

General terms and conditions of sale for ROSE Systemtechnik GmbH

1. Scope:

1.1. These terms and conditions of sale apply exclusively; we do not recognise any terms and conditions on the part of the purchaser which conflict with or differ from ours unless we had expressly agreed in writing to their validity. Our terms and condition of sale also apply even when we are aware of the purchaser's terms and conditions and nevertheless carry out delivery of the consignment to the purchaser without reservation.

1.2. Our terms and conditions of sale apply only in respect of companies within the meaning of § 310 para.1 BGB.

2. Order acceptance / Condition of goods

2.1 Contracts are only concluded through our written or electronically transmitted confirmation of order.

2.2 The contractually agreed condition of the goods shall be solely as stated in the product description in the confirmation of order, the system descriptions or our product information. We are only liable for the suitability of the goods for a specific purpose if this suitability was expressly agreed.

2.3 Unless specifically agreed, our information about the ordered goods (e.g. drawings, illustrations, weights, dimensions, utility values) shall be deemed to be approximate. Deviations of the goods ordered from the articles supplied, in particular in respect of material(s) and design, are specifically permitted in line with technical progress.

2.4. The supplier does not assume any procurement risk and no warranties of any kind whatsoever unless an express written agreement regarding this was concluded.

3. Delivery time / Scope of delivery

3.1 If a delivery time has been agreed, the following shall apply: The delivery dates stated by us are only binding if they were specifically confirmed in writing by us as a "binding delivery date". They refer to the time of dispatch of the goods and are adhered to when the customer is informed that the goods are ready for dispatch.

3.2 Delivery deadlines commence only when agreement has been reached in respect of all details of the order, including the technical design of the object of delivery. If following confirmation of the order the purchaser demands an alteration and we accept this demand, the delivery period shall only commence with confirmation of the last alteration.

3.3 Notwithstanding our legal rights in respect of delay on the part of the purchaser, delivery dates and deadlines shall be extended by the period of time by which the purchaser fails to meet his obligations towards us from this contract or other contracts (e.g. securities).

3.4 Part-deliveries are permitted to a reasonable extent insofar as they do not result in unreasonable additional costs for the purchaser. In the case of special articles for the purchaser, deviations at delivery of +/- 10% from the ordered quantity are permissible.

3.5 Furthermore, in the event of delay for which we are responsible, the purchaser is only entitled to assert additional rights if a reasonable grace period granted by him has elapsed unsuccessfully.

4. Dispatch / Transfer of risk

4.1 Dispatch of the goods takes place ex works for the account and risk of the purchaser. In the absence of special agreements, we are free in our choice of transport company and the means of transport. Risk is also transferred to the purchaser with dispatch ex works if freight-paid has been agreed.

4.2 If dispatch is delayed for reasons which are the responsibility of the customer, then risk is transferred to the purchaser at the time the goods are ready for dispatch. The purchaser shall bear the costs (in particular storage costs) incurred as a result of the delay.

4.3 In the case of normal packaging, for goods with a net value of less than 50 EUR we invoice 3%; from 50 EUR to 250 EUR 2%, and 250 EUR and more 1% of the net invoice value (plus statutory value added tax).

5. Obligation to examine and notification of defects

5.1 The purchaser is obliged to examine the goods immediately after delivery and to notify us immediately and in writing of existing defects (§377 HGB). Defects about which a late complaint is made and which are not so-called hidden defects are excluded from liability for defects. Notifications of defects which are asserted in respect of field workers, transport companies or other third parties are not deemed to be correct and timely.

5.2 In the event that goods must be returned to us because of a defect, this may only take place with our prior agreement. We are not obliged to accept returned consignments which are returned to us without our prior consent. In this case, the purchaser is responsible for the costs of

returning the goods.

5.3 In the event that a repair or replacement delivery takes place as the result of a justified complaint, the provisions regarding the delivery time apply accordingly.

6. Liability for defects

6.1 In the event of correct fulfilment of the purchaser's obligations to examine and notify us of defects, we are liable in respect of defects in the delivery at our choice to remedy the defect or to deliver an article which is free of defects (subsequent fulfilment). The precondition for our liability is that the defect is not inconsiderable.

6.2 If either or both types of this subsequent fulfilment should be impossible or disproportionate, we are entitled to refuse. We can also refuse to carry out subsequent fulfilment as long as the purchaser fails to meet his payment obligations towards us to an extent which corresponds to the fault-free part of the performance provided.

