

General conditions of Sales and Delivery of r2p GmbH

§ 1 General – Scope of Application

(1) In the scope of this contractual relationship, only our general terms for sales and services apply. We will not accept terms issued by the customer which are in conflict with, or differ from, our General Terms of Sale, unless we have explicitly agreed to the applicability of such terms in writing. Our sales terms and conditions shall also apply in cases where we are aware of a customer's contrary or deviating terms and conditions and unreservedly perform our supply commitment to this customer.

(2) The present contract contains in writing all agreements reached between us and the customer for the purpose of fulfilling the present contract.

(3) Our terms and conditions of business shall only apply vis-a-vis companies and legal persons representing public rights and the public and legal special funds defined by Article 310 para. 1 BGB (German Civil Code).

§ 2 Quotation - Quotation documents

(1) In the event that the customer's order qualifies as a quotation according to Article 145 BGB, we shall reserve the right to accept this within 2 weeks.

(2) Our offers are without commitment, in as much as our confirmation of order does not state anything to the contrary.

(3) The contract is concluded under the provision of correct and timely delivery by our suppliers if non-delivery is beyond our control. The same applies to events of unforeseeable operational interruptions, these especially including force majeure, strike, lock-outs or unavoidable lack of raw materials. The customer will be immediately informed of the partial or non-availability of performance. The payment will be immediately reimbursed.

(4) We reserve the rights of ownership, copyrights and other intellectual property rights of all illustrations, drawings, calculations and other documents, if applicable. This shall in particular apply to written documents designated as "confidential". They must not be made accessible to third parties without express written approval being given.

§ 3 Delivery time – Liability

(1) A delivery time quoted by us shall not start until all technical questions have been clarified.

(2) If the customer delays acceptance or culpably violates other obligations to cooperate, we will be entitled to claim compensation for damages up to that point, including possible additional expenditures. Further claims and rights are reserved.

(3) If the customer delays acceptance or culpably violates other obligations to cooperate, the risk of accidental loss or deterioration of the delivery items shall pass to the customer at the point in time at which the customer defaults on acceptance.

(4) The defence of non-performance of contract shall remain reserved in the event buyers fail to meet their contractual obligations in good time and good order. We also retain the rights under § 321 BGB (Objections Due to Uncertainty).

(5) We shall be liable in accordance with statutory provisions insofar as the contract upon which the transaction is based is a fixed-date transaction as defined in § 286, Paragraph 2, No. 4 of the German Civil Code or in § 376 of the Commercial Code. We are also liable in accordance with the statutory regulations, insofar as the purchaser is authorized to assert that his interest in the continued fulfilment of the contract is no longer valid as a result of a delay in delivery for which we are responsible.

(6) Furthermore, we shall be liable in accordance with statutory provisions if any delay in delivery is the result of a willful or grossly negligent infringement of the contract for which we are responsible. If any delay in delivery is the result of a willful or grossly negligent infringement of the contract, our liability for compensation is limited to the predictable typical damage. Fault on the part of our representatives or vicarious agents shall be attributed to us.

(7) We shall also be liable according to the statutory provisions if the delay in delivery for which we are responsible is due to the culpable infringement of a fundamental contractual obligation; the fulfilment of which renders a correct execution of the contract possible, and the customer can always trust on said material obligations being observed. In this case, our liability for compensation is limited to the predictable typical damage. Fault on the part of our representatives or vicarious agents shall be attributed to us.

(8) In the case of a delay in delivery we are we are liable for a penalty compensation of 0.5% of the order amount for each day of the delayed delivery for each completed week of delay, up to a maximum of 5%.

§ 4 Transfer of perils – Packaging - Cargo insurance

(1) To the extent that nothing to the contrary results from the order confirmation, "delivery ex works" shall be deemed agreed.

(2) Separate agreements apply for returning of packaging materials.

(3) If requested by the customer, we cover the consignment with a transport insurance. The resulting costs shall be borne by the customer.

Article 5 Liability for defects

(1) Warranty claims asserted by the customer shall be subject to him having fulfilled the inspection and notification obligations properly in accordance with § 377 HGB.

(2) If a defect in the delivered goods is detected, we shall be entitled at our option either to remedy the defect by carrying out a repair or by supplying a new product which is free of defects. In case of removal of defects or replacement we are obliged to take all necessary transportation, shipping, work and material costs, if they are not increasing by the fact that the item was brought to another location other than the place of fulfilment. In case we refuse remedy or should remedy fail or be unacceptable for the customer, the latter shall be entitled to withdraw from the contract or demand price reduction.

(3) We are liable in accordance with the statutory provisions to the extent that the customer asserts claims to damages that are due to intent or gross negligence. If we cannot be charged with a willful violation of the contract, then the liability will be limited to the foreseeable, typically occurring damage. We shall furthermore be liable according to the statutory provisions, provided the delay in delivery is due to a will full infringement of an essential contractual duty, which alone makes possible the execution of the on tract at all, and on the adherence to which the buyer may rely as a matter of course. In this case, our liability for compensation is limited to the predictable typical damage.

(4) Liability for culpable harm to life, the human body, or health remains unaffected. This also applies to the liability mandated under the German Product Liability Law.

(5) Except where above specified, the claims for liability are excluded in all other respects.

(6) The limitation period for defect claims is 12 months from the transfer of risk. The limitation period in case of a delivery regress according to §§ 478, 479 BGB stays untouched.

