

GENERAL TERMS AND CONDITIONS OF TEKNOR GERMANY GMBH

1. DEFINITIONS AND INTERPRETATION

- 1.1. In these Conditions, unless the context otherwise requires:

"Agreement" means the agreement of the sale and purchase of the Goods arising out of TEKNOR GERMANY's acceptance of an Order;
"Buyer" means the person, firm or company whose Order for the Goods is accepted by TEKNOR GERMANY;
"Conditions" means these conditions of sale;
"Goods" means the goods (including any instalment thereof) to be delivered by or on behalf of TEKNOR GERMANY;
"Incoterms" means the International Commercial Terms published by the International Chamber of Commerce as in force at the date when any Agreement is made;
"Order" means an order placed with TEKNOR GERMANY for the purchase of the Goods;
"Relevant Laws" means all laws, statutes, statutory provisions, rules, guidelines or regulations in force at any relevant time; and
"TEKNOR GERMANY" means Teknor Germany GmbH with its seat in Adelshofen and registered with the commercial register of the local court in Ansbach under HRB 6312.

- 1.2. In these Conditions the singular includes the plural and vice versa and any gender includes any other gender.
1.3. Headings in these Conditions are for ease of reference only and will not affect interpretation.
1.4. If a provision provides for written form, this shall also include text form.

2. BASIS OF THE SALE

- 2.1. These Conditions govern the offering, sale and delivery of Goods from or on behalf of TEKNOR GERMANY to the Buyer and are deemed to be incorporated into every Agreement.
2.2. These Conditions shall apply in preference to and override all other terms and conditions, express or implied, in any Order, correspondence or other communication from the Buyer. Failure of TEKNOR GERMANY to object to terms and conditions set by the Buyer shall in no event be construed as an acceptance of any terms and conditions of the Buyer. Neither TEKNOR GERMANY's commencement of performance nor TEKNOR GERMANY's delivery shall be deemed or constituted as acceptance of any of the Buyer's terms and conditions. If these Conditions differ from any terms and conditions of the Buyer, these Conditions and any subsequent communication or conduct by or on behalf of TEKNOR GERMANY, including, without limitation, confirmation of an Order and delivery of Goods, constitutes a counter-offer and not acceptance of such terms and conditions submitted by the Buyer.
2.3. These Conditions may only be varied or waived by a duly executed written agreement between TEKNOR GERMANY and the Buyer.
2.4. By contracting on the basis of these Conditions, the Buyer agrees to the applicability thereof in respect of future dealings, even if this is not expressly stated. TEKNOR GERMANY shall be entitled to update and/or amend these Conditions and by and as of the moment of notifying the Buyer of such update or amendment or by sending the Buyer the updated or amended Conditions, these revised Conditions shall apply to all dealings between TEKNOR GERMANY and the Buyer.

