

General Terms and Conditions

I. General

1. All offers, deliveries, services and other terms and conditions of the agent (Burkhardt GmbH - in the following Agent or Provider) are exclusively based on the following General Terms and Conditions. Other terms and conditions of the principal or the customer do not apply. They continue to be invalid even if they have not been explicitly overruled or if we accept orders without any further reservations and in knowledge of the differing terms and conditions.
2. Deviations from our General Terms and Conditions as well as special agreements between the Agent and the principal (Principal or Customer) require written acceptance by the Agent. This also applies to deviations from this requirement of written form itself. Notwithstanding this, informal alterations or additions become valid if they are individually negotiated terms within the meaning of Section 305 b) German Civil Code.
3. The Provider reserves the unrestricted intellectual property rights and copyrights of cost estimates, calculations, software, drawings and other documentation. Documentation may only be made accessible to third parties with the prior written consent of the Agent and, upon request, must be returned immediately if the Provider did not receive the order.
4. All offers of the Agent, including those in brochures and advertising, are without obligation. Any placed orders are only binding upon written confirmation by the Agent.

II. Scope of the duty to deliver

1. The written order confirmation of the Agent is determinative of the scope of the delivery.
2. The Agent expressly reserves the right to reasonable technical changes to the goods or services insofar as they are absolutely necessary and not predictable.

III. Price and terms of payment

1. The prices are, provided it has not been agreed otherwise, ex works including loading, but exclusive of packaging and unloading. All Agent prices for goods and services are gross prices and include the statutory value added tax rate.
2. The Customer may only offset claims that are undisputed or have the force of law. The Customer bears all public expenses (taxes, fees, tolls, etc.) resulting from or related to the conclusion or execution of the contract outside the Federal Republic of Germany.
The terms of payment of the order confirmation apply to the delivery of combined heat and power plants, power generators and other machines.
For commercial customers, and if it has not been agreed otherwise, all invoices are payable within 10 days without any deduction and free of transaction charges to the paying agent of the Provider. For non-commercial customers, all invoices are payable within 30 days upon receipt.
3. If the payment deadline is missed, the Provider is entitled to charge an interest for delay of 5 % above the base interest rate of the European Central Bank. For commercial customers, the interest rate increases to 8 % above the base interest rate.

IV. Reservation of ownership

1. All goods delivered by the Agent remain the sole property (Section 449 German Civil Code) of the Agent until all receivables have been settled in full.
2. The Principal may not hypothecate nor pledge the delivered goods as security until payment has been settled in full. In case of seizure, confiscation or other disposals

or interventions by third parties, the Customer must inform the Provider immediately.

3. If the Principal breaches duty, especially in case of delayed payment, the Agent is entitled to withdraw from the contract and take back the delivered goods or services once a reasonable term for performance set for the Customer expires. The statutory regulations on the expandability of setting a deadline remain unaffected. The Customer must surrender said goods.
4. If combined value of the security interests of the Provider exceeds 20 %, the Provider will release a corresponding share of security interests upon the request of the Customer.

V. Terms for delivery and delay; liability

1. The compliance with binding terms for delivery presupposes the timely receipt of all documentation that must be provided by the Customer as well as the compliance with the agreed terms of payment. If these prerequisites are not fulfilled in due time, the terms will extend proportionately; this does not apply if the Agent is responsible for the delay.
2. The term of delivery extends proportionately in case of industrial action (strikes and lock-outs), unpredictable events for which the Principal is not responsible (unpredictable interruption of operations, supply shortages from upstream suppliers due to force majeure, force majeure). The Agent must communicate the beginning and the ending of such events to the Principal.
3. In the event that delivery becomes impossible altogether or is considerably impeded for reasons for which the Agent is not responsible, the Agent is entitled to withdraw from the contract. In this case, the Agent informs the Principal of this immediately and reimburses to the Principal all counterperformances delivered until that time.
4. If the Agent is delayed for reasons for which the Agent is responsible, and in case of simple negligence, the liability for compensation is limited to the predictable and transaction-typical damage. In case of gross negligence and intent, the Agent is held liable as provided by statutory law. . If the Agent is in default and the Principal sets a reasonable grace period with threat of rejection, the Principal is entitled to withdraw from the contract once this grace period has passed in vain. The aforementioned dispositions do not lead to a change in the burden of proof to the Customer's disadvantage. If the Principal defaults in acceptance or neglects any other duty to cooperate, the Agent is entitled to a compensation claim for damages arising from this, including any additional expenses. In this case, the risk of accidental destruction or accidental deterioration of the purchased objects is transferred to the Principal.

VI. Transfer of risk

1. With the handover to the carrier/haulier/collector, but at the latest when the goods leave the works, the risk is transferred to the Customer. This also applies when, for example, the forwarding expenses or costs of installation are borne by the Provider. The consignment is only insured upon the express request of the Customer and at the Customer's cost.
2. If the delivery is delayed for reasons for which the Provider is not responsible, the risk is transferred to the Customer on the day of the notification of readiness for dispatch. If the delivery is not claimed in spite of a notification of readiness for dispatch, the Provider is entitled to store the goods at the Customer's cost and risk as the Provider sees fit and to invoice said goods as delivered.

