

## General business conditions

### Terms of sale and delivery

#### 01. January 2018

##### § 1 General information

1. For our supplies and services (incl. consultation) in connection with other enterprises, the following terms apply. Purchase conditions of the customer are only valid, if we accept them in written form. Affirmations (given verbally or in writing) and/or guarantees which vary from our order confirmations need to be accepted in written form by our management.

##### § 2 Directive scope/ offers

1. These general terms of delivery are valid for all –even future- contracts with enterprises, legal entities of the public law and other services including contracts for work labour and the supply of non-justifiable items.

2. Our offers are not-binding. Verbal agreements, promises and warranties made by our employees concerning the conclusion of a contract are invalid unless we confirm them in writing.

In case of doubt concerning the interpretation of the commercial clauses, please read the Incoterms.

##### § 3 Range and conditions of the order/ Prices

1. Result from our written order confirmation. If the ordered product is delivered before the order confirmation arrives, all information concerning the product can be taken from the bill.

2. If no other conditions apply, the prices and conditions of our offers are consistent with the information on our current price list. Concerning long term supply contracts, we are permitted to make price adjustments if substantial changes of wage, material or energy costs occur.

3. All prices are ex factory, excluding packing plus VAT. Packing has to be paid for separately and can be returned to us free of transportation charges.

4. Concerning supply contracts on call, we would like you to tell us the obligatory quantities at least four weeks before the date of delivery -as far as nothing else has been agreed upon. Extra costs, which are caused due to a late call by our partner, for example, go to his own expense.

##### § 4 Terms of delivery /delivery failure/ partial delivery

1. We can only fulfill our delivery obligation when our suppliers and factories deliver correctly and punctual. Information concerning times of delivery are approximate. Times for delivery are valid starting from the date of our order confirmation and apply only if all aspects of the order have been resolved in time and if the buyer fulfilled his obligations like handing in official certificates, warranties or payments. For the observance of the time of delivery, the time of the sending off (ex factory) is determining.

2. In case of failure to deliver the buyer can set an appropriate respite and can –after the expiration of the respite- withdraw from the contract. Claims of damages go by §10 of these terms.

3. Partial deliveries are acceptable to a reasonable extend and are charged separately.

##### § 5 Unpredictable events

1. Labour disputes, riots, civil commotion, failure to deliver of our suppliers and other unpredictable events free the contract partners of their liability for the duration of the disturbances. These terms apply regardless of the contract partner being behind schedule.

##### § 6 Payment and compensation

1. If not agreed on otherwise, we ask the buyer to pay within 30 days net after reception. The Payment date begins with date of invoice and ends with reception of the payment. Costs due to the money transfer are to be paid by the customer.

2. The buyer is only entitled to the retention of goods if his counterclaim is legally confirmed. We are allowed to charge the buyer with default interest when there is a delay of payment.

3. When –after the conclusion of a contract- our pecuniary claim is endangered due to the inability of our partners, if the buyer is unable to pay or if other circumstances occur that lead to the conclusion that there will be a worsening of the buyer's financial situation, we are entitled to the terms of § 321 BGB (insecurity claim). In the meantime we may refuse our services and impose a deadline on the partner by which we either ask him for step-by-step payment or to give other securities. If the partner refuses our offer or ignores the given deadline, we may withdraw from the contract and claim damage compensation.

4. Regulations of insolvency stay unaffected by the preceding regulations.

##### § 7 Reservation of propriety rights

1. We retain ownership of all delivered goods according to §449 BGB until all claims (including future claims) , regardless of the legal background, are met.

2. The buyer is bound to insure all goods (especially against fire, water, theft, windstorm, vandalism, liability etc). He transmits his demands from his insurance contracts to us in advance.



3. Treatment and processing take place according to § 950 BGB, with no obligations on our part. If the goods are inseparably connected or processed with other items that do not belong to us, a co-ownership is established automatically. For this, the co-ownership terms according to § 7, No.1 apply.
4. The buyer is only permitted to sell goods within regular business conditions and only if there was no delay of payment.
5. The buyer's claims from the resale of the conditional goods are already assigned to us. We take the assignment. The assigned claims, in the same to secure the reserved commodity. If the goods delivered together with others, sold by us is not sold, the assignment of the claim from the resale of the onward only in the amount of the conditional goods actually sold. For sale of goods to co-ownership pursuant to § 7, para. 3 have, the assignment of the claim in the amount of said share.
6. The buyer is entitled to collect claims from the resale to our permitted withdrawal at any time. We will exercise our right of revocation only used when the buyer is in default, has suspended payments or made against him, the application for insolvency proceedings or the insolvency procedure has already been opened, or other reasons have occurred in response to a significant deterioration in the solvency of the buyer can close. At our request, the buyer is obliged to inform his customers and clients immediately of the assignment to us and give us the information required for collection and to hand over the dossier. We are authorized to notify debtors of the assignment on behalf of the buyer.
7. The buyer is bound to inform us about the pawning of goods immediately.
8. If the value of existing securities exceeds the secured claims by more than 20 per cent, we are on demand of the buyer obligated to release the securities of our choice. With the payment of all claims by the purchaser of our business relationship with him, go next to the title to the goods subject to the claims assigned to the buyer.

### **§ 8 Dispatch**

1. We are responsible for mode of shipping and packing. We will insure the shipment against damage caused during transport and other risks if the buyer demands it and covers the charges.
2. After the buyer has received the ordered good, the buyer is responsible for damages or loss of the good. If an order is shipped to the buyer, the responsibility for the order is transferred to buyer when the order is collected from us by an express agent or is received by the buyer.
3. The buyer has to check the order for possible damages and completeness after reception and has to give a rejection notice to the express agent in writing within 24 hours.

