



## BUKH A/S - General Terms and Conditions Of Sales And Delivery

### 1. APPLICATION

- 1.1. These General Terms and Conditions (the "Terms") shall, unless otherwise expressly agreed in writing, apply to all sales of products and parts (the "Products") by BUKH A/S, with Danish business registration no. 21165395 (the "Supplier"). Supplier's offers are non-binding until Supplier has received and confirmed a purchase order issued by Buyer in compliance with these Terms (any such confirmed purchase order hereinafter referred to as "Contract"). The execution of the Contract is subject to any changes which Supplier from a technical point of view deems necessary. Prices confirmed by Supplier are subject to price increases resulting from changes in trade conditions, duties, rates of exchange, rates of raw material supplies and similar conditions.
- 1.2. Conflicting or additional terms shall only be valid if they have been expressly agreed in writing. Supplier hereby expressly disclaims Buyer's standard or special terms, except if expressly approved by Supplier in writing as described above. These Terms shall form an integral part of the Contract. Buyer may not change or cancel any Contract unless Supplier has agreed in writing to such change or cancellation. In the event Supplier agrees to change or cancel a Contract, such change or cancellation is subject to Buyer's payment of Supplier's incurred expenses.

### 2. PRODUCT INFORMATION, DRAWINGS AND OTHER DOCUMENTS

- 2.1. All details concerning the Products in catalogues, prospectuses, circular letters, advertisement, illustrated material hereunder but not limited to dimensional sketches, price-lists and other Product information are approximate. All such information and data are only binding to the extent they are - by specific reference - included in the Contract.
- 2.2. Buyer shall supply to Supplier, where applicable, all technical specifications necessary for Supplier to perform according to the Contract. Buyer remains solely liable for the information supplied

and shall compensate Supplier any and all loss incurred by Supplier, as a result of the information, documentation and guidelines provided.

### 3. CONFIDENTIALITY AND INTELLECTUAL PROPERTY

- 3.1. Neither party shall copy or disclose to a third party any document or data provided by the other party without the prior written consent of the other party or use them for purposes other than those for which they were provided. Intellectual property rights associated with the Products or any document or data provided by Supplier in connection therewith shall remain Supplier's property. Buyer shall defend, indemnify and hold harmless Supplier against all claims, losses and damages, including reasonable attorneys' fees, arising out of or resulting from any reuse, modification, reproduction or publication of Supplier's intellectual property documents or data.
- 3.2. The Buyer may not use the trademark BUKH, or any other trademark belonging to Supplier in; advertising, marketing or in any other way without the prior written consent of Supplier.

### 4. DELIVERY, ACCEPTANCE AND RETURNS

- 4.1. All references to trade terms shall be interpreted in accordance with: Incoterms 2020, and the Products shall be deemed sold on "Ex works"-terms unless otherwise explicitly agreed in writing. Partial shipment is allowed unless otherwise agreed in writing between the parties.
- 4.2. Supplier will endeavour to deliver the Products within any stipulated or quoted delivery period. However, any date or period for delivery stipulated or quoted shall be deemed to be an estimate only. Supplier shall not be liable for any delay in the delivery of the Products.
- 4.3. Unless otherwise agreed by the parties in writing: Packaging materials are not included in the price of the Products and shall not be returned to Supplier. Prices shown in price lists and catalogues shall refer to unpacked Products.



- 4.4. Prices shown in offers and agreements shall include the cost of such packaging and/or protection required under normal conditions of transport to prevent damage to or deterioration of the Products prior to the arrival thereof at the destination specified in the agreement.
- 4.5. Buyer shall be deemed to have accepted the quantity and quality of the Products delivered by Supplier as being in accordance with the Contract unless Buyer in writing has notified Supplier of any shortages or damage within 14 days following the delivery of the Products. No return of Products will be allowed by Supplier. Buyer shall not be entitled to withhold payment of all or any of the price of the Products whilst any claim is being investigated by Supplier.

## 5. PAYMENT

- 5.1. Unless otherwise expressly agreed, payment shall be made to Supplier in accordance with the terms set forth in Supplier's invoice and in such currency as designated by Supplier. Payment shall be made in full without any set off, counterclaim or deduction. Buyer shall pay interest on overdue payments from the date of maturity until the actual date of payment at the rate of three percent (3 %) above the central bank of Denmark's lending rate per month. Supplier may change the interest level with one (1) month written notice to Buyer.
- 5.2. Buyer shall pay Supplier all costs related to the collection of overdue amounts including reasonable attorney's fees. If the Buyer fails to pay on time, and the failure is not due to any act or omission on the part of Supplier or due to circumstances set forth in clause 9, Supplier shall be entitled to suspend or terminate the Contract by written notice to Buyer, and such remedies shall not be exclusive of Suppliers additional rights under contract law.
- 5.3. Supplier may at its own discretion as a precondition for delivery of Products, request (i) prepayment and/or (ii) that Buyer pays or provides security covering any unpaid amount already owed to Supplier.

