

Standard Order Terms and Conditions of KBB Underground Technologies GmbH, Hanover

1. Scope

1.1 These standard order terms and conditions apply to all orders (purchase orders and service contracts as well as all other performance) made by KBB Underground Technologies GmbH, Hanover, in all cases where the Contractor is a business enterprise. Deviating terms and conditions of the Contractor shall be void even if not explicitly contradicted by us or if supplies/performance of the Contractor are accepted subject to and aware of his terms and conditions. This shall not be construed as acceptance. This also applies to unilateral provisions in the Contractor's terms and conditions, in cases where the provisions of our conditions do not include a relevant regulation or insofar as no legal regulation or standard regulation exists.

1.2 The following ranking exists according to the type and scope of the reciprocal performance:

- terms and conditions of order,
- the special and general technical conditions and any other contractual conditions listed in the order,
- our site regulations,
- general terms and conditions of orders,
- the law.

2. Contract Conclusion

2.1 All orders shall be in text form, without exception. Verbal and telephone agreements which deviate from the text form or go beyond the text form shall only be deemed valid if confirmed in text form.

2.2 We require a confirmation of our order by the Contractor within 10 days of date of placing of order. If an order cannot be accepted pursuant to our general and standard order terms and conditions, the Contractor shall advise accordingly within the defined deadline.

2.3 Any changes or additions to the scope of supply/performance which become apparent/necessary during execution shall be advised by the Contractor without delay in text form. Such changes require our consent before execution.

2.4 Any change requests made of the Contractor shall be reviewed for possible consequences within eight days and the results of the review advised in text form. This refers in particular to impacts on technical execution, costs, and time schedule. If we agree to accept the changes, the contract shall adjusted accordingly.

3. Delivery Period, Delivery Delays

3.1 The delivery deadlines and periods specified in our order are binding and apply to delivery to the specified address.

3.2 All materials shall be procured in good time such that in the case of deficiencies, replacement deliveries are possible in accordance with the schedule. Contractor shall upon demand prove with which sub-contractors and for which dates the necessary materials have been ordered.

3.3 If the scope of supply cannot be accepted by us at the agreed date for urgent operational reasons, Contractor shall provide free intermediate storage for a period of maximum six months.

3.4 We shall ensure circumstances exist such that the Contractor can proceed unhindered with the supply or performance on schedule. If this circumstance is not satisfied, the deadlines shall be adjusted accordingly.

3.5 We are entitled for urgent operational reasons to demand an interruption of contract fulfillment at any time. The time point of continuation of contract fulfillment shall be specified taking the justified interests of the Contractor into account.

3.6 Contractor shall provide us with timely advice as soon as it is apparent that a delivery deadline cannot be met. Contractor may only justify such delay due to lack of documents to be delivered by our part if such documents are not delivered despite written demands with a reasonable deadline.

3.7 In the event that a time and date is specified and agreed for supply or performance, the Contractor shall be deemed in default for any delay for which he is responsible without written warning. We are entitled in the event of Contractor default and at our discretion to demand compensation for delay or to withdraw from the contract and demand compensation for any damages incurred. Contractor is obliged to pay any penalties we may incur from our clients for any delays in delivery for which he is culpable.

3.8 In the event that Contractor is not responsible for delays, e.g. in the event of natural catastrophes, strikes, transportation disruptions, stoppages or other cases of force majeure, we may withdraw from the contract if the performance is no longer of interest for us due to the delay and an appropriate reasonable secondary deadline has expired without result. In the event of occurrence of one of the contingencies referred to above, we are entitled to postpone the acceptance/approval without the Contractor deriving any claims therefrom. If the Contractor or claims force majeure, he shall have such claim verified by the chamber of industry and commerce as a matter of course. If this is not the case, it shall be assumed that the Contractor is himself responsible for delays in supply.

3.9 Premature deliveries outside of stated goods receiving times and partial or multiple deliveries require our prior written consent.

4. Subcontractors, Employees from Non-EU States, Joint Ventures, Co-operation

4.1 The use of subcontractors requires our prior consent. Contractor shall obligate any subcontractors with respect to tasks taken to all obligations and their observance as Contractor has accepted with respect to us.

4.2 If Contractor or subcontractor uses staff from non-EU states, Contractor shall present appropriate work permits to us prior to commencement of work.

4.3 If the Contractor uses subcontractors without our prior consent or if the subcontractor is in contravention of the obligation to present work permits in accordance with subsection 4.2, we have the right to withdraw from the contract and/or demand compensation.

4.4 Contractor may not prohibit his subcontractors entering or concluding contracts with ourselves concerning other supply/performance. In particular exclusive agreements with third parties are not permitted which prevent us or subcontractors from procuring supplies/performance which we would ourselves or the subcontractor would require for processing such orders.

