

General Terms of Delivery RISC Software GmbH

2013-09-10

(referred to as RISC)

1. Scope

These General Terms shall govern all legal transactions between RISC and the ordering Party. Any departure from these terms and conditions shall be valid only if expressly accepted in writing by RISC.

2. Offers

2.1. Offers of RISC are binding within 14 days.

2.2. RISC carries out his duties with the diligence of a prudent business person. RISC gives no guaranty for the fulfilment of his duties; RISC owes to use its best efforts but no special result.

2.3. Design documents such as plans and drawings and other technical specifications as well as samples, catalogues, prospectuses, pictures and the like shall remain the intellectual property of RISC and are subject to the relevant statutory provisions governing reproduction, imitation, competition etc. Any documents must not be duplicated.

2.4. RISC owes to use its best efforts to fulfil the duties set out in the relevant agreement and this general terms but no special result.

2.5 RISC is entitled to reclaim any documents given to the ordering party, at any time, especially in the case that no contract will be concluded between RISC and the ordering party.

3. Conclusion of contract

3.1. The contract shall be deemed concluded upon written confirmation by RISC of an order received or upon dispatch of a delivery.

3.2. Any amendments and changes in the confirmation of an order by RISC with regard to the order will be accepted by the ordering party, unless the ordering party contradicts to these changes without delay and immediately.

3.3. Particulars appearing in catalogue, folders etc. as well as any oral or written statements shall only be binding if RISC makes express reference to them in the confirmation of the order.

3.4. All modifications and amendments of or additions to the contract or the general terms,

including this clause, shall only be effective if made in written;

3.5. Any agreements, statements of will or knowledge or any other circumstances of legal relevance made or having occurred before or at the conclusion of an agreement on the basis of this general terms lose any and all effect, unless RISC accepts such statements in written.

3.6. RISC shall be at liberty to subcontract or place parts of assignments to third parties.

3.7. Employees of RISC are not empowered to make declarations or statements with regard to time limits etc binding for RISC.

4. Duties of the ordering party

4.1 The ordering party has to provide RISC with all documents which are relevant to the order.

4.2 The ordering party warrants, that all relevant documents given to RISC are free from third parties rights; the ordering party will indemnify in this regard RISC from any loss and damage.

4.3 The ordering party shall at his cost comply with all obligations under public or private law; with this respect the ordering party shall indemnify RISC from any loss and damage.

5. Prices

5.1. Prices shall be quoted ex works or ex RISC's warehouse excluding packing and packaging, loading and VAT. The ordering party shall be liable for any and all charges, taxes or other duties levied in respect of delivery. If the terms of delivery include transport to a destination designated by the ordering party, transport costs as well as the cost of any transport insurance desired by ordering party shall be borne by the latter. Delivery does not, however, include unloading and subsequent handling. Packaging materials will be taken back only by express agreement.

5.2. RISC reserves the right to modify prices if the order placed is not in accordance with the offer submitted.

5.3. Prices are based on costs obtaining at the time of the first quotation. In the event that

the costs have increased by the time of delivery, RISC shall have the right to adjust prices accordingly.

- 5.4. Expenses for travel and accommodation shall be invoiced to the ordering party separately; times for travelling are considered as working hours.