## 6. RETENTION OF TITLE

- 6.1. Title to the Products shall pass to Buyer only when payment in full has been received by Supplier. Buyer shall at the request of Supplier assist Supplier in taking any measures necessary to protect Supplier's title to the Products. Buyer must notify Supplier of any seizure, attachment or any other disposal or intervention by any third party immediately. Buyer must keep the Products insured against fire and damage risks, for the total value of the Product's purchase price until Supplier has received payment in full. The retention of title shall not affect the passing of risk, which passes in accordance with the agreed Incoterms 2020 delivery term.
- 6.2. With respect to deliveries of Products with a destination in Germany or to Buyers domiciled in Germany, an extended retention of title ("erweiterter Eigentumsvorbehalt") and a prolonged retention of title ("verlängerter Eigentumsvorbehalt") in addition to 6.1. are agreed as follows:

The Supplier retains title to the Products until full payment of all secured claims from the Contract as well as any outstanding balances arising from the Supplier's business relationship with the Buyer apart from the Contract. The Products as well as all goods replacing the Products that are subject to retention of title pursuant to this clause are hereinafter referred to as "Products Subject to Retention of Title".

The Buyer may process and sell Products Subject to Retention of Title in the ordinary course of business ("ordnungsgemäßer Geschäftsgang"), as long as the Buyer is not in default. Products Subject to Retention of Title may not be pledged or provided as security.

Processing or modification of Products Subject to Retention of Title shall always be carried out on behalf of the Supplier as manufacturer as defined in § 950 BGB (Bürgerliches Gesetzbuch). In the event that Products Subject to Retention of Title are processed, modified, combined with or mixed with ("Verbindung, Vermischung, Verarbeitung") other goods not belonging to the Supplier, it is hereby agreed that the Supplier acquires co-ownership of the new goods based on the value of the Products Subject to Retention of Title (invoice value including VAT) in relation to the processed, modified,



combined or mixed goods at the time of processing, modification, combination or mixing. The rules on Products Subject to Retention of Title equally apply to the new goods created through processing or modification.

The Buyer is obliged to store and duly ensure Products Subject to Retention of Title on behalf of the Supplier and without remuneration.

As security, the Buyer hereby assigns all its claims resulting from resale, processing, modification, combination or mixing of Products or from any other legal basis (including, but not limited to, insurance claims or claims arising from unlawful acts) with respect to Products Subject to Retention of Title to the Supplier. The Supplier accepts the assignment. The Supplier authorises the Buyer to collect the assigned claims for its own account and in its own name on behalf of the Supplier. However, this collection authority may be revoked at any time if the Buyer fails to fulfil its payment obligations properly or the Seller withdraws from the Contract.

In the event of pledging, seizure or other dispositions or interventions by third parties concerning Products Subject to Retention of Title, the Buyer is obliged to notify the third party of the Supplier's title and immediately notify the Supplier thereof. The same applies to an application for the initiation of insolvency proceedings concerning the Buyer. All costs and damages caused by the non-timely or omitted notification shall be borne by the Buyer.

At the Buyer's request, the Supplier is obliged to release its allocated security to the extent that the realisable value of the security exceeds the secured claims by more than 20%.

If the Buyer fails to comply with its obligations pursuant to the Terms, the Supplier may withdraw from the Contract and demand return of the Products Subject to Retention of Title. In particular, delayed payment shall be deemed a breach by the Buyer.

Due to mandatory statutory provisions, transfer of title is governed by the law of the Federal Republic of Germany should the Products be located in Germany, irrespective of a choice of law clause applicable to the Contract.

