

## **General Terms and Conditions of Business and Delivery of Ruhrzerspannung GmbH & Co. KG**

### 1. Validity of the General Terms and Conditions

1.2 Terms and Conditions of Business or any diverging counter confirmations of the customer are non-binding for Ruhrzerspannung GmbH & Co. KG, company owner Uwe Zurhausen (hereinafter referred to as RZ), even if not expressly objected to. In order to be legally valid, they require the explicit written approval of RZ. By placing the order, the buyer acknowledges the agreement of the General Terms and Conditions of RZ, even insofar as these contradict the General Terms and Conditions of the buyer.

### 2. Offer and Conclusion of Contract

2.1 As a matter of principle, every contract requires the written acceptance of RZ in order to be effective.

2.2 The written confirmation of RZ is exclusively authoritative for the subject matter of the contractual relationship as well as for the scope of delivery.

2.3 Any ancillary agreements, amendments, supplements as well as a warranty of quality require the written form and are only valid if confirmed in writing by RZ.

### 3. Prices

3.1 All prices are quoted net plus statutory value-added tax, freight and packaging.

### 4. Terms and Conditions of Payment

4.1 Invoices are due for payment immediately upon receipt and without deduction, unless otherwise agreed in writing.

4.2 If invoices are deferred or paid later than agreed, RZ is authorized to charge interest in the amount of 2% above the respective discount rate of the German Central Bank (Deutsche Bundesbank) in this interim period. The interest rate can be set at a higher level by producing proof. The buyer reserves the right to provide evidence of a lower rate of interest.

4.3 The statutory right of RZ to rescind the contract or to claim compensation for damages due to non-performance of contract remains unaffected.

4.4 The offsetting of any counterclaims of the buyer is excluded, provided the counterclaim has not been legally established or is undisputed.

4.5 Bills of exchange and cheques are only accepted as payment. The buyer shall bear the costs of discounting and all further costs accruing from the issuance of bills of exchange and cheques.

4.6 As a principle, RZ settles receipts of payment in compliance with § 366 Sec. 2, § 376 Sec. 1 German Civil Code (BGB). RZ is entitled, by way of derogation from that to perform the settlement of receipts of payment. An opposing provision of the buyer is ineffective.

4.7 In case of partial payment, the entire still outstanding remaining amount of the partial payment agreement relating to a specific amount will be due for payment if the buyer is in complete or partial default in the

payment of two instalments for more than two weeks (14 days).

### 5. Delivery Time and Terms and Conditions of Delivery

5.1 Unless otherwise agreed, delivery times are non-binding.

5.2 Unforeseen events that are beyond the will of RZ, extend the delivery times appropriately; this also applies in case of a strike or lockout.

5.3 RZ is entitled to partial deliveries and partial performances, which can then be invoiced separately.

5.4 Upon delivery of the goods, the risk is transferred to the buyer. This also applies if RZ has taken on deliveries and installations.

### 6. Right of Withdrawal / Refusal of Acceptance

6.1 If subsequent to the conclusion of contract any facts become evident related to the creditworthiness of the buyer, which would have resulted in RZ refraining from the contract when acting according to the practices of a proper businessman, RZ is entitled to rescind the contract by accounting all expenses incurred by RZ or to request sufficient and acceptable securities.

6.2 If the buyer defaults in a payment in the context of the business relationship with RZ or if there are specific indications for an impending insolvency of the principal, RZ is entitled to refuse to further execute all contracts with the buyer until the buyer upon request of RZ meets all his obligations including those which are not yet due for payment, which have been deferred or for which bills have been negotiated or related to respective provisions of security. These claims also cover all obligations concerning cheques and bills of exchange including all costs incurred thereto.

6.3 Should the buyer fail to comply with RZ's request for prepayment or security within a reasonable period, RZ is entitled to rescind the contract and to charge the buyer all costs including lost profits.

6.4 If the buyer refuses to accept the delivered goods, RZ can grant a grace period of 14 days with the explanation that upon the expiry of this period acceptance will be refused. If the grace period expires without success, RZ is entitled to rescind the purchase agreement and to request claim for damages for reasons of non-performance of contract.

6.5 It is not necessary to set a grace period if the buyer seriously and conclusively refuses acceptance.

6.6 If RZ claims damages, such compensation amounts to 15% of the price agreed. The amount of damage can be set higher or lower if RZ provides evidence for a higher or the buyer for a lower damage.

