



ROHDE & SCHWARZ

General Terms and Conditions for Deliveries and Services for Use in Business Transactions with Entrepreneurs

July, 2019

1. General

These terms and conditions shall apply to all deliveries and services of the ROHDE & SCHWARZ Hungária Szolgáltató Korlátolt Felelősségű Társaság (RSH).

- 1.1. All deliveries of goods (e.g. products, equipments, complete systems; hereinafter "deliveries") and services (e.g. installation, assembly, calibration, repair; hereinafter "services") by RSH shall be made on the basis of these terms and conditions, which shall remain effective even if RSH, in the course of ongoing transactions, does not expressly refer to these terms and conditions in future contractual arrangements.
- 1.2. Any differing or supplementary terms and conditions of economic corporations (hereinafter "customer"), shall only be effective if RSH confirms such deviation or supplement for the conclusion of the agreement concerned in writing.
- 1.3. These terms and conditions shall be the integral part of the contract, which shall be deemed to be concluded upon the acceptance of order by RSH following the order of the customer. In case of any conflict between the terms of the order acceptance and these terms and conditions the terms of the order acceptance shall prevail. The customer's placement of an order with RSH confirms his/her acceptance of these terms and conditions. Any deviation from these terms and conditions shall only have legal effect upon confirmation by RSH in writing. These terms and conditions shall be deemed accepted upon acceptance of the goods and/or of the services at the latest.

2. Scope of Deliveries and Services

- 2.1. The scope of deliveries or services shall be determined according to statements of the Parties made mutually in writing. Should a contract have been concluded without the inclusion of such mutual statements, either RSH's written confirmation of order or, in absence thereof, the customer's written order shall be applicable and binding.
- 2.2. All deliveries and services shall be subject to the regulations of the German Association of Electrical Engineers ("*Verband Deutscher Elektrotechniker*" - VDE) to the extent that they are applicable to ensure the safety and security of deliveries and services as far as these terms and conditions do not contain any divergent provisions. Deviations shall be permissible as long as the same level of safety and security is achieved by other means.
- 2.3. Documentary material, e.g. illustrations, drawings, weight and performance specifications in brochures, cost estimates and data sheets, etc. do not include representations of technical characteristics, but merely descriptions of performance. RSH reserves the right to deviate from an order, even following confirmation thereof, to the extent that such deviations are based on and justified by technical advancement.
- 2.4. RSH shall unrestrictedly reserve all copyright, ownership and usage rights pertaining to its cost estimates, drawings, technical information, data, specifications and other documentary material. Without RSH's prior express written acceptance, the customer shall not be entitled to reproduce, copy, make available or otherwise pass on to third parties any such documentary material or technical information, or to use said material in any other manner whatsoever which could be in conflict with RSH's interests. Any and all drawings or other documentary material pertaining to offers made by RSH must be returned without delay if the assignment/order is not actually placed with RSH. Sentences 1 and 2 shall analogously apply to the customer's documentary material which, however, may be made available to such third parties to whom RSH has permissibly subcontracted deliveries and services.

3. Prices

- 3.1. Prices for delivery are understood
 - CIP within the European Union, the forwarding agent being chosen by RSH
 - FCA outside the European Union, place being chosen by RSH, according to Incoterms 2010, ICC Publication No. 715 ED, as far as these terms and conditions do not contain any divergent provisions.Prices, including commercial packing, are understood in Euro (€), plus the current legal VAT, plus taxes, customs duties or charges or possible consular fees or authentication fees which may be imposed by a legislation other than the applicable law pursuant to article 13. The customer shall bear such taxes, custom duties and possible consulate and legalization fees being imposed to RSH. Any costs arising of the packing of antennas and systems and for any special packing as may be requested by the customer will be charged separately.
- 3.2. Prices reflect RSH's cost situation at the time of the conclusion of the contract. Should any changes in costs occur up until the day of delivery/performance of service, RSH reserves the right to adjust prices, provided that delivery/service is rendered later than 4 months following the conclusion of the contract concerned. The adjustment shall not be applicable if RSH causes a default in delivery.

