



# **GENERAL TERMS AND CONDITIONS OF SALE**

**REV 1.4 dated 1st February 2018**

## **General Terms and Conditions of Sale and Delivery**

### **1 Scope**

(1) The General Terms and Conditions of Sale and Delivery set forth hereunder apply to all - also future - contracts with our customers or other buyers or clients (hereinafter referred to as CUSTOMERS or BUYERS) even if they are not explicitly mentioned in later contracts.

(2) In case of doubt the Incoterms in their respective latest version are relevant to the interpretation of trade clauses.

### **2 Offer / Purchase orders**

Our offers are subject to change. Verbal agreements, promises, representations or warranties provided by our employees in connection with the conclusion of the contract become binding only by our written confirmation.

The purchase order by a customer is a binding offer. It is at our discretion to accept this offer within 4 weeks either by 1) sending an order confirmation or 2) by committing a delivery schedule for the ordered goods to the customer within this period.

### **3 Samples, Brochures, Quality**

Samples, sample MTCs/TDCs/Blue Sheets, test coupons, shop drawings, manufacture know how and/or similar items as well as finished product(s) and semi-finished product(s) provided by us for inspection/verification with end user/testing purposes (hereinafter referred to as "samples") remain our property and may be passed on to third parties, only with our explicit written approval. These samples, [unless they are small series or pilot series manufactured particularly for the customer], must not be used for the manufacture or development of the customer's own or external products. The use of our "samples", for advertising purposes is not allowed.

All samples are always provided as non-binding samples for inspection purposes unless they are small series or pilot series manufactured particularly for the customer. Technical specifications are subject to a written confirmation and are therefore to be regarded as approximate only. Even if certain properties have been promised, deviations are allowed within the scope customary in trade.

Details and illustrations provided in brochures and catalogues do not represent descriptions of the quality of the goods but are approximate values which are customary in our line of business, unless they have been explicitly designated as binding by us.

### **4 Production materials / OEM Manufacturing Records**

Production materials manufactured by our principals or in house, by order of the customer remain as company property and are kept in safe custody up to payment obligations being met.

If, during the period of production of samples or production materials, the customer suspends or terminates his cooperation with us, all manufacturing cost (inclusive of raw material booking) so far incurred will be at his expense.

The duty to keep manufacturing records in safe custody always ends 12 months after the last delivery to the customer. After this, we are not obligated to affect further safekeeping.

### **5 Dates and scope of delivery**

The agreed delivery periods and dates are always deemed approximate unless a fixed date has been explicitly agreed in writing.

The delivery period commences with the receipt of BUYER signed and accepted order confirmation sent by the company, but not before any documentation, ITP/QA QC approvals, WPS releases, etc. to be procured by the customer have been provided and approved. The delivery period is considered as observed if, before the expiry of this period, the advice of readiness for dispatch has been given or if the delivery item has left the factory.

In the event of force majeure (measures within the scope of industrial disputes such as in particular strike and lock-out as well as in the event of unforeseeable impediments beyond our control) the delivery period shall be extended by the time the impediment lasts, or time taken to remedy remedial/repair works. This applies also if these circumstances occur at the company's suppliers. For the duration of the above mentioned impediments no consequences of delay will occur even if we are already in delay at the time of entry of these circumstances. The customer will be informed as soon as possible about the commencement and end of such impediments.

Partial deliveries are allowed to a reasonable extent within the delivery periods indicated by us unless the customer has included different provisions in his purchase order with indication of an important reason.

The scope of delivery is determined by our written order confirmation. All risk of goods shall pass to the Customer upon delivery.

During the delivery period we (inclusive of our suppliers) reserve the right to effect changes in design or form which are based on technological improvements and/or requirements of the law provided that the delivery item is not considerably changed and that the changes are acceptable to the customer.

## **6 Cancellation costs**

If the customer unjustifiably cancels an order placed with us, we shall be entitled, without prejudice to the option of claiming an actually higher damage, to request 10% of the sales price over and above costs incurred due to the processing of the order and for lost profit. It is up to the customer to prove that the actual damage has been smaller. This includes any purchase of raw materials, tooling etc. related to manufacturing of materials.

## **7 Shipment + Packing**

Unless agreed otherwise we deliver "Ex Works – Company nominated warehouse". Shipment of the goods is always effected for the account and at the risk of the customer, even if freight is prepaid. If delivery and receipt are effected free to the nearest port, surface freight and (or) cost of cartage are not included. With the handing over of the goods to the carrier the risk passes to the customer unless delivery is effected by own means of transport. Taking-over by the carrier is considered as proof of proper condition of the wrapping.

In other respects, the title to packing passes to the customer and is charged by us. Postage/Courier and freight costs as well as packing expenses are separately invoiced. The type of shipment is selected according to our equitable discretion.

