



## **BOGE Druckluftsysteme GmbH & Co. KG**

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**IMPORTANT NOTICE:** THIS IS A TRANSLATION OF THE GERMAN VERSION OF THE BOGE GENERAL TERMS AND CONDITIONS OF BUSINESS. IT MIRRORS THE SEMANTIC CONCEPTS OF THE ORIGINAL TEXT, WHICH, DUE TO BASIC DIFFERENCES IN BOTH LANGUAGES, IMPLIES A LACK OF READABILITY OF THE ENGLISH VERSION. THE GERMAN VERSION OF THESE TERMS AND CONDITIONS SHALL BE AUTHORITATIVE FOR THE INTERPRETATION.

## **General terms and conditions of business**

- A. Scope of BOGE terms and conditions of business,  
Place of Jurisdiction, Applicable Law, Dispute Resolution
- B. Terms and conditions for purchase orders
- C. General terms and conditions of service
- D. Special terms and conditions for consigned goods
- E. Special terms and conditions for assembly work and commissioning
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- I. Special terms and conditions for full service agreements
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- K. Special terms and conditions for compressed air contracting
- L. Special terms and conditions for compressed air delivery at a fixed price
- M. Special terms and conditions for damage agreements
- N. Special terms and conditions for Export Control – ATTENTION!

**A. Validity of terms and conditions of business of BOGE,  
Place of Jurisdiction, Applicable Law, Dispute Resolution**

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**A.1**

These General Terms and Conditions of Business (hereinafter GTC) Part A - N shall always and exclusively apply in the version valid at the time of conclusion of the agreement for the contractual relationship between BOGE Druckluftsysteme GmbH & Co. KG, Bielefeld (hereinafter contractor) and its contractual partner (hereinafter client).

They shall also apply if the Contractor performs in the knowledge of conflicting or deviating provisions of the Client. Any provisions of the Customer that deviate from these General Terms and Conditions of Business shall not be accepted by the Contractor if and to the extent that they are not accepted by the Contractor in writing. Individual contractual agreements take precedence in any case.

These General Terms and Conditions shall also apply to all subsequent business relations in the version valid at the time of the respective conclusion of the contract, even if they are not expressly agreed upon again.

Supplementary to the GTC sections A and C shall apply, where relevant,

- for consignment deliveries,
- for assembly work,
- for repair work,
- for inspection contracts,
- for maintenance contracts,
- for premium maintenance contracts,
- for full service contracts,
- for try and buy contracts,
- for compressed air contracting,
- for compressed air delivery at a fixed price,
- for damage contracts,
- for contracts subject to export control
- and for distribution partner relationships the respective special terms and conditions of BOGE Part D - N prepared for this purpose.

**A.2.**

If the Customer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive - also international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be the Contractor's place of business in Bielefeld. The same shall apply if the Customer is an entrepreneur within the meaning of §14 BGB. The contractor is free to sue the customer at his place of business and at the place of performance. Primary legal regulations, in particular regarding exclusive jurisdiction, shall remain unaffected by this provision.

German law applies exclusively, excluding the UN Convention on Contracts for the International Sale of Goods and other uniform laws.

The EU Commission provides a platform for dispute resolution in the case of a transaction in online trading. This is available under the following link: Online Dispute Resolution

Note: <http://ec.europa.eu/consumers/odr/>.

### A.3 Data protection

The Contractor attaches great importance to compliance with data protection in accordance with the applicable provisions of the DSGVO and the BDSG. All employees are instructed in accordance with the statutory provisions and are obliged to maintain confidentiality when processing personal data.

Personal data is collected for the fulfilment and initiation of the contract. These are the name, address, e-mail address, postal address, sales tax identification number, telephone number. When processing this data and when selecting and designing data processing systems, the applicable data protection regulations are observed.

The personal data are processed according to the principle of purpose limitation (execution of the contract), i.e. only for the purpose for which they were collected from the client and confidentiality and integrity are protected by technical and organizational measures, especially against unauthorized access. After termination of the corresponding contractual relationship and under consideration of the retention periods (legal, e.g. commercial and tax law archiving obligations, contractual requirements, e.g. due to warranty claims), the stored data will be deleted.

Personal data will only be passed on to third parties beyond the fulfilment and initiation of the contract if there is a corresponding legal obligation or if the client has expressly consented to this.

The client has the right to information concerning the personal data stored about him as well as to deletion, correction and transfer of this data. If the processing of the data is based on consent, the client has the right to revoke this consent for future use. If the processing of the data is based on a legitimate interest of the contractor, the client can object to further processing. In addition, the Customer may also complain to the competent supervisory authority.

### A.4 Confidentiality

#### A.4.01

The client and contractor undertake to treat the information obtained from the other party in the course of the business relationship - for example of a technical, commercial or organisational nature - as confidential and to use it only for the initiation, implementation and handling of the business relationship. Business secrets of the contractor, particularly the contents of his offers and technical data sheets of the machines.

#### A.4.02

Customer and Contractor shall protect the information from unauthorized access and treat it with the same care as they apply to their own equally confidential information, but at least the care of a prudent businessman. In particular, the Information may not be disclosed to third parties without the prior consent of the other party.

#### A.4.03

If and to the extent necessary to carry out the business relationship, the respective party may also pass on information to the extent necessary to affiliated companies of the Group and other third parties used as subcontractors ("Need to Know Principle"). In this case, the affiliated companies and subcontractors shall also be obliged to maintain secrecy in accordance with this confidentiality clause.

#### A.4.04

Furthermore, the obligation of secrecy does not apply to such information,

- which the other party must disclose due to mandatory legal regulations, official orders or legally binding court decisions,
- which the other party has lawfully received or is receiving from third parties,
- were already generally known at the time of conclusion of the contract or became generally known subsequently without breach of a confidentiality obligation or
- have been prepared independently by the party under obligation of confidentiality.

#### A.4.05

In the case of items which embody trade secrets, the respective party may not obtain the information embodied therein by observing, examining, dismantling or testing such items ("reverse engineering").

#### A.4.06

The confidentiality agreement shall continue to apply after the end of the business relationship.

A.4.07

Legal obligations to secrecy, in particular the provisions of the law on the protection of business secrets, remain unaffected.

A.4.08

For each culpable breach of the confidentiality obligation, the respective party shall pay the other party an appropriate contractual penalty of up to EUR 50,000, the specific amount of which is to be determined by the other party at its reasonable discretion and, in the event of a dispute, shall be reviewed by the competent court.

## **B. Conditions of purchase and order**

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### **B.1.**

The following terms and conditions apply in addition to the statutory provisions and the above-mentioned Terms and Conditions of Business Part A.

#### **B.1.01**

If the invoice is received by the 10th of a month, the Contractor shall pay by the 20th of the month or by the 10th of the following month net. A payment is considered to have been made when the contractor has initiated the payment order.

#### **B.1.02**

If the invoice is received from the 11th to the 20th of a month, the Contractor shall pay by the 30th of the same month or by the 20th of the following month net. B.1.01 s. 2 of these GTC shall apply accordingly.

#### **B.1.03**

If the invoice is received from the 21st to the last day of the month, the contractor shall pay by the 10th of the following month or by the 30th of the following month net. B.1.01 s. 2 of these GTC shall apply accordingly.

### **B.2.**

In the event of goods arriving prematurely from deliveries of the contractual partner, the invoice will be valued on the delivery date contractually agreed upon with the contractor. The value date shall be deemed the date of receipt of the invoice.

### **B.3.**

In the event of defective goods or services or partial delivery by the contractual partner in breach of contract, the invoice shall be valued on the date of freedom from defects or complete delivery. The value date shall be the date of receipt of the invoice.

### **B.4.**

Our contractual partner must provide warranty and compensation for damages to the extent and for the duration required by law.

### **B.5.**

When procuring energy services, products or equipment, energy efficiency and improved environmental performance is a key decision factor for BOGE.

In other words, preference will always be given to energy services, products or equipment where all other factors are equal, provided that their energy efficiency and environmental impact can be better assessed within their life cycle.

**C. General conditions of service**

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In addition to the Terms and Conditions of section A, the following General Terms and Conditions of Service apply.

**C.1 Order confirmation / minimum order values****C.1.01**

The written order confirmation of the contractor in connection with the service specifications, if applicable, prepared by him, shall be decisive for the content of the respective contract. Oral agreements in connection with the conclusion of contracts made with employees of the Contractor who are not authorised to represent the Contractor shall also require the written confirmation of the Contractor to be effective.

**C.1.02**

The agreements resulting from the order confirmation are decisive for the assessment of the owed quality of the goods. Public statements of third parties (with the exception of those of the manufacturer) shall not bind the contractor.

Statements of characteristics relating to the products and services of the contractor are only attributable to the contractor if these statements

- originate from the Contractor or are made by the Contractor on his express instructions, or
- are expressly authorised by the contractor, or
- are public statements and the contractor has known or must have known this information for four weeks and has not distanced himself from them.

The contractor's assistants in the sense of § 434 paragraph 1 BGB do not include authorised dealers and clients of the contractor who act as resellers. A sufficient correction of property data in the sense of § 434 paragraph 1 BGB can be made in any case on the homepage of the contractor at [www.boge.de](http://www.boge.de).

**C.1.03**

Proprietary data attributable to the contractor, which contain measurable values, are to be understood with a tolerance of  $\pm 3\%$ . Exceeding the tolerance of  $\pm 3\%$  does not automatically lead to the acceptance of a defect.

**C.1.04**

- a) Due to the considerable handling effort required for each individual order, the contractor will only accept orders if minimum order values are reached.
- b) The minimum order value is 100,00 € plus VAT, but in online sales via internet only 50,00 € plus VAT.
- c) The minimum order values do not apply to brochures and marketing articles from the e-shop.