4. Reservation of Title

- 4.1. All articles delivered shall remain the property of RSH (retained goods) until the full payment of the purchase price/compensation of the delivery and/or service. The customer shall support any measures in order to safeguard the ownership or the security interests related to the retained goods.
- 4.2. RSH shall be entitled to register the fact of ownership retention and the person of the customer in the credit security registry, during which the customer shall co-operate. Customer acknowledges that the ownership retention applies even in absence of registration in the credit security registry. The costs incurred in connection with the registration in the credit security registry shall be borne by the customer.
- 4.3. The customer shall not pledge or transfer as collateral to third parties any goods delivered by RSH, until the outstanding account in the sense of Art. 4.1. has been paid by the customer in full. The resale is only admitted to resellers in the course of normal business procedure and provided that (i) the reseller obtains payment of its client or (ii) if he expresses the reservation that the passage of title to the client will only be effected if the client has fulfilled all payment obligations.
- 4.4. The customer hereby undertakes to assign to RSH its claims against its recipients or third parties deriving from the resale of the retained goods together with all ancillary rights as well as such claims of the customer related to the retained goods, arising out of any other legal relationship (particularly claims in tort and claims of insurance benefits), including any outstanding balance claim out of open account for the amount due to RSH and to take any necessary measures.
- 4.5. Should RSH's proprietary rights be dissolved through combination with another item, RSH shall acquire a joint ownership to such new item at the rate of the value of the combined retained good (invoice final amount including the value added tax) relative to the other combined items at the time of combination. In the event the retained good will be combined in such a way that the item of the customer has to be considered as the main item, customer and RSH hereby agree that customer shall transfer to RSH a pro rata joint ownership related to such item. RSH herewith accepts this transfer. Customer shall bear any costs which may arise out of enforcement claims which RSH asserts as joint owner.
- 4.6. To the extent that the value of all collateral rights to which RSH is entitled in the sense of Article 4. exceeds the amount of all secured claims by more than 20%, RSH shall, at the customer's request, release a corresponding part of the collateral rights. However, RSH shall be entitled to choose the retained good to be released.
- 4.7. The customer shall undertake to inform RSH without delay of any seizure, confiscation or other dispositions or access by third parties to goods which are the property of RSH. The customer shall also be obliged to indicate to third parties wishing to obtain access to the goods that said goods are the property of RSH. To the extent the third party will not be able to reimburse the related judicial and extrajudicial costs to RSH, the

customer shall be liable to pay such costs. In the case of any non-compliance with this obligation, the customer shall be liable to RSH for any and all resulting damages. The costs for any necessary intervention shall be borne by the customer.

- 4.8. RSH shall have the right to rescind from the contract and take back the delivery items in case of a violation of an obligation by the customer, especially in the case of default in payment; the customer shall return the property.
- 4.9. The customer shall be entitled to collect the assigned claims as long as he complies with its payment obligations in favour of RSH. In the event the customer should be in default of payment, RSH shall be entitled to withdraw such right of collection. However, the customer shall not be entitled to assign such claims in order to collect them by way of factoring, unless the customer irrevocably commits the factor to provide the equivalent directly to RSH as long as RSH has claims against the purchaser.
- 4.10. To the extent the deliveries and/or services consist of software, the customer shall not obtain ownership, but solely the rights specified in section 9.

5. Terms and Conditions of Payment

- 5.1. All payments shall be effected without deduction and free of charge to RSH within 30 calendar days following the invoicing date.
- 5.2. In the case of orders with a total value of more than net € 50.000,- a noninterest-bearing down-payment of 30% plus applicable VAT is to be effected upon placement of such orders.
- 5.3. RSH reserves the right to demand further payment securities and/or advance payments.
- 5.4. The customer shall only be entitled to use such claims for set-off purposes or to claim for a retention of payment which have been either expressly accepted by RSH in writing or established by court decision with non-appealable effect.
- 5.5. Should the customer be in delay of payment, RSH reserves the right, subject to the assertion of further rights, to charge default interest in an amount of 4,5% per annum above the respective 12-month Euribor. In the case of delayed payment by the customer, RSH shall be entitled at its discretion either to make further deliveries and/or services dependent upon advance or collateral payments, to claim default damages, or to rescind from the contract.
- 5.6. Any agreed reductions of price and agreed discounts of any kind related to the prices indicated in the contract shall become void without substitution, to the extent the customer defaults with all or part of its payments and takeover obligations with respect to RSH.