6.3 If the above-mentioned subsequent fulfilment is impossible or fails, the purchaser is entitled either to reduce the purchase price accordingly or to withdraw from the contract in accordance with the statutory provisions; this applies in particular in the event of culpable delay or refusal to carry out the subsequent fulfilment and also if the latter fails for a second time.

6.4 Unless specified otherwise below (para. 6.5 ff), further claims by the purchaser for whatever legal reason (in particular claims for damages resulting from infringement of contractual subsidiary obligations, unlawful acts and tortious liability and claims for reimbursement of expenses with the exception of those in accordance with § 439 para. 2 BGB) are excluded; this applies in particular to claims resulting from damage outside the purchased object and to a claim for reimbursement of lost profit.

6.5 The exclusion of liability as per para. 6.4 does not apply to an exclusion or limitation of liability for damage resulting from injury to life, body or health which rest on a culpable breach of duty on our part, our legal representatives or our vicarious agents. It also does not apply to an exclusion or limitation of liability which rests on intentional or grossly negligent dereliction of duty on our part or negligent or grossly negligent dereliction of duty on the part of a legal representative or vicarious agent.

6.6 In the event of a culpable breach of a significant contractual obligation or a "cardinal obligation", liability is not excluded but is limited to foreseeable damage typical of this kind of contract.

6.7 Furthermore, exclusion of liability does not apply in cases in which in the event of defects to the object of delivery there is liability for injury to life, body or health or damage caused to things by objects which are used privately. Insofar as we are liable to pay compensation for a defect corresponding to the provisions of the product liability law, the extent of liability is determined solely by the provisions of this law.

6.8 Exclusion of liability also does not apply in the event that the taking over of a guarantee or the assurance of a characteristic feature if a defect covered thereby activates liability. A guarantee or assurance in the sense of an intensification of liability or assumption of an obligation to meet claims are deemed to have been given only if the terms "guarantee" or "assurance" are expressly mentioned.

6.9 In the event of reimbursement of expenses, the above shall apply accordingly. Claims by the purchaser for subsequently meeting necessary expenses, in particular transportation, routing, labour and material costs are excluded insofar as the expenses increase because the purchased product was delivered to a location other than the purchaser's headquarters, unless the said delivery corresponds to its designated use.

6.10 Claims for physical defects expire in 12 months after transfer of risk. This does not apply if the law (BGB) prescribes longer periods, and in cases of injury to life, body or health, in the event of intentional or grossly negligent dereliction of duty by us and if a defect was fraudulently concealed. Legal regulations with regard to suspension of the running of a period, suspension and the recommencement of periods are not affected by this.

7. Prices

7.1 Calculation of prices is ex supplier's place of business in EUR plus the sales tax valid at the time.

7.2 The prices are valid for the scope of performance and delivery stated in our confirmations of order. Additional or special performance will be invoiced separately. Calculation of the additional charge resulting from increases in the cost of materials will be shown separately on the basis of that day's prices.

