GENERAL CONDITIONS OF INSTALLATION 12.20

1. SCOPE

These General Conditions of Installation apply to the following services of SEEPEX GmbH: assembly, commissioning and repairs.

Our General Conditions of Installation apply only in respect of the delivery, performance, legal entities under public law and special funds under public law according to section 310 BGB (German Civil Code).

In addition to these General Conditions of Installation, our “General Terms and Conditions of Sales and Delivery” shall apply in their current version. In the event of conflicting provisions, these General Conditions of Installation shall take precedence.

2. INSTALLATION CONTRACT

2.1 ORDER ACCEPTANCE

The installation contract is formed upon receipt of the order confirmation printed overseas and is exclusively governed by the General Conditions of Installation. These General Conditions of Installation apply only in relation to entrepreneurs, legal entities under public law and special funds under public law. The installation contract is formed upon acceptance in the form of a signed contract or letter of intent. The set off with a counter-claim against any of the claims of SEEPEX is permitted only if the Customer’s claim is undisputed or awarded by a court in a final judgement. If the Customer is a merchant as defined in the German Commercial Code (not including the merchant pursuant to § 4 of the German Commercial Code), the Customer is not entitled to claim a right of retention against the claims of SEEPEX.

2.2 SUPPORTING MATERIAL

All supporting material, drafts and installation plans and instructions etc. provided by SEEPEX to either the Customer or a third party authorized by the Customer are subject to copyright and may be used by the Customer only in connection with the contract negotiations or the installation contract. In particular, any reproduction or transmission is forbidden to any competitors of SEEPEX is prohibited.

The Customer is obliged to return all supporting material immediately if no installation contract is concluded.

2.3 SCOPE OF SERVICES

Unless otherwise expressly agreed in writing, the installation services shall extend to all necessary measures to test and/or restore the function of the product. This can mean the repair and/or replacement of individual components. If the assembly work is correspondingly non-commissionable, the Contractor and the Customer may agree that the product be scrapped at the Customer’s risk.

2.4 INSTALLATION TIME / IMPEDIMENTS TO INSTALLATION

The working time charged includes a reasonable time for travel and return travel to provide for the installation. A requirement for the speedy performance of the installation services is that sufficient capacities are available. To the extent possible, the personnel performing the installation work (Installers) will comply with the working hours of the Customer. If an interruption or delay of the installation occurs and it is due to the Customer’s fault, the Customer is required to verify the working time of the products and services rendered by the Installers on the form submitted to the Customer on a weekly basis.

In case of an “Installation Outside the Area” (as defined in the Federal Collective Bargaining Agreement covering installations), the time necessary for travelling (including travel, and from the workplace) up to 12 hours per calendar day is charged as working time without any surcharges. Working time as well as, in the case of an Installation Outside the Area, if necessary for finding a room and registration with the authorities (so long as working time is incurred therefore) is charged as working time. In case of an Installation Outside the Area, the full daily working time, at a minimum 36 hours per week is charged including whenever Installers are hindered from completing the full working time, if such hindrance is not due to their own fault.

If the Installers are relieved due to a reason for which SEEPEX is not responsible, the costs incurred thereby are chargeable to the Customer. The foregoing does not limit any other damage claims SEEPEX may bring.

Time required for recording and documentation are deemed to be work hours.

3. INSTALLATION COSTS

3.1 GENERAL SERVICES

The remuneration for general services performed by SEEPEX (preparation for installation, preparation of plans and instructions, installation supervision and premiums for insurance insurance and indemnity insurance) shall be charged for the Installation, based on special agreements set forth in the appendix or the contract confirmation printed overseas.

3.2 TRAVELLING EXPENSES

The travelling expenses of the Installer (including the cost for transport and the transport insurance for personal luggage as well as expenditure which is brought with or sent by the Installers) will be charged to the Customer at the cost actually incurred by SEEPEX.

The travelling expenses include the cost for travel from the installation site to the company’s registered office, to the extent that reimbursement for such costs is required by any collective bargaining agreement. In general, a first class train ticket will be charged for engineers and a second class train ticket for workers plus any surcharges.

3.3 DAILY ALLOWANCE

The daily allowance for an “Installation Within the Area” (as defined in the Federal Collective Bargaining Agreement covering installations) is based on special agreements set forth in the appendix or the contract confirmation printed overseas.

3.4 REMUNERATION

Unless otherwise expressly agreed in writing, the installation work shall be invoiced according to the current overview of the installation rates and according to the time spent on the installation certificate.

Overwork time will be performed to the extent necessary and agreed by the Customer. Remuneration work is defined as all working hours which exceed the daily working time of 8 hours from Monday to Friday as well as working time on Saturdays and Sundays.

The first two hours overtime from Monday to Friday will be charged at 125% and from the third hour 150%. For the first two working hours on Saturdays 125% will be charged and from the third hour 150%. For work performed on Sundays and holidays, 175% of the hourly rates will be charged.

