

# General Terms of Business of TEKO Gesellschaft für Kältetechnik mbH.

## I Definition/Scope

1. These terms of business apply only with regard to companies within the meaning of § 310 (1) BGB.
2. The following terms of business apply exclusively; TEKO Gesellschaft für Kältetechnik GmbH (hereinafter referred to as TEKO) does not acknowledge any terms of business of the customer that conflict with or deviate from these terms and conditions, unless expressly confirmed in writing. The following terms and conditions also apply if TEKO effects delivery to the customer without reservation and being aware of conflicting or deviating conditions of the customer.
3. Agreements or side agreements deviating from these terms and conditions are only effective if confirmed in writing by TEKO.
4. For ongoing business relationships, these terms of business apply also to future contracts, even if not specified in detail.

## II Verification of requirements for products and services

1. If the customer informs TEKO of the intended use of the products or services ordered by the customer, TEKO's quotation will be based on the assumption that the aspects raised in the following questions will be of no relevance to the product requested by the customer, unless the ordering party has already provided TEKO with other information. Should one or more of the following aspects be relevant, the customer shall inform TEKO thereof before TEKO makes a commitment to the customer.
  2. Are there any requirements not mentioned in the request with regard to
    - 2.1. Packaging and delivery of the part to the customer (blister packaging, use of a specific packaging material, cleanliness requirements, handling of customer-owned load carriers);
    - 2.2. The handling of the part by the customer (robustness, shock and vibration resistance, drop heights);
    - 2.3. The storage of the part by the customer (insensitivity to environmental factors such as light, humidity, temperature, air pressure and the inherent durability of a part);
    - 2.4. The production at the customer's premises;
    - 2.5. The requirements of the part in the context of the overall system (robustness, shock and vibration resistance);
    - 2.6. influences of the part on its system environment;
    - 2.7. influences of the system environment on the part;
    - 2.8. Temporal factors such as material wear or tear under the specific usage conditions;
    - 2.9. influences of the overall system on the part;
    - 2.10. influences of the part on the overall system;
    - 2.11. Influences of users of the overall system (e.g. contaminated work clothing, gross motor function, below-average level of education of users);
    - 2.12. Impacts from statutory provisions, if known to the customer;
    - 2.13. Are there any influencing factors for the intended use that deviate from common usage in terms of geography, time or technology or that otherwise should be known (e.g. climate conditions, average service life, unstable power supply);
    - 2.14. Which influencing factors may arise for the intended use under the applicable regional, climate and statutory conditions;
    - 2.15. Which factors (if not included in the scope of the contract) may affect the function, functionality and/or service life (e.g. electromagnetic interference caused by high-voltage poles in the vicinity);
    - 2.16. Does the customer deviate from a commonly assumed quality and/or use of the operating and auxiliary equipment when using operating and auxiliary equipment;
    - 2.17. Are there any requirements for the further assembly or processing of the part, with regard to mechanical, thermal or electrical stress resistance, electrostatic compatibility, handling, which may necessitate a modification of the part;
    - 2.18. Which interface parameters are required for validation, including testing procedures, test methods and testing equipment;
    - 2.19. Does the customer know of legal or regulatory requirements that deviate from the usual requirements?

## III Quotations/Order confirmation

1. For orders qualifying as an offer within the meaning of § 145 BGB, TEKO may accept such order within 4 weeks.
2. TEKO reserves property rights and copyrights to illustrations, drawings, calculations and other documents. This also applies to such written documents

identified as "confidential". The disclosure to third parties requires the express written consent of TEKO.

3. A delivery contract is only concluded by written order confirmation, at the latest when the goods are shipped. Transmission via remote data transfer is sufficient to meet the written form requirement. If TEKO can demonstrate by submitting a transmission report that it has submitted a declaration by fax or remote data transmission, it is assumed that the declaration has been received by the customer.

4. If TEKO uses a telecommunications or media service for the purpose of concluding a contract, the customer waives the right with regard to the information requirements specified in Art. 241 EGBGB, as well as confirmation of receipt of his order. Orders transmitted electronically are deemed received only when accessed and opened by TEKO. TEKO reserves the right to delete orders without opening them.

## IV Consultation

Any advice given over the phone, in writing as well as training advice in connection with a sale refers exclusively to the typical scope of use and performance of the systems. TEKO will only provide additional consulting services if this has been expressly agreed in writing.

