

# General Terms and Conditions of rmw Kabelsysteme GmbH

## I. General Sales Terms and Delivery Conditions (as of 1 May 2019)

### 1. Scope of Applications

**1.1** Our sales terms shall be valid exclusively; we do not acknowledge contradictory terms or terms of the customer deviating from our sales terms unless we have explicitly agreed to their validity in writing. Our sales terms also apply if we execute the delivery to the customer without reservations, even if we have knowledge of contradictory conditions of the customer or of ones deviating from our terms.

**1.2** All agreements made between us and the customer for the purpose of this contract are set forth in this contract in writing.

**1.3** Our terms of sale only apply to enterprises in terms of § 310 Abs. 1 BGB [German Civil Code] [German Civil Code].

### 2. Offer - Offer Documentation

**2.1** All offers remain non-binding, alterations remain explicitly reserved. Every offer and every sales commitment is done subject to timely self-delivery.

**2.2** The agreement can only be concluded with the written confirmation of the order by the proprietor notwithstanding the acceptance of the offer by the purchaser. If the order is to be classified as an offer in accordance with § 145 BGB [German Civil Code] we can assume this to be the case within two weeks.

**2.3** We are entitled to gather information on the creditworthiness of the purchaser from banks, information services or the Schufa [German General Credit Protection Agency]. We are furthermore entitled to ask for cash before delivery or security deposits at our own discretion before issuing the order confirmation in writing. If there are any doubts concerning the creditworthiness of the purchaser, we are entitled to refuse the service until the completed payment or until adequate securities are provided or to withdraw from the contract at our discretion and to furthermore claim compensation due to the failure to complete the service.

**2.4** We reserve proprietary rights and copyrights concerning images, drawings, calculations and other documents. This also applies to written documents marked as "confidential". Before their forwarding to third parties the contracting partner needs our express confirmation in writing.

### 3. Prices

**3.1** The price is quoted in Euros, unless otherwise agreed, Ex Works plus the statutory value added tax in the respectively applicable amount excluding the costs for delivery, packaging and insurance.

**3.2** If respective delivery is performed more than 4 months after concluding the contract, the price valid at the date of delivery is relevant.

**3.3** The deduction of discount requires a separate agreement in writing.

**3.4** As long as nothing else is agreed in the order confirmation, the purchase price is due to net payment (without any deduction) from the date of the invoice. The statutory rules concerning the consequences of a default in payment apply.

### 4. Delivery

**4.1** Shortsellings are performed only if we have confirmed them as such in writing. Other delivery dates are non-binding:

**4.2** In time delivery requires the necessary statements and documents of the purchaser to be received by us in advance, so that that the necessary purchases, constructions, calculations, approvals et cetera can be performed during the normal course of business.

**4.3** In the event that the customer is in default of acceptance or if he culpably violates other obligations to cooperate, we are entitled to claim compensation for the damage occurred thus far including potential additional expenditures. Further claims or rights remain reserved.

**4.4** As far as the requirements of paragraph (3) are given, the risk of a coincidental destruction or a coincidental degradation of the purchase item is passed over to the customer at the time when the customer has got into default of acceptance or default of the debtor.

**4.5** We are liable according to the statutory regulations as far as the underlying purchase agreement is short selling in terms of § 286 para. 2 no. 4 BGB [German Civil Code] or of § 376 HGB [German Commercial Code]. We are also liable according to the statutory regulations as far as the customer is entitled as a consequence of a default in delivery on our part to claim that his interest in a further performance of the agreement has discontinued.

**4.6** We are also liable according to the statutory regulations as far as the default in delivery is due to an intentional or grossly negligent violation of the contract on our part; any fault of our representatives or auxiliary persons is deemed to be attributable to us. As far as the default in delivery is due to a grossly negligent violation of the contract on our part, our liability for compensation is limited to the forecastable, typically occurring damage.

**4.7** We are also liable according to the statutory regulations as far as the default in delivery on our side is due to the culpable violation of an essential obligation arising from the contract; in this case, however, the liability for compensation is limited to the forecastable, typically occurring damage.

**4.8** Further statutory claims and rights of the customer remain reserved.

**4.9** We are entitled to a partial performance, in this case partial payments in correspondence to the performance progress have to be made.

**4.10** The purchase of goods on call order is limited to no more than 12 months after the conclusion of the contract. Individual release orders must be done at least 6 weeks before the date of delivery, in case of high-tech goods and custom-made products must be done at least 10 weeks before the date of delivery.

