



General Terms and Conditions of Sale and Supply
Römheld GmbH Friedrichshütte and Hilma-Römheld GmbH

- Version August 2020 -

I. General

1. These General Terms and Conditions apply to transactions with persons who are acting in the course of a business and bodies organized under public law. All current and future business transactions with the Customer shall be based exclusively on the General Terms and Conditions set out below. We do not acknowledge any general terms of the Customer which contradict, supplement or deviate from the following, except where we have expressly consented to the same in writing. Supply of the goods, works or services or the acceptance of payment does not constitute our acceptance of terms which deviate from the following. The following terms apply to all future supplies to the Customer.

2. These Terms shall apply in particular to the sales and/or delivery of movable goods ("Goods") irrespective of whether such Goods are manufactured by ourselves or procured from suppliers (§§433, 651 of the German Civil Code (BGB)). Except where otherwise agreed the Terms in force at the time the Purchaser places his order, alternatively the version last provided to the Purchaser in text form, shall constitute the legal framework for all future purchases of a similar kind without us being required to indicate their application for each individual transaction

3. The goods and works supplied by us are in conformity with the laws and standards in force in Germany. We do not warrant conformity with the laws and standards of other countries (see clause VII).

4. Insofar as is necessary for the handling of our business we are entitled to store and process the Customer's data in electronic form to the extent permitted by data protection laws.

5. Insofar as these General Terms and Conditions are produced in the German and the English language, the German version shall prevail.

II. Contractual Declarations

1. The range of products and services we offer is subject to change without notice. This also applies where we have provided the Purchaser with catalogues, technical documentation (e.g. drawings, plans, calculations, references to DIN Norms), other product descriptions or documents – including in digital form.

2. The purchase order placed by the Purchaser shall be deemed a binding offer. Except where otherwise provided in the purchase order the order shall be capable of acceptance for a 2 week period beginning on the date of receipt of order.

3. Our order acknowledgement in text form is definitive in terms of determining acceptance of a purchase order and the scope and date of delivery.

4. Where reference is made to trade terms in accordance with the International Commercial Terms (INCOTERMS), the INCOTERMS 2020 shall apply.

III. Price, Terms of Payment, Set-Off

1. Except where otherwise agreed our prices are in accordance with the price list current at the time the contract is made. The prices quoted by us are ex works (EXW Incoterms 2020) our stores, and do not include packing, freight, customs duties, ancillary import charges, insurance and VAT. VAT shall be charged at the rate current at the date of performance. Erection, assembly and commissioning costs shall be charged according to time spent.

2. Where the delivery or performance date is more than 3 months after the contract date we are entitled upon timely notification to the Purchaser and prior to delivery or performance to adjust the price in such a manner as is necessitated by any general price development beyond our control (e.g. exchange rate fluctuations, currency regulations, customs duties changes, significant increase in material and manufacturing cost) or caused by a change of supplier.

For deliveries or performance rendered within the three month period the prices quoted when the contract is made are valid. In relation to framework agreements the three month period shall begin to run upon the effective date of the agreement

3. Except where otherwise agreed the Customer shall remit payment of the agreed price without deduction within 30 days after supply of the goods or services. Upon expiry of the payment term the customer shall be deemed in default of payment without reminder in accordance with § 286 2) No. 2 of the German Civil Code (BGB). Any deduction of discount is subject to an agreement in writing.

4. The Customer may only set off undisputed counterclaims or counterclaims against which we have no further recourse to appeal. The Customer shall only be entitled to rights of retention in so far as these are based on the same legal transaction.

IV. Delivery Term

1. The commencement of the delivery term quoted shall be subject to clarification of all technical matters and proper and timely performance by the Customer of its obligations

2. Where we fail to deliver upon an agreed delivery date and such failure is caused by an act or omission on our part the Customer shall grant us an extension in writing of not less than 2 weeks. Where upon the expiry of the grace period, delivery is still not forthcoming and the Customer desires to rescind the contract or demand damages in lieu of performance, the Customer shall prior thereto set a final and reasonable deadline in writing expressly indicating his intention. The Customer is obliged at our request to declare within a reasonable period whether he shall rescind the contract due to the delay in delivery and/or demand damages in lieu of performance or insist upon performance.

