

GENERAL TERMS AND CONDITIONS

Article 1: Definitions

The following definitions are applied in these General Terms and Conditions:

- 1.1 BoTemp: BoTemp B.V., with its corporate seat in Rijen in the Netherlands.
- 1.2 Purchaser: The natural person or legal entity to whom BoTemp addresses the quote and/or the order confirmation.
- 1.3 Agreement: the purchase agreement, development agreement, installation agreement, reparation agreement and/or maintenance agreement between BoTemp and the Purchaser which has come into effect in accordance with Article 3 of these General Terms and Conditions.
- 1.4 Quote: an oral and/or written description with a quotation for the climate product, the materials, the options and/or the accessories, the spare parts, the installation work, repair and maintenance activities or a combination thereof, addressed to the Purchaser.
- 1.5 Climate product: the product supplied by BoTemp on the basis of the Agreement, such as cooling and heating.
- 1.6 Installation: the work activities required to connect the climate product, the materials, the options and/or the accessories to the object to be cooled or to place these at the designated location.
- 1.7 Service and maintenance: work performed on the climate product, which is required for the safety and the undisturbed functioning of the product, in accordance with the guidelines of the manufacturer.
- 1.8 End User: the natural person or legal entity who is the first to effectively put into use the climate product.

Article 2: Applicability

- 2.1 These General Terms and Conditions are applicable to each Agreement and every quote of BoTemp. BoTemp expressly rejects the applicability of the general terms and conditions of the Purchaser unless BoTemp has approved the general terms and conditions of the Purchaser in written.
- 2.2 A deviation from these General Terms and Conditions is possible only by means of a written statement signed by both BoTemp and the Purchaser. If provisions in the order confirmation are in violation with these General Terms and Conditions, the order confirmation shall prevail.
- 2.3 If any provision of these General Terms and Conditions is void or voided, the other provisions will remain fully in force.

- 2.4 The Purchaser with whom an Agreement is entered into on the basis of these General Terms and Conditions also agrees to their applicability to any subsequent agreements.

Article 3: Quotes and coming into effect of the Agreement

- 3.1 Each quote is subject to contract. BoTemp bases the quote on implementation of the Agreement under normal circumstances and during normal working hours.
- 3.2 The validity of a quote is at most 60 days as of the date of the quote, and will lapse automatically if the quote has not been accepted within that term.
- 3.3 If the Purchaser supplies data, drawings, models etc. to BoTemp, BoTemp may assume the data is correct and will base its quote and/or its order confirmation on the information supplied without any further investigation.
- 3.4 The Agreement will enter into effect as soon as BoTemp has sent the order confirmation to the Purchaser and the Purchaser has returned a signed duplicate, or by means of commencement of the work by BoTemp.
- 3.5 BoTemp is entitled to terminate the Agreement without observing a notice period and without court intervention if the Purchaser has supplied incorrect data or if information of the Purchaser is disclosed which, had this information been known upon entering into the Agreement, would have resulted in refusal to enter into an Agreement.
- 3.6 BoTemp reserves the right, if the circumstance as referred to in Article 3.5 occurs, to charge any costs already incurred to the Purchaser.

Article 4: Contents of the Agreement

- 4.1 The contents of the Agreement consist of the data as stated in the order confirmation and these General Terms and Conditions. The order confirmation contains at least a specification of the climate product, the materials, the options and/or the accessories to be delivered, the expected date of delivery, the place of delivery and the price. All prices are exclusive of additional work, transport costs, packaging costs, transportation, insurance, VAT and any other levies imposed by the government.
- 4.2 If it is agreed that the climate product, the materials, the options and/or the accessories are, in addition to being delivered, also to be installed, the order confirmation will confirm this.
- 4.3 The climate product, the materials, the options and/or the accessories included in the maintenance agreement, as well as the number of inspections per year and the number of hours of use to which the maintenance pertains, will be recorded and specified in the maintenance contract. Maintenance includes periodical inspections and repairs, as well as replacement of parts,

lubricants and substances. Maintenance does not include repairs as a result of oxidation or damage.

- 4.4 BoTemp is entitled to charge for extra work in the event that more work has been performed for the Purchaser than originally agreed upon, including waiting periods for the mechanics. The extra work will be invoiced against the current overtime rate or hourly rate or the prices for the materials used.
- 4.5 BoTemp is entitled to amend the Agreement as regards technical specifications, delivery time and installation work of the climate product, the materials, the options and/or the accessories. BoTemp is also entitled to pass on in full to the Purchaser changes in labor costs, cost of materials and costs with regard to the work. These changes, as well as the extra work referred to in Article 4.4, do not entitle the Purchaser to terminate the Agreement.
- 4.6 The Purchaser indemnifies BoTemp against any claim of third parties with regard to the use of data, drawings, calculations, drafts, specifications, materials, samples, designs, purpose of use, etc. supplied by or on behalf of the Purchaser.

