

GENERAL TERMS AND CONDITIONS OF TELEO DESIGN PTY LTD

- 1 Scope**
- 1.1 The following General Terms and Conditions (GTC) clearly regulate the mutual relationship between Teleo Design Pty Ltd (hereafter referred as "TELEO") and the customer (hereafter referred to as "Customer").
- 1.2 These GTCs apply to all deliveries and performances of TELEO, even in the case where TELEO no longer refers to these GTCs when accepting individual orders. Unless other provisions are agreed upon in writing.
- 1.3 All stipulations and relevant explanations between the contractual parties must be in writing in order to be valid. All changed, amendments or verbal agreements must be acknowledged by TELEO in writing.
- 1.4 If permissible based on the status of the work being performed, TELEO may approve the cancellation or modification of a confirmed order by means of a written statement. The costs that arise as a result of a cancellation or modification of an order shall be borne by the Customer.
- 1.5 Diverging conditions on the part of the Customer, which TELEO has not acknowledged in writing, shall not be binding to TELEO, even if TELEO does not expressly challenge these conditions.
- 2 Proposals, information in documents, and entering into a contract**
- 2.1 All of the information and pricing in the TELEO proposals submitted to the Customer shall be non-binding until confirmation of the order by TELEO.
- 2.2 Verbal offers are non-binding and require the written confirmation of TELEO.
- 2.3 Descriptions of services and product information in brochures, catalogs and other printed materials are non-binding.
- 2.4 The contract between TELEO and the Customer shall be considered if after receipt of a purchase order, TELEO has confirmed its acceptance in writing to the Customer and the Customer has not immediately challenged the confirmation in writing. The confirmation of order shall stipulate the scope and performance of deliveries and services.
- 3 Performance of deliveries and services**
- 3.1 TELEO provides engineering services and products in the mining and manufacturing industry.
- 3.2 The information contained in the confirmation regarding dates, deadlines and duration of service and deliveries merely provide reference values, and do not constitute fixed due dates or other fixed information.
- 3.3 Quantities and quality are determined in accordance with TELEO standard in effect at the time of entering into contract.
- 3.4 TELEO makes every effort to comply with the agreed delivery quantities. However, the delivery obligations are subject to the provision that TELEO receives its own deliveries and that they are received as stipulated.
- 3.5 The term of delivery shall begin as soon as the contract has been concluded and the stipulated information, any official formalities or advance payments have been provided.
- 3.6 The time at which the deliveries have been dispatched from the plan shall be the decisive factor for compliance with delivery dates and deadlines. They shall be considered complied with if the goods have been declared as ready for dispatch.
- 3.7 The delivery date shall be approximately extended in the event of obstacles, such as in instance of force majeure, official or governmental matters, disruption of operations, strikes, lockouts, shortages in raw materials or suppliers or other unforeseen circumstances which TELEO is unable to avoid despite using due diligence and which impacts TELEO itself or a sub-supplier. The same shall apply if the Customer is in default on the fulfillment of its contractual obligations.
- 3.8 If the execution of significant portions of the contract is delayed by more than six months, TELEO or the customer may request that the contract be cancelled.
- 3.9 TELEO may over supply or under supply the purchase order quantity by up to 5%.
- 3.10 The Customer is obligated to accept the goods within the time stipulated.
- 4 Quality Control**
- 4.1 The goods are checked in the factory before they are dispatched by way of random sampling on a scale that is standard in the industry. If the purchase order requires that more in-depth inspection be carried out, the additional cost shall be borne by the Customer.
- 4.2 The TELEO methods of analysis and results shall be decisive.
- 4.3 All TELEO products are manufactured according to TELEO standard guidelines and specifications and are binding, unless otherwise stipulated in writing.
- 5 Tools and Information**
- 5.1 The following are considered tools: Manufacturing tools, devices, gauges, test equipment, etc. Which is specific to an order or product.
- 5.2 The tools used for the manufacturing the products being delivered shall always remain the property of the seller, even if the buyer bears part or all of the manufacturing cost.
- 6 Pricing and Cost**
- 6.1 All pricing is quoted as net, in Australian Dollar excluding Goods and Services Tax (GST), without discounts, unless otherwise stipulated in writing.
- 6.2 The prices and conditions at the time of entering into the contract shall apply. TELEO reserves the right to make a price adjustment in the event that taxes or other external costs, which are included in the stipulated price, should change between the time of the offer and the dispatch of products in accordance with the contract.
