



GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY **

§ 1 Scope

For all deliveries made by

REO AG
Brühler Str. 100
42657 Solingen

as well as its affiliated companies worldwide

– hereinafter referred to as REO –

These Terms and Conditions exclusively apply, unless otherwise agreed.

§ 2 General Provisions

- (1) Legal relations between REO and Purchaser in connection with supplies and/or services of REO (hereinafter referred to as "Supplies") shall be solely governed by the present General Terms and Conditions of Sale and Delivery. The Purchaser's general terms and conditions shall apply only if expressly accepted by REO in writing. The scope of delivery shall be determined by the congruent mutual written.
- (2) The Supplier herewith reserves any industrial property rights and/or copyrights pertaining to its cost estimates, drawings and other documents (hereinafter referred to as "Documents"). The Documents shall not be made accessible to third parties without REO's prior consent and shall, upon request, be returned without undue delay to REO if the contract is not awarded to the Supplier. Sentences 1 and 2 shall apply mutatis mutandis to the Purchaser's Documents; these may, however, be made accessible to those third parties to whom REO has rightfully subcontracted Supplies.
- (3) The Purchaser has the non-exclusive right to use standard software and firmware, provided that it remains unchanged, is used within the agreed performance parameters, and on the agreed equipment. Without express agreement the Purchaser may make one back-up copy of standard software.
- (4) Partial deliveries are allowed, unless they are unreasonable to accept for the Purchaser.
- (5) The term „claim for damages“ used in the present General Terms and Conditions for Sale and Delivery also includes claims for indemnification for useless expenditure.

§ 3 Prices, Terms of Payment and Set-off

- (1) Prices are in € ex works and excluding packaging, subject to change; value added tax shall be added at the then applicable rate. Separately shown material quantities are subject to application of an additional surcharge based upon the official published notices on the day of order confirmation. If devices to be supplied include copper, so a copper basis of € 1.53/kg is included in the price. The actual copper value will be charged at the valid rate of the MK note + 10 % processing surcharge on the day of receipt of the purchase order. This value can be fixed for 1 year as a maximum. Call-offs made upon expiration of the year with fixed rate, will be calculated new using the MK note + 10 % valid each.
- (2) According to the EG Cartel Resolution for Iron and Steel REO is entitled to charge an Iron surcharge as of 01.01.1983. The rate of this surcharge is regularly being adapted to the actual procurement situation. We currently charge at least 4 %.
- (3) For all contracts the German Price Clause Code of 14.09.2007 (PreisKIG) applies. For contracts concluded

before entry into force of this law the previous terms of the Price Indication and Price Clause Code (PrAKG) as well as the Price Clause Provisions (PrKV) apply.

- (4) In the case of changes to the cost basis or list prices up until the day of delivery, REO reserves the right to correct the price.
- (5) If REO is also responsible for assembly or erection and unless otherwise agreed, the Purchaser shall pay the agreed remuneration and any incidental costs required, e.g. for travelling and transport as well as allowances.
- (6) Payments shall be made free REO's paying office. Unless otherwise agreed, invoices are payable within 30 days after the invoice date. With payment within 10 days from the date of invoice REO grants 2% of discount, with the explicit notice that copper surcharge are payable without deductions and may not be discounted. Deliveries to new customers will be made only with advanced payment.
- (7) The Purchaser may set off only those claims which are undisputed or non-appealable.
- (8) REO will take back transport packaging provided it is delivered "carriage paid" to its premises.

