

BorgWarner Battery Systems Technical Center GmbH (“BW BTC”)

GENERAL TERMS OF SERVICE

1. General / Scope

1.1 These General Terms and Conditions of Service (“**Terms and Conditions**”) apply to all future contracts between BW BTC and the Client for the provision of Services for the repair and/or maintenance of products of BorgWarner Akasol GmbH or other companies of the BorgWarner Group that currently or in the future manufacture high-voltage battery systems (hereinafter: “**BorgWarner Company**”) (“**Services**”) by the BW BTC Service Team. Services include all measures for the repair and maintenance of the products of the above-mentioned companies (“**Products**”) offered by the Service Team. These terms and conditions explicitly do not apply to warranty cases involving BorgWarner companies. They apply exclusively within the framework of contracts for additional Services performed or to be performed by BW BTC.

Unless otherwise agreed, Services within the meaning of these terms and conditions are Services according to which a specific result of the provision of Services, in particular the (re-)establishment of a certain target condition of the products, is not guaranteed.

All Services are provided on the basis of these terms and conditions. All other terms and conditions, whether conflicting, deviating, or supplementary, are excluded or only apply if and to the extent that BW BTC has expressly agreed to them in writing. This also applies if BW BTC executes orders without reservation.

1.2 These terms and conditions apply to business transactions with companies within the meaning of Section 14 of the German Civil Code (BGB), with legal entities under public law or special funds under public law, as well as with consumers within the meaning of Section 13 of the German Civil Code (“**Client**”).

1.3 Within the framework of an ongoing business relationship, these terms and conditions also apply to all future transactions concerning Services between BW BTC and the Client.

1.4 BW BTC reserves the right to change the terms and conditions that have become part of the contract. A change to the terms and conditions becomes part of the contract concluded between BW BTC and the Client if (i) BW BTC notifies the Client of the change and (ii) the Client does not object to this change in writing within two weeks of receiving notification of the change, whereby BW BTC must point out the legal consequences of failing to object in the notification of the change.

2. Order transmission, conclusion of contract, and formal requirements

2.1 Any exchange of information and all cost estimates from BW BTC are non-binding in nature unless they are expressly marked as binding.

2.2 At the Client's request and upon notification of the serial and part number, BW BTC will carry out a remote diagnosis on the product in question. If the result requires further investigation, BW BTC will request a detailed description of the observed error pattern from the Client.

After receiving and evaluating the remote diagnosis or evaluating the result, BW BTC will provide the Client with feedback on the feasibility of the desired analysis work and/or Services.

2.3 At the Client's request, BW BTC will prepare a non-binding written cost estimate for the error analysis to be carried out and the subsequent error correction provided by BW BTC. Orders for a service by the Client are based on this cost estimate and are generally free of charge for BW BTC. BW BTC may accept such an order within two weeks of receipt by means of a written order confirmation. The Client is bound to their order until the end of this period. If BW BTC does not respond to an order from the Client, this shall not be deemed confirmation of the order and shall not constitute a conclusion of a contract.

If an order from the Client deviates from the previous cost estimate by BW BTC, this does not constitute a new offer. Rather, BW BTC can submit a new offer to the Client as part of a new cost estimate, which the Client can accept by placing an order with the same content.

2.4 The conclusion of the contract requires a written declaration from BW BTC. The written form requirement is met if the declaration is made via electronic data transmission (e.g. EDI), via SAP document, or via email as a PDF document. This requirement for written form also applies to oral and other agreements concluded after the contract has been concluded.

2.5 Individual agreements between BW BTC and the Client (including ancillary agreements, additions, and changes) take precedence over these terms and conditions and require written confirmation or signature by BW BTC to be effective.

2.6 Legally relevant declarations and notifications that must be made by one party (Client or BW BTC) to the other party after conclusion of the contract (e.g. setting of deadlines, reminders, declarations of withdrawal) must be in writing to be effective.

