

Terms and Conditions of Installation Support
of Brandenburger Isoliertechnik GmbH & Co. KG
Taubensuhlstraße 6, 76829 Landau/Pfalz, Germany

1. Scope of Application

- (1) The parties to the contract are Brandenburger Isoliertechnik GmbH & Co. KG, registered in the commercial register of the local court of Landau under HRA 1684 (hereinafter “We”), and the customer.
- (2) Our Terms and Conditions of Installation Support are intended for incorporation in contracts relating to the performance of support services concerning installation (section 2 below) for the customer in return for the agreed remuneration (section 3).
- (3) Unless agreed otherwise or evident from the circumstances, our services in support of the customer during installation (“Our Services”) constitute an ancillary service to the purchase contract relating to the products. Our General Terms and Conditions for Goods and Services (“Sales Terms”) complementarily apply for the above ancillary service with the exception of section IV paragraph 5 of the Sales Terms. Provisions in our Terms and Conditions of Installation Support will always take precedence in the event of conflicts with provisions in our Sales Terms unless expressly agreed otherwise with the documented intention of deviation.
- (4) Our offers and Our Services are directed solely at entrepreneurs as well as legal entities under public law and special funds under public law. The scope of Our Services is determined by the service description applicable at the time of the offer and the other contract elements, in particular these Terms and Conditions. Service descriptions do not constitute any guarantee or warranty of characteristics of Our Services.
- (5) Terms and conditions of the customer or of a third party which differ from these Terms and Conditions will not become an element or content of the contract, not even by our silence or if We refer to declarations of the customer which contain or refer to terms and conditions of the customer or of a third party, and not even if We accept an offer of the customer without reservation, perform services without reservation or accept payments from the customer without reservation. Deviating individual contractual agreements remain reserved.

2. Installation

2.1 Our Services

- (1) We will only be obliged to perform services to support the customer during installation if We have expressly agreed this with the customer. Application of the following provisions under section 2 presupposes that such an installation agreement has been concluded. Unless expressly agreed otherwise, We will only be obliged to perform individual support services, not to completely install the products. Services in connection with the installation that extend above and beyond the agreed support services are a matter for and the responsibility of the customer.
- (2) Unless expressly agreed otherwise, We will only be obliged to provide installation support for products which the customer acquired from us.
- (3) Where We have agreed a time limit for installation, this is observed if the installation support is ready for approval by the customer before the time limit expires.

(4) If the installation support is delayed due to force majeure or due to the occurrence of other circumstances for which We are not responsible, a reasonable extension of the time limit shall apply insofar as such obstacles affect the provision of the installation support.

2.2 Obligations to Provide Materials and other Cooperation Services of the Customer

(1) The contractual and in particular timely performance of our installation services presupposes the contractual and in particular timely performance of the necessary obligations on the customer to provide materials and other cooperation (together “Cooperation Services”) at its own expense. If the customer does not perform its Cooperation Services, or does not do so according to contract, our obligation to perform services will lapse to the extent and for the period in which their performance is dependent on the prior performance of the customer’s Cooperation Services. The customer will bear any disadvantages and additional costs that arise because it does not perform its Cooperation Services.

(2) The customer will perform the following Cooperation Services in particular:

a) Insofar as the provision of employees of the customer is either agreed or required to a reasonable extent for execution of the contract or the provision of Our Services, the customer shall instruct such employees to the necessary extent to perform the respective Cooperation Services in accordance with the contract. The employees selected by the customer for this purpose must have the experience and specialist knowledge necessary for performance of the respective Cooperation Service. The customer shall release the employees charged by it with performing the respective Cooperation Service from their other duties to the necessary extent.

b) On conclusion of the contract or immediately thereafter, the customer shall in particular nominate a suitably qualified contact person as project manager who, for at least the duration of the installation services,

aa) will be available on the installation site within the usual times in which installation is being carried on;

bb) can take or bring about the necessary decisions without delay; and

cc) is authorised to make and to receive binding declarations concerning installation with effect for and against the customer.

c) The customer is obliged to make the customer-specific information that We require for our support services available to us in advance, in particular the site, plant and machine-specific data of relevance for installation of the products.

d) The customer shall take the necessary measures to protect people, in particular our installation personnel, and property at the place of installation. The customer shall inform our installation personnel (in particular our installation manager) of existing specific safety precautions and potential hazards to the extent that these are of significance for our installation personnel.