## V Prices/Payment terms

1. All TEKO prices are quoted ex TEKO works including packaging, plus the applicable statutory VAT at the time of invoicing. Freight and transport insurance are invoiced separately.
2. Price changes are permitted if there are more than ten weeks between the conclusion of a contract and the agreed delivery date. If wages, costs of materials or market prices increase thereafter and before delivery has been effected, TEKO shall be entitled to a reasonable price increase in line with the cost increases.
3. Unless otherwise agreed upon, payments shall become due upon delivery, at the latest upon receipt of the invoice. Invoices are payable without deductions. Notwithstanding the above, TEKO is entitled at any time and without giving any reasons, to make delivery conditional upon concurrent payment.
4. For all means of payment, the date of receipt of a payment is the date on which TEKO or third parties who have a claim against TEKO may dispose of the amount.
5. Services, software and freight costs are generally not eligible for discount and shown separately on our invoices.
6. If SEPA direct debit has been agreed as the payment method between the buyer and the seller, the buyer undertakes to instruct his bank accordingly and ensure adequate coverage of his account on the due date. The prenotification period is shortened to one (1) day.

## VI Late payment

1. In addition to the statutory requirements, the customer may be deemed to be in default by written reminder immediately following the due date. If the payment date is determined or determinable by calendar date, the customer shall be in default even without a reminder. In the event of late payment, TEKO shall be entitled to withhold all deliveries or services.
2. In the event of late payment or if the credit limit is exceeded, TEKO reserves the right to withhold delivery of the goods until all claims have been settled, or taking into account the order value, until the customer is again below the credit limit.
3. If the customer fails to meet his payment obligations within the set deadline despite reminder and being given a respite period or if insolvency proceedings are filed against his assets or the assets of his legal representatives, the full outstanding amount plus all additional costs shall become due immediately. In these cases, TEKO is entitled to declare withdrawal from all contracts not yet performed, to reclaim unpaid goods delivered under reservation of title, and request the reimbursement of any costs causally related to the withdrawal. The obligation to reimburse costs does not apply if the customer is not responsible for the late payment.

## VII Reservation of ownership

1. TEKO reserves ownership of the delivered goods until receipt of all payments resulting from the business relationship with the customer.
2. The assertion of the reservation of ownership as well as seizure of the delivered goods by TEKO does not constitute withdrawal from the contract, unless this is expressly declared in writing by TEKO.
3. The customer has the right to resell the goods in the ordinary course of his

business; however, he hereby assigns to TEKO all claims up to the amount of the purchase price agreed between TEKO and the customer (including VAT) accruing to the customer from the resale, irrespective of whether the goods are resold before or after further processing. The customer is still authorised to collect these claims after assignment. The authorisation of TEKO to the collection of such claims remains unaffected; TEKO however undertakes not to collect the claims as long as the customer duly complies with his payment obligations and is not in default with payments. If this is the case however, TEKO may request the customer to disclose the assigned claims and their debtors, provide all the information necessary to collect the claims, hand over the relevant documents and notify his debtors (third parties) of such assignment.

4. Processing or transformation of the goods by the customer always takes place for and on behalf of TEKO. If the delivered items are processed together with items not belonging to TEKO, TEKO acquires joint ownership in the new goods in proportion to the value of the delivered goods in relation to the other processed goods at the time of processing.

5. If the delivered items are inseparably mixed with other items not belonging to TEKO, TEKO acquires joint ownership of the new goods in proportion to the value of the delivered items in relation to the other mixed items. The customer keeps the joint-ownership item(s) on behalf of TEKO.

6. The customer may neither pledge the delivered items nor assign them as security. In the event of seizure, confiscation or other disposition by a third party, the customer shall notify TEKO immediately and provide it with all information and documents necessary to protect its rights. Enforcement officials or third parties must be informed of the ownership of TEKO.

7. TEKO undertakes to release the securities to which it is entitled on request of the customer insofar as these claims, which have not yet been settled, exceed the claims to be secured by more than 20%. The specific securities to be released are chosen at the discretion of TEKO.

#### VIII Deliveries / Delivery period

1. Compliance with agreed delivery and service dates requires that all technical questions have been clarified in advance and that payments or other obligations of the customer have been or are being met on time. If this is not the case, the delivery period will be extended accordingly. Delivery periods are suspended if the customer requests alterations and modifications the delivery item. They only resume once the changes have been approved in writing by the customer.

