

**Art. 1 Underlying Contractual Terms and Conditions**

1. rm-trade GmbH (Inc.) is the author and applier of these present General Conditions of Business. rm-trade GmbH (Inc.) is hereinafter referred to as 'rm-trade'. The counter contractual party to 'rm-trade' is hereby referred to as 'the customer'.
2. Upon the conclusion of this contract of purchase or sale, the customer hereby recognises and accepts the following General Conditions of Business. Any agreements divergent herefrom are to require the written approval of rm-trade. The customer hereby waives the application of its own general conditions of business. Any contrary confirmations including divergent terms and conditions are hereby expressly contradicted.
3. These present General Conditions of Business of rm-trade are only applicable to enterprises within the meaning of Art. 14 of the German 'BGB – Buergerliches Gesetzbuch' (Civil Law Code).

**Art. 2 Offers and Offer Documentation**

1. Indications by rm-trade in brochures or on the Internet are essentially not offers in the legal sense, but merely invitations to prospective customers to make offers. When rm-trade communicates an offer in the legal sense, such is expressly entitled as an 'offer'. The reservation of 'subject to being unsold' is to apply thereto up to the date of receipt of a possible acceptance of any offer or tender submitted by rm-trade.
2. rm-trade is only legally bound by an offer for up to two weeks after the dispatch thereof. All offers submitted by rm-trade are subject to the reservation of possible availability and delivery at the date of the conclusion of a contract of purchase or sale.
3. In cases of offers by customers, rm-trade is entitled to declare any acceptance of an offer within 14 days of the receipt thereof. The customer is thus bound by its offer on the same conditions.
4. Proofs, photographs and samples represent items to view for the approximate characteristics in regard to quality and size. Unless otherwise declared and agreed, the making available of proofs, photographs and samples by rm-trade represent no legal warranty for corresponding characteristics in the goods supplied and delivered.

**Art. 3 Supply and Delivery**

rm-trade supplies and delivers according to European standard types and their qualities. Details of the European standard types and their qualities can be viewed on the rm-trade website.

**Art. 4 Delays and Arrears**

1. When a customer is in delay of acceptance or culpably infringes agreed prior performance or requirements of collaboration, then rm-trade is entitled hereunder to claim indemnity from the customer for any thus incurred additional expenditure, subject always to the reservation of being able to assert further claims.
2. After setting a subsequent time period for compliance, rm-trade is also entitled hereunder to withdraw from a contract of purchase or sale and claim indemnity for non-fulfilment.
3. When a customer is under a legal liability hereby to pay indemnities for loss or damage, then the contractual parties hereby declare and agree, that the customer is liable to pay 10% of the agreed net purchase price, subject always to the reservation of rm-trade being able to assert further claims. A customer is entitled hereunder to evidence, that rm-trade suffered no – or only a lesser amount of loss or damage than asserted.
4.
  - a) Should rm-trade be in delay of delivery and should such be based upon premeditated or a grossly negligent infringement of contractual duties, or on the culpable infringement of a material contractual duty, then the legal liability of rm-trade is that under the statutory requirements.
  - b) Otherwise, any further legal liability of rm-trade is hereby excluded. Should arrears in delivery be occasioned by a grossly negligent infringement of a contractual duty or the culpable infringements of a material contractual duty, then legal liability for indemnities for loss or damage is

hereby limited to the foreseeable, typical loss or damage anticipated. The legal liability of rm-trade in case of arrears in delivery is per solid week limited to 0.5% of the delivered value of the goods, with an overall maximum of 10% of the delivered value.

- c) In any event, the legal liability of rm-trade is limited to the maximum sum insured of its contracted financial-loss tort insurance cover. The maximum sum insured and the extent of the insurance cover will be provided by rm-trade to the customer at any time upon demand.

**Art. 5 The Passage of Perils**

1. The international general conditions of business of rm-trade are based upon Incoterms – International Commercial Terms, in the version valid at the date of the conclusion of a contract of purchase or sale. The content of the individual groups of clauses is to be declared and agreed between the contractual parties. When groups of clauses are not declared and agreed, then the following Paragraphs 2. to 4. are to apply analogously.
2. When deliveries are agreed 'franco domicile', then the peril of accidental loss or of an accidental degradation of the goods supplied, is to pass to the customer as soon the goods are delivered to the customer.
3. Should the customer be in delay of acceptance, the peril of accidental loss or accidental degradation of the goods supplied, is to pass to the customer at the point in time of occurrence.
4. Should the customer so require, rm-trade can have all consignments covered by a goods-in-transit- or marine insurance; whereby the possible costs incurred are to be borne by the customer.