4.5 Joint ventures must name a representative authorized to represent all members of the joint venture with respect to ourselves. Restrictions to such representation authority which arise from the joint venture agreement are void with respect to ourselves. For the fulfillment of contractual obligations, each member of the joint venture shall be jointly liable even after dissolution of the joint venture. Payments made by us to the representative of the joint venture shall have a discharging effect. This also applies after dissolution of the joint venture.

4.6 We shall advise Contractor in good time concerning performances which other parties are

to provide in connection with the performance to be provided by the Contractor and also of any agreed dates/deadlines. Contractor is obliged to provide other parties with all necessary details and documents in good time such that the other party may fulfill its obligations as contracted. In the event of disputes/differences of opinion occurring during planning between the Contractor and other parties, Contractor shall advise us accordingly in writing without delay. Contractor shall advise us of any misgivings without delay concerning the intended type of performance or the performance of other companies.

4.7 Planning, expertise and consulting services of the Contractor shall be agreed with us prior to their finalization and also agreed with other technically involved parties (section 4.6). This shall not limit or restrict liability for correctness and completeness of Contractor's performance.

5. Dispatch, Transfer

5.1 Transport options shall be selected as are most favorable for the Client in so far as the Client does not explicitly specify mode of transport. The deliveries shall be packaged such that damage during transport is avoided. Any costs arising from incorrect deliveries shall be borne by the Contractor, in so far as he has responsibility for the transportation or is responsible for the incorrect delivery.

5.2 All consignments shall be accompanied by packaging slip or delivery note. Notice of dispatch shall also be sent on day of dispatch to the purchasing department and the specified destination.

5.3 All shipping documents must include not only article designation, order number, order date, quantities and weights but also type of packaging. Partial and residual deliveries are to be marked accordingly.

5.4 Contractor bears full risk for loss, chance loss or damage irrespective of price until complete transfer or until acceptance of supply/performance by ourselves.

5.5 Contractor is only entitled to partial supply/performance with prior written consent of the Client.

5.6 Conditional ownership of Contractor to supply/performance beyond primary conditional ownership shall not be accepted by ourselves. This requires our previous written consent on a case-by-case basis.

6. Properties, Quality Assurance, Spare Parts

6.1 The Contractor shall provide his services/performance according to current scientific and engineering practice and according to the specifications, drawings and other details in the order. Supply/performance must be compliant with the laws and statutes of the German Federal Republic as well as any authority specifications, legal decisions and technical regulations, standards and guidelines in the version valid at the time of contract signing. The supply/performance must be compliant with all applicable safety regulations and accident prevention regulations, in particular the regulations for technical equipment I, equipment safety law I, and the law on protection from hazardous materials (chemical law), DIN, VDE, DVGW and ATV regulations and stipulations and workplace regulations and all necessary permits resulting therefrom and specifications and drawings and other details specified in the order and shall be reviewed for such compliance by Contractor. Contractor shall observe the rules and regulations of professional associations, the "General regulations" (BGVA 1) and generally acknowledged safety at work, mining and occupational medicine regulations. Machines and technical equipment shall be delivered in compliance with the EC machine statute together with operating manual and an EC conformity declaration. Machines and equipment must also be compliant with indexes A and B of the "General administrative guideline on the law of technical equipment" and the standards referred to therein and any other rules with safety content and also professional association rules and regulations. Preferably equipment should be delivered bearing the CE mark. If the CE mark is not granted, verification is to be provided of compliance with the above rules and regulations upon demand.

6.2 The Contractor is obliged to test all products according to general industry standards and upon request to make the test results available free of charge. We are also entitled to test the products ourselves. Tests in this sense shall not be construed as acceptance.

6.3 Any drafts for new or changed regulations must be referred to. If the regulations and decisions or standard engineering practice changes between the time of contract conclusion and acceptance, and if this has a substantial impact on the job, Contractor shall provide information without delay as to the changes and any associated schedule and cost consequences. We shall then reach a decision within a reasonable time period. In the event of release, parties shall reach agreement as to costs based on the original order.

6.4 In the event that the Contractor delivers materials which are classified as hazardous in the sense of the hazardous material directive, the Contractor is obliged as a matter of course to provide product information prior to delivery, in particular the EC safety datasheets (Article 14 hazardous material statute). The same applies to information referring to legally specified marketing restrictions. The use of carcinogenic materials by the Contractor is prohibited.

6.5 Even if individual equipment, parts, apparatus and performance are not explicitly specified, they shall be deemed as part of the scope of the supply or performance without itemized billing if required within the specified scope of supply/performance to ensure completeness of the equipment ordered and its proper and correct function.