## **7. WARRANTY**

- 7.1. Supplier shall refund Buyer its purchase price or repair or replace, at its sole discretion, any defect in the Products which appears during the warranty period as described in clause 7.3 as a result of defective material or manufacturing, provided that any replaced Product upon Supplier's request be returned to Supplier, within one (1) month of Supplier's request, at Buyer's cost or undergo sufficient inspection from Supplier in accordance with clause 7.7. Supplier reserves the right to improve any Product without assuming any obligation to modify or in any way alter any previously manufactured Products.
- 7.2. Buyer shall immediately take appropriate steps to prevent any defect from becoming more serious. In the interest of a rapid claims settlement and a proper preservation of evidence all warranty claims with respect to this warranty shall be made in writing immediately after discovery of such defect during the warranty period. Buyer shall have the responsibility of establishing that its claim is covered by this warranty. Replaced Products shall become Supplier's property. Delivery of replaced or repaired Products will be at the sole expense of Buyer. The Products must be carefully stored until such time as Supplier decides whether Supplier will require the return of the Products or an inspection of the Products. Any Products shipped by Buyer for inspection or repair must be shipped with transportation charges prepaid.
- 7.3. The warranty period for the Products begins on the date of dispatch from Supplier (sold Ex Works, Incoterms 2020), and ends twelve (12) months from the date of dispatch or after the specified running hours of the product according to Buyers Ratings Warranty – Extended Warranty, whichever occurs first. The warranty period in respect of Products which have been repaired or replaced under the warranty shall expire six (6) months following the date when (i) the repaired or replacement Product is placed in service or (ii) upon the expiration of the warranty period applicable to the originally supplied Product as set forth above, whichever occurs first. The warranty for repaired or replacement Products shall be subject to the same terms, conditions and limitations of liability as those applicable to the originally supplied Products. Under



no circumstances shall the warranty period of any Products (whether as originally supplied or as repaired or replaced) extend beyond twelve (12) months following the date of commencement of the original warranty period as stipulated above in this Clause 7.3.

- 7.4. Supplier shall not be liable for any defect due to or arising in connection with: (1) any materials, components, tools, designs or software provided by Buyer; (2) negligence or wilful misconduct of Buyer; (3) Products, accessories or attachments other than those supplied as Products by Supplier; (4) improper service work, installation, tune-ups or alterations carried out by Buyer or by any third party hired by Buyer; (5) normal wear and tear; (6) use of unsuitable material or consumables by Buyer hereunder but not limited to fuels, oils, lubricants or coolant additives; (7) improper or insufficient maintenance, abnormal operations or storage; (8) engine cooling systems overheating or engine overheating or any use, service or operation of the Products which is not in conformity with manuals, instructions or specifications provided by Supplier or which is otherwise not in accordance with normal industry practice.
- 7.5. Supplier's warranty obligation does not include any cramage, electricity, scaffolding, docking, diving, sub-sea work, towage costs, demounting or mounting costs and expenses of Supplier's personnel or representatives, and all such costs and expenses shall be at the sole expense of Buyer when applicable.
- 7.6. The warranty in this section 7 shall not apply in respect of any Products (i) supplied by the Supplier as samples or prototypes for test or evaluation purposes; (ii) where all or part of the products are supplied to the Supplier by a third party nominated by the Buyer or (iii) where all or part of the Products have been subject to any unauthorized repair or replacement, modification or alteration. The warranty in this section 6 is further applicable to the first Buyer of the Products only.
- 7.7. Any and all costs and expenses associated with Suppliers inspection of the Products hereunder but not limited to transportation charges and/or travel time, labour charges, accommodation charges, material and needs for special equipment are the responsibility of Buyer

and Supplier may at its sole discretion demand payment in advance before initiating any inspection of the Products. If after Supplier's warranty investigation it is found that Buyer does have a warranty claim within the scope of these Terms, then Supplier shall reimburse Buyer any reasonable costs and expenses for such inspection, repair or replaced component or other service work subject to this section 7.

- 7.8. This warranty is in lieu of any and all other warranties, guaranties, obligations and liabilities arising by law, custom or otherwise, express or implied including warranties, guaranties, obligations or liabilities against non-conformity or defects. Buyer hereby waives all other remedies, warranties, guaranties and liability claims express or implied, arising by law, custom or otherwise – including without limitation fitness for purpose, merchantability or satisfactory quality.

## 8. SUPPLIER'S LIABILITY

- 8.1. In no event shall Supplier be liable for any indirect loss, incidental, special, or consequential damages, however caused or arising including but not limited to: loss of any actual or anticipated profits or revenue, loss of anticipated savings, loss of orders, loss of sales, depletion of goodwill or damage to any property including damage to goods owned by Buyer. Further, Supplier is to the fullest extent possible under applicable law not liable for any form of product liability damages to non-consumer property.
- 8.2. This limitation of Supplier's liability shall apply to any liability for breaches of Supplier's obligations under or in connection with the Contract, whether based on warranty, failure of or delay in delivery or otherwise.
- 8.3. If Supplier provides technical information or acts in any advisory capacity and such information or advisory activity is not included in the scope of the Contract such information and/or advisory activity is carried out at the exclusion of any and all liability.
- 8.4. Supplier's total liability to Buyer shall, regardless of the nature of the liability or claim, under all circumstances be limited to an amount equal to the Contract price.