**C.2 Permanent rights / Copyright****C.2.01**

The drafts, models, layout plans, disposition and other drawings, text templates etc. prepared by the contractor remain the intellectual property of the contractor, even if the client has paid compensation for the work.

The right to exploit these objects and the intellectual performances embodied in them shall remain exclusively reserved to the contractor.

**C.2.02**

The contractor is entitled to affix his own company and brand names. The client is prohibited from removing such signs affixed by the contractor.

**C.2.03**

The client is responsible to the contractor for ensuring that the templates, drafts, plans, texts, trademarks, etc. provided by the client may rightfully be used.

**C.2.04**

The contractor has the sole copyright to the control software and other software supplied with the systems. Only the simple right of use of the software is transferred in such a way that the software may be used exclusively for the operation of the individual contractual system.

#### C.2.05

Any duplication or other use of the software is illegal.

#### C.2.06

Decoding the software is not allowed. If the customer requires interface information, the contractor will disclose the interfaces of the software on request. Only if the Contractor does not comply with this request within a reasonable period of time shall the Customer be permitted to alter the software parts necessary for the purpose of interface analysis. A period of two weeks shall be deemed reasonable.

#### C.2.07

With regard to the use and licensing of so-called third-party software, the licensing provisions of the respective manufacturer of the software shall apply exclusively, compliance with which shall be ensured by the customer on his own responsibility.

#### C.2.08 Rights to data

The customer shall acknowledge that certain operating data shall be generated by BOGE in connection with the use of a product. Operating data shall be all data and information generated and produced by the products. BOGE shall have access to the operating data via the "Connect" monitoring system. Primarily this shall only be technical data which BOGE requires to ensure smooth operation and monitoring of the functionality of the product as well as in the event of problems for rapid and sustainable troubleshooting and quality assurance as well as improvement of the product.

The customer may also use the functions of Connect itself insofar as it orders this either when acquiring the product or later from BOGE. A monthly usage fee shall be charged for the use of the functionalities made possible by Connect. In principle, the retrofitting of a product from BOGE with Connect may also take place against payment of an increased set-up fee. BOGE shall be entitled to also equip such products with Connect for which the customer decides against using the functionalities, in particular in order to keep the expenditure associated with a technical retrofitting of the product low. The operating data shall be automatically transmitted to BOGE by the respective product without any costs or additional effort arising for the customer as a result.

BOGE shall be exclusively entitled in the relationship with the customer to use the operating data subject to data protection law or other mandatory statutory provisions at its own discretion and unlimited in terms of time, space and content, in particular to process and edit these in any form, to duplicate, to utilize and to hand over to third parties for these purposes and to transfer corresponding rights of use thereto to third parties.

The customer shall further acknowledge that, insofar as it concerns personal data, these may be used in anonymized form for commercial purposes by BOGE. In this form data may in particular also be transmitted to third parties and may be included in statistics.

### C.3 Shipment / Risk assumption

#### C.3.01

The contractor reserves the right to choose the mode of dispatch, unless a specific mode of dispatch has been expressly agreed.

#### C.3.02

Once goods leave the contractor's premises or warehouse, the client assumes all risk. The goods shall only be secured at his express request. In such a case, the scope of the insurance cover shall be determined by the Customer and the premium(s) of a corresponding insurance contract shall be borne by him.

#### C.3.03

In accordance with the agreed Incoterms, the risk shall pass to the Customer upon handover of the goods to the carrier, upon notification of readiness for dispatch or provision on the agreed delivery date.

### C.4 Delivery time / permits / deadlines for repairs and the like

#### C.4.01



Any agreed delivery periods shall be ex works, unless expressly agreed otherwise.

Such delivery periods shall commence at the point in time specified in the order confirmation, but at the earliest when the documents, approvals, call-offs and shipping addresses to be provided by the Customer are available, all details of the order have been clarified and the Customer has made agreed down payments or provided securities.

If a delivery period has been agreed upon, it shall be extended by the time the customer is in arrears with the provision of documents, approvals, shipping address, notifications, down payments or securities to be procured by him plus 2 working days.

If a delivery date has been agreed, it shall be postponed by the time the customer is in arrears with the provision of documents, approvals, shipping address, notifications, down payments or securities to be procured by him plus 2 working days. A corresponding postponement of delivery dates or extension of delivery times shall also take place if the prerequisites for the services to be provided by the Contractor, which the Customer is obliged to provide itself or through third parties, are not met in time.

#### C.4.02

If approvals to be obtained by the contractor, which are a prerequisite for proper delivery, are delayed or not granted at all for reasons for which the contractor is not responsible, the contractor shall not be liable for this.

#### C.4.03

If, after confirmation of the order, the Client wishes to make changes to the order, the Contractor shall check these changes for their feasibility and notify the Client of the result. If the Client's change requests are still taken into account, the delivery period shall not begin until the Contractor confirms the change. An agreed delivery date shall be postponed accordingly.

#### C.4.04

The performance period shall be extended appropriately in the event of unforeseen obstacles which the contractor cannot avert despite reasonable care in the circumstances of the case, e.g. a total or partial loss of subcontractors for which the contractor is not responsible or a case of force majeure or similar.

#### C.4.05

In cases in which standard components cannot be used for repairs, warranty work, subsequent deliveries and the like, because the system concerned is a custom-made product as agreed or because special components have been installed, the performance time to which the Contractor is entitled shall be extended by the time required to procure the relevant components if the order is placed in good time.

#### C.4.06

A claim for damages in lieu of performance or for damages due to delay is excluded in the cases of section C.4.04 if the contractor has informed the customer immediately of the obstacles to performance.

#### C.4.07

In the case of transactions for delivery by a fixed date, a claim for damages in lieu of performance or for damages due to delay in the cases of section C.4.04 is excluded if the contractor has informed the customer immediately of the obstacles to performance.

#### C.4.08

Any damages to be paid by the contractor for delay shall be limited to the foreseeable damage typical for the contract, unless there is a case of gross negligence or intent. The rules on compensation (C.10.) apply accordingly.

### C.5 Partial deliveries / excess and short quantities

#### C.5.01

The contractor is entitled to deliver up to 10% more or less in the case of deliveries of innumerable goods without this being considered a breach of duty. Partial deliveries are also permissible, provided the client has not objected to them or the interests of the client are not affected, no further costs are incurred and a partial delivery is usable for the client.

#### C.5.02



If the Contractor exercises the right of partial delivery or short delivery or excess delivery, payments cannot be withheld by the Client for this reason.

## **C.6 Prices**

### **C.6.01**

Unless otherwise agreed, the prices are ex works or ex warehouse, excluding packaging.

### **C.6.02**

Insofar as packaging is incurred, the contractor shall pack in accordance with the existing regulations and proceed in accordance with §15 VerpackG (German Packaging Act).

### **C.6.03**

The prices, the same applies to costs, are exclusive of the applicable value added tax.

### **C.6.04**

If the cost factors change after order confirmation, in particular the prices for raw or auxiliary materials as well as wages and transport costs, the contractor can make a corresponding adjustment of the prices if there is a longer period than 4 months between order confirmation and delivery.

### **C.6.05**

The hourly rates, surcharges, etc. of the Contractor shall apply to each normal hour of travel, waiting and working on the basis of the respective collectively agreed weekly working hours.

Travel hours are calculated without overtime surcharges.

Travel times with motor vehicles, on the other hand, are regarded as normal working hours with overtime pay.

The release (board and lodging in Germany) is charged by the client for each day of travel and work. If an installation or other service at the customer's premises is continued after a weekend, the contractor shall, at his discretion, pay either a release allowance or travel expenses for the weekend, unless otherwise expressly agreed.

Holiday surcharges and allowances are also charged on local public holidays.

Travel expenses are settled as follows:

- Air travel: Economy Class
- Rail travel: 1st class
- Local transport: taxi and, if necessary, porter
- company-owned motor vehicles: mileage allowance according to our current rates, which will be sent to the client on request.

### **C.6.06**

Travel hours and travel expenses for the return journey can only be entered on the work certificates or timesheets after they have been completed.

### **C.6.07**

The contractor's invoice rates referred to under C.6.05 are based on the applicable wage, salary and working time tariffs. In the event that the latter are changed, the contractor reserves the right to change the invoice rates accordingly. The respectively valid invoice rates will be sent to the customer on request.

### **C.6.08**

If assembly, commissioning, maintenance, repair or any other service is delayed due to circumstances for which the Customer is responsible, the Customer shall bear all costs arising therefrom, in particular waiting times and any further travel costs and expenses incurred by the employees deployed by the Contractor and subcontractors commissioned by the Contractor, if and to the extent that they are incurred.

## **C.7 Terms of payment**

### **C.7.01**

The provisions of the Value Added Tax Act shall apply to down payments.

C.7.02

Unless otherwise agreed, payments are due immediately.

C.7.03

Payments to be made to the contractor are due at the latest 10 days after the invoice date. If this date is exceeded, the debtor is in default of payment.

C.7.04

In the event of default of payment by the Customer, the Contractor may demand interest on arrears in the amount of the legally applicable default interest rate. The proof and the assertion of any further damage shall remain unaffected by this, as shall the right to commercial interest on arrears within the meaning of § 353 HGB (German Commercial Code).

C.7.05

The place of performance for payments is the registered office of the contractor.

C.7.06

The client may only offset against undisputed claims that are recognised by the contractor or have been established as legally binding.

C.7.07

The client has no right of retention, except in cases of C.7.06.

Furthermore, the rights pursuant to § 320 BGB (German Civil Code) shall remain unaffected as long and to the extent that the contractor has not fulfilled its warranty obligations.

