

Terms and Conditions of Delivery and Payment of RISCHE + HERFURTH GmbH, Hamburg

1. General

All deliveries, services and offers of RISCHE + HERFURTH GmbH to its business customers are subject to these Terms and Conditions exclusively. The offers are subject to change.

The Terms and Conditions apply to this Agreement and also to future business transactions. Terms and Conditions of the customer that deviate from these Terms and Conditions will not be recognised by us unless they have been expressly agreed to in writing.

2. Prices

The prices do not include setup or installation and apply ex-works Hamburg-Wandsbek, exclusive of packaging and insurance.

In commercial dealings with merchants – if the transaction is part of their business – all prices are quoted as net prices and do not include value-added tax, which is to be paid additionally by the customer at the applicable statutory rate.

The price calculation is based on the prices applicable on the day of delivery. Should the cost rates change while orders are being processed, we reserve the right to change prices.

3. Deliveries

Delivery is made ex-works Hamburg-Wandsbek. Goods are transported at the recipient's risk. We are not liable for damages and losses that the goods may suffer during transportation.

No packaging of any type will be taken back.

4. Delivery periods, force majeure, delivery delays or other noncompliance on the part of our suppliers

The delivery period applies ex-works and begins on the day on which a written Agreement with the customer pertaining to the order is available and has been received by us:

- a) all details, specifications and/or other documents from the customer necessary for executing the order,
- b) the deposit,
- c) the letter of credit,
- d) the import licence (if necessary).

If delivery is delayed due to unforeseen circumstances beyond our control (force majeure) that affect us or our suppliers, the

delivery period will be extended accordingly. We are obliged to inform the customer of such circumstances in good time. If it becomes unreasonable to expect one or both parties to adhere to the Agreement due to the delay, the affected party is entitled to withdraw from the Agreement.

Should our delivery be late, the customer is entitled to withdraw from the Agreement if it has previously granted us a reasonable grace period expressly stating that it will withdraw from the Agreement if said grace period expires without results. In general, a period of one month is to be considered reasonable.

Delivery is subject to us receiving our supplies punctually and in good order.

5. Payment

Payment will be due immediately (Section 271 of the German Civil Code – BGB). Invoices are to be paid within 30 days (except for repairs and other maintenance work, which must be paid for within 15 days without cash discount). If the customer pays fully within 8 days (receipt of the payment), the customer is entitled to deduct a 2% cash discount.

Payment by bill of exchange is not regarded as a cash payment and a cash discount does not apply. We explicitly reserve the right to refuse cheques and bills of exchange. These are only accepted as conditional payment. Discount and bill charges are to be borne by the customer and must be paid immediately. If we accept bills of exchange and cheques, payment will not be deemed settled until these have been redeemed.

Bills of exchange will be accepted without assuming any liability for correct presentation and protest.

If the customer is in default of payment, we are entitled to claim default interest at the statutory rate. Further claims remain unaffected.

The legal entitlement to withdraw from the Agreement in the case of default remains unaffected. In the case of rescission due to a breach of the Agreement, the customer is obliged to pay compensation, which will be set off against any partial payment already made, in the amount of 1/24 of the price for each month of use commenced. The compensation will be higher or lower if we furnish proof of higher damage or loss of value or the customer furnishes proof of lower damage or loss of value.

The set-off is only admissible in the case of undisputed or legally established claims. The same applies with regard to a right of retention. This does not apply to counter-claims of the customer that directly arise from costs of remedying defects or costs of producing the delivery item and that are based on the same contractual relationship as our entitlement to payment.

6. Customer's creditworthiness

If circumstances come to our attention that lead us to believe that the customer's financial situation has significantly deteriorated since conclusion of the Agreement, all claims arising from the business relationship, including those for which bills of exchange and cheques were submitted, must be paid in full. Objections and pleas of the customer – with the exception of objections relating to the Agreement to a later due date – remain otherwise unaffected. We are entitled to demand advance payment or securities before carrying out any outstanding services. Further details are governed by Section 321 BGB.

7. Retention of title

We will retain the title to the products delivered until all claims from the business relationship with the customer are settled in full.

Any processing or treatment of the goods subject to retention of title by the customer will always be performed on behalf of the Seller without creating any obligations for the Seller. We are entitled to the ownership of the new items in their respective state of treatment or processing. If the goods subject to retention of title are processed, treated, mixed or combined with other products that are not owned by us, we will acquire a sole or a co-ownership interest in the new item based on the share of invoice price of the goods subject to retention of title compared to the invoice price of the other products.