3. QUOTATIONS, ORDERS AND SPECIFICATIONS

- 3.1. Quotations, made by TEKNOR GERMANY in whatever form, are not binding upon TEKNOR GERMANY and merely constitute an invitation to the Buyer to place an Order. Orders are not binding until accepted by TEKNOR GERMANY in writing. TEKNOR GERMANY is always entitled to refuse an Order without indication of its reasons.
3.2. Oral statements and agreements made by TEKNOR GERMANY's employees, officers, representatives and/or agents are not binding upon TEKNOR GERMANY unless and only to the extent that such oral statements are confirmed or made in writing by duly authorized representative(s) of TEKNOR GERMANY.
3.3. An Order must set out the description of the Goods, the quantity being ordered, any changes required by the Buyer to TEKNOR GERMANY's product data sheets (which must be agreed by TEKNOR GERMANY in accordance with Clause 3.4), the delivery address, any special delivery instructions, Buyers Order number and such other information as TEKNOR GERMANY may reasonably require to perform the Agreement. The Buyer is responsible for ensuring the accuracy of any Order.
3.4. Subject to Clause 3.5, the properties of the Goods shall be as shown on TEKNOR GERMANY's typical product data sheets (which are normally based on internationally recognised tests or TEKNOR GERMANY's tests), which may not be appropriate for or reflect the Buyer's intended application or usage of the Goods. It is the Buyer's sole responsibility to ensure that the Goods are appropriate for the Buyer's application and/or usage (including carrying out its own tests for this purpose). Any changes to TEKNOR GERMANY's typical product data sheets must be agreed in writing by TEKNOR GERMANY.
3.5. TEKNOR GERMANY reserves the right, without prior notice, to make any changes in the properties of the Goods which are required to conform with any Relevant Laws or which do not materially affect the quality or performance of the Goods.
3.6. If the Goods are to be manufactured or any process is to be applied to the Goods or any packaging is to be given to the Goods by TEKNOR GERMANY in accordance with any specification/product data sheets or amendments to product data sheets, materials, packaging or designs submitted by or requested by the Buyer, then the Buyer by entering into an Agreement licenses TEKNOR GERMANY to use such specification/product data sheets or amendments to product data sheets, materials, packaging and designs for the purpose of manufacturing and selling the Goods. The Buyer will indemnify and keep

indemnified TEKNOR GERMANY against all loss, liability, damages, costs and expenses incurred by TEKNOR GERMANY or agreed to be paid by TEKNOR GERMANY in settlement of any claim for royalties or infringement of any industrial or intellectual property rights or other rights of any other person which (directly or indirectly) results from such use.

4. CANCELLATION BY THE BUYER

The Buyer may only cancel an Agreement prior to delivery of the Goods with the agreement in writing of TEKNOR GERMANY and on terms that the Buyer indemnifies TEKNOR GERMANY in full against all loss (including loss of profits), liability, charges, damages, costs and expenses incurred by TEKNOR GERMANY as a result of such cancellation. The right of each party to terminate the Agreement for good cause (*Kündigung aus wichtigen Grund*) shall remain unaffected.

5. PRICES

- 5.1. Subject to Clause 5.2, the price of the Goods will be the price agreed with the Buyer at the time of acceptance of the Order in accordance with Clause 3.1. Subject to Clause 5.2, where prices are quoted by TEKNOR GERMANY they are valid for 30 days only unless expressly stated otherwise or until earlier acceptance by TEKNOR GERMANY of an Order based on such prices, after which time they may be altered by TEKNOR GERMANY without giving notice to the Buyer.
5.2. If delivery shall take place more than three months after conclusion of the Agreement (*langfristige Lieferung*), TEKNOR GERMANY reserves the right to increase the agreed prices. TEKNOR GERMANY will inform the Buyer promptly about such price increase. In this case, the Buyer is entitled to withdraw from the Agreement within a period of 10 business days from receipt of the notification. Any withdrawal must be made in writing (email sufficient) to TEKNOR GERMANY. If the Buyer does not exercise his right of withdrawal in due time, the increased prices shall be deemed agreed.
5.3. Unless otherwise advised by TEKNOR GERMANY, all prices are inclusive of charges for transport and packaging but exclusive of any applicable value added tax or any other similar applicable taxes, duties, levies or charges in any jurisdiction levied in relation to the Goods or the delivery thereof, which the Buyer shall be additionally liable to pay.
5.4. The cost of pallets and returnable containers will be charged to the Buyer in addition to the price of the Goods, except if agreed otherwise in writing between TEKNOR GERMANY and the Buyer.

6. PAYMENT

- 6.1. The Buyer will pay the price of the Goods in full without deduction of any actual or alleged set-off or counter-claim within thirty (30) days of the date of invoice or within such other timeframe as agreed with the Buyer.
6.2. If the Buyer fails to pay any sum due to TEKNOR GERMANY on the due date, the Buyer will be automatically in default and, without prejudice to any other rights, TEKNOR GERMANY will be entitled to:
6.2.1. charge the applicable statutory interest on the payments in default, unless any higher interest rate has been agreed upon. The right to claim any further default-induced loss remains reserved. Claims for interest pursuant to section 353 Commercial Code (*HGB*) shall not be affected.
6.2.2. suspend or terminate any Agreement with the Buyer or suspend any further deliveries to the Buyer; and
6.2.3. appropriate any payment made by the Buyer to such of the Goods (or other Goods delivered under any Agreement) at TEKNOR GERMANY's choice, except if the Buyer explicitly appropriated certain payments to specific Goods.