C.7.08

If the Contractor accepts cheques for payment, this shall only be done as performance on account of performance.

C.7.09

Payment by bill of exchange is excluded; bills of exchange are not accepted for payment by the contractor. If the contractor accepts bills of exchange on the basis of a special agreement to the contrary, this shall only be done as performance for the sake of performance.

C.7.10

Exceptionally accepted bills of exchange must be discountable. Discount charges and other costs shall be borne by the customer and are due immediately without deduction upon invoicing.

C.7.11

In the event of exceptionally agreed settlement by means of a bill of exchange, the contractor may, without this having to be agreed separately, demand immediate payment of all outstanding delivery claims, even those not yet due, otherwise without objection, if invoiced discount charges are not paid within 8 days, bills of exchange received are not discounted by our bank, discounted bills of exchange are redebited or a bill of exchange is not honoured. The same shall apply if a cheque from the customer is not honoured or if the customer is in default of payment by one instalment if payment by instalments has been agreed.

C.7.12

If, after conclusion of the contract - should a declaration of intent by the Customer still be required for conclusion of the contract, after the last declaration of intent by the Contractor directed towards conclusion of the contract - a significant deterioration in the Customer's financial situation occurs, e.g. if bills of exchange and/or cheques are protested, the Contractor may, at its discretion, demand advance payment or provision of security from the Contractor for all services and deliveries still to be performed under contracts from the same legal relationship (§ 273 BGB). If the Customer does not comply with this demand, the Contractor may withdraw from the aforementioned contracts or, after setting a deadline, demand damages in lieu of performance, namely 25% of the unperformed order amount without special proof, unless the Customer can prove lesser damages.

Only if, by way of exception, an unusually high level of damage is involved in the individual case may the contractor demand compensation for the damage in excess of the flat rate.

## **C.8 Duty to examine and give notice of defects**

### **C.8.01**

The deliveries from the contractor, including drawings, implementation plans, project planning proposals, etc., are to be checked by the client immediately upon handover for their usability and correctness.

### **C.8.02**

Obvious defects must be reported to the contractor in writing immediately, but at the latest within 7 working days of arrival at the destination, giving precise details of the specific complaints.

### **C.8.03**

In the case of direct delivery of the goods to third parties, the period for lodging a complaint is extended to 12 working days.

### **C.8.04**

The client must also give written notice of hidden defects immediately after their discovery.

### **C.8.05**

For BOGE distribution partners with written distribution partner agreements the BOGE distribution partner terms shall apply additionally for the modalities of the notification of defects.

### **C.8.06**

If the customer does not comply with these obligations mentioned under C.8.01 to C.8.05, the goods shall be deemed to be approved. This shall not apply if the contractor has fraudulently concealed the defect.

## **C.9 Warranty**

The following warranty limitations do not apply to damages resulting from injury to life, body or health, which are based on an intentional or negligent breach of duty by the contractor or one of our legal representatives or vicarious agents. They shall also not apply if other damage is due to intent or gross negligence on the part of the contractor or one of our legal representatives or vicarious agents. In addition, the following limitations shall not apply to claims under the Product Liability Act, in the event of the assumption of a guarantee, fraudulent misrepresentation and the breach of a material contractual obligation (obligation whose fulfilment is essential for the proper execution of the contract and on whose compliance the customer regularly relies and may rely).

### **C.9.01**

The warranty period is 12 months. If acceptance has been agreed, the limitation period shall commence upon acceptance, otherwise upon delivery. In the event that the Customer has a right to subsequent performance, the Contractor shall decide whether subsequent performance shall be effected by remedying the defect or by delivering a defect-free item.

### **C.9.02**

Work on items delivered by the contractor or other services provided by the contractor shall only be deemed to be work to remedy defects or rectify them,

- insofar as the defectiveness has been expressly acknowledged by the contractor
- or as far as notices of defects are proven
- and insofar as these proven notices of defects are justified. Without these prerequisites, such work shall be regarded as special performance and shall not constitute any recognition of a legal obligation.

### **C.9.03**

In all other respects as well, rectifications of defects or replacement deliveries shall be provided by the Contractor as special services, unless they are expressly performed in recognition of a legal obligation.

### **C.9.04**

If the warranty period is inhibited or interrupted by work or replacement deliveries carried out by the contractor, such inhibition or interruption shall only extend to the functional unit affected by the replacement delivery or repair.

#### C.9.05

The customer shall give the contractor the necessary time and opportunity to carry out repairs and replacement deliveries owed under warranty. Only in urgent cases where operational safety is endangered and to prevent disproportionately large damage, in which case the Contractor must be notified immediately, or if the Contractor is in default in remedying a defect, shall the Customer have the right to remedy the defect itself or have it remedied by third parties and to demand reimbursement of the necessary costs from the Contractor.

#### C.9.06

Insofar as an alternative to subsequent performance (rectification of defects or new delivery), to be carried out by the contractor at his discretion, has not led to the rectification of the defect after a reasonable number of attempts, to be assessed on a case-by-case basis, the customer shall be entitled to withdraw from the contract.

At least three attempts at supplementary performance are reasonable. The number of reasonable attempts at subsequent performance, after which the Customer has a right of rescission, refers to the particular functional unit of the subject of the contract. Irrespective of whether the same functional unit of the subject matter of the contract is always affected, the Customer shall have the right to withdraw from the contract if the number of isolated defects makes it unreasonable for the Customer to adhere to the contract.

#### C.9.07

If the contractor has refused subsequent performance despite a corresponding claim for subsequent performance by the client, the client shall be entitled to withdraw from the contract immediately.

#### C.9.08

The same shall apply if the Contractor has not carried out a supplementary performance, which the Contractor is entitled to do, within a reasonable period of grace to be set by the Client.

#### C.9.09

The client is only entitled to the right to reduce the price (abatement) if the contractor agrees to this.

#### C.9.10

Currently not used.

#### C.9.11

No guarantee is given for damages for which the contractor is not responsible. This includes, for example, damage that has occurred for the following reasons: Unsuitable or improper use, faulty assembly or commissioning by the customer or by third parties, natural wear and tear, faulty or negligent handling, unsuitable operating materials or replacement materials, defective construction work, unsuitable building ground, chemical, electromagnetic, electrochemical or electrical influences, unless they are attributable to fault on the part of the contractor.

#### C.9.12

The contractor does not assume any warranty for components provided by the customer.

The customer alone is responsible for the suitability and quality of such components, unless expressly agreed otherwise.

#### C.9.13

Currently not used.

#### C.9.14

Currently not used.

#### C.9.15

In the event that installations supplied by the Contractor are installed or operated at a location outside the borders of the State in which the branch or head office of the Client with which the relevant contract was concluded is located, the Client shall bear the additional costs, in particular but not limited to transport costs, travel expenses and other expenses incurred because any warranty measures to be taken by the Contractor exceed the borders of that State. This shall not apply if a different place of delivery or destination has been agreed.

C.9.16

The BOGE distribution partner shall also assume the technical support vis-à-vis its clients including the fulfilment of warranty claims of its clients, be it through rectification or through new delivery of possibly defective products and services. Insofar as the contractor is liable for defects, due to which the distribution partner renders corresponding services to its clients, the contractor shall compensate these services of the distribution partner accordingly.

C.9.17

For BOGE distribution partners with written distribution partner agreements the BOGE distribution partner terms and conditions shall apply additionally with regard to warranty.

## **C.10. Damages**

The limitations of liability in these terms and conditions do not apply to damages resulting from injury to life, body or health and not to damages which the contractor, a legal representative or a vicarious agent has caused intentionally or by gross negligence. In addition, the following limitations shall not apply to claims under the Product Liability Act, in the event of the assumption of a guarantee, fraudulent misrepresentation or the breach of a material contractual obligation (obligation whose fulfilment is essential for the proper execution of the contract and on whose compliance the Customer regularly relies and may rely).

C.10.01

Should the contractor be obliged to pay damages in other cases, he shall not be liable for indirect damages in accordance with the following provisions.

C.10.02

Any liability for consequential damages resulting from a breach of duty, also within the scope of a subsequent performance obligation, is excluded. The same applies to damages resulting from unauthorised action.

C.10.03

Currently not used.

C.10.04

In extension of the above provisions, the Contractor shall only be liable for damage exceeding the damage caused to the delivery item itself in cases of intent and gross negligence and within the scope of the Product Liability Act as well as in the absence of expressly warranted characteristics, if this warranty was specifically intended to protect the Client against damage not caused to the delivery item itself.

C.10.05

The Contractor shall only be liable for reasonably foreseeable damage typical for the contract, unless there is a case of intent or gross negligence.

C.10.06

Notwithstanding § 438 para. 1 no. 3 BGB, the general limitation period is 12 months. Insofar as acceptance has been agreed, the limitation period shall commence upon acceptance, otherwise upon delivery.

## **C.11. Call-off - orders**

C.11.01

If orders on call are not placed within 4 weeks after expiry of the agreed call - period, the contractor is entitled to demand payment.

C.11.02

The same shall apply to call-off orders without a specially agreed call-off period if 4 months have elapsed without a call-off since receipt of the notification from the contractor that the goods are ready for dispatch.

## **C.12. Storage / Default of acceptance**

### **C.12.01**

If, by way of exception, temporary storage of finished goods at the contractor's premises is expressly agreed or if storage becomes necessary due to a delay in acceptance, the contractor shall not be liable for damage that occurs despite observing reasonable care.

### **C.12.02**

The contractor is also not obliged to insure stored goods.

### **C.12.03**

In the event of a delay in acceptance, the contractor is entitled to store the goods at a commercial storage facility at the risk and for the account of the customer.

### **C.12.04**

In case of storage at the contractor's premises, the contractor may charge 0.5% of the invoice amount per month, but at least € 30,-- and further € 25,-- per month from every second full cubic meter of goods.