**4.11** In case of mass-produced articles, quantity variances of up to 10% of the delivered goods are deemed as performance according to the contract. In case of additional quantities supplied the price of the actual delivery shall apply. In case of an insufficient quantity any demand for a subsequent delivery is excluded.

## **5. Release from the Obligation to Deliver - Restrictions on Exports**

**5.1** In case the delivery becomes impossible or excessively difficult by force majeure, measures by the authorities including closure of a company, natural catastrophes, extreme weather conditions (e.g. damage by hail or thunderstorms) or similar circumstances - also with our suppliers - we shall be free from any obligation to deliver for the duration of the impediment and its aftermath. We shall inform the purchaser about the occurrence of such events. These events also entitle us to withdraw from the contract. In case of a non-delivery on our part or the insufficient delivery on the part of our suppliers we are totally or partly released from our obligations to deliver. This only applies if we have made the necessary arrangements for the procurement of the goods to be delivered by us and if we have carefully selected our suppliers. In this case, we commit ourselves to assigning our claims against the suppliers to the purchaser on request. In such cases compensation claims are mutually excluded, unless intentionally grossly negligent behaviour can be proved.

**5.2** In case one or several of our products are subject to an export restriction or an export ban, we are insofar free of our obligation to deliver. This also applies as far as these export restrictions come into effect or are changed or made known not before the conclusion of the contract but before the delivery to the purchaser. As far as our products are or become subject to the issue of an export permit, it is within the responsibility of the purchaser to apply such export permit and to provide evidence of such export permit. Until the submission of proper evidence, we are entitled to withhold the delivery. If evidence of this permit has not been provided within three months at the latest after the expiry of the original date of delivery, we shall finally be free of our obligation to deliver.

## **6. Passing of the Risk**

**6.1** We are not liable for the coincidental destruction of the goods.

**6.2** The shipment of the goods is done from the locations of the enterprise in Crossen and in Hartmannsdorf. The risk of coincidental destruction is passed to the purchaser as soon as the goods have been passed from the forwarding agent or other persons designated to perform the shipment. We are not liable for the convenience suitability of the means of transport or the route of transport.

**6.3** If there is a right of retention due to default of payment or no sufficient creditworthiness of the purchaser or if there are other circumstances because of which the goods cannot be delivered, the risk of coincidental destruction passes to the purchaser together with a notification of the readiness for dispatch.

## **7. Due Date and Terms of Payment**

**7.1** The purchase price is due immediately as long as the parties do not explicitly conclude any opposing agreement in writing.

**7.2** Cheques are only valid as conditional payment.

**7.3** The customer is entitled to offset rights if his counterclaims have been established as final and absolute, undisputed or acknowledged by us. To execute a retention right he is entitled to do so, as long as their counterclaim is based on the same contractual relationship.

## **8. Retention of Title**

**8.1** We reserve the ownership of the item purchased until the entry of all the payments from the delivery contract. In the event of conduct of the customer which is not in conformity with the contract, in particular in the case of default of payment, we are entitled to withdraw the purchased items. We see a withdrawal from the contract by taking back the purchased item. We are entitled to take back the item purchased, the proceeds of the sale are offset by the customer's responsibilities— minus appropriate utilisation costs.

**8.2** The customer is obliged to treat the purchased items with care; in particular he is obliged to ensure that the items sufficiently retain their value as new against fire damage, water and theft. As far as maintenance and inspection works are required the customer has to perform them in time at his own costs.

**8.3** In case of seizures or other interventions by third parties the customer has to notify us in writing immediately so that we can file legal action according to § 771 ZPO [German Civil Procedure Code]. As far as the third party is not able to reimburse us for the judicial and extrajudicial costs according § 771 ZPO [German Civil Procedure Code], the customer is liable for the loss incurred to us.

**8.4** The customer is entitled to resell the purchased item in the proper course of business, however, the customer hereby assigns to us all claims in the amount of the final invoice (including VAT) of our claims, which occur to him out of the resale against his customers or third parties, which also means independent from the fact of whether the purchase item has been resold without or after processing. The customer remains authorised to collect his claim even after the legal assignment. Our entitlement to collect the claim ourselves shall therefore remain unaffected. We are, however, obliged not to collect the claim as long as the customer meets his obligations to pay from the income received, does not get into default of payment and in particular has not filed for insolvency and unless he has ceased payment. If this, however, is the case, we can demand that the customer lets us know the assigned claims and their debtor. He also is obliged to make all the necessary statements for the collection, to hand over the respective documents and to notify the debtor (third party) of the assignment.