7. DELIVERY

- 7.1. Unless otherwise agreed by TEKNOR GERMANY, TEKNOR GERMANY will deliver the Goods to the delivery address shown on the Order or otherwise expressly provided to TEKNOR GERMANY by the Buyer.
7.2. TEKNOR GERMANY will use all reasonable endeavours to ensure that delivery dates are agreed with the Buyer. The Goods may be delivered by TEKNOR GERMANY in advance of the delivery date upon giving reasonable notice to the Buyer.
7.3. The Buyer shall take delivery of the Goods notwithstanding that the quantity so delivered shall be either greater or less than the quantity purchased, provided that:
7.3.1. such discrepancy in quantity shall not exceed ten percent (10%); and
7.3.2. the price paid under Clause 5 shall be adjusted pro rata to the discrepancy.
7.4. If the Buyer fails to give TEKNOR GERMANY adequate delivery instructions or fails to take delivery of the Goods notwithstanding any previous notification by TEKNOR GERMANY, TEKNOR GERMANY will be entitled to:
7.4.1. store the Goods until actual delivery and render an invoice to the Buyer for the full amount of the price plus any additional expenses incurred by TEKNOR GERMANY in handling and storing the Goods; or
7.4.2. mitigate its loss by selling or disposing of the Goods (where possible) and recovering any shortfall in the sale price (agreed with the Buyer) from the Buyer.
7.5. Where TEKNOR GERMANY delivers the Goods then, unless otherwise advised in delivery documentation, all claims for damage or partial loss of Goods in transit must be submitted in writing to both the carrier and TEKNOR GERMANY within seven (7) days of delivery and in the case of non-delivery of the whole consignment claims must be submitted in writing to both the carrier and TEKNOR GERMANY within seven (7) days of the expected delivery date. In the absence of claims within this time limit the Goods shall be deemed to have been properly delivered.
7.6. The Buyer is responsible for providing adequate labour and facilities at the delivery points for unloading the Goods ordered by the Buyer and shall keep TEKNOR GERMANY indemnified against all claims however arising from such unloading operations.