## **8 Acceptance and passing of risk**

The customer is obligated to accept the delivery item and to immediately examine it for potential defects. If the customer intentionally or gross negligently falls behind schedule with the collection or acceptance of the delivery item for more than fourteen (14) days from the receipt of the notice of readiness, we shall be entitled, after granting written notice, and a further grace period of another fourteen (14) days, to withdraw from the contract or to claim damages because of non-performance. We shall not be required to grant a period of respite if the customer seriously and finally refuses acceptance or is obviously not in a position to pay the purchase price within this period.

## **9 Price, Escalation, Terms of Payment**

Our prices are always quoted EXCLUSIVE of the legal value added tax (VAT), GST and/or Customs Duties + Clearance charges unless otherwise stated.

Price changes are allowed if the period between the conclusion of the contract and the agreed delivery date is more than four months. If raw material prices or other material costs increase after this period until completion of the goods, and if furthermore customs duties, taxes or other duties for mineral oil as well as freight are increased or introduced, we shall be entitled to reasonably increase the price according to these cost increases. This applies also if a fixed price has been agreed. The customer is entitled to withdraw from the contract only, if the price increase considerably exceeds general cost of execution (Buyer to prove) in the period between the placing of the purchase order and the delivery.

If the customer is a merchant, a corporate body under public law or a special fund under public law, price changes are allowed according to the above provision if a period of more than six weeks is between the conclusion of the contract and the agreed delivery date.

The purchase price and the consideration for secondary services are due and payable with the handing over of the delivery item unless other provisions have been explicitly agreed in writing. Any acceptance of bills of exchange always requires a prior written agreement with us. If bills of exchange are accepted, the bank discount and collection fees are charged. They are immediately payable in cash.

The price for the supply of goods and services are as set out in our priced quotation(s). RJTECH shall invoice the customer as per the agreed payment terms.

Unless otherwise stated, invoiced amounts shall be due either by Cash Against Documents or Letter of Credit (from a first class bank) on sight basis. RJTECH reserves the right to charge interest (25% per annum) on overdue invoices from date of invoice to settlement.

RJTECH reserves the right to cancel the contract and/or suspend any further deliveries, if payment(s) are not made by stipulated due date.

If goods are not collected within seven (7) working days; RJTECH reserves the right to charge for demurrages and/or warehousing costs at market rates + 10%.

## **10 Set-off, Delay**

If the customer is a merchant, a corporate body under public law or a special fund under public law, the retention of payments due to any counterclaims of the customer which have not been recognized by us or which have not been established by a court order, is not allowed, neither is the set-off against such counterclaims.

If the buyer is a merchant, he is deemed to be in delay if he fails to effect payment upon our reminder which is sent after the purchase price has fallen due. Irrespective of this, a customer who is a merchant is deemed to be in delay if he fails to effect payment as of a certain calendar date determined in the contract. The legal regulation according to which the debtor is automatically in delay thirty days after receipt of the invoice remains unaffected by this.

## 11 Defects, Complaints, Warranty

Notices of defects are to be effected in writing immediately, but not later than two weeks after receipt of the goods. If the customer uses, applies or processes the supplied goods, this is considered as acceptance of the goods and hold as a final waiver of any kind of warranty claims or other claims.

If faulty goods have been supplied, it will be at our option to effect replacement delivery or, if possible, subsequent improvement. Rejected goods can be returned only with our consent.

Warranty can be considered as against manufacture defect only. The warranty does not refer to damage caused after the passing of the risk due to unsuitable or improper use, faulty installation and commissioning, natural wear and tear, faulty or negligent treatment, excessive strain, unsuitable operational equipment or due to electrical and/or mechanical influences, unless these have been caused by a fault on our part.

Liability is excluded for all damage unless it is explicitly mentioned in the above provisions, even unless it has been caused to the delivery item itself. Excluded from this is damage

- A) Which has been caused due to willful intent or gross negligence of the owners, executives or auxiliary persons.
- B) Which is due to culpable breach of contractual duties. In the latter case the supplier shall be liable only for foreseeable, typically occurring damage.

Furthermore, the exclusion of liability does not apply in those cases where liability is assumed for damage to life, limb or health or for material damage caused by privately used items because of a defect of the delivery item, provided that the warranty particularly intends to secure the customer against damage which has not been caused to the delivery item itself.

## 12 Retention of Title

All delivered goods remain our property ("reserved goods") until all claims have been fully paid, particularly balances arising under the business relations ("reserved right with respect to balance") and receivables established by the insolvency administrator on a unilateral basis as part of choice of fulfilment. This applies also to receivables arising in future and conditional receivables, e.g. from accepted bills, and if payments are made with respect to particularly designated receivables. This reserved right with respect to balance becomes finally discharged if all outstanding receivables covered by this reserved right have been paid. The company is entitled to effect assignment of accounts receivable from customers.