6.6 In the event of weight deviations, the weight determined by us upon receipt shall apply if the Contractor cannot provide proof that the weight calculated by the Contractor according to a generally recognized method is correct. Similar applies to quantities.

6.7 Contractor guarantees correct selection of any materials used, correct implementation, proper functioning of the plant component, the achievement of all technical standards and properties and the suitability of the plant for continuous operation.

6.8 The goods delivered must be free of third party rights.

6.9 Contractor shall be responsible for the completeness and correctness of documents and calculations prepared by him and for unrestricted suitability of the products or other products.

6.10 Contractor guarantees that the products are robust irrespective of any times, dates and deadlines. This means that the products shall function properly with respect to date-related details, i.e. date, time periods, time clock/steps (hereinafter referred to as date specifications) even in interaction with other products, and without any restrictions in accordance with the contract and may be used accordingly. In particular

- date specifications of products shall not result in any function restrictions, production/operation interruptions or operational deficiencies of the products or other products,
- date specifications or the processing of date specifications shall not result in falsified results,
- leap years must be correctly processed and calculated.

6.11 In so far as applicable, Contractor shall operate a quality assurance system, e.g. compliant with DIN EN ISO 9001-9003, the scope of which shall include any subcontractors and Contractor's suppliers. The interfaces shall be indicated and defined. We are entitled to

review the system in co-ordination and also demand that the Contractor provide a so-called bridge document (in order to identify and avoid any gaps between our quality assurance system and that of the Contractor). Costs for providing the bridge document shall be borne by the Contractor. Contractor shall nominate a qualified coordinator to the Client for processing quality assurance measures.

6.12 Contractor guarantees deliverability of spare parts and reserve parts for the period of at least 15 years. The spare parts and reserve parts shall be unequivocally marked with all details, e.g. manufacturer, type, order/article/ID number, dimensions, materials, standards, e.g. DIN, IEC, ISO.

7. Rendering of Performance, Personnel, Building Site, Auxiliary Materials, Inspection and Information Rights and Obligations

7.1 Contractor shall adjust working hours to those applicable at the place of performance. Any Contractor's agents are obliged to use our time/clock system. Local regulations shall be coordinated with the operation concerned prior to commencing work.

7.2 Contractor and any approved subcontractors shall use only qualified personnel. At our request, documentation of qualifications is to be presented. We are entitled for cardinal reasons to demand replacement of personnel. This applies in particular if there are doubts as to necessary experience or qualifications, or that work safety / environmental rules are not being observed. Contractor is obliged to provide qualified replacements. The agreed deadlines are not affected by this. All additional costs shall be borne by Contractor.

7.3 Vehicular access to and driving on the works grounds/building site shall be announced in a timely fashion. Instructions of our staff shall be complied with. The highway code (StVO) applies.

7.4 If performances are rendered on the works grounds/building site, the building site regulations apply. Upon commencement of work or upon prior demand, the Contractor's supervisory personnel shall be issued with a copy of the building site regulations including list of annexes against signature. Knowledge of content of the building site regulations including its of annexes shall be confirmed in a written declaration.

7.5 Contractor's performance includes the provision of equipment, offices, storage, sanitary, common rooms, etc., including heating, safety devices and clothing as well as the provision of telecommunications lines. Our workshops and sanitary facilities shall only be available to Contractor upon prior written confirmation.

7.6 The auxiliary materials to be provided by us require the provision by the Contractor of all access/feed lines from pick-up/withdrawal to place of use in co-ordination with the local site manager, including laying, connection and subsequent removal thereof. Transportation of materials provided by us and stored at the site from place of storage to place of usage shall be undertaken to the debt of Contractor.

7.7 Contractor shall inspect the materials and parts provided by us without delay and immediately advise of any deficiencies identified. This also applies to deficiencies identified at a later date by the Contractor. Irrespective of this, Contractor is independently obliged to assure suitability of the materials provided or parts, and to provide us with immediate advice of any objections. If deficient suitability is due to deficient or incomplete specifications by the Contractor or, Contractor shall bear all consequent costs. Contractor can no longer claim for deficiencies or lack of suitability or materials of parts provided by us after acceptance of supply/performance. From time point of acceptance on, he is responsible to us with respect to the materials and the parts. We shall assign to the Contractor any damages claims for deficiencies against the supplier/manufacturer of materials and parts provided.

7.8 Ensuring accident-free building site and sufficient lighting of the place of work is the responsibility of the Contractor. The storage areas and places of work of the Contractor are to be kept clean and tidy. If the Contractor does not meet this requirement despite being instructed to do so, we may arrange for tidiness at the costs of the Contractor either by ourselves or by third parties.