## 9. EXPORT CONTROLS

- 9.1. Supplier delivers the Products to Buyer in accordance with the applicable export controls or restrictions imposed on the sale between Supplier and Buyer in





the jurisdiction of Supplier. Buyer undertakes that the Products and all related technical information, documents and materials are not in any following sale by Buyer or any third party directly or indirectly contrary to export controls or restrictions.

- 9.2. Buyer undertakes that the Products will not by Buyer or any later third party be used in connection with or re-sold for purposes associated with any chemical, biological or nuclear weapons or in support of any terrorist activity. If the Products by the Buyer or any third party are re-exported Buyer shall upon Suppliers request furnish Supplier with all the relevant documents relating to export control laws, regulations and restrictions, such as, but not limited to, end-user certificates, in form and substance specified by Supplier, documenting compliance with export control sanctions.

#### **10. RELEASE FROM LIABILITY - FORCE MAJEURE**

- 10.1. Neither Supplier nor Buyer shall be liable for any failure or delay in performing its obligations hereunder, or for any loss or damage resulting therefrom, caused by or arising from an event of force majeure ("Force Majeure"), which includes without limitation, acts of God, war, riot, embargos, acts of civil or military authorities, fire, flood, accidents, strikes, failure of a subcontractor to provide manpower, materials or goods caused by an event that qualifies under this clause 10, epidemics, pandemic, unusually severe weather affecting either party, or causes beyond their control.
- 10.2. Either party hereto wishing to invoke any circumstance referred to in clause 10.1 shall in writing notify the other party without undue delay of the existence of such a circumstance and likewise of its termination. The party invoking Force Majeure shall, at the request of the other party submit certification by the proper authority confirming the Force Majeure occurrence.
- 10.3. Following a party invoking Force Majeure, the parties shall promptly consult in good faith on the possibilities to adapt the Contract to the altered conditions in a way which is fair and just for both parties.
- 10.4. If a Force Majeure event continues for more than three (3) consecutive months either party may terminate the Contract by notifying the other party

hereof in writing without prejudice to the rights of either party up to the date of termination. The party invoking Force Majeure shall at the request of the other party supply such information as described in clause 10.2.

#### **11. DUTIES, TAXES, FEES AND COMPLIANCE WITH LAWS**

- 11.1. Buyer shall pay, where applicable, all duties, withholding and other taxes, customs fees and charges. Under no circumstance is such costs the responsibility of Supplier. All such documentation or approvals which are required by the applicable law in accordance with clause 13, and any applicable modifications of the law, shall be the responsibility of and paid by Buyer.
- 11.2. Each party shall pay, where applicable, local bank fees and charges. Under no circumstances shall Supplier be liable to pay Buyers local bank fees.

#### **12. GENERAL AND SEVERABILITY**

- 12.1. Buyer shall not assign or otherwise transfer any of its rights or obligations here under whether in whole or in part without prior written consent of Supplier. Any such unauthorized assignment shall be null and void.
- 12.2. If a clause of these terms is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the remainder of the clause and of all other clauses of these Terms shall not be affected thereby. Furthermore, the waiver by either party of a breach of any provision of these Terms shall not be construed as a waiver of any subsequent breach.

#### **13. GOVERNING LAW AND ARBITRATION**

- 13.1. Unless otherwise expressly stated in these Terms or a Contract, these Terms and the parties' Contracts shall be governed by Danish law to the exclusion of any conflict of law rules which would refer the matter to another jurisdiction.
- 13.2. Any dispute arising out of or in connection with these Terms and/or any Contract, including any disputes regarding the existence, validity or termination of these Terms and/or any Contract, shall be finally settled by arbitration administered by the Danish Institute of Arbitration in accordance with the Rules of Arbitration adopted by the Board of the Danish Institute of Arbitration. The arbitration proceedings shall be in the



English language and the arbitration tribunal shall be seated in Copenhagen, Denmark. Notwithstanding the previous paragraphs in this clause 13.2, this arbitration clause shall not prevent Supplier from protecting its rights and interests by seeking injunction orders or other interim measures available under the law of the Buyer from the local courts in the country where the Buyer has its place of business.

#### **14. ENTIRE AGREEMENT**

14.1. The Contract including these Terms, contain the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersede all prior agreements and understandings relating to such subject matter. Any service work to be provided by Supplier to Buyer shall be in accordance with Supplier's General Terms and Conditions of Service Work. If a provision of these Conditions is at variance with necessary requirements of applicable law, then these Conditions shall be deemed to be amended to the minimum extent necessary to comply with such applicable law.