§ 4 Retention of Title

- (1) The items pertaining to the Supplies ("Retained Goods") shall remain REO's property until each and every claim REO has against the Purchaser on account of the business relationship has been fulfilled. If the combined value of the REO's security interests exceeds the value of all secured claims by more than 10%, REO shall release a corresponding part of the security interest if so requested by the Purchaser; REO shall be entitled to choose which security interest it wishes to release.
- (2) For the duration of the retention of title, the Purchaser may not pledge the Retained Goods or use them as security, and resale shall be possible only for resellers in the ordinary course of their business and only on condition that the reseller receives payment from its customer or makes the transfer of property to the customer dependent upon the customer fulfilling its obligation to effect payment.
- (3) If the Purchaser resells the Retained Goods, the Purchaser shall relinquish forthwith to REO, by way of security, any future claims from the resale to its customers, together with all accessory rights – including any payment balance requests – without the requirement to issue any further declarations. If the Retained Goods are resold together with other items without a single price being agreed for the Retained Goods, the Purchaser shall relinquish to REO that part of the total price requested that corresponds to the reserved goods price invoiced by REO.
- (4) a) The Purchaser shall be entitled to process the Retained Goods or mix or combine them with other items. The processing activities shall be performed for REO. The Purchaser shall keep the resulting new item for REO with the due care and diligence of a proper businessman. The item shall be deemed to be Retained Goods.
b) REO and the Purchaser shall agree that if the Retained Goods are combined or mixed with other objects that do not belong to REO, that the Supplier shall be awarded co-ownership in the new object at the proportionate amount which results from the ratio of the value of the combined or mixed Retained Goods to the value of the remaining goods at the date of performing any processing activities. The new item shall thus be deemed as Retained Goods.
c) The provision concerning the relinquishing of claims in accordance with no. 3 shall also apply to the new item. The relinquishing, however, only applies up to the value of the



GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY **

amount corresponding to the value of processed, combined or mixed Retained Goods that were invoiced by REO.

d) If the Purchaser combines Retained Goods with real estate or movable assets, then the Purchaser will also assign his claim which has been awarded to him as remuneration for such a combination – without the requirement to issue any further declarations – to REO, by way of security, with all accessory rights and in ratio to the value of the combined Retained Goods to the remaining combined goods at the time of combination.

- (5) Subject to revocation at any time, the Purchaser is authorized to collect assigned claims arising from the resale. On the basis of an important and sound reason, in particular with regard to default in payment, suspension of payment, the petition to institute insolvency proceedings, and the protest of bills, or in the event that substantiated indications for an excessive indebtedness or imminent insolvency on the part of the Purchaser are presented, REO is entitled to revoke the Purchaser's authorisation for the collection of claims. After prior warning – under observance of an adequate deadline - REO, in addition, may disclose the assignment of securities, may utilize the assigned claims and may demand the Purchaser's disclosure of the assignment of security towards the customer.
- (6) The Purchaser shall notify REO forthwith of any pledges, seizures or other alienation or act of intervention by third parties. Should an authorized interest be substantiated, the Purchaser shall provide REO with the required information and the required documents in order to assert a claim of REO's rights.
- (7) In the case of non-performance of contractual obligations by the Purchaser, especially with respect to default in payment, and after an unsuccessful expiry of an adequate time limit set to the Purchaser to make payment due, REO shall be entitled to withdraw from the contract and to take back the Retained Goods; the legal provisions regarding the dispensability of setting a deadline remain unaffected therefrom. The Purchaser shall be obliged to surrender the Retained Goods. In the event that the Retained Goods are taken back or claimed, or pledged by REO, the contract cannot be terminated unless expressly stated by REO.

§ 5 Time for Supplies; Delay

- (1) Times set for Supplies shall only be binding if all Documents to be furnished by the Purchaser, necessary permits and approvals, especially concerning plans, are received in time and if agreed terms of payment and other obligations of the Purchaser are fulfilled. If these conditions are not fulfilled in time, times set shall be extended reasonably; this shall not apply if REO is responsible for the delay.
- (2) If non-observance of the times set is due to
 - a) force majeure such as mobilization, war, rebellion or similar events, e.g. strike or lockout,
 - b) virus and other attacks from third parties on REO's IT system if these were effected despite the adherence of normal diligence with protection measures, or
 - c) obstacles due to German, US American as well as other applicable national, EU or international regulations of the foreign trade law or due to other circumstances which are not the responsibility of REOsuch time shall be extended accordingly. The same shall apply if REO does not receive its own supplies in due time or in due form.
- (3) Assured delivery times are adhered to if possible. Claims for damages due to late delivery cannot be granted unless agreed as to period and amount in quotations or acknowledgements.
- (4) Purchaser's claims for damages due to delayed Supplies as well as claims for damages in lieu of performance exceeding the limits

specified in no. 3 above are excluded in all cases of delayed Supplies, even upon expiry of a time set to REO to effect the Supplies. This shall not apply in cases of mandatory liability based on intent, gross negligence, or due to loss of life, bodily injury or damage to health. Rescission of the contract by the Purchaser based on statute is limited to cases where REO is responsible for the delay. The above provisions do not imply a change in the burden of proof to the detriment of the Purchaser.

