

General Terms and Conditions of BARTH GMBH E-Motoren & Trafos

General matters: These General Terms and Conditions (AGB or GTC) apply exclusively to all current and future transactions from goods and services, declarations and other legally-binding agreements between BARTH GMBH E-Motoren & Trafos, hereinafter referred to as the Contractor ("CN"), and its business partners. The General Terms and Conditions of the Contractor's business partners or references thereto shall not apply even without the Contractor's explicit reservation. Any conflicting terms and conditions of the Contractor's business partners or differing terms and conditions are not recognized by the Contractor. The Contractor's clients or contractual partners hereby explicitly waive enforcement of their own terms and conditions.

Agreements or supplementary agreements at variance from these General Terms and Conditions require the written form to be effective. Written confirmation by the Contractor is absolutely necessary for effective oral statements of any kind. No kind of substantial declaration, and in particular no consent, can be ascribed to silence or other inactivity on the part of the Contractor.

If individual provisions of these GTC are or become fully or partially invalid, this shall not affect the validity of the remaining parts (severability clause). All listed prices and verbal price information shall be understood as exclusive of 20% VAT ex works Vienna.

Contract conclusion: The basis for business relationships is formed by the contract, which lays down all agreed services (scope of services) and remuneration. The Contractor's offers are regarded as non-binding and subject to confirmation. The Contractor reserves the right to make technical or commercial changes to the data contained therein at any time.

The contractual partners' orders shall only be deemed accepted upon written order confirmation from the Contractor. The Contractor is entitled to demand an appropriate advance payment and to make receipt of such a payment a condition for contractual performance.

The Contractor's business partner and client shall be solely responsible for any approvals or licences under private or public law which are necessary for the operation and use of services and products provided by the Contractor, and shall be solely liable for all costs thereof.

Prices offered by the Contractor are understood in euros, excluding VAT. The Contractor's prices are applicable ex works and ex stock from the vendor (EXW) without packaging, but including loading (up to 10 t) onto a lorry. If supply with delivery is agreed, delivery with any loading and unloading and any transport insurance requested by the Contractor's contractual partners shall be charged separately.

The Contractor reserves the right to make price changes and to make technical and commercial errors in pricing. In the case of an order at variance from the overall programme of the Contractor, the Contractor reserves the right to make appropriate price changes.

Effective wage and material costs at the time of making the offer form the basis for prices specified in contract offers. The Contractor hereby explicitly reserves the right, after making a price commitment, to make price corrections in case of increases in wage, material and other costs, and prior sale of the offered goods. The Contractor hereby specifically points out that fluctuations in commodity prices, in particular for copper, aluminium and electrical sheets, between the date on which the Contractor makes the offer and placement of the order by the client, shall be charged for in the form of material surcharges.

In case of installation work at cost on site, the indicated prices shall be understood in euros, excluding 20% VAT, based on the Contractor's current installation rates. Signed delivery notes shall be taken as the basis for billing. In the case of agreed flat-rate prices for installation work, these shall apply inclusive of installation surcharges according to the relevant scope of the offer. The client or plant operator and its vicarious agents shall ensure that electrical system parts which are processed by the Contractor's fitters have been switched off, earthed and secured against restarting and that any danger to the Contractor's fitters is excluded by the client or system operator and its vicarious agents.

Compilation of cost estimates: In individual cases we invoice 10% of cost estimates for repairs, but at least €30,- as a handling fee, if no order is subsequently placed within a maximum period of 1 month. In individual cases, advance payments of up to 30% of the specified price, plus VAT, are due for payment in respect of repairs and production when orders are placed. The Contractor is released from the obligation to provide free storage 1 month after a cost estimate given in writing or by phone or an issued ready for pick-up notice. Authenticated equipment, where necessary for compiling the cost estimate, shall be delivered in disassembled state. Storage and disposal of non-collected goods is subject to charge.

Contractual partners: The Contractor only enters into contracts with clients who are either natural persons with full legal capacity and have reached the age of 19, or which are legal entities. The Contractor is entitled to withdraw from the contract within a reasonable deadline in the event of contracts inadvertently concluded with other persons or legal entities.

The Contractor is entitled to withdraw from the contract within a reasonable deadline in the event of contracts inadvertently concluded with other persons or legal entities. The Contractor is entitled to demand all necessary data from the business partner on the identity and legal and business capacity of its business partners through the presentation of official documents, such as an excerpt from the Commercial Register and photo ID, and verification of authority to sign and represent. Moreover, the Contractor is entitled to examine the credit rating and other data of business partners.

Delivery: Unless stipulated to the contrary, the delivery period is assessed based on the deadline indicated in the Contractor's offer. The Contractor's business partners hereby explicitly declare their waiver with regard to enforcement of delivery penalties and enforcement of costs of any production losses and loss of earnings in the event of delayed delivery by the Contractor.

The Contractor's business partners hereby explicitly declare their consent to the Contractor's delivery terms. The Contractor and its business partners hereby agree that the Contractor's business partners assume the risk of transport. Transport insurance is only taken out at the request and expense of the Contractor's business partners. The Contractor's goods are dispatched at the expense and risk of the Contractor's business partners. Transport damage may only be acknowledged if it has been noted on the delivery note (BEX certificate, delivery note of the haulier) by the recipient before taking possession of goods.