6. Delivery

- 6.1. RISC uses its best efforts to fulfil the agreed time limits.
- 6.2. RISC is only liable for delay, if the ordering party has provided RISC with the relevant and accurate documents and information. For all delays caused by inaccurate and wrong or insufficient information or by breach of duty to disclose information, RISC has no liability. Any additional costs caused by such negligence have to bear the ordering party.
- 6.3. The ordering party is reliable for any delay caused because of non-compliance with private or public law.
- 6.4. In case of unforeseeable circumstances or circumstances beyond the parties control, such as all cases of force majeure, which impede compliance with the agreed period of delivery, the latter shall be extended in any case for the duration of such circumstances; these include in particular armed conflicts, official interventions and prohibitions, delays in transport or customs clearance, damages in transit, energy shortage and raw materials scarcity, labour disputes, and default on performance by a major component RISC who is difficult to replace. The aforesaid circumstances shall be deemed to prevail irrespective of whether they affect RISC or his subcontractor(s).
- 6.5. In the case that circumstances set out in par 6.3 and 6.4 happen, the parties shall immediately inform each other in written.
- 6.6. In the case of a delay in delivery because of circumstances beyond the control of RISC (para 6.4) the period in delivery will be extended for the duration of such circumstances; if such circumstances are continuing in time, RISC is allowed to terminate the agreement without grace period and liability.
- 6.7. RISC may carry out and charge the ordering party for partial or advance deliveries.
- 6.8. Transport costs as well as the cost of any transport insurance desired by ordering party and all customs duties shall be borne by the latter; the transport is carried out at the cost

and risk of the ordering party.

- 6.9. In the case of exportation of the commodities provided by RISC the ordering party shall take care that the exportation complies with the customs regulations. The ordering party shall indemnify RISC for all breaches of custom regulations.
- 6.10. The period allowed for delivery shall commence at the latest of the following dates:
- the date of the order confirmation by RISC
 - the date of fulfilment by the ordering party of all conditions, technical, commercial and other, for which he is responsible
 - the date of receipt by RISC of a deposit or security due before delivery of the commodity in question.

7. Receiving of delivery

The ordering party shall not refuse to receive the delivery due to minor defects.

8. Assumption of risk and Place of performance

- 8.1. The assumption of the risk to the ordering party takes place at the time of departure of the goods ex works or ex warehouse regardless of the terms of quotation (such as carriage paid, C.I.F. etc.) agreed upon. With regard to services, the assumption of the risk to the ordering party takes place at the time the services have been rendered.
- 8.2. The place of performance is the registered seat of RISC.

9. Assembly and erection

Unless otherwise agreed in writing, assembly/erection shall be subject to the following provisions:

- 9.1. The ordering party shall provide at its own expense and in good time:
- all earth and construction work and other ancillary work outside the scope of RISC, including the necessary skilled and unskilled labour, construction materials and tools,
 - the equipment and materials necessary for assembly and commissioning such as scaffolds, lifting equipment and other devices as well as fuels and lubricants,
 - Energy (electric power, gas, compressed air etc.) and water at the point of use including connections, heating and lighting,
 - 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 ordering party shall take all measures it would take for the protection of its own possessions to protect the possessions of RISC and of the erection personnel at the site,

- e) protective clothing and protective devices needed due to particular conditions prevailing on the specific site.
- 9.2. Before the erection work starts, the ordering party shall make available of its own accord any information required concerning the location of concealed electric power, gas, compressed air and water lines or of similar installations as well as the necessary structural data.
- 9.3. Prior to assembly or erection, the materials and equipment necessary for the work to start must be available on the site of assembly/erection and any preparatory work must have advanced to such a degree that assembly/erection can be started as agreed and carried out without interruption. Access roads and the assembly/erection site itself must be level and clear.
- 9.4. If assembly, erection or commissioning is delayed due to circumstances for which RISC is not responsible, the ordering party shall bear the reasonable costs incurred for idle times and any additional travelling of RISC or the erection personnel.
- 9.5. The ordering party shall attest to the hours worked by the erection personnel towards RISC at weekly intervals and the ordering party shall immediately confirm in writing if assembly, erection or commissioning has been completed.
- 9.6. If, after completion, RISC demands acceptance of the Supplies, the ordering party 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.

10. Payment

- 10.1. Unless otherwise agreed, 30 % of the purchase price shall fall due at the time of receipt by the ordering party of the order confirmation of RISC, 20 % after half the

delivery period has elapsed and the balance at the time of delivery. Irrespective thereof the VAT comprised in the amount of the invoice shall be paid within 30 days of the invoice date.

