

General Terms and Conditions for installation, commissioning, maintenance or similar services of KTI Plersch-Kältetechnik GmbH

If we undertake installation, commissioning, maintenance or similar services, the following General Terms and Conditions of Installation (GTC) shall apply:

I. Scope of application, form

1. These General Terms and Conditions of Installation (GTC) shall apply to all our business relationships with our customers ("Purchasers") if they are entrepreneurs (Section 14 of the German Civil Code (BGB)), a legal entity under public law or a special fund under public law.
2. Unless otherwise agreed, the GTC shall apply in the version valid at the time of the Customer's order or in any case in the version last communicated to him in text form as a framework agreement also for similar future contracts, without us having to refer to them again in each individual case. In the absence of a special agreement, a contract is concluded with our written order confirmation.
3. Our General Terms and Conditions apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the customer shall only become part of the contract if and insofar as we have expressly agreed to their validity. This requirement of consent shall apply in any case, even if we perform the service for the customer without reservation in the knowledge that the customer's terms and conditions conflict with or deviate from our GTC.
4. Individual agreements and information in our order confirmation shall take precedence over the GTC.
5. Legally relevant declarations and notifications of the customer with regard to the contract (e.g. setting of deadlines, notification of defects, withdrawal or reduction) must be made in writing. Written form within the meaning of these GTC includes written and text form (e.g. letter, e-mail, fax). Statutory formal requirements and further evidence, in particular in the event of doubts about the legitimacy of the declaring party, shall remain unaffected. Verbal collateral agreements and assurances by our employees and

representatives require our written confirmation to be legally effective.

6. References to the validity of statutory provisions are for clarification purposes only. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these General Terms and Conditions.
7. If the work to be carried out is part of a supply contract, our General Terms and Conditions of Sale and Delivery shall also apply in full. In the event of conflicting provisions, the provisions of these General Terms and Conditions of Installation shall apply.

II. Obligations of the customer prior to assembly

1. If partial deliveries are obviously damaged or the delivery is not complete, the customer must inform us of this no later than one working day after delivery of the item so that remedial action can be taken before the arrival of the fitters if possible. The delivered parts must be stored dry and protected from the effects of the weather and from damage by third parties.
2. The customer must inform us in writing at least five working days before the agreed date whether assembly is possible on the agreed dates. If he does not comply with this obligation to cooperate and the installation is therefore not possible, the risk of accidental loss shall pass to the customer upon handover. The customer shall bear any costs incurred as a result of his failure to comply with the obligation under this clause for which he is responsible.

III. Place of performance, transfer of risk

The place of performance in the case of agreed assembly and commissioning is the place where the service is to be performed. The risk of accidental loss shall pass to the customer upon completion of installation and commissioning.

IV. Obligations of the customer during assembly

The customer must ensure that installation is possible on the agreed date, in particular that the necessary preparatory work such as masonry, plastering, caulking and flooring work has been completed and that the floor is sufficiently load-bearing. He must also ensure that 2-3 employees support our service technician during commissioning.

V. Supervision of installation and commissioning

For the duration of the installation and commissioning, a service technician from us will be on site for the days offered/estimated. Additional working and waiting times will be charged to the customer at the applicable daily rates. The machine containers, the supply of ice or ice/cold water to the mixing plant must be carried out by the customer under the supervision of our service technician.

VI. Service and maintenance, training of operating personnel, start of contract

1. Service and maintenance of the customer's plant shall be ensured by our service engineers in Germany, Dubai and Saudi Arabia as well as Brazil. The operating personnel will be trained during the commissioning of the system.
2. In addition, the system should be serviced regularly by our service engineers. Spare parts are available from our warehouses in Germany, Dubai, Saudi Arabia and Brazil.
3. A rectification of the system fault cannot be guaranteed. The service is intended to support troubleshooting and does not mean permanent monitoring by us. There is no entitlement to availability around the clock.
4. The maintenance contract applies on the date specified in the order confirmation, soonest when the system is commissioned.