VII. Installation and assembly (applies to entrepreneurs only)

For commercial customers, the following dispositions are valid for installation and assembly provided nothing else has been agreed on in writing:

1. The Customer must provide for the following at its own cost and on time:
 - All secondary services from outside the industry including skilled and auxiliary workers, materials and tools.
 - All requisites and materials required for assembly and commissioning, for example scaffolding, lifting gear and other devices, lubricants and fuels.
 - Power and water at the point of use including connections and terminals, heating and lighting.
 - Sufficient number of large, suitable and lockable spaces to store machine components, material and tools, etc. at the assembly site.
2. Before the assembly work begins, the Customer must provide the necessary information on the location of hidden power, gas and water lines or any similar systems as well as any relevant information on statics without being prompted to do so.
3. Before installation and assembly, all supplies and objects necessary to commence work must be available at the installation or assembly site and all previous work must have been completed to an extent that the installation or assembly can be started according to contract and carried out without interruption. Access roads and the installation or assembly site must be levelled and cleared.
4. If installation, assembly or commissioning is delayed due to circumstances for which the Provider is not responsible, the Customer must bear the expenses for idle time and additional travelling expenses of the Provider or the assembly staff to the reasonable extent.
5. The Customer must provide proof of the working hours of the assembly staff, as well as of the finalization of the installation, assembly or commissioning work, to the Provider immediately.
6. If the Provider requests acceptance of the delivery after finalization, the Customer must comply with this request within two weeks. If the Customer fails to do so, the goods or services are considered accepted. The goods or services are also considered accepted, if the delivered object
 - has been taken into operation after an agreed test phase,
 - as the case may be.

VIII. Acceptance

The Customer may not reject acceptance of deliveries due to negligible shortcomings. The Customer must report any damage in transit to the carrier before accepting the delivery and/or report them after acceptance in accordance with the statutory dispositions and terms.

IX. Warranty and material defects

1. Statutory warranty rights apply to non-commercial customers.
2. The following dispositions apply to commercial customers.
- 2.1 The warranty period is of 12 months. In case of purchase agreements, the warranty period begins with the delivery of the goods. In case of contract for services, it begins with the acceptance of a plant. Any ascertained damages must be notified to the Provider immediately.
- 2.2 In the event of a defective delivery, and if the defect impedes the contractually presupposed use of the delivery more than negligibly, the Customer, at the option of the Provider, is entitled to subsequent improvement or the complimentary delivery of a replacement. If the supplementary performance fails, the Principal, at its option, can reduce the contract or withdraw from it.
- 2.3 Warranty does not apply to damages due to incorrect operation and/or maintenance by the Customer, improper strain, unsuitable operating supplies, normal wear and tear or other indefensible events. The warranty does not extend to damages that are attributable to materials provided by the Customer, products or a construction prescribed by the Customer. Warranty further expires in case of services for which used parts are used instead of the necessary new parts by agreement of the Customer or if parts were provided by the Customer insofar the damage is attributable to defects of such parts. Replaced parts become property of the Provider insofar the originally supplied parts had been provided by the Provider.
- 2.4 In urgent cases in which operational safety is at risk, or to avoid disproportionate damage, the Customer may remove the defect himself or have it removed by a third party, whereby the Provider must be notified immediately, and to claim compensation for justified expenses from the Provider.

X. Other compensation claims

1. Damage and compensation claims (in the following: compensation claims) are excluded if the damage was not directly caused by the combined heat and power plant.
2. This does not apply where liability is legally mandated, e.g. in case of intent, gross negligence, due to injury to life, body or health and due to non-compliance with essential contractual duties. However, compensation claims due to non-compliance with essential contractual duties are limited to predictable damages typical to the contract, provided that there was no intent or gross negligence. The aforementioned disposition does not lead to a change in the burden of proof to the Customer's disadvantage.
3. Insofar the Customer is entitled to compensation claims pursuant to this Section X, such claims prescribe with the end of the limitation periods valid for claims due to material defects. This does not apply to compensation claims due to deliberate action or actions prior to the transfer of risk. In these cases, the standard statutory limitation period applies.
4. If and insofar the liability of the Agent is excluded, this also applies to the private liability of the employees, staff, co-workers, representatives and vicarious agents of the Agent.

XI. Place of jurisdiction and applicable law

1. For commercial customers, the sole place of jurisdiction for all disputes resulting directly or indirectly from the contractual relationship is the place of business of the Provider. The Provider, however, also is entitled to file suit at the place of business of the Customer.
2. German law under exclusion of the United Nations Convention on Contracts for the International Sale of Goods applies to all legal relationships related to this contract.

XII. Information for Suppliers and Service Providers

Burkhardt GmbH operates an energy management system in accordance with DIN EN ISO 50001. In this connection, we would like to point out to our suppliers that an assessment of products, facilities and services that have a significant influence on our energy usage is partly based on their energy-related performance. A consumption of 100,000 kWh/a is defined as a significant energy input. To this end, we expect active support from our suppliers with regard to the potential optimisation of our energy use and energy consumption – as well as our energy efficiency – over the projected useful life of the energy-using products, facilities and services we require. This is also set out in our energy policy. Our suppliers should also be aware of the need to request quotations or alternative offers for efficient products and life cycle analyses. Your point of contact for Burkhardt GmbH's energy management system is our Energy Management Officer.

XIII. Binding effect of the contract

Should individual dispositions of these General Terms and Conditions be or become void or unenforceable, the effectiveness of the other dispositions remain intact. The parties will replace any such disposition with a valid and enforceable disposition that comes closest in meaning to the void or unenforceable disposition as possible.

XIV. For non-commercial customers: Cancellation policy and cancellation form

For non-commercial customers, and if the contract is concluded through distance selling, the cancellation policy attached to these General Terms and Conditions as well as the attached cancellation form apply. Contracts concluded through distance selling are contracts that were concluded exclusively by means of distance communication, that is: contracts that were concluded by, for example, mail, telephone, telefax or e-mail.

(Effective 08/2024)