**Art. 6 Defect Warranties**

1. The treatment of the defect claims of the customer presupposes compliance with the statutory duty of prior examination and attention to claim requirements on the part of the customer under Art. 377 of the German 'HGB – Handelsgesetzbuch' (Commercial Law Code). A defect will not apply hereunder, when that proportion of non-required material does not exceed the percentage laid down in the List of the European (CEPI/B.I.R.) Standard Types and their Qualities, designated EN 643, issued by the European Committee for Standardization, in the version currently valid on the date of delivery.
2. Goods, for which a defect claim is asserted, are to be held available for inspection at the premises of the customer for 7 working days after receipt of the defect claim by rm-trade. Any onward processing of allegedly defective goods is not permissible hereunder. Goods subject to a defect claim are to be properly stored and insured. When goods subject to a defect claim are onward processed, then no legal liability can be accepted by rm-trade.
3. Should defects in the goods supplied be shown to exist, then rm-trade is entitled hereunder to select to fulfil the contract of sale by removing the defects or by re-delivering similar goods free of defects. When such re-fulfilment fails, then the customer is entitled hereunder to select to withdraw from the contract of sale or to demand a reduction in the selling price.
4. rm-trade is liable for indemnities for loss or damage in accordance with statutory requirements, where its representatives or vicarious agents of contractual fulfilment are culpable of premeditation and gross negligence. In cases of gross negligence, legal liability to indemnify for loss or damage is to be limited to the foreseeable, typical loss or damage anticipated. The same is to apply in cases of culpable infringement of material contractual duties.
5. Legal liabilities for death or injury to persons and encroachment upon their health remain unaffected by the foregoing. The same applies to enforceable legal liability under the German Product Liability Law.
6. Unless otherwise regulated in the foregoing, any other legal liability of rm-trade is hereby excluded.
7. The time period of statute barring for defect claims is 1 year calculated from the date of the passage of perils.
8. When no particular characteristics or properties in the goods supplied are agreed in advance, rm-trade will not warrant for the absence of substances, which might interrupt, disturb or encroach upon the production processes of the customer.

**Art. 7 General Legal Liabilities**

1. Any further legal liability of rm-trade to indemnify for loss or damage hereunder, other than foreseen in the foregoing stipulations is hereby excluded, notwithstanding the legal nature of the claim asserted. This also applies in particular to claims to indemnify for loss or damage from culpabilities upon the conclusion of a contract of purchase or sale, or upon other sundry infringements of contractual duties.
2. In so far as indemnification for loss or damage is excluded or limited hereunder by rm-trade, the same is also to apply for the personal legal liabilities to indemnify for loss or damage of the employees of rm-trade, its work-force members, collaborative associates, representatives and vicarious fulfilment agents.
3. The time period for statute barring of one year also applies hereunder for the area of general legal liabilities as from the commencement date of the statute barring circumstances.

**Art. 8 Prices and Sales Parameters**

The price charged is per agreed unit of goods. Any other divergent method of calculation is to require express agreement.

**Art. 9 Conditions of Payment**

1. Invoices rendered by rm-trade are payable upon receipt without deductions, unless the contractual parties otherwise agree.
2. All price indications and charges are to be understood as net, plus the current rate of value added tax.
3. In case of any arrears in payment, rm-trade is entitled hereunder to charge arrears interest in an amount of 8 percent over the bank rate of the European Central Bank. The imposition of a higher statutory interest rate remains reserved hereunder. rm-trade is also entitled hereunder to charge possibly higher interest rates when bank credit is required and higher interest charges become payable.
4. The customer can only declare the offsetting of counter claims or the assertion of rights of retention when such are undisputed and judicially ascertained by the court.
5.
  - a) Should circumstances arise under which a worsening of the assets position of the customer must be imperatively ascertained, then rm-trade can make the execution of a contract of sale dependent upon payments made in advance by the customer, or surety provided by an unlimited and absolute bank guarantee of an European banking institution.
  - b) Should rm-trade assert the foregoing rights and the customer fail to render advance payment or provide a corresponding surety within two weeks of an appropriate reminder, then rm-trade is entitled hereunder to withdraw from a contract of sale. rm-trade will also be entitled hereunder to assert indemnities for loss or damage in accordance with the foregoing stipulations (Art. 4.3).
6. When the purchaser has any open counter claims against rm-trade, e.g. because of exchange volumes to be accounted for and the like, rm-trade is entitled hereunder to issue credit notes to redeem such claims as per Art. 14, Para. 2, Section 2 of the German 'UStG – Umsatzsteuergesetz' (Value Added Tax Law). The customer is to inform rm-trade upon first demand of its tax number and VAT identification number with immediate effect.