Article 5: Payment

- 5.1 The Purchaser shall pay the invoice amount in full without deduction or set-off within 14 days of the invoice date (the term of payment), unless a different term has been stated or confirmed in writing by BoTemp.
- 5.2 If the Purchaser does not pay within the payment term stated in Article 5.1, the Purchaser will be in default by operation of law and BoTemp will reserve the right, without notice of default being required, to charge interest of 1% per month over the unpaid amount and to take judicial or extrajudicial collection measures. The judicial and extrajudicial costs are determined to be 10% of the unpaid amount and are at the expense of the Purchaser, without prejudice to the right of BoTemp to collect the actual damage and costs from the Purchaser. The amounts referred to in this paragraph are payable immediately.
- 5.3 If the Purchaser is in default, if the bankruptcy of the Purchaser has been petitioned for, if the Purchaser is declared bankrupt, if the Purchaser offers a scheme for meeting liabilities outside bankruptcy or if the Purchaser requests a moratorium, all payment obligations of the Purchaser will become due and payable immediately without notice of default, even if the payment term has not yet expired or if the invoice had not yet been issued. In that event, BoTemp is entitled to cease deliveries and supply of services to the Purchaser immediately.
- 5.4 The Purchaser cannot invoke any right of suspension or set-off.
- 5.5 Payments are deemed as being made to settle the costs due on account of or in connection with the Agreement, and subsequently to settle the interest due and finally any invoice amounts left, whereby the oldest outstanding amount will be settled first.
- 5.6 As long as the Purchaser has not fully complied with its payment obligations towards BoTemp, BoTemp is entitled to suspend its guarantee provisions

and other obligations arising from the Agreement until payment in full has taken place.

Article 6: Delivery and risk

- 6.1 The delivery time will start only when the Agreement has come into effect, if all conditions for the implementation of the Agreement have been met and the Purchaser has complied with its payment obligations.
- 6.2 The delivery date as stated in the Agreement is approximate only and is not a final deadline. BoTemp is not liable for damage as a result of a delivery or execution of services on a later date.
- 6.3 In the event of extra work, the delivery time is extended by the time needed to have the required materials and parts delivered and to execute the extra work.
- 6.4 BoTemp shall inform the Purchaser in writing if the expected delivery date is exceeded by more than four weeks and shall indicate a new expected delivery date. The Purchaser is entitled to terminate the Agreement only if the new delivery date is more than six months later than the original delivery date and BoTemp has not made available a replacement climate product, and the Purchaser has given written notice of default to BoTemp.
- 6.5 If the delay in delivery or work is the result of circumstances not attributable to BoTemp, the right of the Purchaser to terminate the Agreement lapses and no claim can be made against BoTemp to comply with the Agreement.
- 6.6 If the delivery date is exceeded, the Purchaser will not be entitled in any way whatsoever to damages, unless explicitly agreed otherwise. The Purchaser indemnifies BoTemp against any claim of third parties.
- 6.7 The delivery of the climate product, the materials, the options and/or the accessories to the Purchaser shall take place from the workplace of BoTemp at the risk and expense of the Purchaser. Unless agreed to the contrary, BoTemp is entitled to make deliveries cash on delivery.
- 6.8 If the Purchaser does not accept the climate product, the materials, the options and/or the accessories for whichever reason, he is nevertheless obliged to pay the price agreed upon and the risk of loss or damage will pass to the Purchaser. In that case, BoTemp shall put the climate product, the materials, the options and/or the accessories into storage at the expense of the Purchaser. The Purchaser is also liable for damage and/or costs arising from such non-acceptance.
- 6.9 The Purchaser is obliged to insure the climate product, the materials, the options and/or the accessories at its own expense with an insurance company with a good reputation as of the time the risk passes from BoTemp to the Purchaser.
- 6.10 After the actual delivery has taken place, the parties can no longer terminate or nullify the Agreement, except insofar as BoTemp, if so desired, wishes to invoke the right of recovery pursuant to Article 39, Book 7 of the Dutch Civil Code (*Burgerlijk Wetboek*) and claims back the climate product, the materials, the options and/or the accessories from the Purchaser.