7.9 Contractor is obliged to make any lines installed by himself available to other companies for co-use upon our demand in so far as this does not hinder Contractor in his mode of work. Remuneration for such use shall be clarified directly with the user.

7.10 Construction and earth work for building sites and assembly equipment shall be undertaken by the Contractor at own cost.

7.11 Contractor is responsible for the performance of the tests specified in the pre-inspection documents. Additional tests require our previous consent. Contractor shall provide us with information concerning participation in officially prescribed or otherwise agreed test measurements. For this purpose our agents shall be granted access to places of work, workshops and storage areas where contractual performance is to be provided or where components for such purpose are stored. Upon demand we or our agents shall be given access to all documents for inspection and given appropriate information. The time of tests and measurements shall be advised to us and the tester in the case of inland orders with at least three days' notice, and for foreign orders with at least six working days' notice prior to start of inspection.

7.12 We reserve the right to observe site and assembly and accompanying tests. In such cases, Contractor shall ensure that we are informed in good time of any planned night, Sunday or holiday working.

7.13 Contractor shall give us names of persons responsible for pre-inspections, construction, welding and test supervision as well as persons responsible for the compilation and inspection of documentation.

7.14 We have the right at any time to review the time table situation and the status of production at the Contractor's, subcontractor's and sub-suppliers'. Any additional assembly costs caused by adjacent or following assemblies which are incurred due to non-timely advice of deadline changes shall be to the debt of the Contractor.

7.15 Contractor is obliged to gain sufficient information of local conditions at place of fulfillment and to co-ordinate with the local building site supervision concerning start of contractual performance. Costs incurred due to non-compliance with this obligation shall be borne by the Contractor.

7.16 Contractor shall co-ordinate all key configuration and construction decisions with us. The place and time of co-ordination meetings shall be agreed us with notice of 14 calendar days.

7.17 Contractor shall advise us in a timely fashion as a matter of course and in writing of times by which we need to make any decisions and at which time documents are to be made available.

8. Technical Documents

8.1 All technical documents, in particular drawings, planning, design, inspection and production documents are to be delivered in DIN formats using DIN scales. Drawings/documents which are not compliant with this condition may be returned without consideration. Binding assembly plans are to be submitted to us for consent prior to execution. Performance drawings are to be presented to us upon request prior to execution in workshops.

8.2 All documents are to be made available free of charge and in the required numbers in the German language (unless otherwise agreed in the order).

8.3 Contractor shall ensure that all documents required for contract fulfillment are marked in accordance with our specifications.

8.4 Contractor shall deliver the quality documentation according to our specification in quintuplicate (unless otherwise specified in the order).

8.5 Contractor shall instruct us immediately on any changes from the configuration,

inspection and production documents and of any deviations from specified production, test procedures and quality properties. Contractor shall advise us in writing of any changes in the documents. It is insufficient to merely forward documents containing the changes with comments. Any costs incurred due to non-compliance with this provision shall be to the debt of the Contractor.

8.6 Irrespective of the review of documents on our part, responsibility for supply/performance scope remains exclusively with the Contractor. Any costs incurred due to deficient documentation shall be borne by the Contractor even in cases where changes required do not affect the Contractor's own supply/performance scope.

8.7 All documents are to be submitted as a matter of course on the agreed dates or in a timely fashion to ensure there are no delays to the building or other work. If these documents require the comment, decision or inspection of the Client, the submission must take place such that there is a reasonable period for inspection and for any necessary changes to be taken into account. Any costs incurred due to late, deficient or incomplete document submission shall be borne by the Contractor.

8.8 Documents for meetings shall be submitted to the Client at least 24 hours prior to the meeting. Contractor is to prepare minutes of each meeting and forward minutes to us within 14 days.

8.9 After acceptance, Contractor shall prepare all drawings for the supply/performance scope in the final version reflecting all agreed changes and actual implementation. Contractor shall provide all necessary documents and details to allow subsequent inspection work, disassembly and assembly. Upon request, all drawings, documents and parts list are to be provided for the procurement of spare parts and reserve parts.

8.10 Contractor shall deliver operating/maintenance instructions for the supply/performance scope in quintuplicate free of charge at the agreed deadline, latest four weeks prior to commissioning. They are to be revised prior to acceptance of the supply/performance scope with any knowledge/data gained from the commissioning and trial run.

9. Assembly

9.1 The assembly scope includes assembly ready for operation of the scope of supply including any parts provided by us under the complete and full responsibility of the Contractor.

9.2 Assembly also includes unloading, proper storage and transport of the scope of delivery on site up to the place of use. In the case of limited storage and in co-ordination with us, only those parts are to be delivered which can be installed directly.