3. Where there is a delay in delivery for reasons for which we are not responsible, to include without limitation where our suppliers fail to supply us properly or on time or at all despite proper procurement measures, the term of delivery shall be extended by a reasonable period. Where we have properly informed the Customer of the circumstances barring performance and such circumstances are not of a temporary nature we shall be entitled to rescind in whole or in part those obligations under the contract which are incapable of performance.

4. Where the erection, assembly or commissioning is delayed for reasons for which we are not responsible, the Customer shall bear to a reasonable extent the cost of waiting time and any additional travel time of our assembly staff.

V. Shipment and Transfer of Risk

1. We supply our goods and services „ex works“ (EXW Incoterms 2020). The risk of loss, destruction or damage passes to the Customer upon loading at our warehouse or when the goods cannot or are not to be shipped upon notification of their readiness for shipment. This shall also apply where we deliver by installment or where we have assumed other duties to include without limitation shipping cost or to supply to the delivery location or assembly of the goods.

2. Where we arrange shipment we reserve the right to select the transport route and the mode of transport. If customary we shall deliver the goods packed. We shall select the packaging, protection aids and / or means of transportation on the basis of our experience at the expense of the Customer. Except where otherwise agreed in writing packing, protection and handling aids are non-returnable except where prescribed by law. Additional costs caused by special shipping requests of the Customer shall be borne by the Customer.

The same shall apply to increases in shipping cost which occur after the contract is made, additional costs for re-routing, storage costs etc. except for freight paid deliveries.

3. Supply of goods or services by installment is permitted except where unreasonable for the Customer.

4. In relation to make and hold orders approximately the same quantities shall be called off each month except where otherwise agreed in writing. The entire order quantity shall be deemed called off one month after the expiration of the call off deadline, or in the absence thereof twelve (12) months after the contract date. Where the Customer fails to assign goods ordered to a certain delivery within one month after the expiry of the deadline for such assignment, or in the absence of an agreed deadline, within one month of our request for such assignment, we reserve the right to assign the goods at our discretion and deliver the same.

5. Surplus or short deliveries of up to 10% are permitted insofar as is customary in the trade.

VI. Act of God

In the event of an act of god which affects either ourselves or our suppliers, we are entitled to suspend performance of our obligation to deliver for the duration thereof. The same shall apply in the event of a shortage of energy, raw materials, strikes, pandemics, epidemics, enactments passed by the authorities or interruptions of operations or transit. Where there is a considerable change in the circumstances prevalent at the formation of the contract which renders performance unreasonable, we reserve the right to rescind the contract. The performance of our obligations is subject to their compliance with national and international trade legislation, sanctions and embargos.

VII. Customer's Rights in the case of Defects

1. The goods supplied by us correspond to the German regulations and standards currently in force. We give no guarantee that the goods comply with other national regulations. Where the goods are to be put into operation overseas it is the responsibility of the Customer to ensure that the goods are in conformity with the relevant legal requirements and standards and where required to make appropriate adaptations.

2. The Customer shall not be entitled to make a claim based on defective delivery or performance where the reduced value or merchantability of the goods delivered or services supplied is nominal.

3. Where the goods delivered by us are defective and the Customer has notified us of the same in writing not later than 28 days after the delivery date we shall at our option deliver a replacement or remedy the defect. The Customer shall grant us a reasonable period of not less than 30 working days to carry out the same.

4. The place of performance for remedying the defect is the original delivery destination. The Customer is entitled to demand reimbursement of the costs incurred by reason of the replacement delivery or remedying of the defect insofar as such costs are not increased due to the subsequent transportation of the goods delivered to a location other than the original shipment location unless the purpose for which the goods are intended requires the same

5. In the event that we are not in a position to remedy the defect or deliver a replacement the Customer is entitled to rescind the contract or to demand a reasonable reduction in the purchase price. Rescission of the contract is only permissible where the Customer prior thereto sets a final and reasonable deadline in writing expressly indicating his intention.