VII. Pricing

1. If an installation is not carried out as a lump sum but on a time and material basis, the installation work shall be invoiced at the applicable daily rates plus costs for outward and return flights, accommodation and meals, transfer of our personnel, freight, provision of equipment, etc. Our current assembly price guidelines apply.

2. All prices are exclusive of taxes and fees.
3. Invoice amounts are to be paid within 14 days without deduction, unless otherwise agreed in writing. The complete receipt of payment on our account is decisive. If the customer is in arrears with his payment obligations, he shall pay interest on arrears at a rate of 9 percentage points above the respective base interest rate on the outstanding invoice amount. We reserve the right to claim higher damages caused by default.

VIII. Documentation / Localization

1. The documentation in German or English contains operating and maintenance instructions as well as parts lists and drawings of the system. One copy of the documentation shall be provided in paper form and a further copy in digital form (CD-Rom).
2. The user guidance via the touch panel is available in German and English and can be switched at any time.
3. We reserve the right to samples, cost estimates, drawings and similar. We reserve ownership rights and copyrights to samples, cost estimates, drawings and similar information of a physical and non-physical nature - including in electronic form; they may not be made accessible to third parties. In return, we undertake to make information and documents designated as confidential by the customer accessible to third parties only with the customer's consent.

IX. Acceptance, lack of acceptance

1. The customer is obliged to accept the work as soon as he has been notified of its completion and any contractually agreed testing of the work carried out has taken place. If there is no significant defect, the customer may not refuse acceptance.
2. It is equivalent to acceptance if the customer does not accept the installation work within a period of 10 working days, although he is obliged to do so. From the time of acceptance, there shall be no claims for defects against the Contractor under Section 634 Nos. 1 - 3 BGB with regard to known defects, unless the Customer reserves its rights with regard to this defect at the time of acceptance.

X. Defect claims of the customer, warranty, limitation period

1. The statutory provisions shall apply to the rights of the customer in the event of material defects and defects of title, unless otherwise specified below. In all cases, the rights of the customer arising from separately stated guarantees, in particular on the part of the manufacturer, shall remain unaffected.
2. After acceptance of the service, we shall be liable for defects by remedying them. The customer must notify us in writing of any defect discovered immediately, at the latest within 5 working days of its discovery.
3. In urgent cases, e.g. if operational safety is jeopardized or to prevent disproportionate damage, the customer shall have the right to remedy the defect himself and to demand compensation from us for the expenses objectively necessary for this purpose. We must be notified immediately, if possible in advance, of any such self-remedy. The right of self-remedy does not exist if we would be entitled to refuse a corresponding subsequent performance in accordance with the statutory provisions. If the customer or a third party carries out repairs improperly, we shall not be liable for any resulting damage. The same applies to changes made to the delivery item without our prior consent.
4. We shall not assume any warranty if the defect is insignificant for the interests of the customer or is based on a circumstance for which the customer is responsible (in particular: unsuitable or improper use, faulty assembly or commissioning by the customer or third parties, natural wear and tear, faulty or negligent handling, improper maintenance, unsuitable operating materials, defective construction work, unsuitable building ground, chemical, electrochemical or electrical influences - unless we are responsible for them).
5. The customer must give us the time and opportunity required for the subsequent performance owed. Otherwise, we shall be released from liability for the resulting consequences.
6. Of the direct costs arising from the rectification of defects, we shall bear the costs of the replacement/spare part, including its shipment, insofar as the complaint proves to be justified. In addition, we shall bear the costs of removal and installation as well as the personnel costs, including travel costs, insofar as this does not result in a disproportionate burden for us.