- 10.2. In the case of part settlements the individual part payments shall fall due upon receipt of the respective invoices. The same shall apply to amounts invoiced for additional deliveries or resulting from additional agreements beyond the scope of the original contract, irrespective of the terms of payment agreed upon for the principal delivery.
- 10.3. Payment shall be made without any discount free RISC's domicile in the agreed currency.
- 10.4. The ordering party shall not be entitled to withhold or offset payment on the grounds of any warranty claims or other counterclaims.
- 10.5. Payment shall be deemed to have been effected on the date at which the amount in question is at RISC's disposal.
- 10.6. If the ordering party fails to meet the time limits of payment or any other obligation arising from this or other transactions, RISC may without prejudice to his other rights
- a) suspend performance of his own obligations until payments have been made or other obligations fulfilled, and exercise his right to extend the period of delivery to a reasonable extent or/and
- b) call in debts arisen from this or any other transactions and charge default interest amounting to 1.25 % per month plus turnover tax for these amounts beginning with the due dates, unless RISC proves costs exceeding this or/and
- c) in any case RISC has the right to invoice all expenses arising prior to a lawsuit, especially reminder charges and lawyer's fees.

11. Industrial property rights

- 11.1 The ordering party shall use all documents and information provided by RISC only with regard to the relevant project and shall inform RISC about such usages.
- 11.2 All property and industrial property rights as to design documents, computer programs, drawings, technical specifications as well as samples, catalogues, prospectuses, pictures, inventions, know-how and the like shall remain with RISC.
- 11.3 The ordering party receives a license to use

the relevant copyrighted works or other relevant results produced by RISC if all payments agreed are paid in due time. The license in favour of the ordering party comprises only these rights which are with regard to the relevant agreement necessary and inevitably for the ordering party. RISC do not convey rights which go beyond the relevant subject matter of the contract.

- 11.4 Documents and information produced by RISC under this general terms and the relevant contract must not be used in advertising, unless RISC has consented in written.

12. Secrecy and data protection

12.1 RISC shall not disclose to third parties any business secrets which he may learn as a result of his activity under the agreement based on these general terms, unless the ordering party give written consent to such a disclosure or a disclosure is legally compulsory.

13. Warranty and acceptance of obligation to repair defects

- 13.1. RISC gives no warranty/guarantee as to the achievement of special R&D-results; however RISC uses its best efforts, unless otherwise agreed in writing.
- 13.2. RISC shall fulfil warranty claims within a reasonable time; it is supposed, that one third of the original agreed time period for that particular good is reasonable.
- 13.3 The ordering party has to prove a defect – the shift in the burden of proof in favour of the ordering party is excluded.
- 13.4 The foregoing warranty obligations are conditional upon the ordering party giving immediate notice in writing of any defects that have occurred.
- 13.5 Any expenses incurred in connection with rectifying defects (e.g. expenses for assembly and disassembly, transport, waste disposal, travel and site-to-quarters time) shall be borne by the ordering party. For warranty work on the ordering party's premises he shall make available free of charge any assistance, hoisting gear, scaffolding and sundry supplies and incidentals that may be required. Replaced parts shall become the property of RISC.
- 13.6 If an article is manufactured by RISC on the basis of design data, design drawings,

models or other specifications supplied by the ordering party, RISC's warranty shall be restricted to non-compliance with the ordering party's specifications.

- 13.7 RISC's warranty obligation shall not extend to any defects due to assembly and installation work not undertaken by RISC, inadequate equipment, or due to non-compliance with installation requirements and operating conditions, overloading of parts in excess of the design values stipulated by RISC, negligent or faulty handling or the use of inappropriate materials, nor for defects attributable to material supplied by the ordering party. Nor shall RISC be liable for damage due to acts of third parties, atmospheric discharges, excess voltage and chemical influences. The warranty does not cover the replacement of parts subject to natural wear and tear. RISC accepts no warranty for the sale of used goods.
- 13.8 The warranty shall lapse immediately if, without written consent of RISC, the ordering party himself or a third party not expressly authorised undertakes modifications or repairs on any items delivered.
- 13.9 The provisions of sub-paragraphs 13.2 to 13.8 shall apply, mutatis mutandis, to all cases where the obligation to repair defects has to be accepted for other reasons lay down by law.
- 13.8 The warranty period shall amount to six months.