2.7 BW BTC points out that due to the flexibility required at all times for the immediate processing of cases involving possible security risks or priority cases for the performance of contracts by BorgWarner companies (processing of warranty cases), the BW BTC service team is not able to make legally binding statements in the form of commitments to deadlines for Services. Furthermore, we would like to point out that the BW BTC service team is not authorized to make any technical changes to BorgWarner company products requested by the Client. Deviations from this may only be made if the aforementioned BorgWarner companies expressly permit this in writing.

3. Services that cannot be performed

3.1 BW BTC does not offer any condition checks or assessments for the products.

3.2. If it turns out after order confirmation that the requested error correction cannot be carried out, BW BTC is released from its obligation to provide the service. A service cannot be performed in particular if it cannot be provided due to circumstances for which BW BTC is not responsible, because

- (i) spare parts cannot be obtained,
- (ii) the Client has not met a deadline set by BW BTC for the delivery of the product in question,
- (iv) the error could not be found even in accordance with the current state of science and technology and in compliance with the generally accepted rules for this purpose.

If BW BTC incurs expenses during or in connection with the determination of whether or not a service can be performed, the Client must reimburse them. Such expenses include all costs incurred for preliminary Services (fault diagnosis) and (partial) Services, including but not limited to material costs and transport costs as well as other costs resulting from the cost estimate.

4. Cost information, cost estimate

4.1 As far as possible, BW BTC will endeavor to inform the Client of the expected price for the provision of the ordered service upon conclusion of the contract. However, the final billing for Services provided by BW BTC will be based on the error analysis and performance carried out as well as the associated expenses, including spare parts used and working hours spent.

4.2 If a cost estimate with binding price estimates is desired before the service is carried out, the Client must expressly request this. BW BTC is free to issue one. Unless otherwise agreed, a cost estimate is only binding if it is made in writing and expressly designated as binding. The preliminary work carried out in order to submit the cost estimate will not be charged to the Client as long as it can be used in carrying out the maintenance work.

5. Compensation and return

5.1 The cost estimate issued by BW BTC contains a list of the service(s) to be provided as well as a price for the service to be provided, calculated to the best of our knowledge. The Client is obliged to pay the provisional price calculated by BW BTC for the possible error diagnosis and error correction in full in advance. If it becomes apparent during the troubleshooting process that additional Services and/or materials are required and the provisional price changes as a result, the Client will be informed of this. If the increase exceeds 10% of the originally estimated price, BW BTC will obtain the Client's approval before continuing the order. As long as the additional Services and materials do not exceed 10% of the original price, BW BTC may assume the approval of the Client. In any case, the binding price to be paid for the service will be determined in a final invoice.

5.2 Unless otherwise stated, prices are always exclusive of VAT.

5.3 After the invoice date of the final invoice, the Client has seven (7) days to pay any outstanding invoice amount (any difference between the price of the final invoice less the advance payment made) to BW BTC. In addition, the Client is obliged to collect the performance object from BW BTC within this period. If the Client fails to do so, BW BTC may immediately return the performance object at the Client's expense. The manner and timing of the return are at the discretion of BW BTC.

Should the advance payment exceed the price of the final invoice, BW BTC undertakes to refund the difference to the Client as soon as possible, usually within a maximum of (30) days.

5.4 The Client is only entitled to a right of set-off and retention if their counterclaims have been legally established, are undisputed, or have been recognized by BW BTC.

5.5 For the sake of clarity, BW BTC points out that invoices are only issued to the company or in the name of the Client; invoices are not issued to third parties who are not identical to the Client.

5.6 The assignment of claims arising from the underlying contractual relationship by the Client to third parties is only permitted with the prior written consent of BW BTC; Section 354a of the German Commercial Code (HGB) remains unaffected.

5.7 The working hours, expenses, surcharges, and travel times to be taken into account when performing the service are set out in the "Appendix to the General Terms and Conditions of Service" attached as an appendix.

6. Obligations of the Client when providing Services outside the location of the BW BTC service team

6.1 The Client must, at their own expense, support the BW BTC service team in carrying out the service outside the BW BTC location and, in particular, ensure proper access to the performance object.

6.2 The Client must take the necessary measures to protect persons and property at the location where the service is carried out. They must inform the service team about existing special safety regulations, insofar as these are relevant.