8. Terms of payment

8.1 Commencing on the supplier's invoice date, all invoices are to be paid

- within 10 days with 3% discount or 30 days net (excluding tool invoices).
- 8.2 Due accounts receivable are subject to interest on the amounts at the current percentage (currently 5%) above the base rate in accordance with § 288 BGB. The right to assert a claim for further losses is reserved. The customer has the right to prove that a lower loss was incurred. The provision in § 353 HGB is applicable.
- 8.3 If cheques or bills of exchange are not credited punctually by the drawee, then all other existing claims due to us at this time in respect of the purchaser become due for payment. All other periods allowed for payment lapse. The same applies in the event that a claim is not paid at maturity.
- 8.4 With the exception of undisputed or final and absolute claims, any withholding of payment or offsetting of payment on the grounds of the purchaser's counterclaims which may exist is excluded.
- 8.5 Irrespective of the legal relationship, all claims for payment which we have against the purchaser are due immediately if circumstances arise which entitle us to withdrawal in accordance with statutory or contractual provisions.
- 9. Reservation of title**
- 9.1 All goods delivered by us remain our property until full payment of the purchase price is made and until all claims arising out of the business relationship have been met (extended reservation of title). Any kind of disposal whatsoever by the purchaser over the goods to which reservation of title applies is only permitted in the normal course of business. However, under no circumstances may the goods be transferred as security to third parties in the ordinary course of business.
- 9.2 In the event of the sale of the goods in the ordinary course of business, the paid purchase price shall take the place of the goods. As of now, the purchaser assigns to us all claims for payment which result from any sale. The purchaser is authorised to collect these payments as long as he meets his payment obligations towards us. With regard to the extended reservation of title (advance assignment of the relevant claim for payment of the purchase price), assignment to third parties, in particular to a financial institution, is contrary to contract and therefore not permitted. We are authorised to examine the purchaser's sales documentation at any time and to inform his customer of the assignment.
- 9.3 If the purchaser's claim from the resale is deposited in a current account, the purchaser here and now also assigns to us his claim against his customer resulting from the current account. Assignment is in the amount of the sum of money for which we invoiced the purchaser in respect of the resold goods which are subject to retention of title.
- 9.4 In the event of any attachment of the goods on the purchaser's premises, we must be informed immediately by being furnished with a copy of the enforcement protocol and an affidavit that the attached goods are those which were supplied by us and are subject to retention of title.
- 9.5 If the value of the securities in accordance with the above clauses of this paragraph exceeds the sum of the claims which are secured by this by more than 20% and for the foreseeable future, to this extent the purchaser is entitled to demand from us the release of securities where the excess exists.
- 9.6 The assertion of our rights from the retention of title does not release the purchaser from his contractual obligations. The value of the goods at the time of the return is merely offset against the claim against the purchaser to which we are entitled.
- 9.7 Processing or transformation of the goods which are subject to retention of title takes place for us as manufacturers within the meaning of § 950 BGB without binding us. The processed or transformed goods are reserved goods in the meaning of this agreement. If processing or transforming by the customer takes place with goods which are not our property, we shall acquire co-ownership of the new goods in the ratio of the invoice value of the reserved goods to the sum of the invoice value of the other goods used and the processing or transforming value. The purchaser shall store the new goods for us free of charge. If the reserved goods are mixed or combined with other goods and consequently our ownership of the reserved goods lapses (§§ 947, 948 BGB), then the purchaser's ownership and/or co-ownership rights in the mixed stock or the single object in the ratio of the invoice value of our reserved goods to the sum of the invoice value of the other mixed or combined goods are transferred to us. The purchaser shall store the goods for us free of charge.
- 10. Supplier's right of withdrawal**
- 10.1 We are entitled to withdraw from the contract if contrary to the assumption prior to conclusion of the contract it transpires that the

- purchaser is not creditworthy. Lack of creditworthiness can be readily assumed in the event of a bill of exchange or cheque protest, cessation of payment on the part of the purchaser, or of a failed compulsory enforcement attempt at the purchaser's premises. It is not necessary for this to relate to relationships between us and the purchaser.
- 10.2 We are also entitled to withdraw from the contract if it transpires that the purchaser has made incorrect statements with regard to his creditworthiness and that these statements are of major importance, or
- 10.3 if the goods to which we have reserved title are disposed of other than in the purchaser's normal course of business, in particular by way of assignment of goods as security or pledging.
Exceptions to this shall only apply insofar as we have given our written consent to the disposal.
- 11. Data protection**
- 11.1 In the course of execution of the contract we also process our customers' personal data and those of their employees (e.g. contact data). These data are assigned to the purchaser's legal entity and are only processed by us or companies in the Phoenix Mecano group and possibly the sales representatives who work for them. All our employees and sales representatives are obliged to comply with data confidentiality as per § 5 of the Bundesdatenschutzgesetz (BDSG) and process these data in accordance with the BDSG.
- 11.2 The purchaser also undertakes to treat personal data which he receives from us in accordance with the provisions of the BDSG.
- 12. Partial invalidity**
- If individual parts of these General Terms and Conditions of Sale are or become legally invalid, this shall not affect the effectiveness of the remaining provisions; the same applies to the filling of gaps in these General Terms and Conditions of Sale.
- 13. Place of fulfilment and place of jurisdiction**
- 13.1 Insofar as the purchaser is a businessman or a legal person governed by public law or a separate estate under public law, the registered office of our company is the exclusive place of jurisdiction for all direct or indirect disputes resulting from the contractual relationship.
- 13.2 The place of fulfilment for all obligations arising from the contractual relationship shall be the supplier's registered office.
- 13.3 The laws of the Federal Republic of Germany apply. The provisions of the United Nations Convention dated April 11, 1980, relating to contracts for the International Sale of Goods (CISG) do not apply.

Date: November 2016

Please note: The English-language version of these general terms and conditions of sale is provided for reference purposes. Only the German-language version is valid in a court of law.