- (5) At REO's request, the Purchaser shall declare within a reasonable period of time whether it, due to the delayed Supplies, rescinds the contract or insists on the delivery of the Supplies.
- (6) If dispatch or delivery, due to Purchaser's request, is delayed by more than one month after notification of the readiness for dispatch was given, the Purchaser may be charged, for every additional month commenced, storage costs of 0.5% of the price of the items of the Supplies, but in no case more than a total of 5%. The parties to the contract may prove that higher or, as the case may be, lower storage costs have been incurred.

§ 6 Passing of Risk

- (1) Even where delivery has been agreed freight free, the risk shall pass to the Purchaser as follows:
 - a) if the Supplies do not include assembly or erection, at the time when the Supplies are shipped or picked up by the carrier. Upon the Purchaser's request, the Supplier shall insure the Supplies against the usual risks of transport at REO's expense;
 - b) if the Supplies include assembly or erection, at the day of taking over in the Purchaser's own works or, if so agreed, after a fault-free trial run.
- (2) The risk shall pass to the Purchaser if dispatch, delivery, the start or performance of assembly or erection, the taking over in the Purchaser's own works, or the trial run is delayed for reasons for which Purchaser is responsible or if the Purchaser has otherwise failed to accept the Supplies.

§ 7 Assembly and Erection

Unless otherwise agreed in written form, assembly and erection shall be subject to the following provisions:

- (1) The Purchaser shall provide at its own expense and in due time:
 - a) all earth and construction work and other ancillary work outside REO's scope, including the necessary skilled and unskilled labour, construction materials and tools,
 - b) the equipment and materials necessary for assembly and commissioning such as scaffolds, lifting equipment and other devices as well as fuels and lubricants,
 - c) energy and water at the point of use including connections, heating and lighting,
 - d) suitable dry and lockable rooms of sufficient size adjacent to the site for the storage of machine parts, apparatus, materials, tools, etc. and adequate working and recreation rooms for the erection personnel, including sanitary facilities as are appropriate in the specific circumstances; furthermore, the Purchaser shall take all measures it would take for the protection of its own possessions to protect the possessions of REO and of the erection personnel at the,
 - e) protective clothing and protective devices needed due to particular conditions prevailing on the specific site.
- (2) Before the erection work starts, the Purchaser shall unsolicitedly make available any information required concerning the location of concealed electric power, gas and water lines or of similar installations as well as the necessary structural data.
- (3) Prior to assembly or erection, the materials and equipment necessary for the work to start must be available on the site of assembly or erection and any preparatory work must have



GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY **

advanced to such a degree that assembly or erection can be started as agreed and carried out without interruption. Access roads and the site of assembly or erection must be level and clear.

- (4) If assembly, erection or commissioning is delayed due to circumstances for which REO is not responsible, the Purchaser shall bear the reasonable costs incurred for idle times and any additional travelling expenditure of REO or the erection personnel.
- (5) The Purchaser shall attest to the hours worked by the erection personnel towards REO at weekly intervals and the Purchaser shall immediately confirm in written form if assembly, erection or commissioning has been completed.
- (6) If, after completion, REO demands acceptance of the Supplies, the Purchaser shall comply therewith within a period of two weeks. In default thereof, acceptance is deemed to have taken place. Acceptance is also deemed to have been effected if the Supplies are put to use, after completion of an agreed test phase, if any.

§ 8 Receiving Supplies

The Purchaser shall not refuse to receive Supplies due to minor defects.