6.3. The Client or, if applicable, any other person from the Client's group of people, must sign an activity report submitted by the BW BTC service team, which includes the activities carried out, working hours, and arrival and departure times. The Client also acknowledges the Services performed by BW BTC at the times stated on this report. These activity reports serve as the basis for invoicing the Client.

- 6.4 The Client is obliged to provide technical assistance at their own expense, in particular
- (i) Provision of the necessary qualified assistants within the time period required for the service. The assistants must follow the instructions of the service team. BW BTC assumes no liability for the assistants. If an assistant causes a defect or damage due to instructions from the service team, the provisions of sections 11 and 12 apply accordingly.
 - (ii) Provision of necessary equipment and heavy tools.
 - (iii) Provision of heating, lighting, power, water, including the necessary connections, as well as air-conditioned, ventilated, fire-protected, and low-dust premises.
 - (iv) Provision of necessary, dry, and lockable rooms for storing the service team's tools. The storage of these tools is at the Client's risk.
 - (v) Protection against harmful influences of any kind at the service team's workplace and its cleaning.
 - (vi) Provision of suitable, theft-proof lounges and work rooms (with heating, lighting, washing facilities, sanitary facilities) and first aid for the service team.
 - (vii) Provision of materials and performance of all other actions necessary to set up the object of performance and to carry out a test as provided for in the contract. If the Client is unable to provide German or English-speaking assistants, they must arrange for an appropriate interpreter at their own expense.

6.4 The technical assistance or cooperation of the Client must ensure that the provision of the service can begin immediately after the arrival of the service team and can be carried out without delay until acceptance by the Client. Unhindered access to the performance object must be guaranteed by the Client when the service team is deployed. Should hindrances or other interruptions occur for which BW BTC is not responsible, BW BTC reserves the right to charge the Client for any additional costs (e.g., due to waiting times, etc.). If the Client requires special plans or instructions, BW BTC will provide them in a timely manner.

6.5 The Client is obliged to immediately report and document all product-related malfunctions and damages of which they become aware to BW BTC. In the event of damage to the battery, the Client must hand over the already dismantled battery to BW BTC free of charge if the service is to be carried out on it.

6.6 If the Client fails to fulfill their obligations, BW BTC is entitled to claim incurred expenses. Otherwise, the statutory rights and claims of BW BTC remain unaffected.

7. Transport and insurance for Services at the BW BTC service team location

7.1 In principle, the object of performance must be delivered to BW BTC by the Client at their own expense and picked up again after the service has been performed. For the duration of the stay at BW BTC, the parties will, if necessary, coordinate the issue of insurance (breakage, transport, fire, and water damage). The parties may agree in writing that delivery and collection shall be carried out by BW BTC. Any costs incurred, such as packaging, insurance, loading, and customs, shall be borne by the Client.

7.2 According to the Incoterms specified in the order (FCA or EXW), risk is transferred to the Client when the performance object is handed over (EXW) to the freight forwarder, carrier, or collector, but at the latest when the service object is loaded (FCA) at the location of the BW BTC service team. If transport is organized by BW BTC, the cargo will only be insured upon written request from the Client and upon their assumption of costs.

7.3 Unless otherwise agreed, the Client is responsible for observing legal and official regulations in connection with the provision of the service regarding import, transport, and export of the service items. In order to carry out the service, the Client must provide all necessary documents and issue them to the service team.

7.4 The Client is obliged to maintain appropriate liability insurance in order to be adequately insured against any claims for damages by BW BTC that are related to or result from taking possession and the provision of Services. In addition, the Client must ensure adequate insurance coverage for the object of performance during performance of the service at the BW BTC location, e.g. with regard to fire, tap water, storm, and machine breakdown insurance.

7.5 If the performance of the service is delayed due to circumstances for which the Client is responsible, BW BTC is entitled, at its discretion, to store the service items for the period of delay at the Client's expense. For this purpose, BW BTC may charge a flat rate of EUR 50 (plus statutory VAT) per calendar week or part thereof and per product, in the case of storage at BW BTC from the date on which the Client is notified that the object is ready for dispatch, and, in the case of storage by third parties, the actual costs incurred.