9.3 Prior to assembly, Contractor shall undertake construction measures, for example foundations, openings and space measurements in accordance with the approved drawings, to check same and to advise us immediately of any deviations.

9.4 Additional costs incurred by the Contractor as a result of delays in commencement and/or execution of assembly at our instruction are to be reported immediately and itemized.

9.5 Assembly includes the provision of all assembly personnel including foremen, supervision and ancillary staff as well as all necessary scaffolding, lifting, assembly, tools and auxiliary equipment.

9.6 Contractor bears responsibility for all assembly personnel and shall name the site management and commissioning personnel prior to commencement of work.

9.7 All travel costs and travel expenses, incidentals, allowances and any other incidentals for Contractor staff are included in the assembly cost.

9.8 Agreements concerning the remuneration of any skilled staff and ancillary staff to be provided by us shall be agreed and coordinated prior to commencement of work.

9.9 At our request, Contractor shall also render additional work, night work, Sunday work and bank holiday work within the legally permissible scope and shall if necessary procure all authority permits required. The actual amount of additional costs shall only be remunerated if these are subject to prior written consent.

9.10 Contractor guarantees that all staff employed are proficient in German or are accompanied by a person who is proficient in German such that they may receive instructions in their mother tongue.

10. Commissioning

10.1 The commissioning time shall be determined by us. If the commissioning is to comprise several interacting plant components, we or our agent shall co-ordinate the overall commissioning.

10.2 Contractor shall himself be responsible and supervise commissioning of his scope of supply/performance. The necessary operating equipment and staff shall be provided by us free of charge.

10.3 Contractor shall act according to our instructions. Since the co-ordination of independent plant components requires time, Contractor shall include a suitable time period.

10.4 The orderly and proper commissioning shall be deemed complete after demonstration of proper and correct functioning of the plant including all safety and ancillary equipment for an uninterrupted 72-hour period at the specified output and without any deficiencies under appropriate supervision and control.

11. Trial Run

11.1 After commissioning is completed, the trial run period commences.

11.2 The trial run shall take place under Contractor responsibility and at Contractor risk with qualified personnel and has the purpose of demonstrating the unrestricted operating suitability of the supply/performance scope.

11.3 We shall provide all necessary operating equipment required for the trial run free of charge. Contractor shall instruct our operating personnel during the trial run such that after completion of the trial run, they have assimilated all necessary details of the plant.

11.4 The daily operating time shall be determined at our discretion. Any other deployment of Contractor staff requires our prior consent. In the event that we specify the daily operating periods beyond the normal shift period, Contractor shall provide personnel for shift change.

11.5 In the event that defects occur during the trial run, Contractor shall immediately rectify such problems at his own cost.

11.6 Contractor shall provide a log of the progress and the results of the trial run to be signed by both parties. The log shall in particular provide information on any defects determined, the current output level and the deadline of full contract fulfillment.

11.7 Commencement and duration of trial run shall be specified in the contract.

11.8 The time required by the Contractor for minor maintenance and improvements during trial run shall be deemed as interruptions provided no fundamental defects occur, i.e. which can only be rectified by rebuilding/converting the plant, and a cumulative period of interruption of 24 hours is not exceeded. We are to be advised immediately of such work. The trial run shall be extended by any interruption periods caused by the Contractor.

11.9 Trial run shall be deemed as failed and will be abandoned if

- the Contractor requires more than three interrupt periods

- the Client is not fully informed immediately

- the overall interruption period is more than 24 hours cumulative.

If the trial run is abandoned, the renewed trial run shall commence upon rectification of all defects.

11.10 We reserve the right to extend the trial run at our own costs for a period of up to four weeks.

11.11 If the conclusion of the trial run is delayed for circumstances for which we are

responsible, the contracting parties shall adjust the contract accordingly.

12. Acceptance

12.1 Execution / acceptance document

12.1.1 After the successful completion of the trial run acceptance, we shall undertake acceptance. The plant will be accepted when all contractually agreed performance is fulfilled, in particular with proof exists that the Contractor has delivered all special properties. Acceptance shall be logged in writing. A document of the acceptance will be prepared using the "acceptance document" form.

12.1.2 In so far as the proof of special properties or complete functional readiness takes place after the acceptance, this shall also be recorded in an acceptance document.

12.1.3 At Contractor request we shall accept partial supply/performance provided this refers to an independent part and/or they cannot be checked at a later time due to follow-on plant/equipment. The partial acceptance shall be recorded in a document using the "partial acceptance document" form.

12.1.4 We are entitled to use the supply/performance of the Contractor prior to acceptance if required for urgent operational reasons. This use shall not be construed as acceptance.

