

General Terms and Conditions for Sales and Deliveries of RUTRONIK SRL

– As of: June 2012 –

§ 1 General Provisions - Scope of Application

- 1.1 These General Terms and Conditions apply to all business-to-business transactions between RUTRONIK SRL (Seller) and the Purchaser, even if not referred to in subsequent contracts. They apply correspondingly to works and services. Terms and conditions of the Purchaser that conflict with, supplement or deviate from the present General Terms and Conditions do not become part of the contract unless the Seller has given its express written consent to their applicability.
- 1.2. These General Terms and Conditions, duly acknowledged and accepted by the Purchaser by having executed a copy of this document before the placement of the first order, apply even if the Seller, while being aware of conflicting or deviating terms and conditions, carries out the delivery without reservations, or if the Seller does not enclose these General Terms and Conditions in future transactions in the particular case. Arrangements that are made in addition to or that deviate from these General Terms and Conditions and that are agreed upon between the Seller and the Purchaser for the performance of a contract must be set forth in writing in the contract. This rule also applies to a waiver of the present writing requirement. Rights beyond the scope of the present General Terms and Conditions to which the Seller is entitled under the statutory provisions remain unaffected.

§ 2 Offer and Conclusion of Contract

- 2.1 All offers of the Seller are not to be considered as "contractual proposals" pursuant to Section 1326 ICC and are subject to confirmation and non-binding unless they are expressly stated to be binding.
- 2.2 Orders of the Purchaser contain binding offers. The contract comes about with the written confirmation of the order by the Seller or, if the order is immediately carried out, with the shipment of the ordered goods at the final invoice price stated. If the Purchaser has objections to the contents of the confirmation of the order or to the goods sent, the Purchaser must object to the same without undue delay. Otherwise, the contract comes about in accordance with, and with the contents set forth in, the confirmation of the order.

§ 3 Product Specification

- 3.1 If the contract concerns delivery items that are subject to technological change, the Seller is entitled to carry out the delivery in accordance with the manufacturer's most recent data sheet, as amended from time to time. If the Purchaser is interested exclusively in the type ordered and this type may under no circumstances be deviated from, the Purchaser is under obligation to advise the Seller accordingly.
- 3.2 Information about the goods distributed by the Seller – especially information contained in brochures, type lists, catalogs, data sheets, advertising material, specifications and descriptions, definitions of the requirements to be met by the goods and other technical supply conditions, certificates (e.g., certificate of compliance) and other documents – shall be accurate and not misleading but shall constitute no guarantee of the Seller as to the quality and state or durability of the goods. Even when the delivery of as yet unascertained goods is owed, the Seller assumes no procurement risk unless there is an express written agreement to this effect.
- 3.3 Samples of the goods distributed by the Seller are deemed test samples and do not constitute a guarantee as to the quality and state of the goods, either, without an express written agreement to this effect. The applicable tolerances must be complied with.
- 3.4 As statistical means, data from the manufacturer concerning the reliability of the goods supplied serve exclusively orientation purposes and do not relate to individual deliveries or lots.

§ 4 Release Orders

- 4.1 Within the framework of release orders, the Purchaser must issue and deliver to the Seller the release 8 weeks before the requested delivery date, at the latest, unless otherwise agreed upon.
- 4.2 Unless otherwise agreed, the Purchaser must issue a release within a period of 12 months from the day the order has been confirmed, at the latest. After a reasonable additional period of time has expired, the Seller is entitled to deliver the goods and issue an invoice or to terminate the contract or, if the Purchaser has acted in a culpable manner, to claim damages in lieu of performance. The Seller is further entitled to charge the price applicable to the quantities actually released by the Purchaser.

§ 5 Prices / Adjustment of Prices

- 5.1 The relevant prices are the prices stated in the Seller's confirmation of the order. The prices are ex works. In particular, they do not include the cost of packaging, freight, insurance, customs and VAT. Statutory VAT will be stated separately in the invoice, at the statutory rate applicable on the day the invoice is issued, along with a EUR 25,00 fee for the processing of the purchase order; such fee shall not be charged in case the orders' value be higher than EUR 150.00.
- 5.2 To the extent that between the conclusion of the contract and the performance of the order, there is a decrease or increase in costs for which the Seller is not responsible and which was not foreseeable by the Seller, especially a decrease or increase that is based on changes in the prices of raw material and goods in process, the Seller has the right to adjust the prices within the limits of the changed circumstances and without charging an additional profit. If the increase exceeds 10% of the price agreed upon, the Purchaser is entitled to withdraw from the contract).
- 5.3 Especially in the event of an allocation and a related increase in procurement costs, the Seller is entitled to reasonably raise the prices in proportion to the average increase in market prices with respect to goods that are to be delivered at minimum two months after the conclusion of the contract.

