

TEKUWA GmbH

General Terms and Conditions of Delivery and Payment For the use in business with firms

General Provisions

(1) Tekuwa, any and all our present and future deliveries and works included, operates exclusively on the basis of the General Terms and Conditions of Delivery and Payment stated here. We herewith contradict any counter-confirmations made by the purchaser with reference to his own general terms and conditions.

(2) When placing the first order the purchaser placing the order gives his agreement to the fact in advance that these terms and conditions shall be assumed for all further quotations, orders and agreements without the necessity of being obliged to agree on them again.

(3) Any and all agreements that include an alteration, amendment or substantiation of these terms and conditions as well as specific arranged provisions shall only be binding if Tekuwa has consent in writing.
In particular, this is especially valid for the case that in his order the purchaser declares supplementary conditions Tekuwa doesn't explicitly contradict or that the purchaser wants to have his general terms and conditions of business as basis of the contract. If these conditions don't match our own terms and conditions of delivery and payment, they're not regarded as agreed, even if no objection is raised or if Tekuwa carries out the contract without reservations and without actively rejecting them.

(4) Agents or representatives of Tekuwa are not authorised to declare any supplementary agreements or to agree on any specific arrangements of contract.

1. Quotation and Completion of Contract

(1) The order is only valid and accepted if we've confirmed it in writing, until then our offer isn't binding. Supplements, alterations and subagreements wired, sent by fax or made verbally also need written confirmation to take effect.

2. Extent of delivery obligations

(1) Dimensions, weights, illustrations and drawings are only binding for their carrying out if they're explicitly confirmed in writing. Gross weights and dimensions of the packaging are approximately given according to our best judgement, but without any obligations.

(2) The terms of delivery of the central association for the German electronic industry are valid for electronic equipment such as motors, etc.

3. Prices

(1) The prices are - if no other agreements have been made – Ex Works, without any packaging, transport insurance, customs duty.

We organize the transport without any consultation, if the transport costs will be ≤ € 250,00 for a weight of maximum 100 kg or ≤ € 500,00 for a weight of maximum 500 kg.

The transport costs will be invoiced to the buyer.

(2) We reserve the right to price changes without any advance till our written confirmation.

(3) We'll only make use of the possibility of increasing prices under the above regulations, if the expenses on which our prices already confirmed are based, have increased until the delivery.

(4) In case national taxes or fees, no matter which kind or form, the level of which is assessed on the basis of the retail and import value of our products, are passed or changed after the time of our confirmation of order, we reserve the right to appropriate price changes.

(5) If the delivery deadline stated in our confirmation of order can't be met by our company, the prices won't be increased after the deadline has expired, unless the delay is due to circumstances beyond our control; in this case the prices correspond to those prices which would have been effective if the actual delivery date had been given as

delivery deadline in our confirmation of order.

4. Terms of Payment

(1) All bank fees arising shall be payable by the purchaser. Unless otherwise agreed, all invoices are to be paid promptly and strictly net.

(2) Invoices of deposit payment and services are to be paid immediately upon their date of issue and strictly net.

(3) Cheques or bills are only accepted for payment reasons. The subscriber has to pay for the costs of discounting and collecting.

If the merchandise is paid by a bill, proprietary rights are valid until our bank has cashed the bill.

In case we agreed with the customer the payment by cheque or bill, the delivered goods become the consignee's property only when we're exempt from all possible obligations. Any payment by cheque or by bill needs our previous assent.

(4) In case time is given to pay the invoice or the invoice is paid later than assented, Tekuwa is entitled to charge interest of a 5% above the respective base interest rate of the Federal Bank of Germany without any previous reminder.

(5) The balancing of payments with counterclaims or withholding a payment is prohibited.

5. Delivery Deadlines

The delivery deadline begins as soon as all details of the carrying out (commercial, technical, etc.) have been discussed and both parties agree on all terms of the business. It only refers to the completion at our factory. The keeping of the delivery deadline requires the customer's fulfillment of the terms of contract, especially the terms of payment. Unforeseen events which are not to be answered for by Tekuwa such as breakdowns, strikes, lockouts, acts of sovereign inter-vention by the FRG or by the governments of the countries of sub-supplier, becoming rejects - in our own works or at the sub-supplier's – delay the delivery deadline appropriately, and even then if they occur when having already fallen behind with the delivery period.