e) The customer shall inform us of the location of concealed power, gas and water lines and pipes.

f) The customer shall ensure that the place is suitable for installation and that our installation personnel have unhindered access to this site.

g) The customer shall make available to our installation personnel at its own expense

aa) the items and materials required for installation and commissioning, as well as scaffolding, lifting tackle, cranes and other equipment;

bb) utilities with the necessary connections up to the point of use;

cc) adequate lighting;

dd) dry and lockable rooms for the storage of work equipment as well as work, rest and changing rooms for the installation personnel, including sanitary facilities, at the place of installation;

ee) non-industry protective clothing and protective devices that are required due to the special circumstances of the installation site, transport goods for the intended purpose, pallets, transport racks, plant-related aids and other items that are required for commissioning and any agreed trial operation;

ff) packaging for the transport of the installation parts that is suitable for onward transport with forklift trucks;

gg) a theft-resistant place for the storage of installation parts following delivery to the place of installation;

hh) means for the disposal free of charge of waste, including packaging material, arising within the scope of performance of the services. The customer shall to that end provide suitable containers for collecting the waste which are to be erected in the immediate vicinity of the place where the services are performed.

3. Remuneration

(1) Unless expressly agreed otherwise for some or all of the services, e.g. a fixed price, the customer shall pay us the remuneration agreed for our respective services according to the time spent. The amount of the remuneration according to time will be calculated on the basis of the time spent, the employees deployed according to the contract and the daily or hourly rate agreed for the respective employees. If the amount of a remuneration is not expressly agreed, the remuneration that We offer third parties for comparable services ("List Price") will be deemed agreed.

(2) The currency is the euro. All figures given for the amount of the remuneration or prices are exclusive of VAT at the prevailing rate unless the sale is exempt from VAT. All payments are to be made within thirty calendar days after performance and receipt of the invoice by the customer.

(3) The customer can set off its claims against claims of ours without contractual restriction in accordance with statutory provisions to the extent that its claims are undisputed, have been declared final in a court of law or are ready for adjudication or are mutually related to our claims or continue such a mutual relationship, e.g. to the extent that the customer has claims against us based on defects. If this is not the case, set-off by the customer is excluded.

(4) The customer can only assert a right of retention vis-à-vis a claim of ours if its counterclaim is based on the same contractual relationship as our claim.

4. Liability

(1) We will be liable without contractual restriction in accordance with statutory provisions

a) for intent;

b) for losses to the extent that these are founded on the absence of a quality of goods or the performance of a work for which We gave a guarantee or to the extent that We maliciously failed to disclose a defect in goods or the performance of a work;

c) for losses arising from loss of life, physical injury or damage to health which are founded on an intentional or negligent breach of duty by us or otherwise on the intentional or negligent conduct of a legal representative or vicarious agent of ours;

d) for losses other than those listed under c) above which are founded on an intentional or negligent breach of duty by us or otherwise on the intentional or grossly negligent conduct of a legal representative or vicarious agent of ours;

e) according to the German Product Liability Act (Produkthaftungsgesetz), the General Data Protection Regulation (Datenschutz-Grundverordnung) or the Federal Data Protection Act (Bundesdatenschutzgesetz).

(2) In cases other than those listed in section 1, our liability will be limited to compensation for the foreseeable loss typical for such a contract to the extent that the loss is founded on a negligent breach of essential duties by us or by a legal representative or vicarious agent of ours. Essential duties are such duties the fulfilment of which is a prerequisite for performance of the contract and on the observance of which the customer may and does routinely rely.

(3) In cases other than those listed in sections 1 and 2, our liability for negligence will be excluded.

(4) This is without prejudice to the objection of contributory negligence.

(5) These provisions will apply for all contractual and non-contractual claims to compensation for losses that are brought against us, regardless of their legal basis, and accordingly for liability for compensation for expenses incurred in vain.

5. General Provisions

5.1 Applicable law

(1) The contract is governed by the laws of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

5.2 Jurisdiction

The exclusive place of jurisdiction for all disputes arising from or in connection with the contract between us and customers that are merchants, legal entities under public law or special funds under public law shall be our respective registered office. In derogation of the first sentence, We will at our option also have the right to bring an action at the respective place of business of the customer. The agreement on jurisdiction will not apply if the law provides for an exclusive place of jurisdiction for the action.

5.3 Severability

If a provision of the contract in whole or in part has not become part of the contract or is or becomes invalid or unenforceable, the remainder of the contract shall remain valid.