§ 9 Defects as to Quality

REO shall be liable for defects as to quality (hereinafter referred to as "Defects") as follows:

- (1) Defective parts or defective services shall be, at REO's discretion, repaired, replaced or provided again free of charge, provided that the reason for the Defect had already existed at the time when the risk passed.
- (2) Claims for repair or replacement are subject to a statute of limitations of 12 months calculated from the start of the statutory statute of limitations; the same shall apply mutatis mutandis in the case of rescission and reduction. This shall not apply where longer periods are prescribed by law according to sec. 438 para. 1 no. 2 (buildings and things used for a building), sec. 479 para. 1 (right of recourse), and sec. 634a para. 1 no. 2 (defects of a building) German Civil Code ("BGB"), in the case of intent, fraudulent concealment of the Defect or non-compliance with guaranteed characteristics (Beschaffenheitsgarantie). The legal provisions regarding suspension of the statute of limitations ("Ablaufhemmung", "Hemmung") and recommencement of limitation periods shall be unaffected.
- (3) Notifications of Defect by the Purchaser shall be given in written form. Complaints will be considered only if they are indicated within 8 days after receipt of the Supplies stating the delivery note number. In case of transport damages an immediate assessment by the transport manager is absolutely necessary.
- (4) In the case of notification of a Defect, the Purchaser may withhold payments to an amount that is in a reasonable proportion to the Defect. The Purchaser, however, may withhold payments only if the subject-matter of the notification of the Defect involved is justified and incontestable. The Purchaser has no right to withhold payments to the extent that its claim of a Defect is time-barred. Unjustified notifications of Defect shall entitle REO to demand reimbursement of its expenses by the Purchaser.
- (5) REO shall be given the opportunity to repair or to replace the defective good ("Nacherfüllung") within a reasonable period of time.
- (6) If repair or replacement is unsuccessful, the Purchaser is entitled to rescind the contract or reduce the remuneration; any claims

for damages the Purchaser may have according to no. 10 shall be unaffected.

- (7) There shall be no claims based on Defect in cases of insignificant deviations from the agreed quality, of only minor impairment of usability, of natural wear and tear, or damage arising after the passing of risk from faulty or negligent handling, excessive strain, unsuitable equipment, defective civil works, inappropriate foundation soil, or claims based on particular external influences not assumed under the contract, or from non-reproducible software errors. Claims based on defects attributable to improper modifications or repair work carried out by the Purchaser or third parties and the consequences thereof are likewise excluded.
- (8) The Purchaser shall have no claim with respect to expenses incurred in the course of supplementary performance, including costs of travel, transport, labour, and material, to the extent that expenses are increased because the subject-matter of the Supplies has subsequently been brought to another location than the Purchaser's branch office, unless doing so complies with the normal use of the Supplies.
- (9) The Purchaser's right of recourse against REO pursuant to sec. 478 BGB is limited to cases where the Purchaser has not concluded an agreement with its customers exceeding the scope of the statutory provisions governing claims based on Defects. Moreover, no. 8 above shall apply mutatis mutandis to the scope of the right of recourse the Purchaser has against REO pursuant to sec. 478 para. 2 BGB.
- (10) The Purchaser shall have no claim for damages based on Defects. This shall not apply to the extent that a Defect has been fraudulently concealed, the guaranteed characteristics are not complied with, in the case of loss of life, bodily injury or damage to health, restrictions to liberty and/or intentionally or grossly negligent breach of contract on the part of REO. The above provisions do not imply a change in the burden of proof to the detriment of the Purchaser. Any other or additional claims of the Purchaser exceeding the claims provided for in this § 9, based on a Defect, are excluded.

§ 10 Industrial Property Rights and Copyright; Defects in Title

- (1) Unless otherwise agreed, REO shall provide the Supplies free from third parties' industrial property rights and copyrights (hereinafter referred to as "IPR") with respect to the country of the place of delivery only. If a third party asserts a justified claim against the Purchaser based on an infringement of an IPR by the Supplies made by REO and used in conformity with the contract, REO shall be liable to the Purchaser within the time period stipulated in § 9 no. 2 as follows:
 - a) REO shall choose whether to acquire, at its own expense, the right to use the IPR with respect to the Supplies concerned or whether to modify the Supplies such that they no longer infringe the IPR or replace them. If this would be impossible for REO under reasonable conditions, the Purchaser may rescind the contract or reduce the remuneration pursuant to the applicable statutory provisions.
 - b) REO's liability to pay damages is governed by § 13.
 - c) The above obligations of REO shall apply only if the Purchaser (i) immediately notifies the Supplier of any such claim asserted by the third party in written form, (ii) does not concede the existence of an infringement and (iii) leaves any protective measures and settlement negotiations to REO's discretion. If the Purchaser stops using the Supplies in order to reduce the damage or for other good reason, it shall be obliged to point out to the third party that no acknowledgement of the alleged



GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY **

infringement may be inferred from the fact that the use has been discontinued.