This also happens when official approvals or approvals of a third party, documents or details given by the customer and necessary for carrying out the delivery don't arrive in time, as happen when the order is altered later.

The stated delivery deadline demands that all parts supplied by the customer for the completion or testing are put at our disposal for the arranged date.

(2) Partial deliveries are allowed.

(3) Delivery times stated in our quotation are subject to the reservation of selling the goods in between and are only binding if it's confirmed in our written confirmation of order.

(4) If the customer asks for a postponement of delivery,

(I) no costs will incur, if the postponement won't be longer than 30 days.

(II) costs will be charged, if the postponement will be longer than 30 days.

6. Question of Risk

(1) The risk shall pass to the customer upon dispatch of the goods by Tekuwa, even if carriage free has been arranged
If the shipment is delayed through the customer's fault, the risk already passes to the customer from the day on when the goods were ready for dispatch.

(2) Transport damages in transit are insured at the buyer's charge when we organize the shipment.

7. Responsibility for defects of delivery

(1) We accept responsibility for defects of delivery only in such a way that Tekuwa can remedy such defects by rectifying the faults free of charge through a substitute delivery of all those parts that become unusable in a single-shift production within 12 months from the date of dispatch on. Any defects must be immediately reported to our company in writing and the parts relevant to the shortcomings must be sent to us if required. This report must be received by Tekuwa within one week after the purchaser has received the goods. Responsibility is accepted on the condition that the construction is faulty or the finish is defective; we only accept liability for defect in the material in so far as we should have noticed the defect taking expert care.

(2) The notification of the complaint, which must be sent immediately, needs an exact description of the problems or difficulties. Changes aren't covered by guarantee and can't be made if they serve to get a function which wasn't necessary for the original part and therefore requires a change of the software material. Other conditions are that the customer doesn't make any changes nor add anything without our previous written approval and that only qualified personnel is appointed.

(3) This liability as far as it refers to control units of numerically controlled machines is only valid if the customer has got qualified service personnel at his disposal. People who are trained by our company or by our delivery firms are generally called qualified.

(4) Liability is not accepted for damages due to natural wear and tear.

The guarantee doesn't cover: checking of the power supply, regulation of the servomechanism, replacement of fuses and suchlike.

As well as services done to supplement or to modify machines or accessories which the customer additionally asks for and which weren't agreed in the contract as well as repairs of damages which are due to I) programming errors, II) accidents, III) transport, IV) failure of power, air, air conditioner, V) ignoring or improper use of the products at the customer's and VI) causes because of abnormal use. These works are done and invoiced according to our general terms of service

These works shall be made according to our actual terms and conditions of service.

(5) Rights to claim under guarantee only refer to repair works at TEKUWA's plant.

(6) In order to do all the modifications that appear necessary to us as well as to deliver spare parts or a replacement machine, the customer has to give us the necessary time and the chance to do so free of charge and he has to put assistants at our disposal on request

(7) Any costs incurred will be at our charge if the complaint proves to be rightful, otherwise they will be at the customer's charge.

(8) We aren't committed to eliminating any defects as long as the customer hasn't fulfilled his obligation to pay.

(9) We don't accept liability either, if the repair or replacement work is made more difficult by the customer's unauthorized works to improve.

(10) The customer hasn't got any further rights, especially the right to claim for damages which haven't incurred from the delivered product itself.

8. Minimum order value

A minimum order value of of € 30.00 net applies to all orders. For orders falling below € 30.00, a surcharge of € 10.00 shall apply.

9. The customer's right of cancellation

(1) Without the possibility of asserting any other claims, those for damages included, the customer has the right to withdraw from the contract, if the customer has given us a reasonable extension to eliminate a defect we're responsible for and if we've let this extension expire without any result. Several tests to make improvements are allowed.