8. Duration of Services

Information on the duration of the Services performed is based on estimates. BW BTC expressly refrains from agreeing on a binding time limit. The BW BTC service team will make every effort to ensure that the estimated duration of the service is adhered to.

9. Return of the battery systems by the Client after Services are complete

9.1 After being notified that any testing of the performance object is finished and complete, the Client is obliged to take back the performance object within five (5) working days. If the deadline expires without result, the Client shall be in default with the return and the risk of accidental loss and accidental deterioration of the object of performance shall pass to them. During the period of default, BW BTC shall only be liable for intent and gross negligence.

9.2 The Client may only refuse to take back the goods if there is obvious new damage to the service object for which BW BTC is responsible or if the service has obviously not been provided in full. If the damage/incompleteness is irrelevant to the interests of the Client or is due to a circumstance attributable to the Client, the Client is obliged to take the goods back.

10. Rights of BW BTC in case of default of return by the Client

In the event of default in taking back the goods in accordance with section 9, BW BTC also reserves the right to deposit the goods at the risk and expense of the Client and the right to sell the goods at its own risk in the form of a public auction or a private sale. These rights may only be asserted during the period of default in withdrawal.

11. Obligations of BW BTC and liability for poor performance

11.1 BW BTC undertakes to properly provide the contractually agreed service. If and to the extent that the service is not provided properly, i.e. in a professional and appropriate manner in accordance with the state of the art, this constitutes poor performance. This is provided that the Client or third parties whose conduct is attributable to the Client do not violate any contractual primary or secondary obligations such as obligations to provide information, protection, and/or cooperation or are otherwise responsible for the improper performance ("negative deviation"). In the event of poor performance, BW BTC shall therefore only be liable if the negative deviation already **had** occurred ~~when-at the time~~ the object of performance was taken back by the Client (according to clause 9) and is solely attributable to circumstances for which BW BTC is responsible, namely as follows:

- (i) If the negative deviation remedied by the provision of the service occurs again or the condition originally complained about occurs within one year, BW BTC undertakes to remedy the situation again and to reimburse all associated costs,
- (ii) for defective accessories/spare parts/replacement components (both material and design defects), and/or
- (iii) compensation for all consequential damage that is causally and objectively attributable to the poor performance of BW BTC.

If negative deviations occur after the return of the performance object, the Client must notify BW BTC of these immediately in writing. If immediate notification is not made, the (poor) performance is deemed to have been accepted.

11.2 The liability of BW BTC according to clause 11.1 is excluded if:

- (i) the negative deviation is insignificant, or
- (ii) the negative deviation is based on a circumstance for which the Client is responsible or the conduct of a third party is attributable, or if the Client or a third party eliminates the negative deviation themselves without the prior consent of BW BTC, without (a) there being an urgent case of endangerment of operational safety or (b) this seems necessary to prevent disproportionately major damage.
The Client then has the right, within the framework of the statutory provisions, to eliminate the negative deviation themselves or have it eliminated by a third party and to demand reimbursement from BW BTC of the reasonable costs actually incurred as a result. However, such costs may not exceed the amount of remuneration for the original contractual service. For clarification: The prerequisite for such self-remedy is in any case the immediate written notification to BW BTC or the expiration of a reasonable period of time set by BW BTC to eliminate the negative deviation, without result.

11.3 Furthermore, the Client has the right to a reduction in price. For this to happen, BW BTC must have allowed the reasonable deadline set for remedying the defect to expire without result or the remedy by BW BTC must have failed twice. The Client can only withdraw from the contract if the service is demonstrably of no interest to the Client despite the reduction. Further claims are determined exclusively in accordance with section 12.3 of these terms and conditions.

12. General liability of BW BTC, disclaimer

12.1 If parts of the performance object are damaged through BW BTC's negligence, BW BTC shall, at its discretion, repair or replace them at its own expense ("subsequent performance"). Without prejudice to section 12.3, the obligation to pay compensation is limited to the contractual maintenance price.

12.2 If the object of performance cannot be used in accordance with the contract due to failure to implement or implement correctly the suggestions or advice given before or after conclusion of the contract, as well as other contractual ancillary obligations - in particular instructions for the operation and maintenance of the object of maintenance - the Client shall not be entitled to any further claims with the exception of sections 11, 12.1, and 12.3, despite BW BTC's culpability.