The Contractor's business partners hereby specifically acknowledge that Neilreichgasse 45, 1100 Vienna, is agreed as the Contractor's place of performance, whereby goods are dispatched unpacked and uninsured to the Contractor's business partners, unless any other written agreement exists.

Moreover, the Contractor's contractual partners hereby explicitly declare their consent to delivery of the existing goods being carried out subject to retention of title until payment in full of the issued invoice. Delivered goods and services are therefore in the Contractor's absolute ownership until payment in full.

In case of collection by the contractual partners of the Contractor, the date of notification (by fax, email or phone) of readiness for collection is agreed as the delivery date.

Confidentiality obligation: The Contractor's contractual partners are obliged to handle all information received by the Contractor or otherwise related to contractual performance strictly confidentially and only to use such information to fulfil contractual obligations.

If forwarding information to third parties is mandatory for contractual performance, the contractual partner of the Contractor shall obtain an identical confidentiality statement in advance.

The Contractor's contractual partners shall be responsible for any breaches of the confidentiality obligation and shall fully indemnify and hold the Contractor harmless in this regard.

Payment terms: Unless stipulated to the contrary or indicated on the Contractor's invoice, all goods and services provided by the Contractor shall be due for payment immediately after invoicing without any deductions. A payment claim from the Contractor is deemed acknowledged if the Client fails to object in writing to invoices within 14 days of the date of receipt (acknowledgement of claim). Offsetting against outstanding claims against the Contractor and the retention of payments based on claims made by the Contractor's business partners but not acknowledged by the Contractor, is excluded (waiver of compensation). The Contractor's clients hereby undertake to ensure the smooth handling of payments and appropriate account coverage in case of payment by direct debit. Any expenses associated with handling payments shall be assumed by the Contractor's business partners.

The rights of the Contractor's business partners under Section 1052 ABGB (Austrian Civil Code) to refuse their contractual services and payment obligations in order to obtain and secure a consideration and other statutory rights of retention are excluded, whereby this provision does not apply to consumer transactions. The Contractor's clients are also not entitled to withhold payments because of incomplete overall performance, guarantee or warranty claims or notification of defects. All services of the Contractor which are not specifically compensated by the agreed wage will be charged separately. This applies in particular to all additional services or cash expenses. In case of orders that cover several units or work stages, the Contractor is entitled to issue an invoice following delivery of each individual unit or service. When performing special repairs and producing custom-made items, the Contractor's contractual partners hereby undertake to make an advance payment of up to 30% of the order value upon order placement.

In the event of delayed payment by the Contractor's business partners, interest on outstanding sums of 15% p.a. shall be explicitly agreed. Moreover, in the event of delayed payment the Contractor's business partners hereby undertake to reimburse the Contractor for all reminder and collection charges and other costs, such as costs incurred by legal representation.

In each case the contractual partner, unless higher costs have been verified by the Contractor, shall reimburse charges at a minimum amount of €40,- per reminder and, moreover, in the event of intervention by a lawyer, his or her contractual rates.

Equipment rental: In the event of the Contractor leasing equipment, the agreed rent per week/month/quarter shall be due for payment in advance and the one-off fee for making the rental device available shall be due promptly after collection or delivery and invoicing by the Contractor.

In supplement to the Contractor's General Terms and Conditions, the General Terms and Conditions for the Delivery of Rental Equipment shall also apply in the case of leased equipment.

Storage fees: The Contractor hereby reserves the right to charge incurred storage and handling costs for already repaired equipment which has not been collected by clients despite notification of readiness for picking up. In case of equipment and parts which are not collected by the client within 60 days of compiling a cost estimate or issuing an advice note, the Contractor reserves the right to send such items at the expense of the contractual partner, or to dispose of or scrap the equipment in return for a charge in the case of non-collection and/or non-acceptance.

Independent sales representatives: The Contractor hereby makes specific reference to the following in relation to transactions which have materialized through the mediation of an independent sales representative: independent sales representatives in a contractual relationship with the Contractor do not have the right to conclude transactions, but exclusively have the right to mediate transactions. Moreover, independent sales representatives in a contractual relationship with the Contractor do not have the right to receive payments. The Contractor hereby reserves the right to reject orders mediated by the independent sales representative, including in respect of insufficient profit margins or the client's lack of creditworthiness.

Withdrawal from the contract: The Contractor is entitled to immediate contract termination or interrupted performance if maintenance of the contractual relationship by the business partner or persons attributable to him is made unreasonable for the Contractor.

The contractual relationship may be terminated by the Contractor without observing a notice period in particular when:

- the Contractor's business partner breaches these General Terms and Conditions or other material provisions of the contract, or the Contractor's business partner provides incorrect data upon contract conclusion;
- if the business partner is in full or even only partial default with due payments despite a written or electronic reminder and the setting of an additional deadline of 14 days;
- if bankruptcy or judicial settlement proceedings have been filed against the business partner's assets, the business partner fails to comply with a material obligation under the contract, or exceptional or circumstances beyond the Contractor's control make service provision by the Contractor impossible or unreasonable for an unforeseeable period.