3.5 DUE DATE

Unless expressly agreed otherwise, the payment for the installation is due immediately upon receipt of the bill, at the latest five days after the installation day. The date of the bill for the installation can be accounted for, at the discretion of SEEPEX either weekly, monthly, or at the end of the installation. Upon the request of SEEPEX, the Customer is to pay reasonable advances to the Installers.

3.6 SET OFF / RIGHT TO RETENTION

The set off with a counter-claim against any of the claims of SEEPEX is permitted only if the Customer’s claim is undisputed or awarded by a court in a final judgement. If the Customer is a merchant as defined in the German Commercial Code (not including the merchant pursuant to § 4 of the German Commercial Code), the Customer is not entitled to claim a right of retention against the claims of SEEPEX.

3.7 WORK SAFETY

The customer undertakes to clean the work site of the customer to the extent that reimbursement for such costs is requested by any collective bargaining agreement prior to the installation work and to remove the pumped medium as completely as possible. By filling out the form “Pump Repair Form”, the orderer has to inform in due time, usually five days before the installation work is carried out, in case of emergency service immediately, about the safety-relevant circumstances and possible dangers.

Furthermore, in the case of external installations, the customer must inform us in due time, generally five days before the start of installation, about the safety regulations applicable at the place where installation is to be carried out, in particular the accident prevention regulations. In the case of short-term external installations within one week, the customer shall inform SEEPEX sufficiently. Times for on-site training on the subject of work safety by the customer are considered working hours.

4. WARRANTIES / DAMAGES

4.1 NOTICE OF DEFECT

Any defect to be raised by the Customer in writing immediately after completion of the installation. Obvious defects must be raised in writing at the time they are detected, non-obvious defects must be raised in writing at the latest seven days after they have been detected. If the Customer fails to comply with these terms, then the Customer surrenders his or her warranty rights.

4.2 WARRANTIES / LIABILITIES

If the Customer timely and immediately files a notice of defect, he or she is obliged to grant SEEPEX the opportunity to rectify the defect. The term for such rectification is at least two weeks for an installation within the Area “Installation Outside the Area” for dealings with merchants as defined in the German Commercial Code (with the exception of mergers pursuant to § 4 of the German Commercial Code), the term is at least four weeks. The term does not commence before the written notice of defect is received and if the rectification is prevented by reasons for which SEEPEX is not responsible, the term is extended appropriately.

Claims for defects do not arise as a result of causes which are not attributable to our fault, for example Natural wear and tear, factors external to the delivery, improperly performed interventions or repair work on the part of the customer or third parties, incomplete or incorrect information provided by the customer, unsuitable or improper use, incorrect operation, assembly or commissioning, incorrect or negligent handling, improper maintenance, use of unsuitable operating materials/replacement materials, harmful environmental conditions unknown to us, chemical, electrochemical or electrical influences, changes made to the delivery without our consent.

Damage claims of the Customer based on any legal theory whatsoever, exist only if SEEPEX acted intentionally or in gross negligence, in case of failure to meet a guaranteed quality standard or in case of limited to consequential damages. In any case SEEPEX and its installation personnel are liable only to the extent it is covered by its indemnity insurance, for personal and property damages up to 15.000.000,-- EUR.

The Customer loses all warranty claims, if the Customer either by himself or herself or through a third party, alters or repairs the installation or repairs the installation with the consent of SEEPEX and before giving SEEPEX an adequate opportunity to rectify the defect within the terms stated in 4.2 para 1.

5. OTHER CONDITIONS

5.1 PLACE OF PERFORMANCE AND JURISDICTION

Place of performance and jurisdiction, also in proceedings regarding drafts and cheques, is Bottrop. SEEPEX GmbH may file an action against the Customer at the Customer’s seat or the place of its branches.

5.2 DATA PROTECTION

The installation contractor is entitled to electronically process data from the business relationship, regardless of whether this data originates from the Customer or a third party. This notice replaces the notification according to the Federal Data Protection Act and the EU Data Protection Basic Regulation that personal data of purchasers are processed in Germany.

5.3 MISCELLANEOUS

The legal relationship between the Supplier and the Customer is solely governed by the written installation agreement including these General Conditions of Installation. This agreement reflects all agreements and understandings between the parties regarding the subject of the agreement.

Oral promises by SEEPEX before the conclusion of this agreement shall not be binding and any oral agreements between the contracting parties shall be replaced by this written agreement unless they explicitly stipulate that they shall continue to apply.

All alterations or amendments to this installation agreement must be in writing, at least confirmed in writing. All alterations or amendments to this General Conditions of Installation must be in writing. (Except for modifications in writing or oralised representat-ives (Prokuristen), employees of SEEPEX are not entitled to conclude oral agreements concerning the installation with the Customer.)