### **C.12.05**

The two preceding paragraphs shall also apply in the event that dispatch is delayed at the request of the customer for more than 2 weeks beyond the notified readiness for dispatch.

### **C.12.06**

If the client does not accept the ordered goods despite the setting of a deadline, the contractor is entitled to demand 25% of the agreed price as a lump-sum compensation, irrespective of proof of the actual damage, unless the client can prove a lesser damage.

## **C.13. Reservation of title**

### **C.13.01**

All deliveries from the contractor are subject to retention of title.

### **C.13.02**

This reservation, together with the following extension, shall apply until payment of all claims arising from the business relationship with the Customer until complete release from contingent liabilities which the Contractor has entered into in the interest of the Customer and which are connected with the delivery.

### **C.13.03**

Pledging of the delivered items is not permitted.

### **C.13.04**

The contractor is entitled to demand the return of the goods subject to retention of title for good cause, in particular in the event of default of payment, against offsetting of the proceeds of the sale. This demand for return does not constitute a withdrawal from the contract.

### **C.13.05**

If and to the extent that the goods taken back can be sold by the Contractor otherwise in the normal course of business as new, the Client shall owe 10% of the invoice value of the goods as take-back costs without further proof. If the goods cannot be sold as new in the normal course of business, the Customer shall owe a further 30% of the invoice value of the goods for loss of value without further proof. The client reserves the right to prove a lower percentage.

### **C.13.06**

The contractor reserves the right to claim other, more extensive damages.

### **C.13.07**

The treatment and processing of the goods delivered by the contractor is always carried out on behalf of the contractor, so that the goods remain the property of the contractor in every treatment and processing condition and also as finished goods, excluding the consequences of § 950 BGB. If the goods subject to retention of title are processed with other items also supplied under exclusion of the legal consequences of § 950 BGB, the contractor shall acquire at least co-ownership of the new item in the ratio of the invoice value of the goods from the contractor to the invoice value of the other processed items.

#### C.13.08

The customer hereby assigns in advance to the contractor all claims from the resale, processing, installation and other utilization of our goods. In so far as the products sold, processed or installed by the Customer include items which are not the property of the Customer and for which other suppliers have also agreed retention of title with a sales clause and assignment in advance, the assignment shall be in the amount of the co-ownership share of the Contractor corresponding to the fraction of the claim, otherwise in full.

#### C.13.09

The collection authorization remaining to the client despite assignment shall expire by revocation which is permissible at any time.

#### C.13.10

If the value of the securities to which the contractor is entitled exceeds the contractor's claim against the customer in the case of deliveries of goods by 50%, in the case of other services by 20%, the contractor is obliged, at the customer's request, to release securities of the contractor's choice to a corresponding extent.

### C.14. Place of performance and fulfilment

#### C.14.01

The place of performance and fulfilment for the services to be provided by the contractor is always the contractor's company.

#### C.14.02

The place of performance for deliveries is the company or warehouse of the contractor, in particular also if the contractor undertakes the transport himself.

### C.15. Definitions

#### C.15.01

All headings in the BOGE terms and conditions of business shall merely serve the purpose of easier legibility and shall have no influence on the meaning and interpretation of the individual provisions.

#### C.15.02

As written declarations of intent and knowledge within the meaning of BOGE -

Terms and conditions of business are also to be regarded as such declarations that are transmitted in text form (i.e. by fax or e-mail).

#### C.15.03

Delivery dates indicate a point in time, be it a certain day, a calendar week or similar, on which the delivery is to be made.

Delivery periods indicate the period within which a delivery must be made. Delivery time is the generic term for delivery dates and delivery periods.



**D. Special conditions for consignment contracts**

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**D.1 Subject of the contract**

The subject of the contract is the delivery of goods on consignment, either on the basis of a framework agreement on conditional sales contracts in consignment business or outside such a framework agreement.

**D.2 Consignment****D.2.01**

The consignor shall purchase the consignment goods from the Contractor under the resolutive condition that not by the 10th calendar day following the month in which the consignment period expires either

- the Contractor has otherwise disposed of the consignment goods in writing to the consignor or
- the consignor has made the consignment goods available again, carriage paid, at the contractor's distribution warehouse.

In the event that no consignment period has been agreed, the consignment period shall expire at the latest 6 months after receipt of the notification from the contractor that the goods are ready for collection ex works of the contractor.

**D.2.02**

Consignment goods are provided by the contractor ex works, excluding packaging.

**D.2.03**

If necessary, the contractor may dispose of the goods otherwise by written notification to the consignor, provided that the consignor has not already demonstrably sold the goods at the time of notification.

**D.2.04**

Any necessary reconditioning work on consignment goods returned to the contractor will be charged to the consignor at cost price.

**D.3. care of goods****D.3.01**

The consignor undertakes to keep the goods physically separate from goods owned by him or by third parties and marked in such a way that the goods can be easily identified as consignment goods at any time. The consignor undertakes to store the goods carefully and to insure them against theft, fire, water and natural hazards. Furthermore, the consignor is obliged to take out machinery breakdown insurance.

**D.3.02**

The consignor may not disassemble or in any way alter the delivered equipment, parts or accessories. The same applies accordingly to control software.

**D.4. Sale****D.4.01**

The consignor undertakes to report the sale of consignment goods immediately.

**D.4.02**

The consignor is not authorised to sell individual parts of the goods.

**D.4.03**

If the goods are removed from consignment stock or if individual parts are sold or removed contrary to D.4.02, the sale of the plant is faked and the total price of the plant becomes due immediately.

D.4.04

After notification of the sale, the contractor will issue the fixed invoice. The purchase price is the list price valid on the day of the fixed invoice, less any discounts granted to the consignor.

D.4.05

If the sale of the

Consignment goods, the claim from this fixed invoice is already due from the date of sale.

D.4.06

In the case of clause D.4.05, the Consignor shall pay interest on arrears in accordance with clause C.7.04 of the General Conditions of Performance from the day following the due date.

D.4.07

The consignor is obliged to grant the contractor access to the goods at any time on request during normal business hours in order to enable the contractor to take an inventory.

## **D.5 General terms and conditions**

Otherwise the General Terms and Conditions of Business sections A and C of BOGE shall apply additionally to the contractual relationship of the parties.

**E. Special conditions for assembly work and commissioning**

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**E.1 Subject matter of the contract****E.1.01**

The subject matter of the contract shall be assembly orders placed with the Contractor or commissioning as work contracts within the meaning of the German Civil Code. The erection order may also include the commissioning of the installation if and to the extent that this has been agreed. The scope of services exclusively owed by the contractor is determined by the contract, in this respect clause C.1.01 applies.

**E.1.02**

Work which goes beyond the order accepted by the contractor in accordance with clauses C.1.01, C.1.02 and E.1.01 of our General Terms and Conditions may only be carried out by the fitter with the consent of the contractor.

**E.1.03**

A copy of the assembly protocol is sent to the client.

**E.2 Execution****E.2.01**

The Contractor reserves the right to select the fitter, as well as whether the deployment is arranged by the Contractor's factory, a branch of the Contractor or a customer service station of the Contractor.

**E.2.02**

The assembler shall be requested by the customer in good time, stating the exact place and time, so that the work can be started immediately.

**E.3. calculation**

The installation work will be invoiced according to the respective current invoice rates for customer service and installation services on a time and material basis, unless an all-inclusive price has been expressly agreed in writing.

**E.4 Duration of work****E.4.01**

All information provided by the contractor regarding the duration of the work is only approximately relevant, as the start and duration of the work may be postponed by unforeseen circumstances beyond our control.

**E.4.02**

The work will be carried out as quickly as possible.

**E.5 Foreign assembly**

In the case of assembly work abroad, unless expressly agreed otherwise, all risks typical for the respective country shall be borne by the customer.

**E.6 Equipment and tools****E.6.01**

If, through no fault of the Contractor, the equipment and tools provided to the Contractor are damaged on the assembly site or if they are lost without the Contractor being responsible for the reasons for this, the Client shall be obliged to compensate for this damage.

E.6.02

The legal consequence of Clause E.6.01 shall also apply in the event of damage or loss during transport if the reasons for the loss or damage are beyond the contractor's control or responsibility.

E.6.03

The legal consequences of clauses E.6.01 and E.6.02 shall also apply if the loss or damage is attributable to the customer.

E.6.04

Damages which are due to normal wear and tear are not taken into consideration.

**E.7. acceptance**

E.7.01

The client is obliged to confirm the correctness of the entries and the proper execution of the work on the acceptance protocol and the order certificate. Partial acceptances are not permitted.

E.7.02

Complaints must be noted in writing on the acceptance protocol at this opportunity.

E.7.03

In the event of extensive complaints, these must also be explained in further documentation.

E.7.04

The subject matter of the contract shall be deemed to have been accepted if

- the client puts it into operation beyond a test run;
- the client or third parties independently make/carry out changes to the object of the contract or
- the Client does not grant the Contractor the opportunity to carry out acceptance within 10 days of notification of completion, alternatively does not refuse acceptance within the aforementioned period, stating at least one defect.

**E.8. Labour regulations**

E.8.01

The assembly personnel of the contractor must comply with the Working Hours Regulations (AZG). This applies in particular to overtime.

E.8.02

If the assembly personnel stays at the customer's premises, the customer is obliged to ensure that the AZG is also observed.

E.8.03

Legal consequences from violations of the AZG are the responsibility of the customer within the scope of E.8.02. The customer shall indemnify the contractor from claims and penalties based on such violations.

E.8.04

In the case of a shift duration of more than 10 hours per day, the customer must confirm to the contractor's assembly personnel that the work carried out was necessary to maintain production in accordance with § 14 AZG.

