

General Business Terms

of Rudholzer Technologien GmbH

§ 1 General terms and conditions

1.)

Deliveries shall be carried out exclusively at the General Terms and Conditions stated below. Opposing terms and conditions of the Customer shall only be acknowledged, if this is expressly declared by Rudholzer Technologien GmbH.

2.)

These terms and conditions shall also apply for any follow-up business and for repairs to the deliveries even if no special reference is made to these once again. Collateral agreements, amendments and supplements to this contract must be confirmed in writing by Rudholzer Technologien GmbH.

§ 2 Validity of the offer, conclusion of the contract, offer documents

1.)

Offers of Rudholzer Technologien GmbH are always without obligation and non-binding. A contract shall only be concluded when Rudholzer Technologien GmbH confirms the customer's order in writing.

2.)

Any cost estimates, drawings and other offer documents shall remain the property of Rudholzer Technologien GmbH. Rudholzer Technologien GmbH shall be exclusively entitled to the rights of utilization under copyright law.

§ 3 Prices

1.)

The prices do not include the rate of value added tax applicable on the date the contract was concluded.

2.)

Additional costs for transport to the place of installation of the system or for despatch shall be borne by the Customer.

3.)

In the event that there are more than four months between the order and delivery, the prices contained in the latest applicable price list or notification shall apply.

§ 4 Delivery of the service and delay

1.)

Delivery agreements must be made in writing. Terms of delivery shall begin on the date the order is confirmed by Rudholzer Technologien GmbH, however not before full clarification of details, in particular specifications, of the order. The same shall apply for delivery dates.

2.)

There shall be no delay in delivery in case of force majeure. Force majeure shall also cover industrial disputes in own and third party plants, transport delays, machine breakage, national measures and any other circumstances for which neither of the parties shall be deemed responsible. The respective other party is to be informed immediately of any occurrence of force majeure. Both contractual parties shall be entitled to cancel the contract however no earlier than three months after receipt of this notification.

3.)

In the event of default of Rudholzer Technologien GmbH the Customer may cancel the contract after setting a reasonable final deadline and threat of refusal in writing. The Customer is not entitled to demand damages caused by delay and compensation owing to non-performance.

4.)

For the event that the payment is suspended by the Buyer after conclusion of the contract or in case of over-indebtedness or insolvency Rudholzer Technologien GmbH shall at all times be entitled to cancel the contract under the exclusion of the delivery period.

§ 5 Terms of payment

1.)

All deliveries are to be paid for within 30 days from invoice date net onto the stated accounts of Rudholzer Technologien GmbH.

2.)

Deductions from the invoice amount (sales discount, cash discount etc.) by the Buyer are only permitted if this has been agreed.

3.)

Bills of exchange and cheques are only accepted as conditional payment and require an express agreement. Bills of exchange must be eligible for discount. The claim of Rudholzer Technologien GmbH shall only expire when the amount owed has been received. Any expenses and fees shall be borne by the Buyer.

4.)

The following terms of payment shall apply for orders for deliveries of systems and in case of order values exceeding € 10,000.00, insofar as not otherwise agreed:

50 % when the order is placed

40 % upon delivery

10 % upon acceptance in the house of the Customer.

5.)

In the event of the default of payment Rudholzer Technologien GmbH shall be entitled, notwithstanding its legal rights, to demand interest on default from the date the payment is due in the amount of 11 % above the base lending rate. Against provision of proof Rudholzer Technologien GmbH shall reserve the right to assert higher damages on default.

In the event that the Customer is in default with a payment Rudholzer Technologien GmbH may cancel the contract or demand damages for non-performance after setting a reasonable final deadline.

§ 6 Reservation of title, processing clause

1.)

The title to the delivered goods shall only pass to the Buyer if he has satisfied all his incurred or still to be incurred liabilities from the business relationship with Rudholzer Technologien GmbH, including secondary claims, compensation and encashment of cheques and bills of exchange

(reserved goods).

The reservation of title shall also continue to exist if individual claims of Rudholzer Technologien GmbH are entered in a current invoice and the balance has been drawn and acknowledged.

2.)

The reserved goods shall be processed for Rudholzer Technologien GmbH as manufacturer in the sense of § 950 BGB [German Civil Code], without their having any obligation. The processed goods shall be deemed as reserved goods in the sense of § 6 Subclause 1. In case the reserved goods are combined and mixed with other goods by the Buyer, Rudholzer Technologien GmbH shall be entitled to co-ownership of the new object in the proportion of the invoice value of the reserved goods to the invoice value of the other used goods. In the event that the ownership of Rudholzer Technologien GmbH expires through combining or mixing then the Buyer shall hereby now already assign to Rudholzer Technologien GmbH the rights of ownership to which they are entitled for the new stock or new object in the extent of the invoice value of the reserved goods. The Buyer shall store the new object free of charge for Rudholzer. The co-ownership rights incurred through this shall apply as reserved goods in the sense of § 6 Subclause 1.

3.)

Claims for compensation towards insurances or third parties from damage to the reserved goods delivered shall be assigned to Rudholzer Technologien GmbH. For the event that the Buyer transfers received amounts to his assets, in particular by payment at a credit institute, he hereby now already assigns the obtained claim to Rudholzer Technologien GmbH as precautionary measure. Rudholzer Technologien GmbH hereby now accepts the afore-mentioned assignments.

4.)

In the event that the Buyer is in default of payment or should he not satisfy his obligations from the reservation of title then Rudholzer Technologien GmbH may demand that the goods delivered under reservation of title are handed over by the Buyer and after written announcement with a reasonable deadline, by setting off the proceeds from the sale against the purchase price, to sell the goods at the best possible price through a private sale.