§ 6 Terms of Payment

- 6.1 To the extent not otherwise agreed upon in writing, all invoices of the Seller must be paid forthwith, without any deduction whatsoever.
- 6.2 Bills of exchange and checks are accepted only on the basis of an express agreement in writing, and only on behalf of payment. Discount charges and other costs in respect of a bill of exchange or a check must be borne by the Purchaser. The Seller's rights under Section 10 below remain unaffected until all claims under bills of exchange have been settled in full.
- 6.3 The Seller is entitled to count payments from the Purchaser towards the Purchaser's oldest debt first. If costs and interest have already accrued, the Seller is entitled to count the payment towards the costs first, then towards interest, and finally towards the principal claim.

§ 7 Setoff and Retention

Counterclaims do not entitle the Purchaser to a setoff unless they have been confirmed in a final declaratory judgment or are undisputed. The assertion of a right of retention by the Purchaser is only permissible if the counterclaim is based on the same contractual relationship.

§ 8 Time and Scope of Delivery, Reservation of Timely Supply to the Seller, Delay in Delivery

- 8.1 Agreements on delivery periods and delivery dates must be made in writing. Delivery periods and delivery dates are not binding to the extent they are not expressly stated to be binding. The delivery period begins to run with the dispatch of the confirmation of the order by the Seller; it does not begin to run, however, until such time as the Purchaser has furnished all documents, permits and releases to be obtained by the Purchaser, as all questions have been clarified, and as the agreed-upon down-payment, if any, has been received. In order for the delivery period or the delivery date to be observed, the Purchaser must timely and properly fulfill all of its other obligations. The delivery period is deemed complied

with if the goods have left the works at its expiration or if the Seller has given notice of the goods being ready for dispatch. Compliance with agreed-upon delivery periods and delivery dates is subject to the condition that the Seller is timely and properly supplied by its own suppliers.

- 8.2 Part deliveries are permissible. The Seller reserves the right to make excess or short deliveries of up to 5% of the quantity to be delivered for production-related technical reasons.
- 8.3 The Purchaser is entitled to terminate the contract if the Seller is in delay with delivery and if, upon occurrence of the delay, the Purchaser has set a reasonable additional period of time for subsequent performance by the Seller, also stating that it will refuse acceptance thereafter, and this additional period of time has expired to no avail.

§ 9 Passing of Risk / Dispatch

- 9.1 The risk of an accidental loss or deterioration of the goods passes to the Purchaser with the delivery of the goods or, if the goods are shipped, with their delivery to the carrier or to any other person commissioned with carrying out the shipment. This rule also applies when part deliveries are made or when shipment "freight paid" or at no cost to the Purchaser has been agreed upon. In the absence of written instructions from the Purchaser, the Seller will choose the carrier and the itinerary. At the request and expense of the Purchaser, the Seller will take out a transport insurance policy to insure the goods against the risks specified by the Purchaser. Section 1465, 1st and 2nd para. apply.
- 9.2 If there is a delay in shipment for reasons for which the Purchaser is responsible, the risk passes to the Purchaser from the day the Seller is ready to dispatch the goods.
- 9.3. If the Seller chooses the manner of shipment, the itinerary, or the person to carry out the shipment, the Seller is liable solely for willful misconduct and gross negligence in this choice.