6. Due Dates for Deliveries and Services

- 6.1. Compliance with due dates shall be subject to the timely and proper fulfilment of all obligations by the customer, particularly timely receipt of all documentary material, requisite approvals and releases to be supplied by the customer, as well as the timely acknowledgement and approval of plans and schedules, and the compliance with the terms and conditions of payment agreed upon, and any further obligations, which are necessary for the proper and timely delivery and/or services by RSH. Should these requirements not be fulfilled within sufficient time, due dates are reasonably extended accordingly, including the restart of the deadline applicable to RSH. In case a down payment has to be effected pursuant to article 5.2. or pursuant to an agreement between the parties, the preceding sentence shall be applicable accordingly.
- 6.2. Due dates shall be deemed to have been met if RSH performed in accordance with the applicable INCOTERMS as set forth in article 3.1. Should deliveries and/or services be delayed for reasons attributable to the customer, due dates shall be deemed to have been met upon reporting readiness for delivery within the period agreed upon.
- 6.3. In the event that any non-compliance with due dates for deliveries and/or services is provably attributable to Acts of God, such as operational breakdowns, military mobilization, war, civil insurrection, strikes, lockouts, traffic disturbances or the occurrence of other such unforeseeable impediments, any due dates affected thereby are reasonably extended. This shall also include all official measures, such as non-issuance of requisite official authorisations despite a proper filing of application, restrictions on transport or energy consumption, but furthermore also general lack of raw materials and supply goods, as well as any other reasons not attributable to RSH, such as the non-delivery or delayed delivery from suppliers. Should such circumstances make delivery or service impossible, RSH shall be released from its delivery obligation. RSH shall inform the customer as soon as possible, if it exceeds delivery due dates or if delivery is impossible.
- 6.4. In the case of delays for reasons solely attributable to RSH, the customer shall be entitled (to the extent that he can plausibly demonstrate to have incurred damages due to the delay) to demand, following the third full week of delay a compensation for delayed delivery in amount of zero point five per cent (0,5%) for every further full week of delay up to a maximum total of five per cent (5%) of the value of the delayed portion of delivery or service.
- 6.5. The customer may also be entitled to demand payment of compensation for delayed delivery, if the circumstances defined in Art. 6.3. occur only after culpable delay on the due date originally agreed upon.
- 6.6. Compensation claims of the customer due to a default in delivery and any further claims for damages exceeding overall the limit of five per cent (5%) as defined in Art. 6.4. shall be precluded in all cases of delayed delivery (even after expiry of any grace period granted to RSH).
- 6.7. Customer shall only be entitled to rescind from the contract pursuant to the relevant legal provisions if the compensation referred to in article 6.6 has reached the limit of 5 per cent (5%).
- 6.8. Upon RSH's request the customer shall declare within a reasonable time period whether (i) he will rescind from the contract due to delayed deliveries and/or services and/or (ii) he will claim damages in lieu of the performance or (iii) he will claim damages in addition to the performance or (iv) he will insist upon the performance of the delivery and/or service. Any claim due to delay shall expire within a time period of six (6) month following the day of accrual and knowledge or, grossly negligent lack of knowledge, of the customer.
- 6.9. Should dispatch or delivery be delayed at the customer's request (or any other reasons attributable to the customer), a warehouse storage fee amounting to zero point five per cent (0,5%) of the invoice sum can be charged for each month or part thereof, beginning from the first day after the notification of dispatch readiness. The warehouse storage fee shall be limited to the maximum of five per cent (5%) of the invoice sum, unless higher costs can be provably demonstrated.