E.8.05

Unless otherwise specified above, the implementation provisions of the Federal Collective Agreement for the special working conditions of assembly workers in the iron, metal and electrical industry shall apply.

### **E.9 General terms and conditions**

Otherwise the General Terms and Conditions of Business sections A and C of BOGE shall apply additionally to the contractual relationship of the parties.

## **F. Special conditions for repair work**

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### **F.1. Subject matter of the contract**

The subject of the contract are repair orders placed with the contractor as contracts for work and services within the meaning of the German Civil Code. The scope of services exclusively owed by the contractor is determined by the contract, in this respect clause C.1.01 applies.

Repair work that goes beyond the order accepted by the contractor in accordance with section C.1.01, may only be carried out by the fitter with the consent of the contractor.

### **F.2 Cost estimate**

#### **F.2.01**

A cost estimate will be submitted to the client upon request.

#### **F.2.02**

The costs incurred for determining the scope of the repair work shall be borne by the customer.

#### **F.2.03**

The customer must also bear the costs mentioned in clause F.2.02 if he refrains from placing an order for the repair.

### **F.3 Order extension**

#### **F.3.01**

If, during the execution of repair work, previously unrecognised, significant additional defects occur, the client will be informed immediately. The latter may either agree to the corresponding extension of the repair order or cancel the repair order.

#### **F.3.02**

If the customer cancels the repair order in accordance with section F.3.01, he must bear the costs incurred up to that point.

### **F.4 Submitted Repair Items**

We are not liable for fire, water or theft damage to repair objects sent to us.

### **F.5 General terms and conditions**

Otherwise the General Terms and Conditions of Business sections A, C and E of BOGE shall apply to the contractual relationships between the parties.

**G. Special conditions for inspection contracts**

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**G.1 Subject matter of the contract****G.1.01**

The object of the contract is the inspection of the technical installations listed in the conditions overview of the inspection contract to the extent described in detail below. The details of the scope of services are set out in the contract. In this respect, clause C.1.01 applies.

**G.1.02**

The Contractor may make use of suitable experts, unless the services have to be provided by the Contractor itself. Within the framework of the following regulations, the term contractor also stands for third parties commissioned by the contractor to perform the contract. In any case, however, only original spare parts are used.

**G.1.03**

All devices listed in the condition overview of the inspection contract are automatically subjected to an "operational safety check" during each inspection. All inspections, tests and test runs are carried out which are intended for the equipment covered in accordance with the relevant operating and maintenance instructions of the contractor at the relevant time or operating hour age.

**G.2 Scope of services****G.2.01**

The remuneration owed to the Contractor under the inspection contract shall include travel costs and expenses per inspection.

**G.2.02**

The inspections are carried out by the contractor in 3 - month cycles without being asked. After each inspection, the client receives a report on the condition of the plant. In this protocol are listed conspicuous features as well as repair or maintenance recommendations.

**G.2.03**

Necessary small repairs (such as small sealing work, etc.) will be carried out immediately at the request of the client. Invoicing for this will be made against proof of material and hours, on the basis of the valid prices of the contractor or the company entrusted with the inspection by the contractor.

**G.2.04**

If it is determined during an inspection that maintenance is due according to the operating and/or maintenance instructions of the system, the maintenance will be invoiced according to the time and effort involved.

**G.2.05**

This inspection contract does not release the client from the maintenance and daily checks required in accordance with the operating and maintenance instructions and the relevant accident prevention regulations. The obligation of the client to keep the maintenance log also remains unaffected.

**G.2.06**

As long as the inspection contract is in force, if the Client is no longer in possession of the operating and maintenance instructions relevant to his facilities, he may request a new copy from the Contractor against payment of the cost price.

**G.2.07**

Non-observance of the operating and maintenance instructions by the customer, if it is the cause of damage, shall lead to an exclusion of liability by the contractor.



### **G.3 Duration of contract / price change / termination**

#### **G.3.01**

The duration of the contract is at least 12 months. It shall be extended by a further 12 months in each case if the contract is not terminated by one of the two contracting parties at least 3 months before expiry.

#### **G.3.02**

If wage, material or other costs change, the contractor is entitled to adjust the lump sum accordingly. Such an adjustment can only be made at the beginning of a contractual year.

#### **G.3.03**

In the event of an increase in the lump sum, the Client may extraordinarily terminate the contract within 1 month after the announcement of the increase.

### **G.4 General Terms and Conditions**

Otherwise the General Terms and Conditions of Business sections A, C and E of BOGE shall apply to the contractual relationships between the parties.

**H. Special conditions for maintenance contracts**

BOGE Druckluftsysteme-GTC • 02/2022

**H.1 Subject of the contract****H.1.01**

The subject of the contract is the maintenance of the technical equipment listed in the conditions overview of the maintenance contract in the scope described in more detail below.

The details of the scope of services are set out in the contract. In this respect, clause C.1.01 applies.

**H.1.02**

The Contractor may make use of suitable experts, provided that the services do not have to be provided by the Contractor itself. Within the framework of the following regulations, the term contractor also stands for third parties commissioned by the contractor to perform the contract.

However, only original spare parts are used in any case.

**H.2 Scope of services****H.2.01**

The scope of services includes all checks, inspections, maintenance work and test runs that are provided for the systems covered in accordance with the relevant operating and maintenance instructions of the manufacturer at the relevant time, as well as the number of operating hours.

**H.2.02**

During the term of the maintenance contract, if the Client is no longer in possession of the operating and maintenance instructions relevant to his equipment, he may request a new copy from the Contractor against payment of the cost price.

**H.2.03**

Non-observance of the operating and maintenance instructions by the customer leads, if and insofar as it is the cause of damage, to an exclusion of liability by the contractor.

**H.2.04**

After each maintenance, the Contractor shall draw up a report on the activities carried out and any anomalies found, which shall be handed over to the Client.

**H.3 Material, repairs, costs****H.3.01**

The material necessary for the performance of the contractually agreed services shall be charged according to actual occurrence on the basis of the valid prices of the Contractor or the company entrusted with the maintenance by the Contractor.

**H.3.02**

Necessary small repairs (minor sealing work etc.) will be carried out immediately at the request of the client. Invoicing for this shall be made against proof of material and hours worked, on the basis of the valid prices of the Contractor or the company entrusted with maintenance by the Contractor. If the required parts are not available, or were known beforehand, and a longer journey may be necessary, this will also be invoiced.

**H.3.03**

If a maintenance lump sum has not been agreed, the maintenance work carried out shall be invoiced according to the time spent at the currently valid prices of the Contractor or the company entrusted with the maintenance by the Contractor.

If, at the request of the Customer, the Contractor provides services which are not covered by the list of conditions (additional repair work etc.), the Contractor may invoice its services separately in this respect.

**H.3.04**

Disposal of waste oil or oil-wetted materials etc. is carried out by the customer. By arrangement, the contractor can take this over for an additional fee.

#### **H.4 Obligations and cooperation of the client**

##### **H.4.01**

The customer is obliged to carry out the checks between the maintenance intervals in accordance with the operating and maintenance instructions. This also includes, but is not limited to, the daily oil and pressure checks. The obligation of the customer to keep the maintenance log on the last page of the operating instructions remains unaffected by this.

##### **H.4.02**

The Client shall notify the Contractor of the desired maintenance date 20 working days in advance, unless a specific date has already been agreed upon beforehand.

If the contractor is unable to carry out the work on the scheduled date, the contractor must be notified at least 10 working days in advance. The relevant date for meeting the deadline is the date of receipt of the notification by the contractor.

If the Contractor is unable to carry out the work on the agreed date, the Contractor shall also notify the Client 10 working days in advance. The decisive point in time for meeting the deadline is the dispatch of the notification by the contractor.

In both cases, the parties shall attempt to agree on a catch-up date as soon as possible. Should the date not be met within the contract year, the Contractor shall nevertheless be entitled to invoice the agreed lump sums at the end of the contract year.

##### **H.4.03**

It should be possible to carry out maintenance during normal working hours. Normal working time means 08:00 - 17:00 hours (Mon - Fri). If, at the request of the Customer, the work must (also) be carried out outside normal working hours, the Contractor will invoice working hours outside normal working hours separately, at higher rates.

The condition overview can be viewed in the spare parts price list valid at the time.

##### **H.4.04**

Should the operating conditions of the plant change significantly since the conclusion of the maintenance contract, the customer shall notify the contractor of this before the maintenance is carried out. Changes can be, among others Change to multi-shift operation, increased compressed air consumption, etc.

##### **H.4.05**

For the performance of the services within the scope of this agreement, the customer shall, if necessary, provide auxiliary staff and aids such as hoisting devices free of charge.

##### **H.4.06**

The contract does not release the client from the duty of care to be observed by him with regard to the installations. See H.4.01.

#### **H.5 Duration of contract / price change / termination**

##### **H.5.01**

The duration of the contract is a minimum of 12 months and a maximum of 10 years. It shall be extended by a further 12 months in each case if the contract is not terminated by one of the two contracting parties at least 3 months before expiry.

##### **H.5.02**

Currently not used.

##### **H.5.03**

The lump sum calculated by the contractor at the beginning of the contract does not change over the contract period. The flat rate includes the work within the scope of the maintenance services.

#### **H.6 Special conditions for Premium Maintenance Contracts**

## **H.6 Subject of the contract**

### **H.6.01**

The subject of the contract is the maintenance of the technical equipment listed in the conditions overview of the maintenance contract in the scope described in more detail below.

The details of the scope of services are set out in the contract. Item C.1.01 of these GTC shall apply accordingly.

### **H.6.02**

The Contractor may make use of suitable experts, unless the services have to be provided by the Contractor itself.