### **§ 9 Acceptance / inspection grades, weights and measures**

1. If an acceptance is agreed, it can only be done in the supplier's works or our warehouse immediately after notification of acceptance. The personal and substantial decrease in costs borne by the buyer, these are created on demand by detection of the manufacturer or the Inspection Authority.
2. Grades and sizes are determined by the applicable standards effective at inception and the absence of such material sheets or according to commercial usage. Reference to standards, materials or work-certificates are not classed as information, representations or warranties, nor declarations of conformity, manufacturer's declarations, and related marks such as CE and GS.

### **§ 10 Material defect/ other requirements/ liability**

1. The condition of the item exclusively depends on the technical delivery regulations agreed upon. If we have to supply following designs, specifications, samples etc. from our partner, he accepts the risk of the suitability for the intended purpose. The state the good is in is determined by the time of the Gefahrenübergang according to §8, No.2
2. We are not liable for damages caused due to unsafe or inappropriate usage, incorrect installation, start-up by the partner or a third person, usual wear, incorrect or careless treatment, and for the consequences of inappropriate changes or changes that were made without our knowledge and consent.
3. Retribution claims concerning material prescribe within 12 months.  
This is invalid, if another legal bound limitation applies.
4. The reproach of a defect is possible, if an acceptance or a first check was agreed upon and the controller could have noticed the defect.
5. We are entitled to check the reproached defect. Reproached items have to be sent back to us on demand, we will accept the transport costs if the reproach is warrantable. If the partner does not keep to his obligations or tries to repair a reproached item himself, we do not have to accept his possible claim for damages.
6. With justified notice of defect within the prescribed period we either repair the item or supply perfect replacement.
7. If we do not fulfill these obligations within an appropriate time, the buyer may set a deadline within which we must act. Should the deadline expire unsuccessfully, the partner is entitled to a price deduction, can withdraw from the contract or can have the problem mended by a third person and charge us with the costs.
8. Contribution claims of the partner towards us are only valid, if the partner made no agreements with any buyer of his that might exceed the rights to claim damages for any defects. For more information please see §10, No.7



9. Any other claims are excluded due to §11. This especially applies for the cover of damages that do not concern the item itself (consequential harm caused by a defect). To check our liability concerning the absence of assured attributes, please see §11 as well.

10. The technical data of the items are shown in the commercial tolerances (DIN-/EN or other known technical standards for iron and steel). We do not give any guarantees for special functions of a machine in which an item of ours is included, unless we have been consulted beforehand and have confirmed that the consultation is binding. In any case, the buyer is obliged to check the suitability of the planned function himself. We do not give a timespan guarantee for the durability of any material, especially wear parts.

### **§ 11 Privacy / Data protection**

1. We use the data provided by the buyer exclusively for the performance of the contractual services. All data will be treated confidentially. A transfer of the data to third parties (such as freight forwarders and others) will only be made if this is necessary for the execution of the contract. Any further use will only be made with your consent. Our privacy policy can be found on our website [www.rofi.de](http://www.rofi.de) under Data protection.

2. The data is encrypted and securely transmitted, but we assume no liability for the security of data during these transmissions over the Internet (for example due to technical errors of the provider) or for a possible criminal access of third parties to files on our website.

3. You have the right to ask us for information about what information we have stored about you. This also applies to their origin, as well as the recipients or categories of recipients to whom this data is passed on and the purpose of the storage. If you have given your consent to the further use of data, you can revoke them at any time. All information requests, requests for information or objections to data processing should be directed to our data protection officer Mr. Marco Provenzano by e-mail: [m.provenzano@rofi.de](mailto:m.provenzano@rofi.de) or to the contact details given under [www.rofi.de](http://www.rofi.de).

### **§ 12 General liability and limitations**

1. Concerning the violation of contact-bound and non-contact-bound obligations, we are only liable for negligence or deliberate act. Apart from this, we are not liable for deficiencies and consequential harm caused by defects.

2. These limitations do not apply for culpable violation against the basic contract obligations if the result of the contract is endangered, in cases of liability, violation of life, health and body, and also if we have concealed a deficiency or guaranteed the lack thereof. The regulations of the burden of proof remain unaffected.

3. If nothing else is agreed upon, claims concerning any items or the delivery thereof prescribe one year after the delivery. This limitation is also valid concerning the items that were used in buildings and as a result caused the building's deficiency, unless its usage was agreed upon in writing. We are not liable in case of deliberate act or negligence or the limitations of retribution claims. In cases of supplementary performance, the limitation period does not start anew.

4. Retribution claims of the buyer as in §478 BGB are excluded if the buyer did not object immediately according to §377 HGB. The seller accepts the costs of the supplementary performance.

5. We are not liable for unexpected or atypical defects. This includes defects that the buyer is insured against or those that can normally be insured against.

### **§ 13 Place of delivery, place of jurisdiction and applicable law**

1. Place of delivery for supplies ex factory is the factory, for other supplies the place of delivery is the stock.

2. Place of jurisdiction is either the head office or the residence of the buyer.

3. For all legal regulations between us and the buyer- additional to these conditions- the law of the Federal Republic of Germany applies. The regulations of the UN-convention of 11. April 1980 concerning the contracts of international purchase (CISG) do not apply.