- (2) Claims of the Purchaser shall be excluded if it is responsible for the infringement of an.
- (3) Claims of the Purchaser are also excluded if the infringement of the IPR is caused by specifications made by the Purchaser, by a type of use not foreseeable by REO or by the Supplies being modified by the Purchaser or being used together with products not provided by REO.
- (4) In addition, with respect to claims by the Purchaser pursuant to no. 1 a) above, § 9 nos. 4, 5, and 9 shall apply mutatis mutandis in the event of an infringement of an IPR.
- (5) Where other defects in title occur, § 9 shall apply mutatis mutandis.
- (6) Any other claims of the Purchaser against REO or its agents or any such claims exceeding the claims provided for in this § 10, based on a defect in title, are excluded.

§ 11 Provision of Fulfilment

- (1) The contract shall be considered as fulfilled under the provision that there is no contradiction with obstacles due to German, US American as well as other national, EU or international regulations of the foreign trade law and embargos or other sanctions.
- (2) The Purchaser is obliged to provide all necessary information and documentation for export, movement resp. import.

§ 12 Impossibility of Performance; Adaptation of Contract

- (1) To the extent that delivery is impossible, the Purchaser is entitled to claim damages, unless REO is not responsible for the impossibility. The Purchaser's claim for damages is, however, limited to an amount of 10% of the value of the part of the Supplies which, owing to the impossibility, cannot be put to the intended use. This limitation shall not apply in the case of mandatory liability based on intent, gross negligence or loss of life, bodily injury or damage to health; this does not imply a change in the burden of proof to the detriment of the Purchaser. The Purchaser's right to rescind the contract shall be unaffected.
- (2) Where unforeseeable events within the meaning of § 5 no. 2a) - c) substantially change the economic importance or the contents of the Supplies or considerably affect REO's business, the contract shall be adapted taking into account the principles of reasonableness and good faith. To the extent this is not justifiable for economic reasons; REO shall have the right to rescind the contract. The same applies if necessary export licences are not given or cannot be used. If REO intends to exercise its right to rescind the contract, it shall notify the Purchaser thereof without undue delay after having realized the repercussions of the event; this shall also apply even where an extension of the delivery period has previously been agreed with the Purchaser.

§ 13 Other Claims for Damages

- (1) Unless otherwise stated in the present General Terms and Conditions of Sale and Delivery the Purchaser has no claim for damages based on whatever legal reason, including infringement of duties arising in connection with the contract or tort.
- (2) The above shall not apply in the case of mandatory liability:
 - a) under the German Product Liability Act ("Produkt-haftungsgesetz")
 - b) in the case of intent
 - c) in case of gross negligence of owners, legal representatives or managing executives
 - d) in case of fraud
 - e) at non-fulfilment of a guarantee given
 - f) due to culpable violation of life, bodily injury or damage to health or
 - g) breach of a condition which goes to the root of the contract ("wesentliche Vertragspflichten")
- (3) However, claims for damages arising from a breach of a condition which goes to the root of the contract shall be limited to the foreseeable damage which is intrinsic to the contract unless caused as mentioned above.
- (4) The above provision does not imply a change in the burden of proof to the detriment of the Purchaser.

§ 14 Venue and Applicable Law

- (1) If the Purchaser is a businessman, sole venue for all disputes arising directly or indirectly out of the contract shall be REO's place of business. Other terms and conditions, in particular pre-printed purchasing conditions are valid only if expressly agreed upon in written. The Purchaser's insistence on its conditions for internal reasons will entitle REO to adapt the prices given according to the required extra costs. With publication of this General Terms and Conditions of Sale and Delivery all former conditions cease to apply.
- (2) Legal relations existing in connection with this contract shall be governed by German substantive law, to the exclusion of the United Nations Convention on contracts for the International Sale of Goods (CISG).

§ 15 Severability Clause

The legal invalidity of one or more provisions of this Agreement in no way affects the validity of the remaining provisions. This shall not apply if it would be unreasonable for one of the parties to be obligated to continue the contract.