Within the framework of the following regulations, the term contractor also stands for third parties commissioned by the contractor to perform the contract.

However, only original spare parts are used in any case.

## **H.7 Scope of services**

### **H.7.01**

The scope of services includes all checks, inspections, maintenance work and test runs that are provided for the systems covered in accordance with the relevant operating and maintenance instructions of the manufacturer at the relevant time, as well as the number of operating hours.

### **H.7.02**

During the term of the Premium Maintenance Contract, if the Client is no longer in possession of the operating and maintenance instructions relevant to his systems, he may request a new copy from the Contractor against payment of the cost price.

### **H.7.03**

Non-observance of the operating and maintenance instructions by the customer shall lead to the following if and insofar as they are the cause of damage, to an exclusion of liability of the contractor.

### **H.7.04**

After each maintenance, the Contractor shall draw up a report on the activities carried out and any anomalies found, which shall be handed over to the Client.

## **H.8 Material, repairs, costs**

### **H.8.01**

A flat rate is agreed in the offer price, including all parts required for maintenance. Additional costs do not arise.

Necessary or separately ordered repair work is explicitly not part of the Premium Maintenance Contract and will therefore be invoiced separately.

### **H.8.02**

Necessary small repairs (minor sealing work etc.) will be carried out immediately at the request of the client. Invoicing for this shall be made against proof of material and hours worked, on the basis of the valid prices of the Contractor or the company entrusted with maintenance by the Contractor. If the required parts are not available, or were known beforehand, and a further journey may be necessary, this will also be invoiced.

### **H.8.03**

Currently not used.

### **H.8.04**

Disposal of waste oil or oil-wetted materials etc. is carried out by the customer. By arrangement, the contractor can take this over for an additional fee.

## **H.9 Obligations and cooperation of the client**

### **H.9.01**

The customer is obliged to carry out the checks between the maintenance intervals in accordance with the operating and maintenance instructions. This also includes, but is not limited to, the daily oil and pressure checks. The obligation of the customer to keep the maintenance log on the last page of the operating and maintenance instructions remains unaffected by this.

### **H. 9.02**

The Client shall notify the Contractor of the desired date of the Maintenance 20 working days in advance, unless a specific date has already been agreed upon beforehand. If it is not possible for the Customer to carry out the work on the scheduled date, the Contractor must be notified at least 10 working days in advance. The relevant date for meeting the deadline is the date of receipt of the notification by the contractor.

If the Contractor is unable to carry out the work on the agreed date, the Contractor shall also notify the Client 10 working days in advance. The decisive point in time for meeting the deadline is the dispatch of the notification by the client. In both cases, the parties will try to agree on a catch-up date as soon as possible. If the date is not achieved within the contract year, the contractor is nevertheless entitled to invoice the agreed lump sums at the end of the contract year.

### **H. 9.03**

It should be possible to carry out maintenance during normal working hours. Normal working time means 08:00 - 17:00 hours (Mon - Fri). If, at the request of the Customer, the work must (also) be carried out outside normal working hours, the Contractor will invoice working hours outside normal working hours separately, at higher rates. The condition overview can be viewed in the spare parts price list valid at the time.

### **H.9.04**

If the operating conditions of the plant change significantly since the conclusion of the maintenance contract, the customer must inform the contractor of this.

Changes can be, among others: Change to multi-shift operation, increased compressed air consumption, etc.

### **H.9.05**

For the performance of the services within the scope of this agreement, the customer shall, if necessary, provide auxiliary staff and aids such as hoisting devices free of charge.

### **H.9.06**

The contract does not release the client from the duty of care to be observed by him with regard to the installations. See H.4.01.

## **H.10. General terms and conditions**

Otherwise the General Terms and Conditions of Business sections A, C and E of BOGE shall apply to the contractual relationships between the parties.

## I. Special conditions for full-service contracts

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### I.1 Subject of the contract

#### I.1.01

The subject of the contract is the maintenance and repair of the technical systems listed in the Full Service Contract. Within the scope described in more detail below, the Contractor shall, without charging separate costs, maintain the systems listed in the Full Service Agreement in a condition as free of faults as possible.

The details of the scope of services are set out in the full-service contract. Item C.1.01 of these GTC shall apply accordingly.

#### I.1.02

The Contractor may make use of suitable experts, unless the services have to be provided by the Contractor itself. Within the framework of the following regulations, the term contractor also stands for third parties commissioned by the contractor to perform the contract.

However, only original spare parts are used in any case.

### I.2 Scope of services

#### I.2.01

Within the scope of the contract, the Contractor shall carry out all inspections and maintenance work provided for in the respective operating and maintenance instructions of the Contractor as well as the repairs and replacement of worn parts necessary to maintain the function of the equipment.

#### I.2.02

As long as the full service contract is running, the customer can demand a new copy from the contractor against payment of the cost price, if he is no longer in possession of the operating and maintenance instructions relevant to his systems.

#### I.2.03

If the non-observance of the operating and maintenance instructions leads to a higher performance expense (such as repairs) on the part of the contractor, the contractor may invoice the additional services separately under the conditions of a maintenance contract (Part H). The Contractor shall inform the Customer if and insofar as the need for additional services becomes apparent to him.

#### I.2.04

After each maintenance, the Contractor shall prepare a report which shall be handed over to the Client.

### I.3 Limitations of the obligation to perform

The contractor's obligation to perform is subject to the following restrictions:

#### I.3.01

The Contractor shall not be liable under this contract for damages and malfunctions resulting from the interaction of the equipment specified in the Full Service Contract (Section I.1.) with other faulty equipment, machines or accessories.

#### I.3.02

In the event of damage or malfunctions resulting from the interaction of the contractual objects mentioned under I.1. with systems, machines or accessories that were not supplied by the contractor or were not supplied for this purpose, the contractor shall only owe a repair covered by the flat rate if the suitability for such interaction was expressly declared by the contractor beforehand.

#### I.3.03

An obligation to repair within the meaning of Item I.1. covered by the flat rate shall also not apply in the event of damage or malfunctions caused by external influences (fire, water, shock, impact, fall, etc.), operating errors, fluctuations in the mains voltage or by persons not commissioned by the contractor.

**I.3.04**

An obligation to repair covered by the flat rate also does not exist if the customer has violated one of the notification obligations incumbent on him under Section I.13.01 and if, in compliance with this obligation, repair would not be necessary. If the repair work becomes more extensive due to the aforementioned breach of duty than it would have been if the duty of notification had been observed, the Customer shall reimburse the Contractor for the difference.

**I.3.05**

Transportation costs of the Customer shall only be borne by the Contractor if the subject matter of the contract is brought to the Contractor's special workshop at the express request of the Contractor.

**I.3.06**

The contract does not release the client from the duty of care to be observed by him with regard to the installations. In particular, it is also, but not conclusively, incumbent upon the client to carry out the daily oil and pressure checks.

**I.4 Place and time of the full service****I.4.01**

Service and repair work is carried out at the customer's premises or - if necessary - in the special workshop by the contractor.

The Contractor shall provide the services owed under I.1. and I.2. after prior notification within as short a time as possible, taking into account its personnel capacity and other similar services and the procurement time for spare parts.

**I.4.02**

In the event of a breakdown of the equipment on working days, the Contractor shall, as a matter of principle, begin to rectify the breakdown within 24 hours of the notification of the damage and carry out the repair. Except, subject to special agreements, notifications received on Sundays and public holidays are excluded.

**I.4.03**

The Client shall notify the Contractor of the desired maintenance date 20 working days in advance, unless a specific date has already been agreed upon beforehand.

If the Client is unable to carry out the work on the scheduled date, the Contractor must be notified at least 10 working days in advance. The decisive point in time for the observance of the deadline is the receipt of the notification by the contractor.

If the Contractor is unable to carry out the work on the agreed date, the Contractor shall also notify the Client 10 working days in advance. The decisive point in time for meeting the deadline is the dispatch of the notification by the contractor.

In both cases, the parties will try to agree on a catch-up date as soon as possible. If the date is not achieved within the contract year, the contractor is nevertheless entitled to invoice the agreed lump sums at the end of the contract year.

**I.5 Exchange of parts**

The replacement of parts or complete assemblies is not charged separately. Exchanged parts become the property of the contractor; the customer is not entitled to a refund claim for this. Whether a repair or an exchange of parts is carried out for repair purposes is at the discretion of the contractor. The same applies to the question whether new spare parts or exchanged parts are used. In any case, the Contractor shall only use original parts.

**I.6 Other repairs**

The Customer is free to separately commission the Contractor with repairs which the Contractor is not already obliged to carry out under I.1. and I.2.

With regard to such services, the Contractor and the Client shall conclude a separate agreement, which shall be subject to the provisions of Part F. This contract shall be invoiced separately.



## **I.7 Pricing**

### **I.7.01**

The agreed lump-sum price is the consideration for the maintenance and repair work owed by the Contractor and is payable irrespective of whether repairs are actually necessary.

### **I.7.02**

If the contract is invoiced on an operating hours basis, the Client shall pay the difference between the agreed operating hours rate and the basic operating hours rate agreed in the contract if the basic operating time agreed for the respective system is exceeded within a 12-month contract period. If the agreed basic running time per machine is underrun by more than 3000 hours, the difference to the operating hours rate agreed in the contract will be deducted from the flat rate owed and offset against the next year's payment. In the last year of the contract, however, no further invoicing will take place.

## **I.8. Waiting periods**

If the Contractor cannot start providing the service on site at the Customer's premises due to a circumstance which falls within the Customer's sphere of responsibility (waiting period), the Customer shall pay for the waiting period separately at the usual hourly rates and shall reimburse any travel expenses which become necessary if and to the extent that these are incurred due to the waiting period.