12.1.5 Acceptance shall not be obstructed by lack of proof of special properties or full functional readiness of the plant if we are responsible for the circumstances. The lacking proof shall be recorded in the acceptance document.

12.1.6 If authority decisions are required for the use of the plant, these shall also be a precondition for acceptance. The presence of such decisions shall not be construed as being a partial acceptance. If such decisions do not take place or are delayed for reasons which are not our responsibility, any cost incurred shall be borne by the Contractor.

12.2 Acceptance attempt/measurements

12.2.1 We shall give the Contractor the opportunity to inspect the plant for being in proper condition prior to start of the acceptance attempt/measurements. Contractor is not entitled to replace any parts of the plant only for acceptance attempts/measurements without our consent.

12.2.2 Any defects identified/determined during the acceptance attempts/measurements shall be rectified free of charge by the Contractor unless they can be proven to be our responsibility.

12.2.3 We shall bear the costs for any operating equipment required during acceptance attempts/measurements. Contractor shall bear costs for the provision of acceptance personnel and for measurement equipment including rig up and rig down.

12.2.4 In the event of disputes concerning the assessment of the measurement/attempts and/or in the performance of repeat attempts/measurements, an independent expert shall be appointed such that the costs for said expert's services shall be borne by the defeated party. Costs for any in-house efforts shall be borne by each party respectively.

12.2.5 It is at our discretion to have observers present during the acceptance attempts at our cost.

12.2.6 Should during the acceptance attempts/measurements it become apparent that the guarantee values promised cannot be achieved and therefore Contractor has to undertake changes or improvements to the plants or parts thereof, the acceptance attempt shall be repeated after the conclusion of such work if so demanded. Costs shall be borne by the Contractor even if subsequently special properties are achieved above those specified.

12.2.7 We shall, within 6 months after successful trial run, give the Contractor the possibility to provide proof of the special properties. If the acceptance attempts/measurements are not possible within 6 months of the successful trial run, the period shall be extended within reason. The acceptance attempts/measurements shall be undertaken in agreement with us or our officers.

13. Insurance, Waste Disposal/Management

13.1 Contractor shall for the period of the contract including guarantee periods and limitations for warranty claims, arrange for liability insurance to standard industry terms and conditions (minimum cover Euro 2.0 million per incident) which he shall prove upon request. Any recourse of the insurer against either ourselves or our customers must be excluded explicitly. Contractor is obliged to give us express written notice if and to which extent insurance cover no longer exists to the level agreed.

13.2 In so far as supply/performance of the Contractor generates waste, Contractor shall either reuse or dispose of such waste - subject to any other written agreements - at own expense in accordance with the rules and regulations of the waste law. Ownership, risk and waste disposal responsibility transfer to the Contractor at the time of waste generation.

14. Complaints and Liability

14.1 Approval or acceptance of the supply/performance should not be construed as waiving our rights arising from complaints. These rights are also not restricted by any inspections, instructions or orders given by us.

14.2 Our warranty claim rights include deliveries from sub-suppliers. They also apply if we prescribe the Contractor to use only and exclusively a specific manufacturer.

14.3 Our obligation to inspect goods only commences after delivery and unloading, even if the goods transfer to our ownership previously. Upon receipt, we are only obliged to investigate for transport damage, incorrect deliveries or incorrect quantities in accordance with the consignment specifications. Our obligation to inspect for quality defects is limited to random tests in a reasonable scope. Any defects identified during the goods-in inspection shall be considered adequately and timely advised of within eight working days after receipt of goods or rendering of performance. Advice on hidden defects has a complaint deadline of eight working days after discovery of the defect or advice submitted by our customer.

14.4 The warranty deadline is at least that of legal deadlines. It starts at earliest after rendering of the final supply/performance by the Contractor as per the order. When ordering the plant, the warranty deadline is five years, calculated from day of acceptance.

14.5 If defects in the Contractor's scope of supply/performance result in the shut-down of a plant or in a substantial interruption to plant operation, the end of the limitation period shall shift to the end of the down-time or the interruption.

14.6 If defects can only be identified after the expiry of the limitation deadline, because inspection or review of the performance item or the corresponding plant component were not possible or scheduled within that period, we are entitled to assert warranty claims one month after conclusion of the next scheduled inspection or review.

14.7 Any spare parts or reserve parts ordered in connection with and delivered in connection with an order have a limitation of three years starting from the time of installation, in so far as this is within a five-year period after acceptance of the main performance. If installation takes place at a later date, Contractor shall only be liable for defects which are indicated within the first 500 service hours.