7. Delivery/Acceptance

- 7.1. The customer shall take over contractual deliveries and/or services according to the contract or accept them, if an acceptance has been agreed, even if they show minor defects.
- 7.2. The customer shall be obligated to inspect the deliveries for transport damage immediately upon receipt. Any claims for transport damage shall be precluded, unless such damage is reported without delay to the transport company for verification, in proof whereof the inspection form provided for such cases must be completed. Should this not be possible, the customer shall notify the transport company and RSH without delay, and shall allow the transport company to view and to assess the extent of damage, for which a written report is to be prepared by both parties together. Should RSH not have participated in such an assessment, it must receive a copy of the written report.
- 7.3. RSH shall be generally exempted from the obligation to accept returned goods.
- 7.4. Partial deliveries as well as early deliveries shall be permitted, insofar as reasonable for the customer.
- 7.5. To the extent an acceptance had been agreed upon and RSH demands acceptance of a contractual delivery or service item upon completion, the customer shall carry out acceptance immediately, but within two weeks, at the latest. If the customer fails to make acceptance in due time or refuses acceptance without justification, the acceptance shall be deemed made. Acceptance shall likewise be deemed made if the delivery item (as applicable after completion of an agreed trial period) has been put to use.

8. Transfer of Risk

- 8.1. The risk shall pass to the customer:
 - 8.1.1. in case of (part) deliveries without services according to the applicable Incoterms set forth in Art. 3.1.;
 - 8.1.2. in case of (part) deliveries combined with services at the date the customer puts them into operation; as far as a trial run has been agreed, after defect-free trial run, provided that the trial run or the putting into operation follows the operational installation or the assembly without delay. Otherwise the transfer of risk shall pass to the customer at the time of the operational installation or the assembly.
 - 8.1.3. for the period of time in which the dispatch or delivery is delayed at the customer's request or for reasons attributable to him (default of acceptance). However, RSH is prepared to take the protection measures demanded by the customer at the latter's request and expense.

9. Software

- 9.1 RSH grants the customer the non-exclusive right, to make use of the contractual computer programs and the corresponding documentation (both computer programs and corresponding documentation hereinafter "software") solely for the operation of hardware intended to be used with or supplied therefor. The right of such use shall be limited to the agreed period, in absence of such agreement the right of use shall be for an unlimited period. In particular, the right of use of the software shall not include the right to translate, to lease, to lend, to sublicense nor the right to distribute, to communicate to the public or to provide online such software to third parties outside of customer's company. Furthermore, the right of such use shall not include the right to reproduce unless such reproduction is necessary (i) to operate the hardware intended to be used with or supplied therefor or (ii) to make a backup copy. Unless otherwise provided by compulsory law or by written contractual provisions the customer shall not be allowed to edit, to decompile, to disassemble or to carry out reverse engineering or otherwise reverse-engineer the software, whether in whole or in part, in order to acquire the source code.
- 9.2. RSH grants to the customer the right – which may be revoked in case of good cause - to transfer the right of use of the software to third parties. The transfer of such right to third parties shall only be permitted to the extent that the transfer is made together with the hardware which the customer has purchased from RSH together with the software or for which the software of RSH is intended. In that case the customer shall impose the preceding obligations and limitations on the third party.
- 9.3. The software will be provided only in a machine-readable form (object code) and without any source code and source code documentation.
- 9.4. Any other rights to the software shall remain with RSH.
- 9.5. To the extent that software will be provided to the customer for which RSH only has a derived right of use and which is not an open source software (third-party-software), the provisions agreed upon between RSH and its licensor concerning the use of software shall be applicable also for the relation between RSH and the customer and shall take precedence over and supplement the provisions of this article 9. To the extent the open source software will be provided to the customer, the provisions concerning the use of software of such open source software shall prevail over the provisions of this article 9. Upon customer's demand, RSH will provide to the customer at least upon request the source code to the extent the provisions of use for the open source software require the hand over of the source code. RSH will make a reference at a suitable place to the existence and the terms of use of third-party-software so provided, including open source software, and will make the terms of use available.