8. RISK AND TITLE TO GOODS

- 8.1. Risk of damage to or loss of any Goods or part or instalment of the Goods will pass to the Buyer:
- 8.1.1. if TEKNOR GERMANY shall deliver the Goods in accordance with Clause 7.1 to a Buyer's delivery address, upon the relevant Goods being delivered at the delivery address shown on the Order or otherwise agreed in writing with TEKNOR GERMANY or, in the event that the Buyer fails to take delivery at such address, at the time delivery is tendered by TEKNOR GERMANY at such address; or
- 8.1.2. if the Buyer is to collect the Goods, upon the relevant Goods being handed out by TEKNOR GERMANY to the Buyer or to the carrier at TEKNOR GERMANY's premises or, in the event that such items are not collected by the Buyer or the carrier on the agreed delivery date, at the time delivery is tendered by TEKNOR GERMANY.
- 8.2. The Buyer will be responsible for insuring the Goods against all commercial risks (including damage by fire and water) to their full value from the time risk passes to the Buyer.
- 8.3. Notwithstanding delivery and passing of risk, the title to any Goods will not pass to the Buyer and will remain at TEKNOR GERMANY until payment in full and in cleared funds of all sums payable by the Buyer to TEKNOR GERMANY in accordance with the Agreement (*Eigentumsvorbehalt*) and, further, until all other outstanding debts arising out of Buyer's business relationship with TEKNOR GERMANY have been completely settled (*Erweiterter Eigentumsvorbehalt*).
- 8.4. In the event the Buyer processes the Goods, TEKNOR GERMANY shall be considered manufacturer within the meaning of section 950 German Civil Code (*BGB*) and shall directly acquire the sole title to the newly produced goods. If the processing involves other materials than TEKNOR GERMANY's Goods, TEKNOR GERMANY shall directly acquire joint title to the newly produced goods in the proportion of the invoice value of the goods delivered by TEKNOR GERMANY to the invoice value of the other materials (*Verlängerter Eigentumsvorbehalt*).
- 8.5. Until the title to the Goods passes to the Buyer, the Buyer may resell or process the Goods subject to the above retention of title in the ordinary course of his business. In this case, the Buyer hereby assigns all his claims arising out of such resale, whether the goods have been processed or not, to TEKNOR GERMANY. TEKNOR GERMANY accepts such assignment. Notwithstanding TEKNOR GERMANY's right to claim direct payment, the Buyer shall be entitled to receive the payment on the assigned claims.
- 8.6. Until the title to the Goods passes to the Buyer or the time at which the Goods are incorporated with other goods, the Buyer will hold the goods separate from those of the Buyer and properly stored, protected, insured and identified as TEKNOR GERMANY's property.
- 8.7. Until such time as title in the Goods passes, and provided that the Goods have not been resold or incorporated with other goods, TEKNOR GERMANY reserves the right to require the Buyer to deliver up the Goods and, if the Buyer fails to do so, TEKNOR GERMANY or its agents shall have the right to enter any premises where it reasonably believes any item of the Goods to be located, for the purpose of recovering and taking possession of the Goods.

9. BUYER OBLIGATIONS

- 9.1. The Buyer undertakes at all times to comply in the storage, use and sale of the Goods with Relevant Laws and recommended health and safety guidelines in force at any time and with any requirements of TEKNOR GERMANY from time to time and not to sell or use any Goods after the end of the usable life of the Goods.
- 9.2. The Buyer acknowledges that irrespective of whether the Buyer's packaging or labels are to be applied to the Goods that TEKNOR GERMANY reserves the right to apply its own identification/coding to Goods in such a way as to ensure full trace ability. The Buyer undertakes to maintain a system and complete records for tracing the Goods, which it purchases from TEKNOR GERMANY and shall make them available to TEKNOR GERMANY, upon reasonable request, to enable TEKNOR GERMANY to investigate any claim in respect of the Goods.

10. WARRANTIES AND LIMITATION OF LIABILITY

- 10.1. Subject to Clauses 10.2 and 10.3 below, the Goods shall be delivered by TEKNOR GERMANY in accordance with the quality characteristics as agreed in writing with the Buyer. Due to the nature of the Goods and the fact that they may be incorporated with other goods or have other processes applied to them by the Buyer or may be subject to conditions which TEKNOR GERMANY cannot reflect in its own laboratory, TEKNOR GERMANY cannot include further express warranties in these Conditions. In particular, TEKNOR GERMANY cannot warrant the Goods as being fit for a particular purpose.
- 10.2. TEKNOR GERMANY will not accept any claim in respect of a breach of warranty under sub-Clause 10.1 unless:
- 10.2.1. the Buyer has notified TEKNOR GERMANY of any alleged defect in the quality or condition of the Goods in writing immediately upon delivery or, where the defect was not apparent on reasonable inspection, within seven (7) days of it becoming apparent, but in no event later than six (6) months from the date of delivery of the Goods; and
- 10.2.2. the Buyer has provided sufficient detail of the alleged defect and the relevant Goods and, if requested by TEKNOR GERMANY, a sample of the defective Goods to enable TEKNOR GERMANY to investigate and deal with the matter fully.
- 10.3. TEKNOR GERMANY will be under no liability in respect of any defect in the Goods arising from any specification/product data sheets or amendments to TEKNOR GERMANY's typical product data sheets, packaging, designs or materials supplied by or requested by the Buyer or arising from any negligence of the Buyer, misuse or alteration of the Goods, abnormal storage conditions or failure to follow any instructions of TEKNOR GERMANY.
- 10.4. Where any valid claim is made in respect of any breach of the warranty in Clause 10.1 and notified to TEKNOR GERMANY in accordance with Clause 10.2 then, subject to Clauses 10.2 and 10.3, TEKNOR GERMANY will at its sole discretion