7. If the customer has made a claim against us on the basis of alleged defect rights and it turns out that either there is no defect or the asserted defect is based on a circumstance that does not oblige us to provide a warranty, the customer shall reimburse us for all costs incurred in connection with the examination of the notice of defect or subsequent performance, unless the customer is not responsible for our unjustified claim.
8. If a reasonable deadline to be set by the customer for subsequent performance has expired without success or is dispensable according to the statutory provisions, the customer may withdraw from the contract or reduce the price in accordance with the statutory provisions. In the case of an insignificant defect, however, there is no right of withdrawal.
9. The limitation period for claims of the customer, irrespective of the legal grounds, is one year. The period shall begin upon acceptance.

XI. Liability

1. Unless otherwise stated in these GTC including the following provisions, we shall be liable in the event of a breach of contractual and non-contractual obligations in accordance with the statutory provisions.
2. We shall be liable for damages - irrespective of the legal grounds - within the scope of fault-based liability in the event of intent and gross negligence. In the event of simple negligence, we shall be liable, subject to statutory limitations of liability (e.g. care in our own affairs; insignificant breach of duty), only
 - a. for damages resulting from injury to life, body or health,
 - b. for damages arising from the breach of an essential contractual obligation (obligation whose fulfillment is essential for the proper execution of the contract and on whose compliance the contractual partner regularly relies and may rely); in this case, however, our liability is limited to compensation for the foreseeable, typically occurring damage.
3. The limitations of liability resulting from the above clause 2 shall also apply to third parties and in the event of breaches of duty by persons (including in their favor) whose fault we are responsible for in accordance with statutory provisions. They shall not apply if a defect has been fraudulently concealed or a guarantee has been given for the quality of the goods

and for claims of the customer under the Product Liability Act.

4. The customer may only withdraw from or terminate the contract due to a breach of duty that does not consist of a defect if we are responsible for the breach of duty. A free right of termination of the customer (in particular according to §§ 650, 648 BGB) is excluded. In all other respects, the statutory requirements and legal consequences shall apply.
5. Unless otherwise agreed above, liability is excluded.

XII. Retention of title

1. Accessories, replacement or spare parts supplied, installed or used by us shall remain our property until full payment of our claim arising from the respective contract.
2. In the event of breach of contract by the customer, in particular in the event of default in payment, we shall be entitled to reclaim the accessories, replacement or spare parts used after a reminder. The customer is obliged to surrender them. The demand for return does not at the same time include the declaration of withdrawal; we are rather entitled to merely demand the return of the goods and reserve the right to withdraw from the contract.
3. The right of lien may also be asserted for claims arising from work already performed and spare parts deliveries made earlier, insofar as they are connected with the assembly item. The right of lien shall only apply to other claims arising from the business relationship insofar as these are legally binding or undisputed.
4. For the duration of the retention of title, the customer must inform us immediately in writing if a third party asserts claims or rights to the item subject to retention of title.
5. If the retention of title agreed in this Section VI is not permissible with the same effect as under German law in the case of installations, etc., abroad, the goods shall remain our property until all claims arising from the contractual relationship have been paid. If this retention of title is also not permissible with the same effect as under German law, we may reserve and exercise other rights to the goods. The customer is obliged to cooperate in measures that enable the enforcement of our property rights.

XIII. Choice of law, place of jurisdiction, written form and severability clause

1. The law of the Federal Republic of Germany shall apply to these GTC and the contractual relationship between us and the customer, to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.
2. If the customer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive - also international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be our registered office in 88481 Balzheim.

The same shall apply if the customer is an entrepreneur within the meaning of § 14 BGB.

However, in all cases we shall also be entitled to bring an action at the place of performance in accordance with these GTC or an overriding individual agreement or at the general place of jurisdiction of the customer. Overriding statutory provisions, in particular regarding exclusive jurisdiction, shall remain unaffected.

3. Collateral agreements, reservations, amendments and supplements require our written confirmation in order to be valid.
4. Should a provision of these GTC or a provision within the framework of other agreements relating to the order be or become invalid, this shall not affect the validity of the remaining provisions and agreements.

Balzheim in October 2024