

Delivery and Payment Terms & Conditions by the ROTACON GmbH, hereinafter referred as ROTACON

§ 1 Basis of Contract

1. The terms and conditions apply to all present and future contracts with ROTACON. Any conflicting or differing delivery conditions as well as additional or other conditions will not be recognized even if the Purchaser - with full knowledge of differing conditions - does not expressly object to them and/or delivers goods unconditionally.
2. The contract shall be subject to law of the Federal Republic of Germany. The UN Convention on the International Sale of Goods shall not apply.

§ 2 Quotation and Conditions of Contract

1. Price quotes from ROTACON are subject to change without notice. We reserve the right to technical changes as well as changes in form, color and/or weight.
2. Placement of the order is a binding declaration that the Purchaser will purchase the ordered item. The quote is considered to be accepted once the management from ROTACON sends an order confirmation, not when ROTACON delivers the goods. Collateral agreements or assurances shall be confirmed in writing.
3. ROTACON retains all ownership and copyrights to documents and goods. Third parties may not have access to confidential documents without prior written consent by the management of ROTACON. Should this condition be violated, the Purchaser must pay ROTACON a penalty of 20% of the value of the order.

§ 3 Price and Payment Terms

1. Prices are valid "ex factory" plus packaging, installation, and transport costs, which will be billed separately, and any additional statutory value added tax. The VAT will be shown separately on the invoice in the full statutory amount if the conditions apply.
2. If the Purchaser requests the shipment of goods, then the transport costs will be calculated additionally and accepted by the Purchaser.
3. In addition to the quoted purchase price, the Purchaser will be charged separately for expenses incurred due to changes to the type or scope of delivery after order confirmation at the request of the Purchaser. The same shall apply to expenses arising from fulfillment of new or unforeseeable statutory requirements.
4. Installation and repair costs will be calculated separately.
5. Separate written agreement shall be required

before a discount for prompt payment will be applied.

6. Unless otherwise agreed, the purchase price is due immediately without deduction and in the agreed currency from the invoice date. Otherwise, the legal provisions for late payments apply. The Purchaser bears the costs of money transfers.
7. The Purchaser shall not be entitled to set-off or withholding unless its counterclaims are indisputable, have been legally confirmed, or are recognized by ROTACON.
8. The Purchaser can only exercise retention rights if the counterclaim is based upon the same contractual relation.
9. ROTACON is entitled to a price adjustment if the cost of goods which are contained in the agreed price change or new costs arise within two (2) weeks after the conclusion of the contract. This applies in particular to additional charges or costs of outside services.
10. If there is a delay in payment, ROTACON will charge interest based on its price lists and in the absence of such will charge 10% above the basic interest rate of the European Central Bank, unless the Purchaser can prove lower financial damages.
11. ROTACON reserves the right to claim further damages, e.g. due to changes in the exchange rate or hedging.
12. ROTACON has the right to demand advance payments from the Purchaser before delivery of goods.

§ 4 Passing of Risk

1. Delivery is valid "ex factory."
2. At the time the purchased items are given over or delivered to the transport company or freight forwarder (or at the latest when the goods leave the warehouse or factory), the transport risk – even for accidental loss - transfers over to the Purchaser in all dealings, provided there is no fault on the part of ROTACON.
3. If the Purchaser is in default of acceptance, the transport risk of accidental loss or accidental deterioration of purchased items transfers to the Purchaser from the date of the default of acceptance. Applicable storage costs are borne by the Purchaser.
4. Conditions 1 to 3 above also apply to partial deliveries.

§ 5 Delivery Period

1. The indicated delivery periods and deadlines are approximations unless expressly confirmed by ROTACON in writing as a binding delivery date.
2. The delivery period shall begin only once all technical questions and formalities have been clarified and finished in consultation with the Purchaser and the notice indicating readiness for shipment has been given.

3. The delivery period shall be appropriately extended for extenuating circumstances arising through no fault of ROTACON such as force majeure, strikes, operational breakdowns or shortages of materials due to late supply deliveries. This also applies when such circumstances occur during a pre-existing delay. ROTACON shall inform the Purchaser of the reason and anticipated length of the delay. If a resolution to the disruption cannot be foreseen within an appropriate time period or if the fulfillment of the contract becomes unreasonable, both the Purchaser and ROTACON can withdraw from the contract in whole or in part.

4. In general, ROTACON is only permitted to withdraw from the contract for the parts of the delivery that have not yet been issued.

§ 6 Retention of Title

1. The goods remain the property of ROTACON until all outstanding claims arising from orders, including claims from bills of exchange, have been satisfied. For behaviour by the Purchaser that is contrary to the contract, in particular for default in payment by the buyer, ROTACON is entitled to terminate the contract and to demand return of the purchased item or compensation for damages after a period of one week.

2. Insofar as the effectiveness of this retention of title requires the cooperation of the Purchaser, the Purchaser will take all necessary steps to establish the rights of ROTACON. If the Purchaser does not take these steps within a week following a deadline set by ROTACON, then the Purchaser must pay to ROTACON a penalty of 20% of the order volume.

3. After recovery of the purchased goods, ROTACON shall be entitled to dispose of the goods; the earnings from the disposal - less reasonable disposal costs - shall be credited to the Purchaser.

4. The Purchaser is obligated to use the purchased item according to its intended use. Purchaser is particularly obligated to perform regular maintenance and inspection work at their own cost according to the provided maintenance plan.

5. In case of garnishment, other interventions by third parties or damage or destruction of the purchase item(s), the Purchaser is obligated to inform ROTACON immediately. ROTACON is then entitled to demand compensation for damages.

§ 7 Purchaser Rights and Limitations

1. Any claims for defects shall be the prerogative of the Purchaser only if the Purchaser fulfills his obligations according to German Commercial Code.

2. ROTACON has the right to remove the defect at its choice through repair or replacement if the Purchaser is a business owner. The Purchaser has only the right to demand removal of defects.

3. ROTACON shall be liable in accordance with the statutory provisions to the extent that the Purchaser

asserts claims to damages that are due to intent or gross negligence. ROTACON is also only liable for damages due to intent or gross negligence on the part of its agents or other employees and its managerial staff. Unless ROTACON can be accused of a willful or grossly negligent violation of duty, the liability for compensation is limited to typically occurring damage. Minor deviations from product descriptions shall be deemed to have been approved and do not affect the performance of contract provided that they are not unreasonable for the Purchaser.

4. Once the Purchaser has carried out acceptance as agreed, he shall not be entitled to give notice of non-conformities which were detectable upon acceptance.

5. All claims by the Purchaser – on whatever legal grounds – expire 12 months after acceptance. The legal statute of limitations applies for compensation claims.

6. ROTACON does not provide any guarantees.

§ 8 Limitation of Liability

1. ROTACON is liable for other compensation claims in cases of slightly negligent breach of duty only for damages typical for the type of purchase item(s). ROTACON's liability for slightly negligent breach of minor contractual obligations is excluded.

2. Liability owing to culpable injury to life, limb or health remains unaffected; this also applies for the mandatory liability according to the Product Liability Act.

§ 9 Final Provisions

1. The place of jurisdiction is the office of ROTACON. ROTACON is also authorized to bring legal action against the Purchaser at his place of jurisdiction.

2. The German version of these terms and conditions take precedence over all other versions and will be provided to the Purchaser upon request.

3. In the event that individual provisions of the contract or these General Terms and Conditions are or become partly or wholly ineffective, the remaining conditions shall remain unaffected. The partly or wholly invalid clause shall be replaced by a clause as close as possible to its original.