12.3 A claim for compensation for damage to the object of performance or caused by it exists in addition or in addition only

- (i) in case of intent,
- (ii) in the event of gross negligence by senior management or the board of directors,
- (iii) in the event of injury to life, body, or health,
- (iv) in the event of a culpable breach of obligations, the fulfilment of which makes the proper execution of the contract possible in the first place and on whose compliance the contractual partner may regularly rely (essential contractual obligations), insofar as the achievement of the purpose of the contract is endangered,
- (v) in cases where liability is assumed under the Product Liability Act for defects in the delivered goods, for personal injuries, or damage to privately used items,
- (vi) in the case of negative deviations that were fraudulently concealed,
- (vii) within the framework of a corresponding guarantee, or
- (viii) in the event that the delivery item cannot be used in accordance with the contract by the Client due to BW BTC's fault due to omitted or incorrect execution as a result of incorrect advice before or after conclusion of the contract or other breaches of secondary contractual obligations - in particular incorrect instructions for the operation or maintenance of the delivery item.

In the event of culpable breach of obligations, the fulfilment of which makes the proper execution of the contract possible in the first place and on whose compliance the contractual partner can regularly rely (essential contractual obligations), BW BTC shall be liable both for gross negligence and slight negligence on the part of non-managerial employees, whereby the latter is limited to compensation for damage that is typical for the contract and can reasonably be foreseen. Further claims for damages are excluded.

13. Limitation period

If the Client is a trader, all of their claims – for whatever legal reasons – expire after 12 months, otherwise the period is determined according to the statutory provisions. For claims for damages under section 12.3 (i) – (iv) and (vi), the statutory time limits apply.

14. Confidentiality

14.1. The Client is obliged to keep all information, in particular knowledge and trade secrets, obtained from BW BTC, its affiliated companies, or representatives, secret from third parties, insofar as the information:

- (i) is not generally known or becomes generally known without the Client having breached these confidentiality obligations,
- (ii) was demonstrably not known to the Client prior to receipt and without an obligation to keep it confidential,
- (iii) is disclosed to the Client by third parties lawfully and without an obligation of confidentiality, or
- (iv) has been approved for distribution in writing by BW BTC.

The obligation of confidentiality applies regardless of how the information was made available, whether orally, in writing, or in any other way. The obligation of confidentiality also applies to designs, drawings, descriptions, specifications, electronic media, software, and corresponding documentation, samples, and prototypes.

14.2. Confidential information within the meaning of section 14.1 may only be used, reproduced, and exploited by the Client in connection with and for the purposes of the contract concluded with BW BTC and may only be made accessible to those persons in the Client's business operations who must be involved in their use for the purposes of the contractual relationship with BW BTC and who are obliged to maintain confidentiality in a manner comparable to these regulations. The Client undertakes to take all necessary measures to ensure that confidential information is not made accessible to third parties without the express prior written consent of BW BTC. At BW BTC's request, all information originating from BW BTC must be immediately returned to BW BTC in full or, if technically possible, destroyed.

14.3. The obligation to keep this confidential information confidential shall apply, regardless of the reason for termination, for a period of five (5) years after termination of the agreement.

15. Force majeure

Events of force majeure entitle BW BTC to postpone the performance of its obligations for the duration of the hindrance caused by force majeure and a reasonable start-up period. Events of force majeure are all BW BTC events for which we are not responsible and which cannot be averted or can only be averted with the additional expenditure of considerable financial resources, in particular currency, trade policy or other sovereign measures, strikes, lockouts, significant operational disruptions (e.g., fire, machine breakdown, shortage of raw materials or energy), and obstruction of traffic routes - in each case of more than just a short-term duration - which prevent the fulfilment of the obligations of BW BTC make it significantly more difficult or impossible. If events of force majeure last longer than three months, both BW BTC as well as the Client have the right to withdraw from the contract. BW BTC shall inform the Client as soon as possible of the occurrence and end of such events.