5.)

If the goods are taken back then Rudholzer Technologien GmbH shall be entitled to invoice 15 % of the order value as payment of the flat rate for expenses associated with the return for Rudholzer Technologien GmbH. The right is expressly reserved to assert any claims beyond this. The Buyer is at liberty to prove lower damages.

6.)

If the reservation of title or the assignment is not effective according to law, in the scope of which the goods are located then the security corresponding to the reservation of title or the assignment in this area shall be deemed as having been agreed. In the event that the assistance of the Buyer is necessary then he undertakes to undertake all measures, necessary for justifying and maintaining such rights.

§ 7 Warranty

1.)

The goods are deemed as being as per contract if on the date the risk passes they either do not or only slightly deviate from the agreed specifications. A condition according to contract and free of defects of the goods is assessed exclusively according to the express agreements on quality and quantity of the ordered goods. A liability for a certain intended use or a certain suitability is only insofar assumed, as this has been expressly agreed.

Incidentally, the risk of suitability and use shall be exclusively the responsibility of the Buyer.

The Buyer is aware that in accordance with state of the art technology it is not possible to create computer software that works fault-free in all applications and combinations. The object of the contract is therefore only a functioning software, which may principally be used in the sense of the programme description of the operating instructions.

2.)

The warranty period shall be twelve months from delivery to the Customer. Warranty claims cannot be assigned.

3.)

The Buyer shall inspect the goods immediately after receipt. Claims for faults shall only exist if faults are reported immediately in writing. Hidden material defects must be reported immediately after they are detected.

4.)

The Buyer must give Rudholzer Technologien GmbH the opportunity to immediately inspect the reported goods in the case of complaints.

5.)

In the event of a material defect, Rudholzer Technologien GmbH shall – taking into account the needs of the Buyer – provide subsequent performance either through replacement delivery or by improvement. The choice whether subsequent performance through replacement delivery or improvement shall be the responsibility of Rudholzer Technologien GmbH.

If the subsequent performance by Rudholzer Technologien GmbH is not successfully carried out within a reasonable period of time then the Buyer may set Rudholzer Technologien GmbH a reasonable deadline for subsequent performance, following the fruitless expiry of which he may either reduce the purchase price or cancel the contract.

No further claims shall exist. This shall have no effect on § 8.

6.)

For appliances procured from a sub-supplier the warranty shall be limited to the scope of the warranty obligation as exists between Rudholzer Technologien GmbH and the sub-supplier.

§ 8 Liability

1.)

Insofar as not otherwise regulated in these terms and conditions, Rudholzer Technologien GmbH shall be liable for damages due to a breach of contractual or non-contractual duties or in the case of a possible contract only in case of wilful intent or gross negligence of their legal representatives or vicarious agents or in case of culpable breach of essential contractual obligations. In case of culpable breach of essential contractual obligations Rudholzer Technologien GmbH shall be liable – except in the cases of wilful intent or gross negligence of their legal representatives or vicarious agents – only for the typical foreseeable contractual damages. Rudholzer Technologien GmbH shall not be liable for missed profits, indirect damages, subsequent damages from faults and claims of third parties with the exception of claims from the breach of trade mark rights of third parties.

2.)

If there is a risk of damages which are not foreseeable the Buyer undertakes to inform Rudholzer Technologien GmbH of this when the contract is concluded. This shall apply in particular if the Buyer has agreed a conventional penalty with his customer, the maximum amount of which shall exceed 10 % of the value of the order placed with Rudholzer Technologien GmbH.

3.)

The afore-mentioned liability restrictions shall not apply in case of injuries to life, body and health.

4.)

Rudholzer Technologien GmbH shall not be liable in case of slight breach of insignificant contractual duties.

§ 9 Software licence

1.)

Only licensed software including subsequent new versions and parts of which and the relevant documentation may be used on the purchased system. The software may only be copied for purposes of backup and under the inclusion of the trade mark right certification of the original copy and only for use on this system.

2.)

The Customer shall protect the software against access from third parties.

3.)

All rights of utilization for the software shall remain with Rudholzer Technologien GmbH.

4.)

In the event that the Customer shall violate these licensing provisions Rudholzer Technologien GmbH shall be entitled, after issuing an unsuccessful warning to terminate the licence and demand that the software and all parts and copies be returned.

5.)

The licence shall be deemed as having been granted upon delivery of the software. The software terms and conditions shall be deemed as having been acknowledged with the acceptance of the delivery. The handing over of source programmes requires a separate written agreement.

§ 10 Place of performance, place of jurisdiction, final provisions

1.)

Place of performance for both contractual parts is Teisendorf.

2.)

Place of jurisdiction for all and any disputes ensuing from this contractual relationship is the County Court Laufen/Upper Bavaria or the Regional Court Traunstein for businessmen in the sense of the Commercial Code, legal entities under public law and persons, who have no general place of jurisdiction in Germany. The same shall apply if the Buyer has no general place of jurisdiction in Germany or the registered seat or usual place of residence is not known at the time the action is filed.

3.)

The law of the Federal Republic of Germany shall apply for these business terms and conditions and the whole legal relations of Rudholzer Technologien GmbH and the Buyer. Provisions of international standard purchasing law are – insofar as admissible - excluded.

A German version shall be deemed as binding for all written documents.

4.)

The invalidity of one or several of the agreed terms and conditions shall have no effect on the legal validity of the remaining provisions. The legal regulations shall apply in the event of the invalidity of one provision.

5.)

Verbal collateral agreements must be confirmed in writing by Rudholzer Technologien GmbH to be legally valid.