**Art. 10 Retention of Ownership Rights**

1. rm-trade hereby retains its ownership rights in goods supplied until full receipt of all payments from the customer under the current business relationship.
2. The customer is under a contractual duty hereby to care duly for the good supplied and to insure such sufficiently at his/her/its own expense against the risks of fire, water damage, and theft.
3. Should third parties seek to attach the goods supplied under retention of the ownership rights of rm-trade, then the customer is under a contractual duty hereby to inform rm-trade in writing of all details and with immediate effect, so that appropriate rights of intervention can be duly asserted.

4. Any onward reworking and processing of the goods supplied to form new subject matter can be undertaken by the customer on behalf of rm-trade, without any liabilities accruing to rm-trade in the process. The customer hereby and now grants rm-trade co-ownership rights in the new subject matter up to the value of the goods supplied. In case of combining, blending or mixing the goods supplied with other subject matter not in the ownership of rm-trade, rm-trade hereby automatically acquires ownership rights in the new subject matter in that proportion which the value of the goods supplied bears to the other subject matter at the point in time of their combining, blending or mixing.
5. The customer is hereby permitted to onward sell the goods supplied, whilst being subject to the retention of the ownership rights of rm-trade, within the course of his/her/its normal business activities, and the customer hereby and now cedes his/her/its financial accounts receivable from such sales to rm-trade, which hereby and now accepts such cession. But rm-trade will not exercise such ceded rights so long as the customer fulfils his/her/its contractual duties of agreed payment towards rm-trade in an orderly manner.
6. rm-trade can, upon demand select to release the goods supplied, whilst being subject to the retention of its ownership rights as well as the new subject matter or the associated financial claim in their stead, provided that the value of the new subject matter exceeds the value of the goods supplied by 10%.
7. Should rm-trade withdraw from a contract of sale because of the behaviour of the customer contrary to his/her/its contractual duties, in particular following arrears of payment, then rm-trade is entitled hereunder to demand the relinquishment of the goods supplied under reservation of its ownership rights.

**Art. 11 Places of Fulfilment and Jurisdiction**

1. The place of fulfilment for payments to rm-trade is its registered office (corporate domicile).
2. The place of jurisdiction for all financial claims under the contractual relationship is the 'Amtsgericht or Landgericht' (District- or State Court) at Wiesbaden, Hess, Germany provided that the customer is a registered trader under German law.

**Art. 12 Sundry Contractual Stipulations**

1. All alterations- and supplementations to these present General Conditions of Business are to be agreed in writing for their legal effectiveness.
2. The possible ineffectiveness of any individual stipulation hereunder is not to affect the effectiveness of a contract of purchase or sale, and otherwise of the remainder of these present General Conditions of Business. In such cases, the contractual parties are under a contractual duty hereby to seek a regulation for any ineffective stipulation, which comes closest to the original commercial intent of any ineffective stipulation.
3. The contractual parties bind themselves contractually hereunder to treat all business information made available to them in connection with the execution of a contract of purchase and sale, or which is the subject matter of a contract of purchase and sale, with confidentiality, and not to make such available to third parties, unless otherwise agreed in writing.
4. Only the body of law of the Federal Republic of Germany is to be applicable hereunder. The 'CISG – United Nations Convention on Contracts for the International Sale of Goods – is not to be applicable hereunder.
5. When and in so far as rm-trade issues these present General Conditions of Business in a foreign language version, then the contractual parties hereby declare and agree, that the German language version is to be definitive in cases of all disputes.