

General Terms and Conditions of Business, Payment and Delivery

R+L HYDRAULICS GmbH

1. Scope

Unless an exception is explicitly agreed in an individual case, the following terms and conditions shall apply exclusively for all business transactions, sales, deliveries and other services performed between companies in the R+L HYDRAULICS GmbH group and other companies. We shall only be bound by customer terms, conditions or reconfirmations/acknowledgments that deviate from our own General Terms and Conditions if and in as far as they have been explicitly approved in writing beforehand.

2. Conclusion of contract, delivery scope

2.1 Our quotations are without obligation. An order is not officially accepted before it has been confirmed in writing or we have delivered the goods or service.

2.2 Supplementary agreements, guarantees and any other arrangements only become effective after we have explicitly confirmed them in writing.

2.3 References to standards or similar technical regulations, and all other information, descriptions and illustrations of the product or service in quotations, prospectuses and other literature are merely descriptions of the product or service and not a guarantee of quality. Specific properties or characteristics are only guaranteed if explicitly confirmed in writing.

2.4 Order call-offs, amendments and additions must be made in written form.

2.5 Unless permissible deviation limits are expressly stated in the order confirmation, deviations are permitted within the tolerance range customary in the trade and the relevant DIN regulations. In the case of standardised items, the tolerances stated on the respective standard sheets apply. We reserve the right to make reasonable technical changes, including changes to the production process, provided that such changes have no adverse effects for the customer.

3. Prices

3.1 All prices stated are ex works (EXW in INCOTERMS) and without obligation; they do not include trade-standard packaging, carriage and VAT. Prices given in quotations are valid for 30 days. A minimum order surcharge of € 15.00 will be added to small orders for goods with a net value of less than € 50.00.

3.2 If charges for freight or insurance, or official fees and charges (e.g. import/export fees, customs duty) are newly implemented or increased after conclusion of the contract, we are entitled to add such increased costs to the agreed sales price, even if carriage-free or duty-paid (DDP) delivery has been agreed.

3.3 If a minimum of four months have elapsed between conclusion of the contract and delivery of the goods or services, we shall also be entitled to adjust our sales price to reflect increased costs for the purchase of raw material or commodities, wage increases, higher non-wage ancillary costs and increased energy prices.

4. Delivery times

4.1 Binding delivery times and dates must be explicitly agreed in writing. Delivery times are calculated from when the customer receives our order confirmation, but not before all matters related to performance of the order have been clarified and all other necessary conditions have been met by the customer; in particular, we must have received all documents, authorisations, approvals, and any agreed deposit payment. Confirmed times and dates may be extended or postponed within reason if additions or supplements are made to the contract, or if the customer does not fulfil his duty of cooperation punctually, fully and/or correctly, as the case may be.

4.2 Deliveries before the agreed delivery date are permitted at any time. The date on which we declare our willingness to supply the goods or service is considered to be the delivery date. We are entitled to supply partial services or make partial deliveries, which will then be invoiced and paid for separately.

4.3 In the event of delivery delays, the customer is required to allow a grace period of at least 4 weeks, unless this can be dispensed with under statutory provisions. The customer may cancel the contract after the fruitless expiry of this period if the service is not reported as fully performed before the expiry date. Entitlements to enter claims for damages and/or reimbursement of costs, for whatever reason, are subject to the provisions set out in Item 11 below.

4.4 We shall not be considered in default if the customer has not yet fulfilled all his obligations towards us.

5. Self-delivery reservation, force majeure and other impediments

5.1 If, due to circumstances beyond our control, goods or services from our suppliers are delivered late, incorrectly or not at all, or in the event of force majeure, we are entitled to defer performance for the duration of the delay or impediment, or to fully or partially terminate the contract due to the unfulfilled part. This shall also apply in the event of lockouts, strikes, official intervention, scarcity or lack of raw materials, transport bottlenecks, operational disruption through no fault of our own and all other impediments that, on objective consideration, we have not caused intentionally or negligently. The above provisions also apply if the circumstances described above arise after we are already in default.

