

GENERAL TERMS AND CONDITIONS



Rindler GmbH
Grossenschwandt 76
4882 Oberwang
AUSTRIA

edited Oct. 25th 2019

version 19.2

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I. Validity

The delivery of goods, provision of services and offers by our company are subject exclusively to these Terms and Conditions. We do not recognise any terms and conditions of a party placing an order or concluding a contract (hereinafter referred to as the "Customer") which are in conflict with or diverge from our General Terms and Conditions, unless we have given our written consent to the validity of any such terms and conditions.

In this context, any action on our part in performance of a contract shall not be deemed consent to any conditions of contract diverging from our Terms and Conditions. These Terms and Conditions shall constitute a valid framework agreement also for any further transactions between the parties to the contract.

II. Conclusion of contracts

A contract of sale/purchase or delivery is concluded only upon the written acknowledgement of order on our part. Shipping the goods ordered by a Customer also causes conclusion of a contract. If an offer is made to us the offering party shall be bound by this offer for a reasonable period which shall not be less than 8 days from receipt of the offer. The applicable terms of delivery and payment or - if applicable - any other agreements are stated in our acknowledgement of order. Oral collateral agreements shall not be binding. Our offers are generally without engagement. The documentation, drawings, designs and / or static calculations etc. enclosed with our offers serve for pricing; they are not binding and shall not form part of a contract concluded at a later date in case an order is placed. Any drafts, sketches, drawings, planning documents, designs and static calculations and any other documentation submitted by us are our intellectual property. They shall not be copied or disclosed to any third party without our written consent. Any such documentation shall be returned forthwith upon our request.

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III. Price

Unless otherwise stated in writing, all prices quoted by us are exclusive of turnover tax. In the event of a change of any necessary costs having a relevant effect on pricing, such as costs of manpower, raw materials, energy, shipping, financing, etc. we shall be entitled to increase or reduce the prices in line with any such change provided that the said change is beyond our control. Invoices shall be made out in euros.

IV. Terms of payment, default interest

The Customer acknowledges that the terms of payment prescribed by us are binding. Offsetting or retention on the ground of any counterclaims including but not limited to warranty claims is not permitted. Our claims shall be satisfied subject to the terms and deadlines set forth in the acknowledgement of order. Deducing a discount under the terms of our acknowledgement of order will be accepted only when payment is made in due time. In the event that a bill of exchange is accepted on account of payment the Customer shall bear any and all banking, discounting and collection charges. The amount will be credited subject to proper receipt. In case of default of payment even of part payments any agreements on a discount for the entire claim shall cease to be effective. Payments by customers shall be deemed effected only upon receipt in our business account. In case of default of payment on the part of a customer we shall be entitled at our election to demand payment of damages in the amount of the actual loss incurred or default interest at a rate of 5 % above the going interest rate for loans granted by banks to borrowers with top credit rating.

V. Dunning and collection charges

In the event of default the Customer undertakes to reimburse the creditor for the dunning and collection costs incurred, including but not limited to the fees of a debt collection agency, at the rates set forth in the Ordinance on the Maximum Fees of Debt Collection Agencies published in Federal Law Gazette ("BGBl.") No. 490/2001. If the creditor takes care of dunning itself the debtor undertakes to pay the dunning costs incurred as customary in the trade.

VI. Delivery, transportation, default of acceptance

The date of delivery announced by us in writing in the acknowledgement of order in due time shall be binding unless the Customer objects to the said date in writing within two days. In case of delivery of goods the place of performance shall be the address to which delivery is made. If the customer is not present at the time of delivery or if he has not taken adequate measures for taking delivery the consignment shall nevertheless be deemed accepted by the Customer. As of this point in time, any and all risks and costs shall be borne by the Customer. This shall also apply to part deliveries.

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Unless explicitly agreed upon otherwise in writing our sales prices include delivery free address of delivery stated by the Customer, unloading not included. Unless otherwise confirmed, delivery shall be made by forwarder or haulage contractor. If the Customer fails to take delivery of the goods as agreed upon (default of acceptance) we shall be entitled to either store the goods on our premises and to charge the going rates for storage per calendar day or fraction thereof or to store the goods in an authorised warehouse at the Customer's cost and risk. Furthermore, we shall be entitled to either insist on performance of the contract, or to rescind the contract after having granted a grace period of at least one week and to make alternative use of the goods.

VII. Retention of title

The goods delivered shall remain our exclusive property until payment for our entire claim under the contract has been made in full. For the duration of our retention of title the Customer undertakes to treat the goods with due care and to notify us without delay by registered letter of any attachment by a third party, in particular in case of seizure or insolvency, and to draw attention to the fact that the goods are our property. The Customer shall bear the full risk for the goods subject to retention of title, in particular the risk of loss, destruction, or deterioration. In case of default of payment or considerable deterioration of the Customer's creditworthiness or if the Customer uses the goods in a considerably disadvantageous way we shall be entitled to take back the goods subject to retention of title, which shall not automatically constitute rescission of the contract.