10. Liability for Defects

- 10.1. In the event deliveries and/or services should have a material defect RSH shall, at its own discretion and free of charge to the customer repair, replace or reperform such deliveries and/or services (subsequent performance), provided that the cause existed already at the time of transfer of risk pursuant to article 8.
- 10.2. Any claim of the customer related to material defects shall expire within a period of twelve (12) months, following the day of handover pursuant to article 3.1. and 6.2. or pursuant to article 7. in the event of an acceptance. This shall not apply to cases of intent, fraudulent concealment of a defect or non-compliance with expressly guaranteed quality.
- 10.3. The customer shall complain in detail and in writing of any material defect to RSH without delay. In the event of an unjustified complaint, RSH shall be entitled to claim reimbursement from the customer for any costs incurred.
- 10.4. For the rectification of the defects, the customer shall grant RSH the necessary time and access as reasonably required by RSH. Should the customer refuse to do so, RSH shall be released from its liability for defects.
- 10.5. Should RSH fail to rectify any such defects within a reasonable period (in consideration of the time limit set forth in article 10.7.) of grace granted to it for this purpose, the customer shall be entitled either to rescind from the contract or to demand a reduction of the purchase price.
- 10.6. Claims based on material defects shall not arise in case of (i) insignificant deviations from the agreed quality and/or (ii) where the usability is impaired only insignificantly.
- 10.6.1. Furthermore, the liability for defects shall not include damage, occurring after the transfer of risk (e.g. due to incorrect or careless handling, excessive use, unsuitable operational facilities, deficient construction work, inappropriate construction site) or normal wear and tear.
- 10.6.2. Furthermore, the liability for defects shall not include damage, occurring after the transfer of risk due to special exterior influences such as chemical, electrochemical, electrical or atmospheric influences not provided for under the contract.
- 10.6.3. Any liability for defects or consequences arising from modifications or repair work carried out by the customer or third parties shall also be precluded.
- 10.7. The supplementary performance period for subsequent rectification shall be 3 months, for replacement deliveries or services shall be 6 months, and shall continue at least until the expiration of the original warranty period of the product/service. The period of liability for defects shall be extended for the duration of operational downtime caused by the necessity for subsequent repairs, replacement deliveries or services with respect to all products which cannot be properly operated due to such downtime.
- 10.8. The terms and conditions concerning warranty periods defined in articles. 10.2. and 10.7. shall not be applicable, if longer mandatory periods are stipulated by law. RSH's obligation to reimburse damages shall be governed by article 12.
- 10.9. Articles 10.1. through 10.7, and article 12. shall apply accordingly to claims by the customer for subsequent performance, substitute delivery or damage compensation arising from RSH's violation of duties during contractual negotiations or non-compliance with accessory contractual obligations.
- 10.10. Necessary expenses for the purpose of supplementary performance, such as travel and transport expenses, material and labour costs, shall be borne by RSH to the extent that the delivered good has not been taken, contrary its intended use, to a place different than the place of delivery. In the event the good has been taken according to its intended use to a place different than the place of delivery, RSH shall bear only those expenses which would have been occurred if the customer had not transferred the good. Any exceeding expenses for supplementary performance, caused by such transfer shall be borne by the customer.
- 10.11. To the extent that RSH has doubts concerning the quality and adequacy of articles made available by the customer for the performance, RSH reserves the right to refuse the execution of such performance or to refuse the assumption of any liability, unless the customer takes in consideration the doubts of RSH.
- 10.12. Software
Software errors shall be deemed to be a material defect only if the customer can prove that there are reproducible deviations from the specifications. Whereas software errors shall not be deemed to be a material defect if the software error does not appear in the latest software version which has been supplied to the customer and if its application is reasonably expectable from the customer. Furthermore, the liability for defects shall be precluded if a material defect results from (i) incompatibility of the software with data processing environment used by the customer (ii) use of the software together with software delivered from third parties, unless such use has been allowed expressly in the documentation of RSH or has been permitted otherwise in writing by RSH (iii) improper maintenance of the software by customer or third parties.
- 10.13. Calibration
The calibration consists of ascertaining the connections between the values shown by a measuring instrument or measuring system and the corresponding values – as specified by standards – of a measurable variable under given conditions. The scope of measuring shall be determined through the technical data of the pertinent equipment specifications or the related product description. Depending on the specific instructions, measured values shall be documented in a result report and established as correct at the time of testing. The customer shall be entitled to verify, at the time of testing, the correctness of the due and proper execution of calibration on RSH's business premises. Any further claim of the customer related to defects shall be precluded.
- 10.14. Any further claims related to material defects shall be precluded.
- 10.15. Customer shall not be entitled to claim the reimbursement of costs incurred in connection with the settlement of consumer's claims asserted against the customer on the basis of performance default if the customer failed to fulfil its obligation to inspect quality or if it did not raise any complaints during the quality inspection.