5.2 If a binding deadline / delivery time is exceeded due to any of the events or circumstances described in Item 5.1 above, the customer may require us to declare within two weeks whether we wish to cancel the contract or, alternatively, perform the agreed service within a reasonable grace period. If no such declaration is made, the customer may cancel the unfulfilled part of the contract.

6. Despatch, transfer of risk

6.1 In general, goods are despatched uninsured. We will only arrange for transport insurance at the customer's own request and expense. We reserve the right to determine the appropriate transport route and method if no other agreement has been made in writing. Any damage incurred during transport must immediately be recorded on the delivery note/bill of lading and confirmed by the carrier or, in the case of delivery by rail or by post, assessed by the railway company or postal service to allow the pursuit of claims for compensation.

6.2 Risk is transferred to the customer on delivery of the goods to the carrier.

6.3 Goods notified as ready and due for despatch must be called off by the customer immediately. If goods ready for despatch are not called off or collected without delay, we may choose either to despatch them or put them in storage at the customer's own risk and expense.

7. Complaints, notification of defects

The customer or his appointed recipient must check the goods immediately after delivery and, if necessary, conduct a test run to ascertain whether they are fit for their intended purpose. Under the terms of § 377 HGB [German Commercial Code], written notification of defects – including the absence of quality guarantees – must be submitted without delay, but at the latest within 5 working days. Should the customer fail to notify us of any defect(s) in the correct form or within the period stipulated, the goods are deemed to have been accepted and approved as delivered. The punctuality of the notification is determined by the date on which we receive it.

8. Liability for defects

8.1 In the event of justified complaints, we are obliged to deliver subsequent performance, either by supplying flawless replacement goods or by rectifying the fault, in which case the defective goods replaced become our property. We are entitled to refuse subsequent performance in accordance with the relevant legal provisions. In the event of unjustified complaints we are entitled to charge the customer for all resulting costs.

8.2 If we do not fulfil our obligation to deliver subsequent performance, the customer can choose between cancelling the contract and paying a reduced price after setting a reasonable grace period, unless this can be dispensed with under statutory provisions. In the event of a cancellation, the customer shall be liable for any deterioration, destruction and services not used, not just for his own customary due care and attention, but for each case when he is represented.

8.3 The customer must allow us sufficient time and opportunity to verify the defect and deliver the required subsequent performance. Defective goods must be returned to us on demand.

8.4 Additional claims by the customer for damages and compensation due to or in connection with defects or consequential damage, on any legal grounds whatsoever, are only possible within the framework of the provisions under Item 11. In this case, we are also only liable for typical, predictable damage.

8.5 Our liability for defects does not apply when no defects are present, particularly in the case of faults resulting from violation of operating/maintenance/installation instructions, improper use, incorrect or careless handling, natural wear and tear, tampering with the delivered goods by the customer or third parties, or the use of spare parts of foreign origin.

8.6 Customer claims for damages due to defects can only be submitted within a 12-month period after delivery of the goods.

8.7 In the event of fraudulent concealment of a defect or the acceptance of a guarantee of quality, customer claims are limited to the extent permitted by law.

9. Payment conditions

9.1 Payments are due at the latest on the agreed due date, postage paid and free of charge, or 30 days after invoice receipt if no due date has been agreed. The day of payment is defined as the date on which the money is paid to us in cash or credited to one of our accounts.

9.2 Bills of exchange will only be accepted if specifically agreed beforehand.

9.3 If payment conditions are not observed, or if circumstances come to our notice which, in our best commercial judgement, raise doubts as to the creditworthiness of the customer, including circumstances already in existence of which we were unaware or should have been made aware when the contract was concluded, we are entitled – notwithstanding further statutory rights in such cases – to demand payment in advance or the provision of adequate sureties for outstanding deliveries. If no such sureties are produced after the expiry of a reasonable grace period, we are entitled to cancel the contract or demand compensation for damages. Furthermore, we are entitled to forbid the resale or processing of goods that are completely or partially our property, and to demand their return or the granting of co-ownership to us at the customer's expense.