6. The Customer shall retain a legal right or recourse against us insofar as the Customer has not agreed terms with its Customer which exceed the statutory liability for defects.

VIII. Limitation of Liability

1. Except where otherwise provided below any claim of the Customer for damages other than those claims set out in clause 7 aforesaid are hereby excluded irrespective of the legal grounds upon which it is based. Accordingly we do not accept liability for any damage not incurred by the goods themselves nor do we accept any liability for loss of profit or any other pecuniary loss suffered by the Customer. To the extent that our contractual liability is excluded or limited, such exclusion or limitation shall apply in relation to the personal liability of employees, representatives and vicarious agents.
2. The aforesaid limitation of liability shall not apply where the damage incurred has been caused by wilful default or by gross negligence or where personal injury has been suffered. The same shall apply in relation to any limitation of liability of a guarantee of quality given with regard to the goods or services supplied.
3. Where we are in negligent breach of a material term of the contract our liability to compensate damage to property shall be limited to such loss as was typically foreseeable at the time the contract was made. A material term of the contract shall be any term which places the Customer in the legal position provided for under the contract in terms of its content and purpose and any term which must be complied with in order to ensure proper performance of the contract and upon the performance of which the Customer relied or could be reasonably expected to rely.
4. Any other liability in damages is hereby excluded.
5. In the event of any loss of data we shall only be liable for losses that the Customer would have incurred despite proper data protection measures (e.g. daily back-up).
6. Any assignment of the Customer's claims provided for in §VII and §VIII above is not permitted except as otherwise provided by law.

IX. Limitation

The limitation period for claims based on the supply of defective Goods and services as well as for claims for damages is one year from the date of delivery. The limitation period aforesaid shall not apply in relation to claims based on wilful default, gross recklessness, or to personal injury claims and to claims under product liability laws nor shall the limitation period apply where longer limitation periods are prescribed by law.

X. Collateral Security

Where after the conclusion of the contract we become aware that the Customer is in an adverse financial position, we reserve the right to demand within a reasonable deadline provision by the Customer of a security which is customary in the trade. Where the Customer fails to provide the security requested within the deadline set we reserve the right to rescind the contract.

XI. Retention of Title

- (1) We retain title to the Goods until payment of all current and future claims under the contract and any ongoing business relationship (Secured Goods) have been received.
- (2) Goods which are subject to a reservation of title shall not be mortgaged or assigned by way of security to third parties prior to receipt of full payment. The Customer shall inform us in text form without delay where an insolvency application has been made or where levies of execution (attachment orders) are made against the Secured Goods.
- (3) Where the Customer is in breach of his contractual obligations, in particular where he fails to remit payment of the price, we are entitled to rescind the contract subject to the statutory requirements and to demand the surrender of the Goods based on our reservation of title and the rescinded contract. Where the Customer fails to remit payment of the purchase price we are only entitled to enforce

those rights where, prior thereto, we have set the Customer a reasonable deadline to remit payment or the setting of such a deadline is not required legally.

(4) The Customer is authorised to resell or process the Secured Goods in the ordinary course of his business. In such circumstances the following shall apply:

- (a) The reservation of title shall extend in its full value to products which originate from the processing, mixing or combining of the Secured Goods. Where after the processing, mixing or combining of the Secured Goods with third party goods third party property rights remain in existence, we shall acquire joint title to the resulting products in proportion to the invoice value of the Secured Goods which have been processed, mixed or combined. The originating product shall otherwise be subject to the same terms which apply to the Secured Goods as set out aforesaid.
- (b) Claims against third parties based on the resale of the Secured Goods or the resulting products are hereby assigned by the Customer to us by way of security in the value of our co-ownership as set out in the preceding paragraph (a). We accept such assignment. Customer's duties as set out in § 5(2) shall apply to assigned claims accordingly.
- (c) The Customer shall remain authorised to collect payment in addition to ourselves. We undertake not to collect payment for as long as the Customer complies with his payment obligations to us, there is no deficiency in his performance capability and we have not exercised our rights under § 7 (3) aforesaid. In such circumstances we can request the Customer to inform us of the assigned claims and their debtors, to provide us with any information required to collect payment and corresponding documentation and to inform the debtors of the assignment. Furthermore in such circumstances we are entitled to revoke Customer's authorisation to process and resell the Secured Goods.
- (d) If the value of the securities provided to us exceeds our claims by more than 10 percent, we undertake to release securities of our choice on demand by the Customer. Where we assert a claim based on reservation of title this shall only be deemed to be rescission of the contract as well where we expressly declare the same in writing beforehand.
- (5) In the event that the above retention of title clauses are void or unenforceable according to the law of the state/country in which the goods are situated, the collateral security which corresponds to the retention of title in that state/country is deemed to be agreed.