- 6.11 The Purchaser shall ensure the timely supply of vehicles or objects destined for repair or assembly at the workplace of BoTemp as agreed upon. If repairs or assembly take place at the Purchaser or third parties, the Purchaser shall, at no charge, arrange for an adequate space and unimpeded access for the mechanics of BoTemp.
- 6.12 If repairs or assembly take place at the Purchaser or at a third party, the Purchaser is liable for damage to, theft of or loss of items of BoTemp, which not only includes the climate product, the materials, the options and/or the accessories to be installed, but also the equipment used for this purpose. The Purchaser shall indemnify BoTemp against any claims of third parties.

Article 7: Maintenance

- 7.1 The Purchaser is obliged to use the climate product; the materials, the options and/or the accessories strictly in accordance with the user manual supplied by BoTemp, and must strictly observe the corresponding inspections.
- 7.2 If circumstances such as the storage or the use of the object or objects included in the maintenance agreement change, BoTemp must be notified in writing within one week. In that event, BoTemp is entitled to adjust the agreed price for maintenance accordingly.
- 7.3 In the event of malfunctioning of the climate product, the materials, the options and/or the accessories, the Purchaser shall notify BoTemp immediately in writing and undertake to do all that is necessary to limit any damage.
- 7.4 If the correct functioning of the climate product, the materials, the options and/or the accessories is disturbed as a result of external causes, external damage, incorrect operation or use, and as a result thereof repairs or replacement of parts is necessary, the costs of repair or replacement are at the expense of the Purchaser. The repair or replacement is not covered by the maintenance agreement.
- 7.5 The inspections and repairs take place in the workplaces of BoTemp or onsite during normal working hours, unless explicitly agreed otherwise. Deviating working hours and additional costs are not covered by the maintenance agreement and will be invoiced to the Purchaser separately. Any transportation of climate products to and from the workplace of BoTemp shall take place at the expense and risk of the Purchaser.
- 7.6 BoTemp will notify the Purchaser in which month the climate product is to be inspected. If the climate product is not offered or made available for inspection to BoTemp in the agreed month, BoTemp is entitled to collect the next inspection, as well as the costs arising from overdue maintenance from the Purchaser.
- 7.7 The maintenance agreement expires by operation of law on the agreed end date.
- 7.8 Early termination by the Purchaser is possible only in the event of total loss, sale of the climate product or theft of the climate product. The Purchaser is

obliged to notify BoTemp of this by means of a registered letter. In that event, the Purchaser is obliged to continue to pay the maintenance price for the climate product until the end of the quarter in which BoTemp was notified.

- 7.9 Early termination by mutual consent is possible with observance of a notice period of two months. In that event, the Purchaser owes BoTemp compensation, due and payable immediately and without notice of default being required, in the amount of 25% of the maintenance price (exclusive of VAT) over the remaining original duration of the maintenance agreement.
- 7.10 If the Purchaser does not comply with its payment obligations during three months, or if the Purchaser has been granted a moratorium, is bankrupt, its company has closed down or is liquidated, BoTemp is entitled to terminate the Agreement immediately, without further notice of default or court intervention. The payments made by the Purchaser are deemed to serve as settlement of the work performed by BoTemp, without prejudice to the right of BoTemp to compensation of costs, damage and interest.

Article 8: Retention of title

- 8.1 BoTemp retains the ownership of the climate product, the materials, the options and/or the accessories, until the Purchaser has complied with all its payment obligations towards BoTemp, including the costs, interest and judicial and extrajudicial collection costs as charged to the Purchaser.
- 8.2 As long as retention of title is vested in a climate product, the materials, the options and/or the accessories, which have been delivered, the Purchaser shall not encumber these.
- 8.3 BoTemp is entitled to retrieve the climate product, the materials, the options and/or the accessories or to have these retrieved from the place where they are located, if the Purchaser is in default or if BoTemp has good grounds to fear that the Purchaser shall not comply with its payment obligations. Unimpeded access to the climate product, the materials, the options and/or the accessories shall be granted to BoTemp.
- 8.4 If assembly of the climate product, the materials, the options and/or the accessories has already taken place, BoTemp is entitled to disassemble them.
- 8.5 The costs of retrieving and/or disassembly are at the expense of the Purchaser.
- 8.6 In the event that the Purchaser, in spite of being obliged thereto, does not cooperate with regard to the provisions of Article 8.4, the Purchaser shall pledge the newly formed item (i.e. including vehicle) in its entirety to BoTemp.