16. Return and disposal

16.1 BW BTC expressly points out that the provisions of the Battery Act (*Gesetz über das Inverkehrbringen, die Rücknahme und die umweltverträgliche Entsorgung von Batterien und Akkumulatoren – BattG*) - in the currently valid version - or, in other European countries, corresponding national regulations based on the applicable EU directive(s) must be recognized and observed in this context. Obligations based on these standards must be fulfilled by all contracting parties. In particular, the requirement that lithium-ion batteries are not to be disposed of in household waste or at unauthorized facilities is known and must be complied with.

16.2. BW BTC is not liable for compliance with the Battery Act or corresponding national regulations applicable in other European countries, the recycling service itself, its scope, and its provision by third parties if recycling Services are arranged by third parties in accordance with the Battery Act upon request and on behalf of the Client. Such purely intermediary Services provided by BW BTC do not create any rights or obligations.

17. Industrial property rights and copyright

17.1. Inventions within the meaning of the Patent Act that are based on a service and that are made by an employee of BW BTC during the performance of the service belong exclusively to BW BTC. If employees of the Client or the Client themselves are involved in such inventions with at least a 50% share in the invention, the contracting parties will agree on the respective ownership rights. In this case, BW BTC always receives a free, spatially, temporally, and content-wise unlimited, transferable, sublicensable, non-exclusive right of use.

17.2. BW BTC reserves ownership and, to the extent that they are subject to copyright, copyright to cost estimates, calculations, and other documents. Before passing them on to third parties, the Client requires the express prior written consent of BW BTC. All information and documents received in connection with the order must be treated as confidential in relation to third parties.

17.3. The Client acknowledges, understands, and agrees that while acquiring the physical product, BW BTC retains sole and exclusive ownership of all intellectual property rights and knowledge embodied in and relating to such products. Except for the limited, transferable, royalty-free right to use, market, distribute, and sell the products, the Client receives no rights to this intellectual property and may not directly or indirectly modify, reverse engineer, or disassemble the products unless expressly permitted by law. The Client further acknowledges and agrees that it shall be solely liable for all claims of infringement of any patent, trademark, or intellectual property that may arise from the use or integration of the products in combination with other materials, equipment or processes, unless such infringement is caused by a breach by BW BTC, in which case BW BTC will indemnify and hold the Client harmless.

17.4. BW BTC reserves ownership and, to the extent that they are subject to copyright, copyright to illustrations, cost estimates, drawings, calculations, and other documents. Before passing them on to third parties, the Client requires the express prior consent of BW BTC.

18. Other rights and obligations

18.1. BW BTC is entitled to commission third parties to carry out the Services. In this case, BW BTC is responsible to the Client for the quality of the work carried out by these third parties.

18.2. BW BTC is entitled to interrupt or suspend the performance of an ongoing service at short notice if the service personnel deployed are required elsewhere for an urgent reason (e.g., due to acute operational disruptions at another customer that must be remedied immediately) and the interruption or suspension does not result in any significant disadvantage for the Client. The resulting additional costs will be borne by BW BTC. Other claims (e.g., any claims for (damage) compensation) by the Client are excluded.

19. Place of jurisdiction, applicable law

19.1. Should one or more provisions of these terms and conditions or parts thereof be or become invalid, this shall not affect the other provisions or their components.

19.2. To the extent that these terms and conditions (i) refer to a written form requirement, text form (letter, fax, email, etc.) is sufficient to comply with the written form requirement; (ii) reference is made to "days", calendar days are meant.

19.3. Any changes to the contract, including this clause, must be made in writing to be effective.

19.4. For the interpretation of commercial terms, the Incoterms in the version valid at the time the contract is concluded shall apply.

19.5. The contractual relationship between BW BTC and the supplier is subject exclusively to the law of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods (April 11, 1980).

19.6. The place of jurisdiction for all disputes arising from or in connection with the contractual relationship between BW BTC and the Client is the registered office of BW BTC (Darmstadt). BW BTC is also entitled to sue the Client before the court having jurisdiction over the Client's registered office or any other competent court. The above provisions shall not apply if an exclusive place of jurisdiction exists under the law.

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