XII. Software

1. Except where agreed otherwise we grant to the Customer a simple, perpetual licence to use the software at a single or multi user workplace at the agreed place of destination where the software is to be used. Except where expressly agreed otherwise the licence shall be granted exclusively for and limited to the agreed single or multi user workplace which shall be situated in the country in which the Customer has its principle place of business. The licence to use the software shall be exercised by the maximum number of persons covered by the price paid by the Customer.
2. The Customer shall only use the software for its internal operations, including use in connection with companies with which it is affiliated within the meaning of paragraph 15 of the German Company Law Act (AktG) („Group of Companies“). In particular the operation of a computer centre for a third party or the temporary placement of the software (e.g. as application service providing) at the disposal of external companies or groups of companies are not permitted except where we have previously consented thereto in writing. Any commercial rental of the software is generally not permitted.
3. Reproductions of the software are only permitted for the purpose of the contract. The Customer shall be entitled to make back-up copies to the extent required in accordance with the generally accepted rules of technology. Back-up

copies on portable data carriers shall be marked accordingly and the copyright symbol of the original data carrier shall be attached thereto.

4. The Buyer shall only be authorized to change, extend or adapt the software within the meaning of § 69 c) Nr. 2 the German Copyright Act (UrhG) where it is deemed by law to be indispensable. Before the Customer remedies errors itself or through third parties, he shall allow us two attempts to remedy the error. The Customer shall not acquire any rights of use or exploitation as a result of such remedial works other than the rights of use granted hereunder.
5. The Customer is authorised to decompile the software within the constraints of § 69e of the German Copyright Act (UrhG) but not before we have failed to provide the required data and/or information within a reasonable period having been requested to do so in writing, in order to establish interoperability with other hard and software.
6. Where we provide the Customer with supplementary software (e.g. patches, supplements to the user manual) or a new version (e.g. an update, upgrade) which replace software previously provided ("old software"), they shall be subject to these terms and conditions. Where we provide a new version of the software Customer's rights in relation to the old software shall cease as soon as the Customer actively uses the new software irrespective of the absence of an express request by us for its return.
7. The grant of rights of use is subject to full payment of the agreed price. The Customer shall inform us without delay of any attachment, seizure or other third party disposal or intervention.

XIII. Non Disclosure

- (1) During the term and after termination of this contract the parties shall not disclose to third parties or use for their own business aims without authorisation any confidential information (to include without limitation quotations, documents, samples, sketches, business intentions, personal data, problems, data and/or problem solutions, or any other know-how of any kind as well as information visually gained by the inspection of plants or facilities) received from the other party or of which the parties became aware by reason of their collaboration. The aforesaid non-disclosure obligation shall also apply in relation to the existence and content of this contract. The parties shall also impose this obligation upon their employees.
- (2) This non-disclosure obligation shall not apply to information which
 - was already known to the other party prior to the contract
 - was legally acquired from third parties;
 - is or comes into the public domain or is the state of the art
 - cleared for disclosure by the disclosing party.
- (3) Upon termination of the contract the parties shall return unrequested all confidential documents and information of the other party in tangible or non-tangible form or at the request of the other party destroy the same or insofar as technically reasonable irrevocably delete the same.
- (4) The parties shall comply with data protection law requirements, in particular where access is granted to the premises or hardware or software of the other party. They shall undertake suitable measures to ensure that vicarious agents and third parties acting on their behalf shall also comply with the same.