§ 10 Retention of Title

- 10.1 Title to the goods supplied in execution of an order shall remain vested in the Seller until all claims of the Seller against the Purchaser that arise from the contract arising from such order have been settled in full. These claims also include claims under checks and bills of exchange, as well as current-account claims. If the Seller becomes liable under a bill of exchange in connection with payment, the retention of title does not expire until such time as an assertion of claims against the Seller under the bill of exchange is excluded. The Purchaser acknowledges that, until title in or to the goods passes to the Purchaser according to this clause, the Purchaser holds such goods as bailee of the Seller and shall store the goods separately and in such a manner that they are clearly identified as the property of the Seller. The Purchaser is under obligation to handle the goods that are subject to this retention-of-title clause with due care for the duration of the retention of title. In particular, the Purchaser is obligated to sufficiently insure the goods at the Purchaser's own expense against damage by fire, water, and theft at their replacement value. The Purchaser assigns to the Seller already now all claims for compensation under this insurance. The Seller hereby accepts the assignment. If an assignment is not admissible, the Purchaser hereby undertakes to irrevocably instruct its insurer to make payments, if any, solely to the Seller; all provisions of Section 1381 ICC apply. Further-reaching claims of the Seller remain unaffected. Upon request, the Purchaser must provide the Seller with evidence of the conclusion of the insurance contract.
- 10.2 The Purchaser may sell the goods that are subject to this retention-of-title clause only within the framework of the ordinary course of business. The Purchaser is not entitled to pledge the goods that are subject to this retention-of-title clause or to assign them by way of security or to make any other disposition which jeopardizes the ownership of the Seller. In the event of attachments or other encroachments by third parties, the Purchaser must notify the Seller without undue delay in writing and furnish all necessary information; additionally, the Purchaser must inform the third party of the Seller's property rights and assist with the measures taken by the Seller for the protection of the goods that are subject to this retention-of-title clause. The Purchaser bears all costs for which it is responsible and which are necessary for the removal of the encroachment and the recovery of the goods, to the extent that these costs cannot be obtained from the third party.
- 10.3 The Purchaser assigns to the Seller already now the claims arising from the resale of the goods with all ancillary rights, regardless of whether the goods that are subject to this retention-of-title clause are resold without or after further processing. The Seller accepts this assignment already now. If an assignment is not permissible, the Purchaser hereby irrevocably undertakes to instruct the third-party debtor to make payments, if any, solely to the Seller; all provisions of Section 1381 ICC apply. Subject to revocation, the Purchaser is authorized to collect the claims that have been assigned to the Seller on a trust basis on behalf of the Seller. All amounts collected must forthwith be remitted to the Seller. The Seller may revoke the authorization of the Purchaser to collect these claims, as well as the Purchaser's authority to resell, if the Purchaser fails to properly fulfill its obligations to pay in relation to the Seller, if the Purchaser is in arrears with payment or stops payment, or if an application for the institution of insolvency proceedings against the assets of the Purchaser is filed. Any resale of these claims is subject to prior approval by the Seller. With the notification of the assignment to the third-party debtor, the Purchaser's authority to collect expires. In the event of a revocation of the authority to collect, the Seller may require the Purchaser to disclose all claims assigned, as well as the respective debtors, to provide all information necessary for collection, to furnish the related documents, and to inform the debtors of the assignment.
- 10.4 In the event of default of a payment belonging to any of the contracts entered into under these General Terms and Conditions for Sales and Deliveries on the part of the Purchaser, the Seller is entitled to terminate the relevant contract without prejudice to its other rights. The Purchaser must immediately grant the Seller, or any third party commissioned by the Seller, access to the goods that are subject to this retention-of-title clause and must surrender these goods. After a timely warning to such effect, the Seller may otherwise dispose of the goods that are subject to this retention-of-title clause for the purpose of satisfying its due claims against the Purchaser.
- 10.5 Any processing or transformation of the goods that are subject to this retention-of-title clause by the Purchaser shall take place on behalf of the Seller. The Purchaser's right to acquire the goods that are subject to this retention-of-title clause continues in respect of the processed or transformed item. If the goods are processed, combined or mixed with other goods that are not owned by the Seller, the Seller acquires co-ownership of the new item in proportion to the ratio of the value of the goods delivered to the value of the other goods processed at the time of processing. The Purchaser shall store the new goods on behalf of the Seller. In all other respects, the item created through processing or transformation shall be governed by the same provisions as the goods that are subject to this retention-of-title clause.
- 10.6 At the request of the Purchaser, the Seller is obligated to release the security interests to which the Seller is entitled to the extent that the realizable value of such security exceeds the Seller's claims arising from the contract with the Purchaser by more than 20%, also taking into account the valuation discounts customary in banking. For valuation purposes, goods that are subject to this retention-of-title clause are to be assessed on the basis of their invoice value, and claims are to be assessed on the basis of their nominal value.
- 10.7 If goods are delivered to destinations with other legal systems in which the retention-of-title rules set forth under nos. 10.1 to 10.6 above provide less security than in the Federal Republic of Germany, the Purchaser hereby grants the Seller a corresponding security interest. If further declarations or acts are necessary for this purpose, the Purchaser will make these declarations and perform these acts. The Purchaser will assist in all measures that are necessary for and conducive to the validity and enforceability of such security interests.