### 7. Liability

7.1 Claims for damages of any kind, i.e. irrespective of their legal grounds, are ruled out, except for the fact that RZ can be accused of intent or gross negligence. Exclusion of liability also applies to exceeding the delivery time or in case of non-delivery.

## 8. Securities and Retention of Title

8.1 The delivery of the goods will be made with retention of title pursuant to § 455 German Civil Code (BGB) until the full payment of all accounts receivable, even of those arising from the business relationship in future and in the case of cheques and bills of exchange until they are honoured. This also applies if individual claims have been incorporated into a current account or if the balance has been drawn and accepted.

8.2 Any claims of the buyer arising from the resale of the reserved goods are assigned to RZ already at this point.

8.3 The buyer is only entitled and authorized to resell the goods subject to retention of title if the purchase price claim resulting from the resale is assigned to RZ as defined above. The buyer is not authorized to dispose of the goods that are subject to retention of title in any other way, especially not in the form of pledges and security transfers.

8.4 The buyer is entitled to collect the claim from the resale notwithstanding the assignment. The authority to collect remains unaffected by the direct debit authorization of the customer. RZ will not collect the claim itself as long as the buyer properly meets his/her obligations to pay.

8.5 Upon request, the buyer has to inform RZ about the names and addresses of all those who received the goods subject to the retention of title. RZ is entitled to disclose the assignment at any time.

8.6 In case of doubt, the assertion of the retention of title shall not be deemed a rescission of contract. RZ is entitled, subsequent to a reasonable period, to dispose of the objects for which retention of title had been asserted in another manner and to supply the customer within an appropriate new period of delivery after payment of the outstanding amount.

8.7 As long as the retention of title persists, the buyer is not entitled – except in case of resale pursuant to the above-mentioned conditions – without the prior written approval of RZ to remove the goods subject to retention of title from the destination to which they were delivered as contractually agreed.

8.8 The buyer shall inform RZ immediately by registered letter about any infringement of a third party of the right of ownership by providing the address of the third party. Any judicial or extra-judicial costs incurring from intervention are borne by the buyer. If a third party has acquired possession of the goods, RZ is entitled, on its own, without the participation of the customer, to request the goods to be returned.

8.9 As long as RZ has the right of property in the delivery item, RZ is entitled to convince itself or by means of an authorized party about the existence and condition of the item. For this purpose, the buyer has to grant free access to the place of storage.

8.10 With the ownership, possession, purchase and the operation of the goods, the buyer is responsible for the related duties, dangers, liability, taxes, fees and other charges. He/she is liable for any damage caused by intent or by gross negligence as well as for loss and damage of the delivery item caused by him/her or by accident. RZ shall be immediately informed about any damage or loss of the reserved property.

## 9. Defects / Warranty

9.1 If the delivered goods are defective, RZ is entitled to repair the defective part free of charge, to replace defective parts or to supply a replacement.

9.2 If subsequent improvement or replacement fails several times, the buyer can request to either reduce the payment or to rescind the contract.

## 10. Concluding Provisions

10.1 These provisions apply for the entire period of the business relationship, even if references to it are not recurrently made. Previous General Terms and Conditions of Business cease to be in force.

10.2 The ineffectiveness of individual regulations of these General Terms and Conditions of Business does not result in the ineffectiveness of the General Terms and Conditions of Business as a whole. As a replacement of the ineffective clause, those regulations shall apply which come closest to the economic purpose of the ineffective provision.

## 11. Special Regulations

11.1 For businessmen who do not belong to those traders denominated in the Commercial Code, for legal entities under public law as well as for special funds under public law the following regulations apply in addition:

11.2 Place of performance and place of jurisdiction for disputes resulting from the business relationship – including proceedings concerning deeds, bills of exchange and cheques, potential actions for handing over – is exclusively Gladbeck, unless a different place of jurisdiction has been exclusively stipulated by statute.

11.3. RZ shall be notified in writing immediately after delivery about incomplete or incorrect deliveries as well as about recognizable defects of the delivered item. This notification shall specify the claimed defects in detail and provide all information required for remedying the defects.

11.4 All prices are net prices. The respectively applicable value-added tax will be charged in addition.