The customer may sell the goods subject to retention of title in which we hold a sole or a co-ownership interest in the normal course of business; it must not pledge or assign the goods as collateral. The customer already now and in advance assigns to us all claims it is entitled to from the resale of the goods subject to retention of title or the products resulting from the processing, treatment, mixing or combination. This also applies if the products are sold with other products that are not owned by us at a combined price. If, pursuant to a legal regulation, a third party has acquired ownership or co-ownership interests in the products as a consequence of the processing, treatment, mixing or combination, the customer hereby assigns to us now and in advance any

claims the customer may have against that third party. All assignments in terms of this paragraph are always limited to the amount of the invoice price of the goods subject to retention of title. The customer may collect the assigned claims until such permission is revoked; the permission may be revoked at any time.

We already now accept the assignments of the customer provided for in this Section.

If the Buyer's cooperation is required to make the retention of title effective, for example with regard to registrations that are required in accordance with the law of the country in which the Buyer is located, the customer shall perform such acts.

If the customer is in default of payment, we may prohibit it from disposing of the goods subject to retention of title completely or, at our choice, in part, e.g. only with regard to selling or further processing, etc.

If the customer meets the objective requirements of the duty to file for insolvency, it has to refrain from disposing of the goods subject to retention of title in any way, without being specifically requested to do so. The customer has to report the inventory of goods subject to retention of title to us without undue delay. In this event we are also entitled to withdraw from the Agreement and demand the return of the goods subject to retention of title. If the goods subject to retention of title were processed, treated, mixed or combined with other products, we are entitled to demand that they be transferred to a trustee; the customer has to provide a list of all co-owners of the goods subject to retention of title, stating their company name and/or name, address and all co-ownership interests. The same, by analogy, applies to the claims that have been assigned to us in accordance with the previous paragraphs; in addition, the customer has to send us the names and addresses of all debtors and a copy of the documents evidencing the claims against them without being specifically requested to do so.

8. Warranty

If the customer is a merchant, his warranty claims depend on him providing notification of defects in accordance with Section 377 of the German Commercial Code (HGB). Notification of defects must be provided immediately after they have been detected. "Immediately" in this sense means 8 days.

The warranty period is two years from the time of the passing of risk.

In the event of a defect, we reserve the right to choose the method of remedying the defect (repair or replacement delivery).

Where we must cover the costs of remedying the defect, these will be borne by the customer in so far as they have increased because the customer has taken the product abroad. Costs of dismantling and assembling the parts will be borne by the customer. Replaced parts will become our property.

The liability for defects applies exclusively to defects present at passing of risk and therefore not to normal wear and tear. The liability for defects also does not apply to defects that arose after passing of risk as a result of incorrect or improper treatment of the machines. The warranty obligation expires if the machines have been modified by a third party or by the attachment of parts manufactured by a third party and there is a causal connection between the defect and this modification.

9. Liability for damages and reimbursement of expenses

We are liable only for damage caused intentionally or by gross negligence. We are also liable in cases where simple negligence leads to a breach of material contractual duties. "Material contractual duties" are duties that must be complied with in order to make the proper performance of the contract possible in the first place and on the observance of which the customer may regularly rely.

Liability is limited to the reasonably foreseeable damage typically incurred with this type of contract unless it is due to an intentional act.

The foregoing limitations on liability do not apply to injuries to life, body or health or in cases of liability pursuant to the German Product Liability Act (Produkthaftungsgesetz).

Claims for the compensation of expenses pursuant to Section 284 BGB are excluded as far as the claim for compensation of damage instead of performance is excluded pursuant to the foregoing provisions.

The foregoing limitations on liability also apply to our employees, bodies and other persons employed by us in the performance of our obligations.

10. Conditions for returning goods

There is no entitlement to return goods that have been supplied in accordance with the Agreement.

11. Place of jurisdiction

The exclusive place of jurisdiction for both parties – also for disputes concerning deed, bill

of exchange or cheque processes – is our place of business if the customer is a merchant, a legal entity under public law or a special fund under public law, or does not have a general place of jurisdiction in Germany. However, we are also entitled to bring a suit against the customer at its place of business instead. If the customer's place of business is outside Germany, every party is alternatively entitled to file a request for arbitration with the Court of Arbitration of the Deutsche Institution für Schiedsgerichtsbarkeit e.V. (DIS). If this option is exercised, the Court of Arbitration shall be the exclusively competent court. The place of arbitration is Hamburg.

12. Applicable law

German law applies to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

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