§ 11 Claims based on Defects, Restriction on Use, Liability

- 11.1 *The Seller is not the manufacturer of the goods.* The Seller warrants that the goods supplied have the characteristics that have been specified in writing – in verifiable technical parameters – by the manufacturer or by mutual agreement. The goods supplied are intended solely for the purposes specified by the respective manufacturer. These purposes do not include the use of the goods in life-saving or life-supporting or military systems or other purposes where a failure of the product can, upon reasonable assessment, lead to death, bodily injury or damage to health or to an extraordinarily high financial loss. Only the specifications in the relevant manufacturers' data sheets shall be deemed an agreed quality or state. Exclusively the Purchaser is responsible for the fitness and safety of the goods for the applications used by the Purchaser. The Seller gives no guarantee, especially no guarantee in respect of the quality and state or durability of the goods.
- 11.2 If the Seller processes the goods to be supplied by order of the Purchaser (e.g., if the Seller bends or cuts, de-reels or rewinds connections), the provisions under no. 11.1 above apply correspondingly. In this case, the Seller undertakes to process the goods with due care in accordance with the Purchaser's specifications, as agreed upon in writing, without liability for the possible effects of such processing on the functioning of the product.
- 11.3 As a prerequisite for the Purchaser's rights based on defects, the Purchaser must examine the goods delivered upon receipt and must report defects to the Seller in writing without undue delay, however no later than two weeks after the receipt of the goods. Hidden defects must be reported to the Seller in writing without undue delay after their discovery, however no later than two weeks after the discovery of the defects. When reporting defects to the Seller, the Purchaser must describe the defects in writing. The Purchaser is obligated to send the goods at its own expense to the Seller for an examination of defects. The Purchaser is under obligation to have the carrier take the indicated measures to ensure complete documentation.
- 11.4 If the Seller delivers the goods in lots that allow a statistical receiving quality inspection according to the rules customary in this respect, at least this inspection must be performed as receiving inspection. The inspection must be carried out in accordance with the inspection conditions and criteria set forth in the relevant standard documents. Any lot accepted during this inspection will be deemed free of defects, and any lot rejected will be replaced by the Seller with a lot that is free of defects subject to the return of the defective lot in its entirety. The Seller may instead replace the defective parts of the rejected lot with parts that are free of defects upon consultation with the Purchaser.
- 11.5 If goods are defective, the Seller is entitled to subsequently perform the contract by remedying the defect or, at its choice, by delivering goods that are free of defects. In the event that the defect is remedied, the Seller is under obligation to bear all expenses that must be made for purposes of remedying the defect, in particular, the cost of transportation, travelling expenses, the cost of labor and the cost of material, to the extent that there is no increase in these costs and expenses due to the fact that the goods have been brought to a place other than the delivery address. The cost of personnel and material claimed by the Purchaser in this respect is to be determined on a primary-cost basis.
- 11.6 If the Seller is not willing or is not in a position to subsequently perform, the Purchaser may terminate the contract or, at its choice, reduce the delivery price. The same rule applies if subsequent performance fails, if the Purchaser cannot reasonably be expected to accept subsequent performance, or if subsequent performance is unreasonably delayed for reasons for which the Seller is responsible.
- 11.7 The Purchaser's right to terminate the contract is excluded if the Purchaser is not able to return the goods received unless this inability is due to the fact that a return is impossible according to the nature of the goods received, the Seller is responsible for such inability, or the defect has only become apparent when processing or transforming the goods. The right to terminate the contract is further excluded if the Seller is not responsible for the defect or if the Seller has delivered custom-made goods.
- 11.8 Defects which occur as a consequence of natural wear and tear, of improper handling or of alterations or repairs of the goods carried out improperly by the Purchaser or a third party do not give rise to claims based on defects. The same rule applies to defects that are attributable to the Purchaser or to a cause other than the original defect.
- 11.9 Claims of the Purchaser for reimbursement of expenses instead of damages in lieu of performance are excluded to the extent that a reasonable third party would not have made the relevant expenses.
- 11.10 The Purchaser may return defective goods to the Seller for subsequent performance only upon prior approval in writing according to the Seller's rules applicable for this purpose (RMA procedure). The risk of an accidental loss or deterioration of the goods does not pass until they have been accepted by the Seller at the Seller's place of business. The Seller is entitled to refuse return shipments without a previously issued RMA number.
- 11.11 The Seller has unlimited liability for damage or losses arising from a breach of guarantee or from death, bodily injury or damage to health. This rule also applies to cases of willful misconduct and gross negligence.
- 11.12 In case of slight negligence Seller's liability shall be limited to the amount of Euro 100,000.00. The Seller's mandatory statutory liability for product defects remains unaffected.
- 11.13 The limitation period for the Purchaser's claims based on defects is one year unless the defective goods have been used for a building in accordance with their normal manner of use and have caused this building to be defective. This limitation period also applies to claims in tort that are based on a defect of the goods. The limitation period begins to run with the delivery of the goods. The Seller's unlimited liability for damage or losses resulting from a breach of guarantee or from death, bodily injury or damage to health, for willful misconduct and gross negligence and for product defects remains unaffected. If the Seller comments on a claim based on defects that has been asserted by the Purchaser, this comment is not to be deemed a commencement of negotiations concerning the claim or the circumstances giving rise to the claim if the claim based on defects is fully rejected.