ROEMHELD
HILMA ■ STARK

XIV. Special Terms for the Performance of Works

1. Sub Contractors

Where we are instructed to perform works, to include without limitation installation works, we are entitled to use sub-contractors.

2. Assistance to be provided by the Customer in relation to Erection and Installation Works

Where the Customer requires erection or installation works, he shall provide the following assistance:

The Customer shall bear the cost of all earth, construction and other ancillary works unrelated to the work provided by us hereunder including the provision of the requisite specialists and assistants, building materials and tools, such objects and materials as are required for the assembly and installation of the goods, lifting and other devices, fuels and lubricants as well as energy and water at the point of utilization including the prompt provision of connections, heating and lighting.

The Customer shall ensure that at the place of installation all machine parts, apparatus, materials, tools etc. are properly stored. The Customer shall be under an obligation to provide adequate dry lockable rooms and to place at the disposal of the installation staff adequate working and rest areas including adequate sanitary facilities. Furthermore the Customer shall use all reasonable endeavours to protect and treat our property and our installation staff well at all times.

Prior to the commencement of installation works the Customer shall provide unrequested all information concerning the position of hidden electricity, gas and water mains or similar supplies and the requisite structural drawings. Where assembly, installation or acceptance of the works is delayed for reasons for which we are not responsible, the Customer shall bear the reasonable cost of any waiting time and additional travel expenditure incurred by us or our installation personnel.

3. Custom Made Goods

In relation to custom made goods ordered by the Customer which are incapable of exploitation other than by the Customer, the Customer shall only be permitted to terminate such orders for cause due to the fact that the planning, completion and storage of our upscale custom made goods involves significant time, effort and expense.

Where the Customer fails to accept custom made goods we are entitled to dispose of the goods at the Customer's cost provided that a reasonable deadline for acceptance has been set and expired.

4. Acceptance

Where we are instructed to perform installation works the following shall apply:

Where for the performance of works acceptance has been agreed, we shall be entitled upon completion – where appropriate prior to the completion date – to request acceptance of performance. The Customer shall accept performance within 12 working days of our request; an alternative deadline can be agreed where appropriate. Where requested self-contained works can be accepted separately. Acceptance shall only be refused pending the remedy of significant defects.

Where no acceptance is required the works shall be deemed accepted upon the expiration of 12 working days after written notification of completion. Where no acceptance is required and the Customer has commenced operation, in whole or in part, the works shall be deemed accepted 6 days after the commencement of operation, unless otherwise agreed. The use of structural equipment parts for the continuation of the performance of works shall not be deemed acceptance for the purpose of this sub paragraph.

Any reservations based on known defects or contractual penalties must be claimed by the Customer within the deadlines set out in sub paragraphs 1 and 2 of this clause 4. The risk of loss and destruction shall pass to the Customer upon acceptance insofar as it has not already passed in accordance with sub paragraph 1 of clause 5 above.

XV. Applicable Law, Jurisdiction

1. These Terms and all legal relations between us and the Customer shall be governed by the laws of Germany excluding the United Nations Convention on the International Sales of Goods (CISG) dated 11. April 1980.

2. For Customers who are acting in the course of a business within the meaning of the German Commercial Code, public law entities or federal special funds and whose principle place of business is situated in the European Union all disputes arising directly or indirectly out of these Terms shall be resolved before the courts in Laubach, Germany. We reserve the right to sue the Customer at the place of performance or before the courts of local jurisdiction situated at the Customer's place of business. Overriding statutory provisions in particular rules providing for exclusive jurisdiction of a particular court, shall remain unaffected.

For Customers whose principle place of business is situated outside the European Union all disputes arising out of these terms and conditions shall be finally settled in accordance with the Rules of the German Institution of Arbitration e.V. (DIS) without recourse to the ordinary courts of law. The place of arbitration shall be Frankfurt am Main, Germany.

XVI. Final Provisions

In the event any term of these General Terms and Conditions of Sale is or shall become invalid, the validity of the remaining provisions shall remain unaffected, and any such invalid term shall be interpreted or amended in such a way as to reflect as far as possible the underlying business aim. The same shall apply in relation to any unintentional loophole in these General Terms and Conditions of Sale.