- 6.3 The prices for the delivery are quoted as ex works plus the cost of freight, packing and the cost of transport insurance, unless otherwise stipulated in writing.
- 6.4 Services are billed on the basis of time spent, including travel time to site. Costs that accrue as a result of a change in scope and content of the performances, from additional requests or as a result of errors or delays on the part of the Customer, will be billed separately. The same shall apply for out-of-pocket expenses and other incidental expenses.
- 7 Payment conditions**
- 7.1 The term of payment is 14 days net after the date of the invoice, unless approved otherwise. The term of payment must also be complied with if the rendering of services or the transport, delivery, installation, start-up or acceptance of delivery of the product is delayed or impossible due to reasons beyond the control of TELEO.
- 7.2 If no notification is received from the Customer, an invoice is considered accepted upon expiration of the term of payment. Payments may not be reduced or held back due to complaints. Upon expiration of this term of payment, the Customer shall be in default without any additional reminder.
- 7.3 The Customer shall owe TELEO default interest in the event of a default payment. Interest is payable on all overdue accounts calculated on a daily basis at the rate of 1.5% per month as from the date due for payment until full payment is received by TELEO. Payment of default interest does not cancel the obligation to make payment in accordance with the contract. Collection charges will be invoiced additionally.
- 7.5 If the Customer is in default of payment for performance already carried out, TELEO shall have the right to renounce the portion of the contract not yet fulfilled via written statement and without setting a grace period, and to cancel all of the orders already confirmed but not yet carried out. The Customer must compensate TELEO in full for any damages that arise as a result.
- 7.6 Payment of remuneration for performance carried out may not be denied for any reason. Settling off payments owed using counterclaims of the Customer shall require the prior written consent of TELEO.
- 7.7 If the buyer does not comply with the payment conditions or if he is unable to pay, then all outstanding credit balances shall become due regardless of the agreed payment dates and can be demanded by TELEO immediately.
- 8 Transfer of risk upon delivery, shipment or packaging**
- 8.1 Risk shall transfer to the Customer as soon as TELEO has delivered the goods to the forwarding agent, the carrier or any other person designated to carry out shipment, but at the latest when goods leave the factory. From this time forward, the Customer shall bear the risk of loss or damage as well as seizure of the goods.
- 8.2 If shipment is delayed or impossible for reasons beyond the control of TELEO, the shipment shall be stored on behalf of and at risk of the Customer.
- 8.3 TELEO shall only provide transport insurance upon instruction and at the expense of the Customer.
- 8.4 The goods shall be delivered in packages (boxed). In individual cases, packaging shall be determined by TELEO and billed separately to the customer. Goods may not be returned. Packaging that has been designated as the property of TELEO must be sent back to TELEO by the Customer at Customer's expense.
- 9 Force Majeure**
- 9.1 Both contractual parties shall be relieved of the responsibility of partial or complete non-fulfillment of the contractual duties if this non-fulfillment is the result of an impartial force majeure. In these instances, the Customer shall not assert any claims. Events which are considered the result of a force majeure include but not limited to mobilization, war, sabotage, strike, lockout, revolution, governmental measured or disposal, embargo, flood, storm, fire and other fundamental events and all other unforeseeable influences such as restriction of power supply, delayed or faulty delivery of raw materials, machinery or tool breakage experienced by either TELEO or one of its sub-suppliers. Also included among the events constituting a force majeure are difficulties and delays in transport, delayed provision of means of transport, traffic interruptions etc.
- 9.3 The fulfillment of contractual duties is therefore postponed by the period of time during which the specific circumstances or the results caused by such circumstances were in effect. The party responsibly for the delay is not entitled, however, to allude to circumstances of a force majeure for events that of occurred within the period of delay.
- 10 Retention of ownership**
- 10.1 TELEO shall retain the right of ownership to its deliveries until total payment has been received. The Customer hereby authorizes TELEO to independently have the retention of ownership recorded without the Customer's participation.
- 10.2 The Customer shall undertake to cooperate in measured as required by TELEO to protect the property. The Customer shall grant TELEO unrestricted right to have the retention of ownership recorded in the official register at the Customer's registered office.
- 10.3 The processing, alteration or intermixing of the delivered item by the Customer shall not reduce TELEO's retention of ownership. If the delivered item is processed or mixed together with other items that do not belong to TELEO, then TELEO shall acquire co-ownership of the new item in a ratio of the value of the delivered item to the other processed items at the time of processing.
