

# TERMS AND CONDITIONS OF DELIVERY

Stand 09.2016

## 1. Scope of Application

1.1 The following terms of delivery shall apply exclusively. General terms and conditions of the buyer deviating from these terms and conditions shall only apply insofar as they have been expressly confirmed in writing by rpm rapid product manufacturing GmbH (hereinafter referred to as "rpm").

## 2. Conclusion of Contract

2.1 Offers are subject to confirmation. Orders are only binding as far as they are confirmed by rpm or as far as they are fulfilled by execution and shipment of the ordered goods. Additional agreements and changes require written confirmation by rpm.

## 3. Prices

3.1 Prices shall be subject to value added tax at the respective statutory rate and shall apply "ex works" including packaging.

3.2 In case of contracts with an agreed delivery time of more than 4 months, rpm shall be entitled to increase the prices according to the occurred cost increases due to collective labour agreements or material price increases. If the increase amounts to more than 5 % of the agreed price, the purchaser shall be entitled to terminate the contract.

## 4. Scope of Delivery

4.1 The order shall be executed on the basis of the data sets sent by the Purchaser. Unless otherwise agreed, the last update available to rpm at the time of the conclusion of the contract shall be the binding data set for rpm.

4.2 If the order does not show any separate specifications regarding the material quality, the execution of the order shall be carried out using materials close to series production (limited testability).

## 5. Delivery Period

5.1 If a delivery period has been agreed upon, it shall commence with the dispatch of the order confirmation, however not before the customer has

provided any documents, data sets, releases or similar, as required for performance of the delivery.

5.2 An arranged delivery period shall be deemed to be met when the ordered goods have been dispatched by rpm or when the client has been informed that the goods are ready for dispatch.

5.3 In case of delay in delivery on the part of rpm, claims for damages shall only exist in case of gross negligence or intent.

## **6. Transfer of Risk**

6.1 The risk shall pass to the purchaser at the latest upon dispatch of the ordered goods. This shall apply accordingly in the case of agreed partial deliveries.

6.2 Shipment shall be made at the risk of the Purchaser under "ex works" conditions in accordance with INCOTERMS 2020.

## **7. Retention of Title**

7.1 rpm reserves the ownership of the delivered goods until receipt of all payments resulting from the contract.

7.2 The purchaser shall be obliged to inform rpm immediately in writing of any seizure or other interventions of third parties with regard to the goods.

## **8. Warranty**

8.1 The purchaser shall immediately upon receipt inspect the delivered goods for defects with regard to condition and intended use; otherwise, the goods shall be deemed approved.

8.2 Complaints shall only be considered if they are made in writing within 5 working days after receipt of the goods, in the case of hidden defects after their discovery, enclosing supporting documents.

8.3 The warranty period shall be 12 months from receipt of the goods.

8.4 The warranty obligation shall be limited to replacement, reduction or rectification, at rpm's discretion.

8.5 Rejected goods may only be returned with the explicit consent of rpm.

8.6 In case of rectification, rpm shall be obliged to bear all expenses necessary for the purpose of rectification, in particular transport, labour and material costs, as far as these are not increased by the fact that the delivered goods have been transported to a place other than the place of performance.

8.7 If the rectification fails, or if rpm is not willing or able to rectify the defect or to deliver a replacement, or if this is delayed beyond reasonable periods of time for reasons rpm is responsible for, the purchaser shall be entitled to withdraw from the contract or to demand a reduction.

## **9. Liability**

9.1 rpm shall only be liable for foreseeable damage typical of the contract of the purchaser, provided that these were caused by rpm intentionally or grossly negligent.

9.2 rpm shall only be liable for damages caused by subcontractors of rpm if and insofar as rpm is at fault of its own.

9.3 For damages for which rpm is responsible - in the sense of 9.1 and 9.2 - rpm shall be liable up to an amount of Euro 1,500,000 per damage event and calendar year. This does not apply to personal injuries caused by rpm by gross negligence or intention.

## **10. Industrial Property Rights**

10.1 The purchaser shall indemnify rpm against any claims of third parties resulting from infringements of patents, copyrights, trademarks or other industrial property rights (hereinafter referred to as "industrial property rights of third parties") resulting from the production of the ordered goods according to the purchaser's specifications.

10.2 If the ordered goods are not produced according to the specifications of the purchaser, rpm shall only be liable for the infringement of third party industrial property rights in case of gross negligence or wilful misconduct of rpm.

10.3 In no case rpm shall be obliged to carry out research for industrial property rights.

## **11. Terms of Payment**

11.1 Payment shall be made after invoicing. Invoices are due for payment within 20 days from the date of invoice without deduction (e.g. discount).

11.2 In case of delayed payment rpm shall be entitled to charge interest in the amount of 3% above the applicable base interest rate, subject to the assertion of further claims for damages caused by delay.

11.3 The purchaser shall only be entitled to set-off and retention rights in case of undisputed, legally binding claims or claims acknowledged by rpm.

## 12. Secrecy Clause

12.1 Both contracting parties shall be obliged to treat all information, data, drawings, etc., which are exchanged on the occasion of the cooperation between the parties regarding the subject matter of the contract, confidentially and not to pass them on or make them accessible to any third party.

## 13. Force Majeure

13.1 Cases of force majeure - as such circumstances and occurrences are considered which cannot be prevented with the diligence of proper business management - suspend the contractual obligations of the contracting parties for the duration of the disturbance and to the extent of its effect. If delays resulting therefrom exceed the period of six weeks, both contracting parties shall be entitled to withdraw from the contract with regard to the affected scope of performance. No other claims shall exist.

## 14. Place of Performance, Place of Jurisdiction

14.1 Unless otherwise agreed, the place of performance shall be Helmstedt.

14.2 In case of any disputes arising from the contractual relationship, the local courts at the place of business of rpm shall have exclusive jurisdiction.

14.3 The laws of the Federal Republic of Germany shall apply. The regulations of the UN Convention on Contracts for the International Sale of Goods are explicitly excluded.

Helmstedt, on 01. September 2016

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