11. Liability for lack of title/ Infringement of industrial proprietary rights

- 11.1. RSH shall be obliged to perform the deliveries and/or services free from defects of title, e.g. industrial proprietary rights and copy rights of third parties (hereinafter "intellectual property rights") only in the country of the place of delivery. Should a justified claim be asserted by a

- third party against the customer due to infringement of intellectual property rights related to deliveries and/or services performed by RSH which the customer uses according to contract, RSH shall be liable within the time limit set forth in article 10.2. as follows:
- 11.1.1. RSH shall at its own choice and at its own expense either obtain the right to use the concerned deliveries and/or services, change such deliveries and/or services in order that intellectual property rights will not be infringed or replace them.
 - 11.1.2. If RSH should not be able to remedy such infringement under reasonable conditions, the customer shall be entitled to rescind from the contract or to claim price reduction as regulated by law as well as to claim damages pursuant to article 12.
 - 11.1.3. All RSH's obligation stated above shall only be applicable provided that (i) the customer informs RSH in writing and without delay about any claims asserted by third parties, (ii) the customer does not acknowledge any infringements, and (iii) all defence measures and all amicable settlements proceedings remain reserved to RSH. In the event the customer should cease to use the delivered goods or services due to asserted claims of third parties he shall make sure, e.g. by informing expressly the third party, that such cessation shall not be deemed as an acknowledgement of the infringement of intellectual property rights.
 - 11.2. Any claims of customer related to lack of title are precluded, insofar as the infringement of the intellectual property rights is attributable to the customer.
 - 11.3. Any claims of customer are precluded, to the extent the infringement of intellectual property rights have been caused by (i) specific instructions of the customer, (ii) an application which was not foreseeable by RSH or (iii) deliveries and/or services that have been modified or have been used by the customer together with goods which have not been delivered by RSH.
 - 11.4. Further claims due to defects of title are precluded.

12. Liability

- 12.1. RSH shall be liable without limitation for damages caused by intent, guarantees given in writing and in case of culpable damages to life, body or health. The liability pursuant to compulsory provisions of product liability law applicable from time to time shall remain unaffected.
- 12.2. In all other cases the liability of RSH for any legal reason whatsoever, including delay (article 6.4.) shall be limited to fifteen per cent (15%) of the agreed remuneration.
- 12.3. Without prejudice to the liability set forth in articles 12.1. and 6.4. RSH shall not be liable for financial losses or consequential damages, for loss of profit, loss of production, business interruption, contractual claims of third parties, loss of use, financing cost, interest loss, claims due to a covering purchase, nor for loss of data, information and programs due to a software error.
- 12.4. Without prejudice to compulsory liability (article 12.1.), the limitation period for any claims shall be six (6) months from accrual and knowledge, or grossly negligent lack of knowledge, of the customer. Article 10.2 shall remain unaffected.
- 12.5. Any further liability of RSH shall be excluded.

13. Applicable Law

All contractual relationships between RSH and the customer shall be subject to Hungarian law excluding any conflict of law provisions. The application of the UN Convention on Contracts for the International Sale of Goods (CISG) shall be precluded.

14. Place of Payment and Jurisdiction

- 14.1. The place of payment shall be Budapest.
- 14.2. In the case of any disputes arising directly or indirectly out of this contractual relationship, Hungarian courts shall have the exclusive judicial competence.

15. Final Provisions

- 15.1. If any provisions of the contract are invalid, the remaining provisions shall continue in force. This shall not apply if adherence to the contract would constitute an unreasonable hardship for one of the parties.
- 15.2. All contractual agreements, including any accessory arrangements, shall only be valid if made in writing. This formality requirement can be waived only in writing.

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