivables assigned to the Selling Party exceed 110 % of the Selling Party's receivables from the ongoing business relationship with the Purchaser. The Selling Party shall take the legitimate interests of the Purchaser into account when selecting the securities to be surrendered.

VI. Purchaser's Rights in the Event of Defects

The rights of the Purchaser in the event of defects are based on the legal stipulations, with the following differences.

1. If the Purchaser demands subsequent performance, the Selling Party can decide whether to rectify the defect or whether to supply a product which has no defects.
2. The Selling Party is entitled to make subsequent performance dependent on prior payment of an appropriate part of the remuneration, taking the defect into account.
3. The Purchaser is only entitled to abatement or, optionally, to withdraw from the contract if subsequent performance proves unsuccessful. Subsequent performance shall be deemed to be unsuccessful after the second attempt to rectify the defect has failed, if nothing to the contrary arises based on the nature of the item or the defect, or other circumstances in accordance with Section 440 Sentence 2 BGB.
In the event that subsequent performance is attempted by supplying an item free of defects, subsequent performance shall be deemed to be unsuccessful if the replacement item is not free of defects and the first attempt to rectify the defect on the item supplied as a replacement is unsuccessful, if nothing to the contrary arises based on the nature of the item or the defect, or other circumstances in particular. The Purchaser can refuse another replacement, the consequence of this being that subsequent performance will be deemed to have failed.
4. For defects to unascertained items, the Selling Party shall only be liable to the same degree as for defects to ascertained items. In particular, the Selling Party's procurement obligation shall not constitute a no-fault responsibility on the part of the Selling Party for damages related to the defect.
5. Insofar as the parties have not ruled out the Purchaser's claims for reimbursement of expenditure in accordance with Section 478 Paragraph 2 BGB by granting compensation to the same value, the Purchaser shall, in accordance with Section 439 Paragraph 3 BGB, undertake to refuse a consumer subsequent performance in the event that the item has been resold to the consumer, if this is only possible at disproportionate cost. In the event that the Purchaser resells the item to a business person, the Purchaser shall also undertake to oblige this person to refuse subsequent performance in the event that he resells the item to a consumer, if this is only possible at disproportionate cost. Within the framework of Section 478 Paragraph 2 BGB, the Selling Party shall therefore only reimburse the Purchaser the expenditure required for subsequent performance if it is not disproportionate in accordance with Section 439 Paragraph 3 BGB.
6. Guarantee shall not be given for the following instances in particular.
Unsuitable or inappropriate use, incorrect fitting/ commissioning on the part of the Purchaser or a third party, normal wear and tear, incorrect or negligent treatment, improper maintenance, unsuitable operating fluids, faulty construction work, an unsuitable base, chemical, electrochemical or electrical influences - insofar as they are not answerable for by the Selling Party.
7. If the Purchaser or a third party carries out improper remedying work, the Selling Party shall not be liable for the consequences. The same applies to modifications to the goods supplied which have been carried out without prior agreement with the Selling Party.

legally ascertained or ready for a decision. The limitation to the right to withhold performance and the right of retention shall not apply if the Purchaser is a consumer.

VII. Supply and Acceptance

1. If the Selling Party is unable to comply with agreed supply dates through no fault of his own, e.g. due to force majeure, intervention by public authorities, disasters, war, insurrection, strikes at his own plant, shipping organisations or suppliers, or with respect to means of transport, he is authorised to catch up on supply after the hindrance has ceased. If supply is delayed by more than four months, the Purchaser is entitled to refuse delivery and withdraw from the contract. The Purchaser has no other rights or claims for non-supply or delayed supply in the event of causes such as those above, even if these causes only began when the supply deadline had already been exceeded or the Selling Party was in default.
2. If the business transaction is based on a contract for work and services, the Purchaser shall be deemed to default on acceptance of the work and services if he does not carry out the acceptance process within a week of handover, notification of completion or invoicing. Acceptance shall be deemed to have been granted if the work or service is used by the Purchaser after handover, notification of completion or invoicing for a period of fourteen days without objections and the Selling Party has pointed out this consequence during handover, in the notification of completion or with the invoice.

VIII. Liability for Damages

The Selling Party's liability is restricted to 5 million euros for damage to property and to 50,000.00 euros for financial losses. This liability limitation does not apply

- a) to claims resulting from loss of life, bodily injury or damage to health, which are connected with a wilful or negligent breach of duty on the part of a legal representative or vicarious agent of the Selling Party;
- b) to other claims which are connected with a wilful or grossly negligent breach of duty on the part of a legal representative or vicarious agent of the Selling Party;
- c) to claims which are connected with the culpable negligence of the duties arising from an obligation in accordance with Section 311 Paragraph 2 BGB;
- d) to claims which arise from the materialisation of a risk typical of the contract, insofar as they were foreseeable with regard to reason and amount;
- e) to claims based on a defect in the purchased item, if the Selling Party has provided a guarantee of the nature of the item. The Selling Party's liability in accordance with product liability legislation remains unaffected.

IX. Setting off and Right of Retention/ Right to Withhold Performance

1. The Purchaser is only entitled to offset against counterclaims if they are beyond dispute, legally ascertained or ready for a decision.
2. The Purchaser is not entitled to enforce a right to withhold services in accordance with Section 320 BGB or a right of retention in accordance with Section 273 BGB, unless these rights are based on a defect to the purchased item for which the Selling Party has already received a part of the remuneration corresponding to the value of its performance, or are based on Purchaser's counterclaims that are beyond dispute,

X. Place of Performance and Place of Jurisdiction

1. The place of performance for all claims arising from the business relationship with the Purchaser is Munich; however, the place of performance for Selling Party supply obligations is the location of the plant or warehouse commissioned with supply by the Selling Party.
2. German law is the sole law applicable between the two parties. The United Nations stipulations concerning Contracts for the International Sale of Goods (CISG) are ruled out.
3. If the contractual party is a merchant, a legal entity under public law or a public-law special fund, the place of jurisdiction for all claims arising from and in connection with the contractual relationship is, depending at the plaintiff's choice, either Munich or the general place of jurisdiction of the defending party.