2. TEKO will deliver the items ordered by the customer under reservation of a correct and timely supply on the part of its vendors.

3. Partial deliveries are permitted, if this does not negatively affect the use of the items in question.

4. If delivery is delayed at the request of the customer, the goods will be stored by TEKO at the customer's risk and expense. In case of storage by TEKO, storage costs are 0.25% of the invoice amount of the delivery items to be stored per full week.

5. TEKO reserves the right to customary deviations with regard to the dimensions specified for delivery items, unless compliance with the dimensions is expressly guaranteed.

6. The delivery period is extended for the duration of the hindrance in case of force majeure, strike, inability through circumstances beyond our control and, in the event of adverse weather conditions, for the duration of such condition.

7. If the customer is in default of acceptance or in breach of other cooperation obligations, TEKO is entitled to give preference to other orders from third parties and extend the delivery period accordingly. Without prejudice to further claims, TEKO shall be entitled to demand compensation for damages incurred, including extra expenses.

#### IX Shipping/ Transfer of risk

1. Unless otherwise agreed, our goods are shipped ex works TEKO Altenstadt.

2. Shipment is at the customer's risk and expense. The same applies to return shipments.

3. Transport and other packaging will not be taken back.

#### X Return of goods/Goodwill

Returns require our prior agreement. Returned good must be in as good as new condition, include the original packaging and be returned within 2 months of delivery. As a matter of principle a fee in the amount corresponding to 10% of the net value of the returned item, at least, however, € 50.00, is charged to cover the costs of examining and repackaging the goods. The shipping risk, especially in case of improper packaging, shall be borne by the sender.

#### XI Property rights

1. The customer undertakes to notify TEKO without delay of any third-party claims based on property rights with regard to the delivered items and to leave the legal defence to TEKO at its own expense. TEKO is entitled to carry out necessary changes at its own expense, even in goods delivered and paid for, on the basis of third-party protective rights claims.

2. If TEKO is prohibited from manufacture or delivery by a third party with reference to a proprietary right and if TEKO is not responsible for the infringement of such right, TEKO is entitled to discontinue the works and/or deliveries until the legal situation has been clarified between the customer and the third party. If the continuation of the order is no longer reasonable for TEKO due to such delay, TEKO is entitled to withdraw from the contract.

3. The customer shall be liable to TEKO for ensuring that the services provided are free from third-party property rights and indemnifies TEKO from all third-party claims in this regard.

#### XII Liability for delay

1. TEKO is liable according to the statutory provisions, to the extent that the underlying purchase contract constitutes a fixed transaction within the meaning of § 286 (2) no. 4 BGB or § 376 HGB. TEKO is also liable according to the statutory provisions, provided that as a result of a delay in delivery for which TEKO is responsible, the customer is entitled to claim that its interest in the further execution of the contract has ceased.

2. TEKO shall be liable for any delay in accordance with the statutory provisions, if the customer asserts claims for damages based on intent or gross negligence on the part of the representatives or vicarious agents of TEKO. Unless TEKO is accused of intentional breach of contract in the context of liability for default, the liability for damages shall be limited to the foreseeable, typically occurring damage.

3. TEKO shall be liable for any delay in accordance with the statutory provisions if TEKO culpably violates a material contractual obligation. Unless TEKO is accused of intentional breach of contract in such case, the liability for damages shall be limited to the foreseeable, typically occurring damage.

4. Liability for default due to culpable injury to life, limb or health, shall remain unaffected

5. Unless otherwise stipulated above, liability for default is excluded.

#### XIII Liability for defects

1. If a product has been specified, it is free of material defects if recognized manufacturing tolerances are observed. The customer may only rely on intended use if such use has been expressly agreed in writing. Unless agreed otherwise in writing, the customer himself is responsible for the correct and adequate dimensioning and design of the goods and their use as well as for compliance with all material and legal requirements necessary to use and operate the purchased item(s).

2. Obvious defects shall be reported to TEKO without delay and a corresponding complaint notice filed. If there is a defect for which TEKO is responsible, TEKO will choose to either remedy the defect or deliver a replacement. In the case of rework, TEKO is obliged to bear all costs and expenses for remedying the defect, provided that these costs are not increased by the fact that the purchased goods were moved to a place other than the place of performance.