§ 12 Product Liability

- 12.1 The Purchaser may not modify the goods. In particular, the Purchaser may not modify or remove existing warnings about risks resulting from improper use of the goods. If this duty is violated, the Purchaser must internally indemnify and hold the Seller harmless from and against product liability claims of third parties.
- 12.2 If a product defect of the goods causes the Seller to make a product recall or to issue a product warning, the Purchaser shall assist the Seller and shall take all measures which have been ordered by the Seller and which the Purchaser can reasonably be expected to perform. The Purchaser is under obligation to bear the cost of the product recall or product warning to the extent that the Purchaser is responsible for the product defect and the damage sustained. Further-reaching claims of the Seller remain unaffected.
- 12.3 The Purchaser shall inform the Seller without undue delay of any risks in the use of the goods and possible product defects of which the Purchaser becomes aware.

§ 13 Force Majeure

- 13.1 If an event of force majeure prevents the Seller from performing its contractual obligations, in particular, from delivering the goods, the Seller is released from its obligation to perform for the duration of the impediment plus an adequate period without being liable to the Purchaser for damages. The same rule applies if the performance of its obligations by the Seller becomes temporarily impossible due to, unforeseeable circumstances for which the Seller is not responsible, especially industrial action, official acts, energy shortage, impediments to delivery on the part of a supplier, or significant disruptions of operations.
- 13.2 The Seller is entitled to terminate the contract if such an impediment continues for more than four months and the performance of the contract is no longer of interest to the Seller due to the impediment. At the request of the Purchaser, the Seller will declare after the expiration of this period of time whether it will make use of its right to terminate the contract or whether it will deliver the goods within a reasonable period of time.

§ 14 Industrial Property Rights and Copyrights

- 14.1 If a delivery comprises software or other intellectual property, such software or other intellectual property will be provided to the Purchaser subject to a copyright and user license, the terms and conditions of which can be gathered from the license agreement accompanying the software or other intellectual property. The present General Terms and Conditions grant no rights or license to use such software or other intellectual property in any manner, or for any purpose, not expressly permitted in the license agreement.
- 14.2 Unless otherwise agreed, the Seller is obligated to carry out the delivery free of industrial property rights and copyrights of third parties (property rights) only in the country where the place of delivery is located.

§ 15 Manufacturer Reporting, Data Protection

- 15.1 The Purchaser agrees to the processing and transmission to manufacturers/suppliers – as the case may be, also abroad – of purchaser-related data such as sales prices and quantities, as well as names and addresses, by the Seller within the framework of the periodical manufacturer reporting.
- 15.2 The Purchaser agrees to the storing and processing of the collected purchaser-related data by the Seller for the verification of the Purchaser's creditworthiness subject to observance of, and compliance with, the statutory provisions, or to such data being disclosed by the Seller to the credit insurance company commissioned by the Seller.