and within a reasonable time after receiving such notice refund to the Buyer the amount paid for the defective Goods or part of the Goods. Where the Goods are delivered in bulk or by instalment(s), TEKNOR GERMANY will only be liable to refund the part of the bulk or instalment(s), which is defective.

11. LIMITATIONS

- 11.1. Save as expressly provided in these Conditions, all conditions, warranties and representations, express or implied by statute, law or otherwise in relation to the Goods and in relation to any delivery of Goods to be made by TEKNOR GERMANY are excluded to the fullest extent permitted by law.
- 11.2. Except as set out in Clause 11.3 below, TEKNOR GERMANY shall not be liable for any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of TEKNOR GERMANY, its employees or agents or otherwise) which arise out of or in connection with the delivery of the Goods to the Buyer or their use or sale by the Buyer.
- 11.3. These limitations shall not apply in the cases of statutory liability pursuant to the German Product Liability Act (*ProdHaftG*) or injury of life, body or health. In case of a violation due to intent (*Vorsatz*) or gross negligence (*grobe Fahrlässigkeit*) of any material obligations under the Agreement, TEKNOR GERMANY's liability shall be limited to damages typically foreseeable for this type of agreement. Material obligations are any duties that must be fulfilled to allow due performance of the Agreement and upon the fulfilment of which the Buyer relies on or may rely on.
- 11.4. In an event of force majeure (including but not limited to acts of nature, war, terrorist attacks, labor disputes, shortages of raw materials or energy, transport and plant stoppages, fire or explosion, acts or orders of governmental authorities and other events beyond the control of TEKNOR GERMANY including events affecting TEKNOR GERMANY's suppliers), TEKNOR GERMANY shall be relieved for the period of the force majeure event and to the extent of its impact from the obligations under the Agreement. In such events, TEKNOR GERMANY is not obliged to procure goods from other sources. If the performance is delayed by more than 3 months due to an event of force majeure, TEKNOR GERMANY may withdraw from the Agreement without the Buyer having any right to claim compensation.

12. INDEMNITY

The Buyer shall indemnify and keep indemnified TEKNOR GERMANY against all claims, liability, damage, loss, injury, costs or expenses arising directly or indirectly from the sale or use of the Goods by the Buyer or others.

13. EXPORT TERMS

- 13.1. Where Goods are delivered by TEKNOR GERMANY for export from Germany, TEKNOR GERMANY will state the basis of the delivery by reference to terms defined in the Incoterms agreed between TEKNOR GERMANY and the Buyer.
- 13.2. Subject to any terms which TEKNOR GERMANY may state as applying by reference to the Incoterms and subject to any special terms agreed in writing between the Buyer and TEKNOR GERMANY, the provisions of these Conditions shall apply to the sale of Goods by TEKNOR GERMANY for export.
- 13.3. 12.3 The Buyer shall be responsible for complying with any Relevant Laws governing the importation of the Goods into any country and for the payment of any duties, taxes or levies on the Goods.