§ 6 Joint Liability – Reimbursement of Expenses

(1) Liability regarding damages beyond what is provided for in § 5 is excluded; this shall apply in particular to claims for damages arising from faults upon conclusion of contract, on account of other breaches of duty or on account of tortuous claims to compensation for property damages according to Article 823 BGB. The aforementioned limitation also applies if instead of a claim for damages the customer requests compensation for useless expenses rather than the performance of services. Any claims of the customer due to fault in contract negotiations remain unaffected by the above limitations of liability. Liability for culpable harm to life, the human body, or health remains unaffected This also applies to the liability mandated under the German Product Liability Law.

(2) To the extent that liability for damages is excluded or limited for us, this also applies in regard to the personal liability for damages of our employees, salaried workers, associates, representatives and fulfilment aides.

(3) For claims due to a defect of the item not based in the period of limitation, a cut-off period of 18 months shall apply, beginning from recognition of the damage and the injuring party.

§ 7 Prices – Conditions of Payment

(1) To the extent that nothing to the contrary results from the order confirmation, "delivery ex works" shall be deemed agreed, packaging excluded. Packing material shall be charged separately.

(2) Statutory value added tax is not included in our prices. It is included as a separate item in the invoice at the rate required by law on the day the invoice is made out.

(3) To the extent that nothing to the contrary results from the order confirmation, the selling price is net (without discount) and due starting on the invoice date. The deduction of cash discounts shall require a separate agreement.

(4) The statutory provisions with respect to consequences of default shall be applicable.

(5) The customer is entitled to set-off rights only if his counterclaims are determined to be valid or recognized by us. The customer shall be entitled to exercise a right of retention insofar as his counterclaim is based on the same contractual relationship.

§ 8 Reservation of Title

(1) We reserve the rights of ownership to the supplied goods until the receipt of all payments from the existing business relationship with the customer. The reservation also applies to the accepted balance.

(2) In the event of a breach of contract by the customer, especially a delay in payment, we are entitled to take back the goods. This taking back of the goods does not constitute a withdrawal from the contract. We have the right to utilize the goods after they are returned. The proceeds of this alternative utilization are used to reduce the debts of the customer less expenses for the alternative utilization.

(3) The customer shall handle the goods with due care. The customer is especially obliged to sufficiently insure them at his own cost against fire and water damage and theft at the original value. Insofar as maintenance and service work is necessary, the customer must carry out such work in good time and at his own cost.

(4) In the event of any seizures or other intervention by third parties, the customer shall notify us without delay, so that we may file a suit in accordance with § 771 of the German Civil Code Procedure (ZPO). In so far as the third party is not in a position to reimburse us for our judicial and extra-judicial costs for a suit under Article 771 of the ZPO, the customer shall be liable for our financial loss.

(5) The customer is entitled to resell retained goods in the proper course of business. However, the customer assigns to us all claims from the re-sale covering the sum of our invoice, including sales tax, which arise from onward disposal to his purchaser or any third party, regardless of whether the goods have been sold with or without further processing. If the customer and his purchaser have an open account relationship, the claim assigned to us in advance by the purchaser also relates to the recognized balance or, in the event of bankruptcy of the purchaser, to the then existing "causal" balance. The customer remains entitled to assert the claim even after having assigned the claim. Our right to collect the claim ourselves shall remain unaffected by this. However, we undertake not to collect the amount owing as long as the customer complies with his payment obligations deriving from the monies received and does not default on payment and in particular as long as no application is lodged for the institution of insolvency or composition proceedings against him or as long as he has not suspended payments. If this is the case, however, we can demand that the customer makes his accrued claims and their debtors known to us, report all necessary information for collection, hand over the corresponding documentation and inform the debtors (third parties) of the surrender.

(6) The processing or transforming of the goods by the customer shall always be done for us. If the items delivered are processed with other items not belonging to us, we acquire the co-ownership of the new item in proportion to the value of the items (invoice amount including VAT) delivered compared with the other items processed at the time of processing. For the processed items and goods, the same shall apply as for the goods delivered under retention of title.

(7) If the items delivered are mixed inseparably with other items not belonging to us, we acquire the co-ownership of the new item in proportion to the value of the items (invoice amount including VAT) delivered compared with the other items processed at the time of processing. If the mixing up is made in such a way that the item of the supplier has to be regarded as the principal product, it shall be agreed that the supplier will assign co-ownership to us proportionally and the supplier shall hold the sole ownership or the co-ownership for us. The customer will keep for us the sole or partial property that thus comes into being. For the mixed items and goods, the same shall apply as for the goods delivered under retention of title.

(8) The customer also assigns to us the claims for securing our claims against him, which accrue vis-à-vis a third party by connecting the retained goods with real property.

(9) We undertake, on the request of the customer, to release any securities to which we are entitled insofar as the realizable value of such securities exceeds the value of our claims by more than 10 %. The choice of securities to be released shall lie with us.

§ 9 Place of Jurisdiction – Applicable Law

(1) If the client is a merchant, the German Court has international jurisdiction and our registered office shall be the sole place of jurisdiction for all disputes arising in connection with this agreement. However, we shall have the right also to sue the customer at his or her general place of jurisdiction.

(2) The laws of the Federal Republic of Germany apply. The provisions of UN (CISG) sales law shall not be applicable.

Flensburg - Juni 2018