The processing of reserved goods shall be carried out for as manufacturer and/or supplier, but shall not entail liability on our part. The processed goods shall be regarded as reserved goods within the meaning of clause stated above and, If the customer processes, combines or mixes the reserved goods with other goods, we shall be entitled to co-ownership in the new goods, in proportion of the invoiced value of the reserved goods to the invoiced value of the other goods used. If, by such combining or mixing, our ownership expires, the customer transfers to us, his title to the new stock or goods, to the extent of the invoiced value of the reserved goods, and shall keep them in safe custody for us free of charge. Our co-ownership rights shall be regarded as reserved goods in terms of the above sub clauses under this clause.

The customer may resell the reserved goods only within the normal course of his business in accordance with his normal business terms and as long as he is not in default of payment, provided that he reserves the title to the goods and that the claims arising from the resale will be transferred to us according to above items 4 to 6. The customer shall not be entitled to dispose of the reserved goods in any other way. The use of the reserved goods for the performance of contracts for work and services is also considered as a resale in terms of this clause.

- The claims resulting from the resale of the reserved goods are assigned to us already now together with all securities which the customer obtains in respect of the claim. Such claims shall serve as our security to the same extent as the reserved goods. If the reserved goods are resold by the customer together with other goods not purchased from us, then any receivables resulting from such resale shall be assigned to us in the ratio of the invoiced value of the reserved goods to the invoiced value of the other sold goods. In the event of a resale of goods in which we have co-ownership rights according to above item 2, the assignment shall be limited to the share which corresponds to our co-ownership rights.
- The customer shall be entitled to collect any receivables resulting from the resale. This right to collection shall expire if withdrawn by us, at the latest if the customer is in default of payment, fails to pay a bill of exchange or if a petition for the institution of insolvency proceedings is filed. We shall exert our right of revocation only if and in so far as it becomes evident after the conclusion of the contract that our payment claim resulting from this or other contracts with the customer is at risk due to his inability to pay his debts. At our request, the customer is required to immediately inform his purchasers of the assignment to us and to forward to us any information and documents required for collection.
- The assignment of claims arising from resale is not allowed unless it is an assignment pursuant to a genuine factoring arrangement of which we have notice and in which the factoring proceeds exceed the value of our secured receivable. Our receivable claim shall be immediately due and payable upon the receipt of the credit of the factoring proceeds.
- The buyer is to immediately inform us of any pledging or other impairment by third parties. The buyer shall bear all costs not reimbursed by third parties which have to be incurred to release the attachment on or the re-transport of the reserved goods.
- If the buyer is in delay of payment or if he fails to pay a bill when it is due and payable, we shall be entitled to take back the reserved goods and for this purpose to enter the buyer's premises. The same applies if it becomes evident after conclusion of the contract that our payment claim arising from this or other contracts with the buyer is at risk due to his inability to pay. If we take back the reserved goods, this shall not be regarded as a withdrawal from the contract. The regulations of the German Insolvency Act remain unaffected.
- If the value of the existing securities exceeds the secured receivables including additional claims (interest, costs, etc.) by more than 50% in total, we are in this respect obligated at the buyer's request to release securities of our choice.

**13 Indemnification**

The Customer shall indemnify RJTECH against all claims, costs and expenses which RJTECH may incur and which arise, directly or indirectly, from the Customer’s breach of any of its obligations under this Agreement, including any claims brought against RJTECH alleging that any goods and/or services provided by RJTECH in accordance with the specification document(s) and/or conditions; infringes a patent, copyright or trade secret or other similar right of a third party.

**14 Electronic Communication**

Any communication to be made between the Seller and Buyer may be made by electronic mail or other electronic means if the Seller and Buyer (i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication; (ii) Any commitments/confirmation made to proceed with manufacturing/procurement MAY be deemed binding and (iii) if the Seller does proceed with manufacturing the Seller at its sole discretion will hold the Buyer or its representatives liable for any remuneration thereafter.

**15 Independent Contractors**

RJTECH may, in addition to its own employees, engage sub contractors to provide all or part of the services bring provided to the customer and such engagement shall not relieve RJTECH of its obligations under this agreement.

**16 Final Remarks**

The buyer will maintain confidentiality of all non public information relating to the company, commercials shared by the company, data shared by the company and supporting documentation supported as part of bidding, estimation and order booking purposes.

As dispute raised against the company, its officers and or staff will be under the jurisdiction of the courts of DIFC (UAE) and governing law of the United Kingdom.

Any obligations (payment or contractual) by the buyer, will be under the jurisdiction of the courts of United Arab Emirates and the governing law of the United Arab Emirates.

**SELLER**

**BUYER**

Signed by: Rajiv Rajgopal

Signed by:

For and on behalf of

For and on behalf of

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