14. TERMINATION/CANCELLATION BY TEKNOR GERMANY

- 14.1. TEKNOR GERMANY shall be entitled to cancel an Order/terminate any Agreement immediately on notice in writing (irrespective of whether the Goods have been delivered) if:
- 14.1.1. the Buyer commits any material or persistent breach of any terms of the Agreement; or
- 14.1.2. the Buyer commits any minor breach which, if it is capable of remedy, it fails to remedy within 30 days of being required in writing to do so; or
- 14.1.3. if the Buyer ceases to trade, disposes of the whole or a substantial part of its assets, makes or proposes to make any voluntary arrangement or composition with its creditors or any bankruptcy proceeding is instituted by or against the Buyer or the Buyer goes into liquidation or has a resolution passed for its winding up or becomes insolvent within the meaning of any system of law having jurisdiction over it; or
- 14.1.4. if the Buyer has a receiver or administrative receiver appointed over the whole or any part of its assets; or
- 14.1.5. if TEKNOR GERMANY reasonably apprehends that any of the events set out in Clause 13.1.3 or Clause 13.1.4 is about to occur in relation to the Buyer and notifies the Buyer accordingly.
- 14.2. TEKNOR GERMANY shall be entitled to cancel an Order/terminate any Agreement in giving reasonable notice if it is unable to fulfil the Order due to any circumstance beyond its reasonable control as referred to in Clause 10.8.
- 14.3. On termination, without prejudice to any other right or remedy available to TEKNOR GERMANY, TEKNOR GERMANY shall be entitled to:
- 14.3.1. cancel or suspend any further deliveries under any Agreement without any liability to the Buyer;
- 14.3.2. demand immediate payment of any Goods which have been delivered but not paid for notwithstanding any previous Agreement or arrangement to the contrary; resell/repurpose/use any Goods which were ordered by or made up for the Buyer or specifically ordered by TEKNOR GERMANY to meet the Buyer's ongoing orders.
- 14.3.3. Termination of the Agreement shall be without prejudice to the rights or obligations of the parties arising prior to termination.

15. GENERAL

- 15.1. Any notice to be given by the Buyer under Clauses 7.5 or 10.2 or any claim to be

made by the Buyer must be in writing and sent to TEKNOR GERMANY to the address showing in the Order or such other address notified to the Buyer in writing by TEKNOR GERMANY, either by courier (with proof of delivery) or fax. Any other notice to be given under the Agreement must be in writing and sent to the recipient either by courier (with proof of delivery), fax, or prepaid registered mail (with return receipt requested) to the address showing in the Order or any other address notified in writing by the recipient from time to time and referring to the Agreement.

- 15.2. TEKNOR GERMANY is entitled to assign its rights and obligations under the Agreement or to sub-contract the performance of its duties under the Agreement without the Buyer's consent. The rights granted to the Buyer under the Agreement are personal to the Buyer and may not be assigned without TEKNOR GERMANY's written consent.
- 15.3. These Conditions when read in conjunction with an Order contain the entire Agreement between TEKNOR GERMANY and the Buyer and no other terms or conditions, representations, promises or understandings form any part of that Agreement, unless expressly agreed otherwise between the parties.
- 15.4. The waiver or forbearance or failure of either party in insisting in any one or more instances on the performance of any provisions of the Agreement shall not be construed as a waiver or relinquishment of that party's rights in respect of any continued default or any future non-performance of that or any other provision.
- 15.5. These Conditions and any Agreement to which they apply are governed by and

shall be interpreted and construed in accordance with the laws of the Federal Republic of Germany, excluding principles of conflict of laws. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.

- 15.6. Any suits, actions or proceedings that may be instituted by any party shall be initiated exclusively before the competent court in Ansbach, Germany. If TEKNOR GERMANY is acting as the claiming party, TEKNOR GERMANY may, at its discretion, initiate proceedings in a court that has jurisdiction other than under this provision. Except for claims set out in Clause 11.3, damage claims shall become statute-barred within one year from the beginning of the statutory limitation period.
- 15.7. If any terms of these Conditions or any Agreement to which they apply are held to be illegal or unenforceable, in whole or in part, under any Relevant Law, such terms shall to that extent be deemed not to form part of the Agreement but the enforceability of the remainder of the Agreement shall not be affected. Any term held to be illegal or unenforceable shall be reformed to a term satisfying the legal and economic intent of the original term to the maximum extent permitted by law.

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