Article 9: Security

- 9.1 The Purchaser is obliged to, at first written request of BoTemp, provide security within five working days by means of establishing a first right of pledge on movable property or claims, or by means of provision of a bank guarantee for the benefit of BoTemp and for the entire invoice amount.
- 9.2 If the Purchaser does not comply with the obligation or does not comply on time, the claims of BoTemp shall become due and payable immediately and BoTemp will be entitled to suspend compliance with its obligations.
- 9.3 If a delay occurs in the delivery through no fault of BoTemp, the Purchaser is obliged to extend the provision of security accordingly.

Article 10: Actual start-up and complaints

- 10.1 The Purchaser shall take care of the start-up. Upon this start-up, a log will be started which will be submitted to the End User. BoTemp will record the number of the climate product in the log and will register the log in the name of the Purchaser.
- 10.2 By submitting the log, it has become an established fact for BoTemp and the Purchaser that the climate product functioned properly on the day of the start-up and that the assembly took place in the correct manner, such that the climate product is ready for use.
- 10.3 The Purchaser is obliged to check immediately after the start-up if the delivery and the services were performed in accordance with the Agreement and to ascertain the correct functioning of the climate product and the correct tuning for use.
- 10.4 Complaints with regard to malfunctioning of the climate product, the materials, the options and/or the accessories must be announced by the Purchaser to BoTemp in writing with specifications immediately after discovery, but at any rate within 24 hours after the start-up. Upon expiry of the term and without notice, the Purchaser is deemed to have approved and accepted the climate product, the materials, the options and/or accessories without any reservation. Defects discovered after the complaints period are at the expense of Purchaser, unless the guarantee provisions apply.
- 10.5 Defects or damage to the climate product, the materials, the options and/or the accessories must be announced to BoTemp within 5 working days after discovery in a written and specified statement. The right to complain lapses upon the non-timely announcement of defects or damage.
- 10.6 If the climate product, the materials, the options and/or the accessories do not function properly, the Purchaser is obliged to limit the damage. The right to complain and the guarantee expire as a result of continued use.
- 10.7 The burden of proof with regard to the improper functioning of the climate product, the materials, the options and/or the accessories, or the alleged careless execution of the work by BoTemp, is on the Purchaser. After submitting a complaint, the Purchaser is obliged to cooperate in any possible way with BoTemp to assess the validity of the complaint. If the complaint is invalid, the costs of the assessment will be at the expense of the Purchaser.

- 10.8 If the Purchaser attaches anything to or changes anything with regard to the climate product, the materials, the options and/or the accessories or has third parties attach or change anything, this shall be at the expense and risk of the Purchaser, even if these changes took place before the start-up. If the functioning of the climate product is influenced as a result, this may lead to the lapsing of the guarantee or the suspension of the maintenance obligation, such at the discretion of BoTemp.
- 10.9 If deemed necessary by BoTemp, BoTemp may take back the climate product, the materials, the options and/or the accessories and replace them. The Purchaser is obliged to extend all cooperation in this respect and is not entitled to terminate the Agreement in that event, nor claim any damages.
- 10.10 BoTemp shall supply a user manual to the Purchaser in the Dutch language. The Purchaser is obliged to comply with the regulations in that manual.

Article 11: Guarantee

- 11.1 BoTemp offers a guarantee on the climate product delivered and services rendered by BoTemp, which have appeared to be defective as a result of faulty design, materials or processing.
- 11.2 BoTemp provides a guarantee only with regard to the climate product delivered and the services rendered by BoTemp. A claim can be made under the guarantee only if the Purchaser has fully complied with its obligations under the Agreement and these General Terms and Conditions and, moreover, the damage must have arisen whilst the climate product was used under normal conditions during ordinary business conditions of the Purchaser and was used in accordance with the user manual.
- 11.3 No claim can be made under the guarantee if the defect was caused by incorrect use, usage different to that which the product was originally meant for, insufficient maintenance, carelessness, and wear and tear or if the maintenance schedules were not followed.
- 11.4 The guarantee period for new climate products is the period of one year after the start-up, unless the manufacturer issues a different guarantee period. In that case, this manufacturer's guarantee period is valid and the guarantee conditions set by the manufacturer are applicable. No guarantee is given on used climate products, unless BoTemp has made other written arrangements in this respect prior to delivery.
- 11.5 The defect must be announced in writing, with specifications, to BoTemp within five working days after discovery. The right under a guarantee expires upon the non-timely announcement of the defect, and at any rate after expiry of the guarantee period.
- 11.6 The guarantee of BoTemp implies that BoTemp shall repair or replace the climate product, the materials, the options and/or the accessories at no extra charge (such at the discretion of BoTemp) up to a maximum of the purchase amount. Costs exceeding that amount and any other costs, such as costs of transport or alternative transport, are at the expense of the Purchaser.