Processing or transformation of the goods subject to retention of title shall always take place for us, however without any obligation on our part. If our (co-)ownership is terminated by combining the goods with any other goods it is agreed already at this point that the Customer's (co-)ownership title to the new goods shall pass to us according to the pro-rata value (invoiced value). Already at this point, the Customer assigns to us by way of security any and all claims arising out of the onward sale or on whatever legal ground (e.g. insurance, tort) concerning the goods subject to retention of title.

VIII. Assignment of Claims

In the event of delivery of goods subject to retention of title the Customer assigns his claims against third parties arising from the sale or processing of our goods on account of payment already at this point and until final payment has been made. Upon our request, the Customer shall disclose his customers to us and shall inform them of the assignment in due time. Any assignment shall be recorded in the books of account, in particular in the list of pending items, and shall be shown to the Customer's customers in the delivery notes, invoices, etc. Any claims against insurance companies are already assigned to us at this point, subject to the limits set forth in the Austrian Insurance Contracts Act ("Versicherungsvertrags-gesetz"). Any assignment of claims against us shall be subject to our explicit consent.

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IX. Rescission of contract

We shall be entitled to rescind the contract in case of default of acceptance (see Point VI) and for other good causes, including but not limited to bankruptcy of the Customer, or if a petition in bankruptcy is dismissed for lack of estate, or in the event of default of payment on the part of the Customer despite having been dunned and granted a grace period of 14 days, all of the aforesaid as long as the contract has not been performed in full by both parties. In case of rescission we shall be entitled at our election to claim liquidated damages of 20 % of the amount of the invoice or damages in the amount of the loss actually incurred, independently of any fault on the part of the Customer. In addition, the Customer shall be liable for any costs in particular of preparatory work, costs of preparing the offer, etc. In case of default of payment on the part of the Customer we shall be released from any further obligation of performance or delivery and shall be entitled to withhold any pending delivery of goods or services, and to request advance payments and/or security.

In the event that the Customer rescinds the contract without good cause or requests its cancellation we shall be entitled at our election to insist on performance of the contract or agree to rescission. In the latter case the Customer shall be obliged at our election to pay liquidated damages of 20 % of the amount of the invoice independently of any fault on the Customer's part or to reimburse us for the loss actually incurred. The liquidated damages shall not be subject to any reduction by a judge.

X. Slight deviations of our performance

Slight deviations as customary in the trade and technically unavoidable slight deviations shall not give rise to complaints about defects or warranty claims to the extent that the Customer can be reasonably expected to tolerate such deviations. In case of legitimate complaints about defects we shall have the defect removed by our service crew or by a specialist of our choice within a reasonable period of time.

XI. Damages, product liability, retention

We make every effort to comply with the terms of delivery agreed upon. In the event that delivery is delayed as a whole or in part due to circumstances not to be attributed to us, including but not limited to noncompliance with terms of delivery by our suppliers, force majeure, interruptions of traffic, etc. our period of delivery shall be extended by the duration of such impediment. In case of slight negligence on our part any claim for damages including damages for delayed delivery shall be excluded. The burden of proof of any fault shall be with the party suffering loss or damage. Any defect shall be complained about in writing without delay, however no later than 14 days after delivery. Otherwise the delivery or service shall be deemed accepted without defect. We do not assume liability for any loss or damage caused by inexpert processing or handling of our products. Any recourse claims under the Product Liability Act ("Produkthaftungsgesetz") shall be excluded unless the party raising such claims proves that the fault is to be attributed to us and was caused at least by gross negligence.

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Furthermore, we do not assume liability for any services provided by third parties and passed on to our customers clearly recognisable as such. In case of complaints about defects, with the exception of cases of legitimate cancellation of the contract with restoration to the condition prior to the subject-matter transaction, the Customer shall not be entitled to retain the entire amount of the invoice but only a reasonable part thereof.

XII. Choice of law, place of jurisdiction, and general provisions

These General Terms and Conditions and any contracts with our company shall be subject to Austrian law. The application of the UN Convention on Contracts for the International Sale of Goods is explicitly excluded. If any provision in these General Terms and Conditions is found to be invalid or illegal this shall not affect the validity of the remaining provisions hereof. The language of contract shall be either German or English. The parties agree that any disputes arising out of or in connection with these General Terms and Conditions or with a contract shall be settled exclusively by the court of law having subject-matter jurisdiction in 4020 Linz, Austria.

The translation of the General Terms and Conditions has been prepared to the best of our knowledge and belief. However, in case of any divergence between the original General Terms and Conditions and the English version the original text in German shall prevail.

XIII. Data protection, change of Customer address and copyright

The Customer gives his consent for the personal data contained in the contract being stored and processed in automatic data processing systems. The Customer shall inform us of any change of his business address as long as the transaction contemplated in the contract has not been fully performed by both parties. If the Customer fails to provide this information any communication shall be deemed received even if sent to the latest address communicated to us. Plans, sketches and any other technical documentation, as well as samples, catalogues, brochures, graphic representations, etc. shall always remain our intellectual property. The Customer is not granted any right whatsoever to use or exploit any such items. The contract data are stored in our computers for the purpose of invoicing and performance of the contract.