§ 16 Export, Export Control

- 16.1 The goods supplied are intended to remain in the country of delivery agreed upon with the Purchaser. The Purchaser may not export consignments of goods that are subject to embargo provisions.
- 16.2 The goods supplied are particularly subject to Italian, European and American export controls and embargo provisions. It is the Purchaser's responsibility to inform itself of the relevant export and/or import provisions or restrictions and to obtain according permits, if necessary.
- 16.3 The Purchaser will impose the same obligation on its customers.

§ 17 Final Provisions

- 17.1 Any transfer of rights and obligations of the Purchaser to a third party is subject to written approval by the Seller.
- 17.2 Place of jurisdiction for all disputes arising from the contracts belonging to the business relationship between the Seller and the Purchaser is exclusively the statutory seat of the Seller. The Seller is additionally entitled to bring an action at the statutory seat of the Purchaser, as well as at any other permissible place of jurisdiction.
- 17.3 The legal relations between the Seller and the Purchaser shall be governed by the laws of Italy to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 17.4 If any provision in these General Terms and Conditions is or becomes invalid or impracticable in whole or in part, or if these General Terms and Conditions contain a gap, this shall not affect the validity of the remaining provisions hereof. The invalid or impracticable provision shall be deemed replaced with such valid or practicable provision as comes closest to the purpose of the invalid or impracticable provision. In the case of a gap, such provision shall be deemed agreed upon as corresponds to what would have been agreed upon according to the purpose of these General Terms and Conditions if the contracting parties had contemplated the matter from the beginning.

§ 18 Data Protection

- 18.1 Pursuant to Article 13 of D. Lgs. 196/2003 all personal data of the Purchaser that shall be collected by the Seller shall be used solely for the purpose of processing the orders and executing the contracts as well as for the fulfillment of obligations set forth by the applicable laws.
- 18.2 Such personal data shall be stored either on hard copy files or on electronic files, in compliance with security measures set forth D. Lgs. 196/2003. The personal data may be communicated (even by connections through electronic networks and correspondence means) to other companies and professional firms, also being abroad, whose activities the Seller makes use of, for the supply of specific services.
- 18.3 Should it be necessary for the Seller to process third-party information and personal data provided by the Purchaser, the latter one hereby guarantees that the communication to the Seller of said third-party information or personal data has been made in full and total compliance of provisions set forth under D. Lgs. 196/2003 also as far as it concerns the third-party consent to the processing of such data by the Seller.
- 18.4 To supply personal data is compulsory only in the cases provided for by the Law. Nevertheless, the non-availability of personal data which are significant for the purposes of the correct and complete performance of the Seller's activity, with reference to the contracts, may render the performance of such activity more complex, more expensive and – in some cases – even impossible.
- 18.5 The data controller of the processing of data is Rutronik S.r.l., with registered offices in RUTRONIK Italia S.r.l., 21, Via Caldera, Centro Direzionale S.Siro, 20153 Milano (MI). The data provided to us may furthermore be acquired by other entities belonging to the Rutronik group of companies, while supplying IT services and data filing, as well as by all other persons in charge of the data processing (i.e., employees, partners, directors and collaborators of the Seller).
- 18.6 Pursuant to Article 7 of the D. Lgs. 196/2003, the Purchaser has the power to exercise specific rights in its own protection, namely (i) obtain confirmation of existence of personal data at the Seller's premises and relevant communication in an intelligible way; (ii) obtain indication of the source of the personal data, of the purpose and methods of the processing, of the owner of the data, of the data controller and of data processor, as well as the subjects to which the data can be communicated or that are likely to become aware of the same as data processors or persons in charge of the processing; (iii) obtain the updating, review, cancellation, or the blockage of the data which are processed not in compliance with law and the declaration that said operations have been notified to the subjects to which the data have been communicated; (iv) object, on legitimate grounds, to the processing of personal data, even though they are relevant for the purpose of the collection; (v) object to data processing for purposes of the delivery of certain advertising material, direct sales, and marketing efforts.