- 10.4 The customer shall store the delivered goods at his expense during the period of retention of ownership and insure them to the benefit of TELEO against theft, fire, lightning strike, water and other fundamental damage. He will also take all measures necessary to ensure that the right of ownership of TELEO is not negatively impacted or canceled.
- 11 Guarantee**
- 11.1 The customer shall inspect the delivery immediately upon receipt and notify TELEO of any defects, also immediately, but at the latest within 7 (seven) days after the receipt of goods in writing and with specific information. The Customer shall promptly notify TELEO in writing of any defects that could not be detected during this period despite the customary inspection and provide specific information about such defects. Otherwise, the goods shall be considered approved.
- 11.2 A defect in the delivery exists if the goods are defective or unusable either in whole or in part due to poor materials, faulty construction or defective manufacturing. A defect also exists if goods other than those ordered or in too small amount are delivered. Defects that originate due to transport are not included here. Recourse (claim to damages) to TELEO shall be excluded in this case.
- 11.3 If a delivery is partially or totally unusable due to faulty qualities, TELEO's warranty shall be limited solely to the replacement of the faulty part of the delivery at no charge in accordance with the agreed delivery term.
- 11.4 TELEO's warranty shall not apply if the rejected parts of the delivery have already been used and/or damaged due to improper handling. Guidelines for proper handling can be obtained from TELEO. These guidelines shall apply even if they are not specially requested.
- 11.5 If the delivery is verifiably affected with a defect in whole or in part, the Customer shall be entitled to request supplementary performance. TELEO can at its own discretion either remedy the defect or offer to supply goods that are free of defects. If a different product or insufficient quantity of a product has been delivered, a supplementary performance can only be in the form of delivery of a product that is free of defects. If a product that is free of defects is delivered, the Customer shall be obligated to release the product that is afflicted with a defect to TELEO.
- 11.6 If the supplementary performance is also unsuccessful, the Customer shall be entitled to a price reduction or after setting a suitable time limit, which is not adhered to, to withdraw from the contract. Withdrawal shall not be an option if the defect is insignificant. The right to withdraw shall also be excluded if the interim goods are damaged or destroyed and the Customer did not observe the type of care that he is accustomed to using in his own affairs with respect to the goods.
- 11.7 These rights shall not apply if the customer does not give TELEO the opportunity to become fully convinced of the defect immediately after pointing out the defect.
- 11.8 Further claims or other warranty claims on the part of the Customer, in particular claims for damages, shall be excluded.
- 12 General restriction of liability, statute of limitations**
- 12.1 In the event of a breach of contractual obligations or obligations outside of the contract, TELEO shall only be liable to the extent legally permissible in cases of intent or gross negligence.
- 12.2 Liability for damages which the Customer may experience from using the services or products shall be excluded to the extent legally permissible. This includes also indirect and consequential damages.
- 12.3 Liability for damages to the delivery that occur due to or during transport shall be excluded.
- 12.4 The contractual claims of the Customer against TELEO in connection with the provision of a service or delivery shall fall under that statute of limitations after six months from the time of rendering the service or from delivery of the product at the Customer's location.
- 13 Violation of property rights**
- 13.1 It is not the responsibility of TELEO to clarify whether any materials described or ordered by the Customer are apt to lead to a violation of patent, registered design or any other industrial property rights due to the material composition, description or due to any specific further processing or usage. The Customer alone is liable in these cases.
- 14 Indemnity**
- 14.1 If third parties are injured or the property of third parties is damaged due to actions or omissions of the Customer or his assistants, and if a claim is made against TELEO in this matter, then TELEO shall be entitled to a right of recourse against the Customer.
- 15 Place of fulfilment, place of jurisdiction, applicable law**
- 15.1 The place of fulfillment for deliveries is the plant at the registered office of TELEO.
- 15.2 The courts of general jurisdiction shall be responsible for all disputes arising from or in connection with these GTCs. The registered office of TELEO shall be the sole place of jurisdiction. TELEO shall be authorized, however, to file a complaint at the registered office/residence of the Customer.
- 15.3 The agreement entered into between TELEO and the Customer as well as these GTCs shall be subject to Australian law, to the exclusion of the UN convention on contracts for the International Sale of Goods dated 11 April, 1980 and the Hague Conventions relating to a Uniform Law on the International Sale of Goods dated 15 June, 1955.
- 16 Other Provisions**
- 16.1 In the event that parts of the contract between TELEO and the Customer or these GTCs shall prove to be null and void or ineffective, the obligations of the respective other provisions shall remain unaffected. Provisions that most closely resemble the business intent of the original provisions shall replace null and void or ineffective provisions.