**8.5** Any processing or reshaping of the purchase item by the customer is always done for us. If the purchase item has been processed with other items not belonging to us, we purchase the co-ownership of the new item in the relation of the value of the purchase item (final invoice amount including turnover tax,) to the other processed items at the time of processing. For the item, by the way, which originated from the processing the same applies as for the item delivered with reservation.

**8.6** If the purchase item is inseparably mixed with other items not belonging to us, we purchase the co-ownership of the new item in the relation of the value of the purchase item (final invoice amount including VAT) and to the other mixed items at the time of mixing. If the mixing is done in a way that the item of the customer is to be deemed as the main item, it is deemed to be agreed that the customer transfers co-ownership to us proportionally. The customer thus preserves the generated sole ownership or co-ownership for us.

**8.7** The customer shall also assign those claims to us to secure our claims against him which arise by connecting the purchase item with real estate against a third party.

**8.8** We commit ourselves to releasing securities entitled to us on demand of the customer in a way that the realisable value of our securities exceed the claims to be secured by more than 10%; it is our discretion to select the securities to be released.

## **9. Warranty**

**9.1** Descriptions and images of the goods are non-binding, only the specifications expressly designed as binding apply. Technical modifications which leave the contractually provided purpose unaffected remain reserved.

**9.2** Warranty claims of the purchaser imply that the latter shall immediately examine the goods delivered for the existence of faults and defects. If there are faults and/or defects present in the condition of the product, the customer shall immediately inform us in writing about the potential objections regarding the product.

**9.3** In the event of a deficiency for which we are responsible we are entitled to a supplementary performance to our discretion in ways of a remedial action or of delivering a new flawless item. In case of a remedial action or a replacement delivery, we are obliged to bear all of the costs for the purpose of a supplementary performance, in particular for transport, road costs, labour and material as far as they are not increased by the fact, that the purchase item is transported to a location different from the place of delivery.

**9.4** If the supplementary performance fails, the customer is entitled to demand withdrawal or reduction.

**9.5** We are liable according to the statutory regulations as long as the customer has claimed compensation, which is based on intention or gross negligence, including intention or gross negligence of our representatives or auxiliary persons. As long as no intentional violation of the contract is attributed to us, the liability for compensation is limited to the forecastable, typically occurring damage.

**9.6** We are liable according to the statutory regulations as long as we culpably violate an essential obligation of the contract, but also in this instance the liability for compensation is limited to the forecastable, typically occurring damage.

**9.7** Provided that the customer is otherwise entitled to a replacement of the damage instead of the performance due to a negligent violation of our obligation, the liability for compensation is limited to the forecastable, typically occurring damage.

**9.8** Liability due to culpable violation of life, body or health remains unaffected; this also applies to the compulsory liability according to the Product Liability Act.

**9.9** As far as nothing deviating is regulated above, liability is excluded.

**9.10** The statutory period of limitation for deficiency claims is 24 months, calculated from the transfer of risk. This does not apply in the event that the purchase item is used as it commonly occurs for a building and has thus caused the deficiency.

**9.11** The statutory period of limitation in the case of a delivery recourse according to §§ 478, 479 BGB [German Civil Code] remains unaffected; it is 5 years, calculated from the delivery of the deficient item.

## **10. Total Liability**

**10.1** A liability for any damage compensation which is advanced in comparison to the one provided in § 9 is excluded without regard for the legal nature of the enforced claim. This in particular applies to damage compensation claims arising from culpa in comprehend, for other breaches of duty or for tortious claims on replacement of damages to property according to § 823 BGB [German Civil Code] .

**10.2** The limitation to para. (1) also applies as long as the customer demands the reimbursement of useless expenses instead of a claim on replacement of the damage, instead of the performance.

**10.3** As long as the liability for damage compensation towards us is excluded or limited, this also applies regarding the personal liability for damage compensation of our employees, wage earners, representatives and auxiliary persons.

## **11. Other Regulations**

11.1 Provided that the customer is a registered salesman, our business headquarters shall be the place of jurisdiction; we are, however, entitled to take the customer also to court at s his place of business.

11.2 Unless the confirmation of the order states otherwise, our headquarters are the place of fulfilment.

11.3 For all the legal relationships the law of the Federal Republic of Germany shall apply exclusively. The United Nations Convention on Contracts for the International Sale of Goods shall be excluded.

11.4 Alterations and amendments of the concluded contract require the written form in order to take effect. This also applies for oral ancillary agreements and commitments as well as for the annulment of the written form agreed.

11.5 In the event that individual clauses of the previous sales and delivery terms become ineffective, this does not affect the validity of the remaining conditions of the contract.