9.4 The customer's right of retention or offsetting extends only to counter-claims that are uncontested or have been determined as legally valid.

10. Retention of title

10.1 We reserve the right of ownership of goods delivered by us until all claims arising from our business relationship with the customer have been settled, including future claims arising from contracts concluded and any recourse and release claims arising from bills of exchange and cheques. This is also applicable to a balance in our favour if individual claims or all claims have been incorporated in a running account and the balance drawn.

10.2 The customer is responsible for arranging adequate insurance, in particular against fire and theft, of the reserved goods. The entitlement to receive insurance payouts from claims pertaining to reserved goods is hereby assigned to us, up to the value of the reserved goods.

10.3 Any processing of reserved goods takes place on our behalf as manufacturers under the terms of § 950 BGB [German Civil Code], but without obligation for us. If the reserved goods are processed or irretrievably combined with objects that are not our property, it is agreed that the ownership of the resulting new objects, proportionate to the invoice value of our goods relative to the invoice value of the other objects processed or combined with our goods, is transferred to us. If our goods are combined with other movable objects into a single object which is deemed the main object, the Customer hereby already transfers co-ownership of it to us in the same proportion. The customer shall keep the goods for us free of charge. The resulting co-ownership rights are considered reserved goods. At any time and when requested, the customer is obliged to furnish us with all the information we require for the assertion of our ownership and co-ownership rights.

10.4 The customer is entitled to sell the reserved goods in the course of his normal business. He is not permitted to dispose of the goods in any other way, or to pledge them to third parties as collateral. If the reserved goods are sold and the third-party purchaser does not pay for them immediately, the customer is equally obliged to consider the goods as sold under retention of title. The right to sell, process or otherwise dispose of the reserved goods shall be forfeited immediately and without further notice if the customer ceases to make, or is in arrears with, payments to us.

10.5 The customer herewith assigns to us all claims, including securities and ancillary rights, which accrue against the end user or against third parties through or in connection with the sale of the reserved goods. He is not permitted to come to any agreement with his own customers that in any way excludes or injures our rights, or that nullifies the assignment of future claims. In the event of the sale of reserved goods with other items, our claim against the third-party user to the value of the delivery price agreed between the customer and ourselves is considered assigned, if the invoice does not allow the respective sums apportioned to the individual items sold to be defined exactly. In the event of the sale of co-owned items as reserved goods, a part of the claim amounting to the value of our portion of the co-owned items is assigned to us.

10.6 The customer's entitlement to collect the receivables from claims assigned to us remains in force until we revoke it, which we may do at any time. If and when we request him to do so, he is obliged to give us the information and documents required for the collection of assigned claims and immediately notify his debtors that the claims have been assigned to us.

10.7 If the customer integrates claims from the sale of reserved goods in an existing current account relationship with his customers, he herewith assigns to us – from any recognised or final balance in his favour – an amount totalling the sum of the claims from the sale of reserved goods that was integrated in the current account.

10.8 If the customer has already assigned to third parties any claims accruing from the sale of reserved goods supplied or due to be supplied by us, particularly due to genuine or non-genuine factorings, or has entered upon any other agreements due to which our existing or future security rights pursuant to Item 10 might be impaired, he must notify us immediately. In the case of non-genuine factoring, we are entitled to cancel the contract and demand the return of goods already delivered. The same shall apply in the case of genuine factoring if, under the terms of the contract with the factor, the customer is unable to dispose freely of the sales price for the claim.

10.9 A breach of contract by the customer, in particular arrears of payment, entitles us to cancel the contract; in this case, the customer is obliged to return the goods forthwith. We are permitted to enter the customer's business premises at any time during normal business hours in order to make an inventory of goods delivered by us. The customer must notify us immediately in writing of any seizure by third parties of reserved goods or claims assigned to us.