In addition, the Contractor is entitled to immediate contract termination if delivery is impossible or is further delayed, despite the setting of a reasonable additional deadline, for reasons attributable to the Contractor's business partner.

In the event of early termination of the contract for reasons attributable to the contractual partner, the contractual partner or client shall be liable for damage incurred by the Contractor due to early termination of the contract.

If the contractual partner or client withdraws from the order through no fault of the Contractor, the latter is entitled to invoice actually incurred costs and lost total profits.

Liability: The Contractor is only liable for damages if its business partner has proven intent or gross negligence on the part of the Contractor. In addition, the Contractor and its business partners hereby agree that the Contractor's liability for minor negligence, consequential damage and pure financial loss, and liability for third-party claims, or liability for any lost profit, loss of production, or business interruption to the Contractor's contractual partners are excluded. In the event of the sale of new and in particular used equipment and repair of equipment by the Contractor, the Contractor's liability is limited to the actual purchase price paid by the Client and repair costs charged to the Client. Rescission or amendment of the contract on account of error is excluded as far as the Contractor's contractual partners are concerned.

The Client hereby undertakes, without being requested to do so and by the latest at the time of order placement, to transfer the following to the Contractor: all relevant data sheets, documentation, operational, usage-related and environmental references for the repair of the transferred device, plus information on any past repairs.

Warranty: In the case of new equipment sold by the Contractor, the warranty period is 12 months; in the case of the sale of used equipment the warranty period is 6 months; in the case of repairs conducted by the Contractor the warranty period for the repairs made is 6 months. The warranty period begins from the date of delivery or the date of notification of the goods' readiness for collection. It is agreed that the Contractor's business partners hereby waive any further warranty periods according to Section 929 ABGB. Warranty claims of the Contractor's contractual partners are only applicable if the Contractor's contractual partners notify the defects immediately in writing by registered post. Improvable defects shall be remedied at the Contractor's discretion either by repair or replacement delivery.

In any case improvement takes precedence over price reduction and change. Moreover, the Contractor does not assume any guarantee for defects and damage which are attributable to improper start-up, operation, abnormal operational and installation conditions, or transport damage. Any warranty for the Contractor's goods and services which have been retrospectively and arbitrarily opened, disassembled and modified by its business partners and vicarious agents, or for damage attributable to omitted, irregular or improper maintenance, is also waived.

Insulating and switch-gear oils: The Contractor hereby provides a guarantee for the quality of products according to relevant product and safety datasheets and the corresponding Certificates of Analysis (CoA). Insulating oils conform to or exceed the requirements of IEC 60296. Product and safety data sheets shall be forwarded on request and can be downloaded at www.nynas.com. The corresponding CoA forms part of product delivery. The Contractor assumes no liability for incorrect transport, storage, filling and usage of supplied insulating and switch-gear oils or for resultant consequential damage.

Each **compensation claim** may only be enforced within six months of the claimant(s) having become aware of the damage, but at the latest within three years of the onset of (primary) damage after the event justifying the claim, unless other statutory periods of limitation are laid down as mandatory in statutory regulations.

Release from obligations according to Verpack-VO (Packaging Regulation): packaging materials delivered by the Contractor are released from obligations in the ARA collection and recycling system with licence no. 17657.

Approval references: The business partners of BARTH GMBH E-Motoren & Trafos hereby explicitly agree, in the event of an order, that the content and handling of relevant business transactions may be used as references in respect of third parties – in particular the publication of company logos of the business partners of BARTH GMBH E-Motoren & Trafos for reference purposes, both in the print and non-print sector, is specifically approved in the event of an order.

Contractual penalty: In the event of the Contractor's business partners breaching one of the contractual items referred to above, a contractual penalty in the amount of the contractually stipulated fee is hereby agreed.

Applicable law/court of jurisdiction: Material and formal Austrian law is applicable. The exclusive application of Austrian law and domestic jurisdiction is hereby agreed in advance by the contractual partners. The contractual parties hereby stipulate the relevant court for the Contractor's head office as exclusive court of jurisdiction for all disputes under or in relation to this business relationship and also in the case of disputes regarding the effectiveness of this stipulation of the court of jurisdiction. The stipulation of the court of jurisdiction does not relate to legal action against contractual partners who are consumers as defined in the Consumer Protection Act. Section 14 KSchG (Consumer Protection Act) is applicable in this regard.

Amendments to these General Terms and Conditions can be made by the Contractor and are also effective for existing contractual relationships as long as the amendment of the GTC is notified to business partners. The currently effective General Terms and Conditions are published on the BARTH GMBH website (www.barth-gmbh.at) and thereby notified to the Contractor's business partners.

Subsidiary application of the ALB (General Terms and Conditions of Delivery) **of the Electrical and Electronics Industry:** The General Terms and Conditions of Delivery (ALB) of the Austrian Electrical and Electronics Industry Association apply on a subsidiary basis alongside the Contractor's General Terms and Conditions, unless they have already been adopted in appropriate regulations herein.