14. Liability

- 14.1. Outside the scope of the Product Liability Act, RISC shall be liable only if the damage in question is proved to be due to intentional acts or acts of gross negligence, within the limits of statutory provisions. RISC shall not be liable for damage due to acts of ordinary negligence nor for consequential damages or damages for economic losses, loss of savings or interest or damage resulting from third-party claims against the ordering party.
- 14.2 If RISC uses for the fulfilment of its contractual duties commercialized software and computerprograms, RISC shall not be liable for damages caused by the usage of such software or computerprograms as well as consequential damages etc (para 14.1).
- 14.3 RISC shall not be liable for damages in case of non-compliance with instructions for assembly, commissioning and operation (such as are contained in instructions for use)

or non-compliance with licensing requirements or non-compliance with legal regulations.

to demand its modification or to claim that the contract was not concluded validly or is null and void.

15. Termination and early termination

15.1. The contract will be determined if the parties fulfilled its contractual duties.

15.2. A cancellation of the agreement without written consent of RISC is not possible. In the case of such a written consent RISC may claim in any case at least payment for the delivered parts and 30 % of the rest of the entire order as cancellation fee.

15.3. RISC is entitled to terminate the contract especially for the following important reasons, without grace period:

- a) if insolvency proceedings are instituted with respect to the assets of the ordering party, or if a petition for opening such proceedings is rejected because of lack of sufficient assets to cover the costs of the proceedings, or if the conditions for the institution of such proceedings, or the dismissal of such a petition are met, or if the ordering party suspends his payments;
- b) if the ordering party ceases the necessary cooperation for fulfilling the contractual duties or is not able to provide RISC with necessary information/documents, despite granting an adequate period of grace in written form;
- c) if the ordering party early terminates the contract without important reasons and/or wantonly;
- c) if the ordering party breaches his obligations regarding secrecy or attacks the intellectual property of RISC.

16. Loyalty

The parties promise mutual loyalty. The parties shall not mutually entice employees during the duration of the relevant agreement plus 12 month after termination. In the case of violating this obligation the violator shall pay a penalty of one annual income of the enticed employee to the other party, independent of any fault and not subject to any reduction by the court. Moreover the other party may claim any damages exceeding the amount of the penalty as well as exercise any other rights.

17. Waiver of Challenge

To the extent permitted by mandatory law, the parties waive their right to challenge the contract,

18. Retention of Title

The goods remain RISC's property until all his claims (esp. payments) against the ordering party arising from the contract are met. Before satisfaction of such claims the goods may not be pledged or transferred by way of security.

No retention of title of third parties or ordering parties is accepted by RISC.

The ordering party hereby assigns to RISC by way of security his claim against his customer arising from resale, together with all ancillary rights and no special declarations shall be required at later date. The ordering party shall mark this assignment in his books and inform the purchaser on request by RISC about the assignment.

Even in the case that the goods are separable, the retention of title in favour of RISC remains on the entire order.

19. Information via Email

RISC is empowered to sent newsletters and other information (advertising and product information) to the ordering party.

20. Miscellaneous

Should any provision of the contract be or become illegal or unenforceable, the remainder of the contract shall not be affected. These provisions are automatically replaced by valid and enforceable provisions which achieve the intended economic effect as closely as possible.

21. Final provisions

All legal issues arising out of or in connection with the contract and its pre- and post-contractual effects, are governed by the laws of Austria. The application of the UNICITRAL-Rules is renounced.

Any disputes concerning the contract including the issue of its valid conclusion and its pre- and post-contractual effects are exclusively decided either by the competent court in Linz, Austria.

A statement or declaration is in written under these general terms if it is sent via Email. The receipt of the Email follows the regulation under § 12 E-Commerce Gesetz.