Defects which are determined during the period of limitation and advised to the Contractor still fall under our warranty claim rights if the review and hence the rectification of the plant is only possible after expiry of the period of limitation. In so far as the Contractor considers the continued operation to represent a risk for the plant, he shall advise us immediately of such misgivings and arguments against delaying the subsequent performance.

14.8 Defects which are determined within six years after expiry of the period of limitation shall also be considered as within the agreed warranty claims if the period of their arising is proven

to be within the limitation period. If the parties are of differing opinions in this matter, an impartial expert shall be consulted to determine the time of the cause and arising of the damage or defect.

14.9 In the case of material defects we have in all cases the right to the discretionary right to demand our legal rights for free rectification or indemnity from all Client claims in so far as the supplier is liable to us.

14.10 The subsequent performance shall be fulfilled as quickly as possible in co-ordination with us. In urgent cases it shall be undertaken if so demanded within a 24-hour shift operation. If immediate subsequent performance is not possible, the Contractor shall immediately and in agreement with us provide a provisional solution. Costs shall be borne by the Contractor.

14.11 Contractor shall be responsible for building site costs, e.g. for disassembly, transport, assembly, planning, documentation as incurred during and for the subsequent performance.

14.12 In the case of spare parts deliveries or rectification of defects, the warranty claim period restarts for the replaced parts or associated performances.

14.13 If the Contractor cannot satisfy his obligations for rectification or replacement delivery despite demands to so do, we are entitled to either undertake the necessary measures ourselves or by a third party at the cost and risk of the Contractor.

14.14 In urgent cases we are entitled to undertake own rectification without proving need to avoid delay. If a third party undertakes such a rectification, this shall be coordinated with the Contractor.

14.5 Defects in any supply/performance entitle us, without setting deadlines, to withdraw from all contractual relationships with the Contractor which involve regular delivery of goods or regular rendering of services if cardinal reasons exist. A cardinal reason exists if there are justified reasons for believing that the errors or defects of a supply/performance could also occur again or affect other supply/performance in a similar or same fashion.

15. Prices, Billing and Payment

15.1 The prices quoted in the order include all discounts and surcharges and are fixed prices, plus the valid rate of value added tax.

15.2 Bills are to be sent in duplicate after successful supply/performance - billing is to be separate per order - and to be sent to the billing address specified in the order or to the Client's HQ/admin address; order numbers are to be quoted, all billing documents (parts lists, proofs of work, quantities etc. are to be attached in original and signed by the Client's construction supervisor). Bills on partial supply/performance are to be marked "partial supply bill" or "partial performance bill"; final bills are to be marked "final supply bill" or "final performance bill". Any missing information may lead to delay in payments without us incurring any liability.

15.3 All bills must include separate details of value added tax.

15.4 Goods deliveries should never include original bills.

15.5 Payment shall be made, subject to later inspection of invoices, within seven days with a 3 % discount, within 14 days with a 2 % discount or in 45 days without discount by cheque or bank transfer. The payment deadline only commences after the bill and the supply/performance have been received in full or delivered in full or and Contractor has also fulfilled any secondary obligations.

15.6 If after acceptance of the final payment (partial payment) it is determined that the remuneration differs from that agreed in the contract or has been determined due to non-applicable costs, the bill is to be adjusted. In so far as fees are to be calculated based on specified costs, the billing shall also be adjusted if following inspection, changes arise for the main applicable costs of fee calculation. Parties are obliged to reimburse any such amounts. They may not assert claims arising from Article 818 section 3 of the German civil code (lapse of unjust enrichment). In the event of under/overpayment the amounts to be reimbursed shall be subjected to an interest rate of 5 % per annum.

16. Disposal

16.1 Contractor is not entitled to assign to third parties rights and obligations arising from our orders and claims against us outside of the application of Article 345 a German commercial code without our consent.

16.2 Contractor may only offset undisputed and legally determined or counter-claims or those acknowledged by us against our claims. Withholding rights are only permissible in so far as they are based on a counter-claim arising from the same contractual relationship. We are entitled to offset and withhold as allowed under German law.

17. General Limitation of Liability, Limitation Period

17.1 We are liable without limit for compensation due to breach of contractual or extra-contractual obligations as a result of fraud, intent or gross negligence. In so far as we were in breach of a key contractual obligation due to negligence, our liability to compensation is limited to the typical and foreseeable damages of this kind of contract. Further claims are excluded. Our liability for personal injury damages is unaffected.

17.2 Any purchase price or remuneration claims against us shall expire two years after the date of regular legal limitation; other claims expire at latest at the expiry of the legal limitation period.

18. Cancellation

18.1 A contract for services may be cancelled by us at any time in accordance with Article 649 BGB. In a departure from the legally regulated cancellation consequences, the following applies:

18.1.1 If we cancel for reasons for which the Contractor is responsible, the Contractor shall be remunerated for any individual performance used by us prior to receipt of the cancellation. Our rights for damages are unaffected by this. In particular, Contractor shall reimburse any additional costs incurred.