## **I.9 Due date and default**

The lump sum is due annually in advance on the day and month agreed in the contract as the start of the contract. In the event of default, in which the Client falls into arrears with regard to its aforementioned payment obligation even without a reminder after the aforementioned payment deadline has been exceeded, the Client shall owe the Contractor default interest at the legally applicable default interest rate. The proof and the assertion of any further damage shall remain unaffected by this, as shall the right to commercial interest on arrears within the meaning of § 353 HGB (German Commercial Code).

## **I.10. Limitation of liability**

Notwithstanding the limitations of liability resulting from the General Terms and Conditions of Service (Part C.), the contractor shall not be liable for disruptions that are attributable to

- Changes to the operating conditions specified in the Full Service Agreement without the express permission of the Contractor, and
- are attributable to the client, his staff or to behaviour for which the client is responsible.

This full-service contract is based on the legal model of the contract for work and services. However, this applies with the proviso that acceptance of the services to be provided by the contractor is not a prerequisite for the lump sum price to become due.

## **I.11. Duration of contract / price changes / termination**

### **I.11.01**

The duration of the full service contract is at least 5 years. It will be extended by a further 12 months in each case if the contract is not terminated by one of the two contracting parties at least 3 months before its expiry.

### **I.11.02**

If wages, material or other costs change, the contractor is entitled to adjust the lump sum accordingly. Such an adjustment can only be made at the beginning of a contractual year.

### **I.11.03**

In the event of an increase in the lump sum, the Client may extraordinarily terminate the contract within one month of the announcement of the increase.

#### **I.12. Duties and cooperation of the client**

##### **I.12.01**

The customer must inform the contractor immediately of the following events:

- Increased sound level or vibrations
- Leaks and leakage of liquids
- Failure of measuring instruments
- Change in thermal behaviour
- Changes in environmental conditions.

##### **I.12.02**

The customer shall grant free access to the facilities to the employees and subcontractors commissioned by the contractor and shall provide aids such as lifting equipment, electricity, water, etc.

##### **I.12.03**

The client is obliged to keep a complete maintenance book for each system included in the contract, from which the daily operating hours and the daily oil and pressure control values can be seen.

#### **I.13. General terms and conditions**

In addition to the above terms and conditions the General Terms and Conditions of Business sections A, C and E of BOGE shall apply.

**J. Special conditions for try and buy contracts**

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**J.1 Subject of the contract**

The subject of the contract are orders placed with the Contractor, where the Contractor delivers a compressor unit to the Client for testing, the Client can use the unit for one month free of charge at first, then for two further months (60 days) for a user fee and only then decides whether to buy the unit.

Upon receipt of the plant, the customer shall meet all inspection and complaint obligations which he would have if he took over the plant as purchaser.

**J.2 Time calculation****J.2.01**

One month in the sense of the Try - and - Buy - contract are 30 days.

**J.2.02**

The calculation of the Try - and - Buy - period starts with the day of commissioning as the 1st day. The maximum duration of the Try - and - Buy - time is 90 days equal to three months.

**J.3 Costs of testing****J.3.01**

The contractor shall bear the costs of delivery and commissioning of the plant. The contractor shall pay for any consumables and auxiliary materials as well as the energy costs of operating the plant. Unloading and installation of the compressor unit shall be carried out by the customer, unless otherwise agreed. Possible damage caused by unloading and installation shall be borne by the customer. The necessary connections for the compressor unit are also the responsibility of the customer and are provided by him free of charge. Connections are all materials and work necessary to connect the compressor unit to the compressed air, cooling water and energy network and to dispose of the condensate.

**J.3.02**

If the Client declares in writing to the Contractor by the 31st day that he no longer wishes to have the Plant, the Contractor shall take back the Plant at his own expense.

**J.3.03**

If the client does not receive a declaration in accordance with clause J.3.02 by the 31st day, the installation remains with the client for a further 59 days, i.e. a total of three months. For the duration of the further stay until the end of the Try - and - Buy - period, the client shall pay the agreed user fee.

**J.4 Purchase decision****J.4.01**

At the latest on the day after the expiry of the Try - and - Buy - period, the client will declare in writing to the contractor whether he will buy the plant.

**J.4.02**

If the client does not make a declaration of purchase, the contractor is entitled to collect the equipment immediately. An obligation to pick up the equipment exists only if the client requests it to be picked up. For the period from the end of the Try - and - Buy - period until the collection of the equipment by the contractor, the client pays an increased user fee per day, which is one fortieth of the fee according to clause J.3.03.

**J.4.03**

If the customer declares to purchase, the purchase contract is concluded in accordance with the General Terms and Conditions of Service of the contractor upon receipt of this declaration by the contractor.

J.4.04

The purchase price is due immediately without deductions. The payments owed by the client in accordance with clauses J.3.03 and J.4.02 shall be offset against the purchase price.

#### **J. 5. duties of care**

From receipt of the plant until collection by the Contractor or until purchase by the Client, the Client shall treat the plant with care and in compliance with the Contractor's operating instructions and shall be liable to the Contractor for all damage caused by at least slight negligence which the plant suffers in his care.

#### **J.6 General Terms and Conditions**

Otherwise the General Terms and Conditions of Business sections A and C of BOGE shall apply to the contractual relationships between the parties.

**K. Special Conditions for Compressed Air -Contracting**

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**K.1 Subject matter of the contract**

The subject of the contract are orders placed with the contractor for the supply of compressed air at prices per m<sup>3</sup> or operating hours. Unless expressly agreed otherwise, the compressed air in question is untreated compressed air.

**K.2 Scope of services**

Unless otherwise agreed, the equipment with which the compressed air to be supplied is produced shall be installed, operated and maintained by the contractor. The customer is entitled to the agreed compressed air quality and delivery quantity. The contractor reserves the right to determine the manner of fulfilment.

**K.3 Services provided by the client****K.3.01**

The Customer shall, at its own expense and responsibility, and in accordance with the specifications agreed in the contract, provide the Contractor with at least the following prerequisites for the operation of the equipment used for compressed air production:

- a) Adequately large, safe, climate controlled, dry installation room with a sufficiently load-bearing ceiling and horizontal floor
- b) The piping necessary for the compressed air supply and cooling water supply and discharge
- c) The power and data line cabling required for power supply and system control (especially remote maintenance)
- d) Cooling water in the contractually agreed quality.

**K.3.02**

The customer shall ensure that the specifications made by the contractor regarding points K.3.01 a) to d) are complied with.

**K. 4 Measuring point and price calculation****K.4.01**

Installed between the compressed air production plant and the compressed air pipe system of the Customer - in the case of calculation according to consumed m<sup>3</sup> of compressed air - the Contractor shall install a measuring device which measures the produced compressed air in relation to the intake condition and the expanded condition in accordance with PN2CPTC2 (measuring point). This measured value is decisive for the compressed air to be paid for by the Customer.

**K.4.02**

The customer pays the contractor the agreed price per m<sup>3</sup> or operating hours of the compressed air system, which is determined at the measuring point in accordance with K.4.01.

**K.5**

Currently not used.

**K.6 Invoicing and due date****K.6.01**

The contractor invoices the compressed air supplied to the client on a monthly basis for the previous month.

K.6.02

The client pays within the agreed payment terms. If the customer defaults on payment, the contractor is entitled, after a reminder with a period of notice of 4 working days, to withhold further compressed air deliveries until all claims of the contractor against the customer have been settled.

**K.7. quantities purchased**

K.7.01

The client must purchase the agreed minimum annual quantity of compressed air.

K.7.02

If he does not accept this quantity, he shall nevertheless be obliged to pay the price for the difference between the unaccepted quantity and the agreed minimum quantity. The contractor shall prepare an annual statement of account for the accounting period from 01.11. to 31.10. The difference between payments made and compressed air actually consumed will be debited or, if applicable, credited.

K.7.03

If binding fixed quantities have been agreed, these quantities shall be regarded as minimum and maximum quantities. In other words, the customer has no right to excess delivery without a new agreement being reached.

**K.8 Price escalation clause**

K.8.01

Currently not used.

K.8.02

If the IG-Metall collective wages for fitters and service technicians change, the contractor can increase the adjustment of the prices for compressed air at the beginning of a twelve-month contractual period from the start of the contract accordingly on a pro rata basis.

**K. 9 Further obligations of the client**

K.9.01

The customer must inform the contractor immediately of the following events:

- Increased sound level or vibrations
- Leaks and leakage of liquids
- Failure of measuring instruments
- Change in thermal behaviour
- Changes in environmental conditions.

K.9.02

The customer shall inform the contractor immediately in written form if there is a deterioration in the quality of the compressed air or a reduction in the delivery quantity.

K.9.03

The customer is responsible for ensuring that the contractor - this also applies to the contractor's vicarious agents - has unhindered access to the compressed air system during normal business hours. Likewise, the customer must ensure that the data lines used by the contractor for remote maintenance and remote control are always available.

#### **K.10 Exclusive rights of the contractor**

##### **K.10.01**

The Client acknowledges that the Contractor is the sole owner of all items brought in by the Contractor under this Agreement (compressed air equipment and accessories), that this also applies to the corresponding software and that the Client has no rights whatsoever to any of these items.

##### **K.10.02**

Except in urgent emergencies, the Client will - unless authorised by the Contractor in individual cases or in general - not touch the items brought in by the Contractor, let alone carry out any intervention.

#### **K.11 Compressed air - supply**

##### **K.11.01**

The agreement on the supply of compressed air is based on the legal type of contract of the sales contract. Compressed air is therefore considered to be an object for the purposes of this contract.