3. If supplementary performance fails, the customer shall be entitled, at his discretion, to demand rescission or reduction.

4. TEKO is liable for defects in accordance with the statutory provisions, provided that TEKO has fraudulently concealed the defect or has assumed a guarantee for the properties of the item.

5. TEKO is liable for defects in accordance with the statutory provisions, provided that the customer asserts claims for damages based on intent or gross negligence on the part of the representatives or vicarious agents of TEKO. If TEKO is not accused of intentional breach of contract within the scope of a liability for defects, liability for damages shall be limited to the foreseeable, typically occurring damage. Liability for consequential damage is excluded.

6. TEKO is liable for defects in accordance with the statutory provisions, if TEKO culpably breaches a material contractual obligation. If TEKO is not accused of intentional breach of contract in such case, the liability for damages is limited to the foreseeable, typically occurring damage. Liability for consequential damage is excluded.

7. The liability for defects due to culpable injury to life, limb or health remains unaffected, as well as liability under the Product Liability Act.

8. If the customer has incorporated the defective item into another item according to its type and intended purpose or if it is attached to another item,

TEKO shall be obliged to remedy the defect and to reimburse the customer for the necessary expenses for the removal of the defective item and installation or attachment of the repaired or delivered defect-free item. The above does not apply if TEKO may refuse the type of supplementary performance chosen by the customer in accordance with § 439 (3) BGB. TEKO may refuse the type of subsequent performance chosen by the customer, among others, if the costs of supplementary performance exceed 150% of the value of the goods in a defect-free condition.

9. Unless otherwise stipulated above, liability for defects is excluded.

10. Claims pursuant to § 437 BGB expire twelve months after the transfer of risk, unless they refer to items that have been used, in accordance to its usual utilization, for a building and have caused its defectiveness.

11. The period of limitation in the case of recourse against the supplier according to §§ 478, 479 BGB remains unaffected; it is five years from the date of delivery of the defective item.

#### **XIV General liability**

1. TEKO shall be liable for further claims for damages without regard to the legal nature of the asserted claim, in particular those arising from negligence on conclusion of the contract, other breaches of duty or tortious claims for compensation for property damage pursuant to § 823 BGB (German Civil Code) paragraphs 5, 6 and 7. Any further liability is excluded.

2. To the extent that TEKO's liability for damages is excluded or limited on the basis of this clause, this also applies with regard to personal liability damages by TEKO's employees, representatives and vicarious agents.

3. An exclusion period of 18 months applies to the limitation of all claims not governed by the limitation period for defects. This period begins on the date when the customer becomes aware or should reasonably become aware of the defect and the identity of the party responsible for it.

#### **XV Counterclaims/assignment**

1. The right to set off is only available to the customer if his counterclaims have been legally established, are undisputed or recognized by TEKO. In addition, the customer is only authorized to exercise a right of retention if his counterclaim is based on the same contractual relationship.

2. The customer may only assign rights arising from contracts concluded with TEKO with the prior consent of TEKO.

#### **XVI Right of TEKO to withdraw from a contract**

1. In the case of an unforeseen event for which TEKO is not responsible and which substantially changes the financial significance or the contents of the performance or significantly affects the operations of TEKO, and in the case of impossibility of execution realised in retrospect and without TEKO being responsible for it, TEKO shall be entitled to withdraw from the contract in whole or in part, unless partial withdrawal would be unreasonable for the customer. Additional statutory rights of withdrawal are not affected by this provision.

2. The customer is not entitled to claim damages based on such withdrawal. If TEKO intends to exercise its right of withdrawal, TEKO must notify the customer accordingly, even if an extended delivery period has initially been agreed with the customer.

#### **XVII Place of performance/Jurisdiction/Applicable law / Miscellaneous**

1. Unless expressly agreed otherwise, the place of performance shall be the registered place of business of TEKO.

2. The place of jurisdiction shall be the competent court for the registered place of business of TEKO. TEKO is, however, entitled to sue the customer at any other permissible place of jurisdiction.

3. All contracts are exclusively governed by German law.

4. Should one of the provisions of these terms of business be or become invalid as a whole or in part, this shall not affect the validity of the other provisions or of the other parts of the invalid provision.

5. The contract language is German. If another language is used in addition, the German wording takes precedence.

#### **XVIII Consent to the collection of data**

The customer consents to the collection, processing and use of personal data by TEKO for the purpose of executing the order.

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