18.1.2 If we cancel for reasons for which the Contractor is not responsible Contractor shall receive the agreed remuneration for individual performances rendered and accepted by the Client until receipt of the cancellation. Contractor has no further going rights.

18.2 We may withdraw from a purchase contract for supply at any time prior to acceptance of the delivery. In such case remuneration rights of the Contractor shall be regulated in accordance with 13.1. Client receives ownership of any remunerated partial performance.

19. Use and Protection Rights

19.1 We may use the contractual subject including any patents or any other protection rights upon which it is based within the scope of our Group without limitation or restrictions. This usage right also entitles us to make changes to the object of contract and also includes any images, drawings, calculations, analysis methods, recipes and other works which the Contractor manufactured or developed for us or came about during and in the execution of the contract. In this event we have exclusive usage rights. Further usage by the Contractor requires our consent which we may make subject to reasonable participation in any revenue from use.

19.2 For the purpose of replication of spare and reserve parts we are entitled to disclose documents to third parties. Contractor assures that third party rights, in particular those of his subcontractors and the granting of usage rights, are not affected and do not oppose this and indemnifies us against any claims in this respect.

19.3 We have the right to publish any copyright works developed for or manufactured for us

specifying the name of the Contractor.

19.4 The Contractor is liable for ensuring that the delivery or usage of the supply/performance objects and/or any manufactured works are exempt from any third party protection rights or copyrights and that same are not contravened. Contractor accepts the obligation to indemnify us against any claims made by third parties arising from the contravention of such rights and shall indemnify us against damages. Even where the Contractor has commercial protection rights, we or our agents are entitled to undertake repair and maintenance work.

20. Confidentiality and Data Protection

20.1 The Contractor is obliged to treat any information received in the execution of this contract in the strictest confidence. This does not apply to information which was known to the Contractor prior to receipt or of which he was aware through other channels (e.g. from third parties not subject to confidentiality or by its own independent efforts).

20.2 Drawings, designs, models etc which we transfer to the Contractor for a quote or for the execution of an order remain our property and may not be used for other purposes, duplicated or disclosed to third parties.

20.3 Contractor is obliged to comply with legal regulations concerning data protection including written obligations by employees in accordance with Article 5 of the German data protection law (BDSG). This same obligation shall be extended by him to all parties commissioned in the execution of the contract.

20.4 All documents transferred by us remain our property. Third parties may not be given access and they shall be returned in full to us after completion of the contract as a matter of course. "Third parties" in this sense does not refer to specialists and subcontractors commissioned by the Contractor provided they are similarly obligated to the Contractor to observe confidentiality. Contractor shall be liable for all damages incurred by us for contravention of this obligation.

20.5 Contractor is aware that data arising in connection with this business relationship shall be stored by us and may be accessed by companies with which we are associated.

21. Publication/Advertising

The exploitation or announcement of business relationships with us in the form of publications or for advertising purposes is only permitted with our prior and explicit written consent.

22. Deployment Abroad

Contractor is aware that the transport of documents and objects of all kinds in many cases requires a permit to be taken abroad, e.g. in accordance with the German export law. Contractor is responsible for ensuring that in cases where he carries his own documents or objects or our documents or objects outside of Germany, that the need for permits must be reviewed and if necessary all necessary permits must be procured in good time and that all pertinent legal regulations must be complied with. In the case of contraventions, we reserve the right to claim compensation for any damages incurred.

23. Contract Language, Jurisdiction, Applicable Law

23.1 This contract is in the German language. This contract is subject to German law.

23.2 If the Contractor is headquartered abroad, German law shall apply and is agreed to the exclusion of the collision law and the United Nations treaty on contracts for international movement of goods dated 11.04.1980. Standard provisions shall be interpreted in accordance with the applicable and valid INCO terms, ICC, Paris.

23.3 In so far as the Contractor is a business person in the sense of the German commercial code, a public legal person or a special public fund, our company headquarters shall be exclusive court of jurisdiction for all direct and indirect disputes arising from this contractual relationship. In addition we are entitled to take legal recourse at the court of the Contractor's seat of office.

24. Place of Jurisdiction

Any legal case arising from this contract shall be heard in Hanover.

25. Saving Clause

If individual provisions of this contract are invalid or non-executable or become so, this shall not affect the remaining provisions. The contractual parties shall co-operate in replacing the invalid/non-executable provision from the time of it becoming invalid/non-executable with a provision which best approximates the original business intention.

KBB Underground Technologies GmbH

Hanover 06/2012