- 11.7 BoTemp determines where and when work under the guarantee takes place.
- 11.8 Only natural persons or legal entities who can provide proof of legal ownership of the climate product are entitled to claim under the guarantee.
- 11.9 Any parts repaired or replaced under the guarantee are guaranteed until the end of the original guarantee period. The original guarantee period will not be extended.
- 11.10 With regard to the installation work, the guarantee of BoTemp pertains exclusively to the sound execution of this work as agreed upon.
- 11.11 Any rights arising from this Article shall lapse if repairs on the climate product are executed or parts are installed or attached by the Purchaser or third parties without prior written consent of BoTemp.

Article 12: Exclusion of liability

- 12.1 The liability of BoTemp is limited to fulfilling obligations under the guarantee.
- 12.2 Except in the event of intent or wilful recklessness, BoTemp excludes any other liability for damage and costs, including, but not limited to, direct trading loss, loss due to delay, business interruption loss, loss of profits, other indirect loss, damage as a result of liability towards third parties and damage which is the result of a defect covered by the guarantee. BoTemp is never liable for loss of cooling agents and lubricants or any consequences thereof. Any environmental damage due to repairs outside the workplace of BoTemp is at the expense and risk of the Purchaser.
- 12.3 If additional materials or services of third parties are required for the functioning of the climate product, the materials, the options and/or accessories, BoTemp cannot be held liable for the improper functioning of these support materials or the improper execution of the support services, or for the damage and costs resulting therefrom. Support services include, amongst other things, connections regarding electricity, Telecom, Internet and radio, and furthermore networks, computers, servers and engaging the services of third parties or third party experts. In the event that the Purchaser holds the supplier of the support materials and services liable for damage, the Purchaser against all damage and costs, which arise here from for BoTemp, will indemnify BoTemp.
- 12.4 BoTemp is not liable for costs and damage, which have arisen as a result of circumstances, which cannot be attributed to BoTemp. If the agreed delivery period is exceeded as a result, it will be extended by the duration of the delay. Any security provided by the Purchaser will be extended accordingly.
- 12.5 If BoTemp fails attributively with regard to performing the work, its liability will be limited at all times to the amount invoiced to the Purchaser for the work or the maintenance.

- 12.6 BoTemp is not liable for violation of rights of third parties for whichever reason, and is not liable either for loss or damage of items, which are property of the Purchaser and were placed at the disposal of BoTemp.
- 12.7 Vehicles and objects, which were offered for repair or inspection to BoTemp, will remain at the expense and risk of the Purchaser, even though they are located on BoTemp's premises.
- 12.8 The Purchaser will indemnify BoTemp against or compensate BoTemp for any claims for damages of third parties regarding which the liability of BoTemp is excluded in these General Terms and Conditions or which is the result of the use of cooling installations delivered by BoTemp.

Article 13: Force majeure

- 13.1 Force majeure means any circumstance independent of the will of BoTemp - even if this was foreseeable at the time of coming into effect of the Agreement -, which impedes compliance with the Agreement permanently or temporarily, as well as (insofar as not already included), war, threat of war, civil war, uprising, work strike, exclusion of workers, transportation difficulties, fire and any other serious failures in the company of BoTemp or its suppliers.

Article 14: Intellectual and industrial property

- 14.1 Copyrights, design rights, trademark rights and any other intellectual and industrial property rights with regard the acquired or installed elements are and will remain property of BoTemp, including any rights regarding drawings, calculations, sketches, technical data and other specific documents. If new intellectual property is created as a result of cooperation between BoTemp and the Purchaser, the corresponding rights will be attributed to BoTemp unless other arrangements have been made in this respect prior in writing.
- 14.2 The Purchaser is not permitted to make available information and knowledge of BoTemp to third parties without explicit prior written consent.

Article 15: Applicable law and competent court

- 15.1 The rights and obligations arising for the parties from these General Terms and Conditions as well as the Agreement are subject to Dutch law, with the exception of the Vienna Sales Convention.
- 15.2 The competent court in Utrecht shall, irrespective of the legal ground, settle any disputes arising in connection with this Agreement or legal relations arising therefrom, unless BoTemp decides otherwise as the claimant or requesting party.