10.10 Should the value of our existing securities under the terms named above exceed the claims thus secured by more than 20 % in total, we shall be obliged to release securities of our own choice if requested to do so by the customer.

11. Exclusion and limitation of liability

11.1 For all claims against us for damages and compensation on account of a culpable breach of duty, on no matter what legal grounds, we shall only be liable – in cases of minor or gross negligence – for a culpable breach of contractual duty that jeopardises the fulfilment of the purpose of the contract. Our liability is excluded in all other cases.

11.2 In the event of liability under the terms of Item 11.1 and liability without fault, we shall only be liable for typical, foreseeable damages up to max. 20 % of the net value of the goods.

11.3 In the event of damages due to delay, we are only liable if negligent and up to an amount of max. 5 % of the net invoice value.

11.4 The customer makes his own autonomous decision as to where and how the goods and services we deliver are deployed. Unless we have given written confirmation of specific product characteristics and suitability for the contractually agreed purpose, any technical advice regarding product applications is always non-binding. The purpose of such advice is merely to explain to the customer the best possible application of our product; this does not release him from his duty to conduct his own investigations to determine whether our product is actually suitable for his intended purpose. Furthermore, our liability for advice that did or did not take place is restricted to the extent stated in Items 11.1 - 11.3 above.

11.5 The exclusion of liability defined in Items 11.1 - 11.3 above is equally applicable to our corporate bodies, committees, legal representatives, employees with or without managerial responsibility and other vicarious agents.

11.6 The provisions in Items 11.1 - 11.4 do not apply in the case of claims against us under the Produkthaftungsgesetz [Product Liability Act]; claims for liability for injury to life, limb or health; when a guarantee of quality has been given, or in the event of fraudulent concealment of a defect.

11.7 All claims against us for damages or compensation expire 12 months after delivery of the goods; in the case of culpable liability, the 12-month statutory limitation period begins with the knowledge or grossly negligent ignorance of the circumstances which justify the claim, or of the person liable. This does not apply in cases of intent or the cases specified in Item 11.6 above.

12. Copyright, software utilisation rights

12.1 Any documents, drawings or technical construction services delivered to the customer by us may only be used for their intended purpose; they must not be made available to third parties or incorporated in publications without our permission. Copies may only be made for archive use or as replacements for original documents. If original documents contain an endorsement that refers to copyright, the customer must transfer the same endorsement to the copies.

12.2 We hereby grant the customer the non-exclusive, non-transferable right to use computer programs, associated documents and any subsequent updates and supplements supplied by us, provided that any such use is in connection with the products for which the software was supplied.

12.3 The customer is not permitted to remove or alter any markings or labels on our products, in particular to remove our serial numbers and type plates; neither is he permitted to add special marks or labels that might be construed as identifying our product as the product of the customer or a third party.

12.4 Our liability for the absence of property rights of third parties is excluded if services have been developed and/or delivered according to specifications provided by the customer, or if a breach of copyright has arisen through the use of our goods in combination with goods not delivered by us. Furthermore, our liability for breaches of copyright is excluded in the case of applications of which the customer has not previously notified us. In all other cases, liability is in accordance with Item 11 above.

13. Place of jurisdiction, applicable law

13.1 Sole place of jurisdiction for all disputes is the responsible court at the respective business seat of the R+L HYDRAULICS GmbH Group company involved. However, we are also entitled to take legal action against the customer at his general place of jurisdiction.

13.2 All legal relations between us and the customer are governed exclusively by the laws of the Federal Republic of Germany; the UN Convention for the International Sale of Goods is excluded.

14. Precedence of the German version

In the event of a dispute, the German version of these General Terms and Conditions of Business, Payment and Delivery shall take precedence. Text versions in other languages are non-binding translations.

Status: 11/2011