##### **K.11.02**

If, by way of exception, the supply of processed compressed air has been expressly agreed without any express agreement on one of the quality classes according to DIN ISO 8573-1, the contractor shall supply compressed air of a medium type and quality. Compressed air of average type and quality is deemed to be present if the compressed air has the quality according to class 3 or 4 of the six compressed air quality classes according to DIN ISO 8573-1.

#### **K.12 General Terms and Conditions**

Otherwise the General Terms and Conditions of Business sections A and C of BOGE shall apply to the contractual relationships between the parties.



**L. Special conditions for compressed air – deliveries  
at a fixed monthly price**

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**L.1 subject of the contract**

The subject of the contract are orders placed with the contractor for the supply of compressed air at a monthly fixed price.

**L.2 Scope of services**

The Contractor shall supply the Client with compressed air in the contractually agreed quantity and quality. For this purpose, a compressor system will be set up at the customer's premises, which is capable of producing the corresponding compressed air. Unless otherwise agreed, the equipment with which the compressed air to be supplied is produced shall be installed, operated and maintained by the Contractor. The customer is entitled to the agreed compressed air quality and quantity. The contractor reserves the right to determine the manner of fulfilment.

**L.3 Services provided by the client****L.3.01**

The Customer shall, at its own expense and responsibility, and in accordance with the specifications agreed in the contract, provide the Contractor with at least the following prerequisites for the operation of the equipment used for compressed air production:

- a) Adequately large, safe, climate controlled, dry installation room with a sufficiently load-bearing ceiling and horizontal floor
- b) The piping necessary for the compressed air supply and cooling water supply and discharge
- c) The cabling required for the power supply and system control (especially remote maintenance)
- d) Cooling water in the quality specified in the contract.

**L.3.02**

The contracting authority shall ensure that the specifications made by the contractor with regard to points L.3.01 a) to d) are complied with.

**L.4 Price Calculation****L.4.01**

The client owes the contractor the agreed monthly fixed price. In the event of excess consumption, this will be added in accordance with the additional cost prices agreed in the contract. The Contractor shall prepare the additional cost invoice annually for the period from 01.11. to 31.10. of the following year.

**L.4.02**

The agreed fixed price applies regardless of how much compressed air the client actually purchases.

**L.5 Invoicing and maturity****L.5.01**

The contractor invoices monthly for the previous month.

**L.5.02**

The client pays within the agreed payment terms. If the customer defaults on payment, the contractor is entitled, after a reminder and corresponding threat with a period of notice of 4 working days, to withhold further compressed air deliveries until all claims of the contractor against the customer have been settled.

## **L.6 Further obligations of the client**

### **L.6.01**

The customer must inform the contractor immediately of the following events:

- Increased sound level or vibrations
- Leaks and leakage of liquids
- Failure of measuring instruments
- Change in thermal behaviour
- Changes in environmental conditions.

### **L.6.02**

The customer shall inform the contractor immediately in text form if there is a deterioration in the quality of the compressed air or a reduction in the delivery quantity.

### **L.6.03**

The customer is responsible for ensuring that the contractor - this also applies to the contractor's vicarious agents - has unhindered access to the compressed air system within the normal opening hours. Likewise, the Customer must ensure that the data lines used by the Contractor for remote maintenance and remote control are always available.

## **L. 7 Exclusive rights of the contractor**

### **L.7.01**

The Client acknowledges that the Contractor is the sole owner and possessor of all items brought in by the Contractor under this Agreement (compressed air equipment and accessories), that this also applies to the relevant software and that the Client does not have any rights to any of these items.

### **L.7.02**

Except in urgent emergencies, the Client will - unless authorised by the Contractor in individual cases or in general - not touch the items brought in by the Contractor, let alone carry out any intervention.

## **L.8 Compressed air - supply**

### **L.8.01**

The agreement on the supply of compressed air at a fixed price is - subject to these provisions - based on the legal type of contract of the purchase contract. Compressed air is therefore considered to be an object for the purposes of this contract.

### **L.8.02**

If, by way of exception, the supply of processed compressed air has been expressly agreed without any express agreement on one of the quality classes according to DIN ISO 8573-1, the contractor shall supply compressed air of a medium type and quality. Compressed air of average type and quality is deemed to be present if the compressed air has the quality according to class 3 or 4 of the six compressed air quality classes according to DIN ISO 8573-1.

### **L.9 General Terms and Conditions**

Otherwise the General Terms and Conditions of Business sections A and C of BOGE shall apply to the contractual relationships between the parties.

**M. Special conditions for damage - contracts**

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**M.1 subject of the contract**

The subject of the contract is a standby obligation entered into by the contractor towards the customer. In the event of malfunctions in the compressed air systems listed in the maintenance certificate for the corresponding contract, the Contractor shall immediately take measures to restore the trouble-free compressed air supply at the Customer's premises.

**M.2 Scope of services**

The scope of services and the terms and conditions are set out in the service description, insofar as they are not regulated here. In this respect C.1.01 applies.

**M.3. flat-rate and unit prices****M.3.01**

In return for the damage readiness guaranteed by the contractor, the client shall pay the agreed lump sum annually in advance.

**M.3.02**

If the cost factors, in particular the prices for raw or auxiliary materials as well as wages and transport costs, change after the conclusion of the contract, the contractor can make a corresponding adjustment to the flat rate with effect for the following contractual year. In this case, the Customer shall have the right to terminate the contract in text form within one month after appropriate notice to the end of the current contractual year.

**M.3.03**

The individual services provided by the contractor within the scope of this contract will be charged separately.

**M.4 Individual services**

The special terms and conditions for repair work (part F. of the general terms and conditions of BOGE) shall apply to the individual repair services rendered within the framework of this agreement.

**M. 5 Duration of contract/termination****M.5.01**

The contract has an initial term of five years.

**M.5.02**

The contract shall be extended by a further 24 months in each case if it is not terminated in writing by one of the contracting parties at least 3 months before expiry.

**M.6 General terms and conditions**

Otherwise the General Terms and Conditions of Business sections A and C of BOGE shall apply to the contractual relationships between the parties.

## **N. Special conditions for export control**

### **CAUTION! Important information!**

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### **N.1 Scope of application**

The following provisions shall apply in addition in cases where the contractor provides cross-border services. These may be any of the types of services listed in sections C. to M.

### **N.2 Various regulations and prohibitions**

#### **N.2.01**

The transfer/export of goods (goods, software, technology, services, technical support etc.) for the performance of the contract is subject to European and German foreign trade law and the delivery may be subject to export control restrictions and prohibitions.

#### **N.2.02**

Furthermore, European and national embargo regulations exist against certain countries, natural and legal persons as well as associations of persons or other parties, which prohibit a delivery or make it subject to approval.

#### **N.2.03**

Goods manufactured in the USA, goods with a share of 10 or 25 % of US goods or goods of US-controlled companies may be subject to US (re-)export control law in addition to the laws and regulations mentioned above. This also applies to products manufactured under US licenses.

#### **N.2.04**

The customer undertakes not to sell, export, re-export, deliver, pass on or otherwise make available the delivered goods, either directly or indirectly, to persons, companies, institutions, organisations or to countries, if this violates applicable (re-)export control regulations, which may be, among other things

- The German export control regulations (AWG, AWV, German Export List), in particular the obligation not to export the goods directly or indirectly for civil nuclear use in the countries mentioned in Section 5 d I AWV,
- The European export control regulations, currently EC Regulation No. 428/2009 (Dual Use Regulation) or the currently valid version, in particular the obligation not to export the goods either directly or indirectly to a military end-use in an arms embargo country within the meaning of Article 4 II of EC Regulation No. 428/2009,
- All other valid and applicable export (control) regulations are observed and applied.

The above prohibitions shall only not apply insofar as the contractual partner has the corresponding necessary permits and sends these to the contractor without delay and unsolicited.

### **N.3 Obligation of the contractual partner**

In the event of a resale / transfer of the delivered goods, the customer undertakes to inform his buyer of the export control regulations and to pass on the resulting obligations.

### **N.4 Obligation of the contracting party to make enquiries**

The client must independently inquire about the relevant regulations and is responsible for compliance with them. He is obliged to have the legal provisions mentioned in N.2, which are subject to constant changes and adjustments, apply to him in the currently valid version.

### **N.5 End use - documents**

The Contractor may demand so-called end-use documents or end-use documents from the Client in order to be able to prove the end-use and intended use.

## **N.6 Liability for infringement**

The Client shall be fully liable to the Contractor for any damage suffered by the Contractor as a result of the Client's culpable violation of the applicable export regulations.

## **N.7 Contract reservations / implementation risk**

### **N.7.01**

The offer aimed at a contract covered by this section L. and the performance of such a contract are subject to reservation,

- that any necessary export or transfer licences are issued by the competent authorities, and
- that there are no other legal obstacles affecting the contractor as exporter or transferor, and
- that there are no (re-)export control regulations to be observed by the supplier from the contractor.

### **N.7.02**

If an export licence, if required, is not granted by the competent office, the contractor is not obliged to deliver. Any costs already incurred by the Customer in this connection shall be borne by the Customer itself.

### **N.7.03**

If a delivery is delayed due to a necessary application and official approval procedure, the Contractor shall be granted a reasonable extension of the delivery period by the Customer, taking into account the circumstances of the official procedure.

### **N.7.04**

If at any time it should transpire that the goods to be delivered by the contractor are intended for a purpose other than that on which the export control check is based, or if other changes relevant to export control should arise which have been concealed from the contractor or have deliberately not been communicated to him, the contractor reserves the right to stop delivery and to cancel the order immediately, irrespective of any offers, delivery promises or other agreements made. Any costs incurred shall be borne by the client.

## **N.8 General terms and conditions**

Otherwise the General Terms and Conditions of Business sections A and C of BOGE shall apply to the contractual relationships between the parties.