(2) If there are important reasons, we can free the customer from the sale contract on his demand. However, we reserve the right to charge the customer all the costs caused by his withdrawal, the profit we couldn't make included

10. Our Right to Withdraw

(1) If we get to know after conclusion of the sale contract that the customer's financial circumstances are unfavourable, we can require of the customer that he offers us security for our service in return or we can withdraw from the sale contract by charging our expenditure .

11. Place of fulfillment and Jurisdiction

(1) The place of delivery and payment is 79664 Wehr/ Baden.

(2) If there are any disputes resulting from the contract, proceedings, mutual ones as well, must be instituted at the place of court that has jurisdiction for our company. We're also entitled to institute proceedings at the customer's head office.

12. Retention of title of ownership

(1) All deliveries of Tekuwa are carried out under reservation of ownership of the goods that have been delivered. The right of ownership shall only pass onto the customer upon receipt of payments from the ongoing business and previous ones.

(2) During the terms of reservation of ownership the customer undertakes to ensure the reserved goods adequately against sinking or damaging through fire, water, burglary or theft at his own expense and allow Tekuwa to examine the insurance policy. The customer assigns his insurance claims to Tekuwa during the reservation of ownership.

(3) The customer shall not be entitled to pledge or to use as a collateral or to process or transform the goods. Any assignment of goods is prohibited. In case of distraint by a third party we are to be notified of this immediately .

(4) Our raising of proprietary right or our seizing of the delivered goods aren't to be regarded as withdrawal from the sale contract, if the act concerning hire purchase passed on May 16th, 1894 isn't applied.

(5) It's up to our company to make further arrangements of the reservation of ownership with the customer in the individual case.

13. Severability Clause

(1) If any condition in this contract should be or become invalid, this does not affect the validity of the remaining terms. Invalid conditions must be replaced by those conditions most closely approximating to the intended meaning of the invalid condition. The same applies if any omissions are identified and require to be made good.

(2) All legal relationships arising out of this contract are governed by the law of the Federal Republic of Germany, to the exclusion of the CISG UN Purchasing Law.

14. Return of goods

Without being legally entitled, the customer can only return goods delivered by Tekuwa upon receipt of our confirmation in writing and if the goods are in perfect condition.

The agreed delivery of the returned goods shall be made free of charge to Tekuwa's works.

The returned goods will be credited less the purchaser's share in costs that is 15% of the value of the returned goods, but at least EUR 10.00.

Special productions or goods that aren't part of our standard production programme can't be taken back by any means.

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Special Conditions for After-sales Service

1. Definition
 - 1.1 After-sales service means the first time when a machine or installation delivered by our company is put into operation as well as its regular maintenance - as far as agreed - and its overhauling.
 - 1.2. These conditions - with exception of the section about the service costs - are also valid for works that are part of the warranty.
2. Referring to our service personnel, the expenditure of travel allowances, etc.our company spends must be reimbursed, this also applies overtime, Sunday and holiday working. The time for travelling and waiting are regarded as working hours. Concerning the way there and the return journey the costs are invoiced according to the means of transport used. If the journey is done by train, a second-class ticket is invoiced, if travelling at night, a first-class ticket or the costs for the sleeper are invoiced. The customer also has to reimburse us the transport costs of the unloading luggage and the equipment. Details can be taken from the " Guide Lines for Calculating Customer Service", which we'd be pleased to send to you.
3. All structural works must be done before the beginning of the customer service so that the service personnel can immediately start after their arrival and that they can do the the service without any break.
4. The customer has to put a dry and lockable room which is under supervision and guard and which can be lighted at our disposal for keeping machine parts, materials, tools and things like that.
5. The customer has to take on at his charge and to provide timely:
 - 5.1 the required number of auxiliary staff and skilled worker which we consider to be necessary.
 - 5.2 the necessary gadgets and materials we need to do the customer service and the implementing.
 - 5.3 the unloading of the means of transport of the day and the transport of the instruments from the area to the place where the customer service is to be done.