

Movement by Perfection



The Royal League in ventilation, control and drive technology

General Terms and Conditions of Business

January 2018

Please note that this is an English translation of the original Swiss german version. Both language versions shall have the same legal effect. In case of any conflict, the original Swiss german version shall prevail.



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General Terms and Conditions of Business of ZIEHL-ABEGG Schweiz AG

I. Application of the Terms and Conditions

1. Our deliveries, services, and offers are provided solely on the basis of these Terms and Conditions. These Terms and Conditions apply to all present and future business transactions, even if no further reference is expressly made to them in respect of individual orders, or they are not expressly agreed again.
2. These Terms and Conditions take precedence over any alternative terms and conditions of the Customer unless we expressly accept these. Counter-confirmations by the Customer with reference to their own terms and conditions and/or purchasing conditions are hereby rejected.
3. Any rights to which we are entitled in accordance with the statutory provisions over and above those provided for in these Terms and Conditions remain unaffected.
4. These Terms and Conditions apply solely with regard to commercial legal relations.

II. Offers, scope of performance

1. For the scope of our deliveries and services, our written confirmation of the order is authoritative or, if we submit an offer with a period of validity and the offer is accepted within the time stipulated, the offer is authoritative if no order confirmation has been issued in due time.
2. Illustrations, drawings, information as to weights, dimensions, performance, and consumption, and other descriptions of the goods in the documentation accompanying our offer are approximations only, unless they are expressly designated as binding. They constitute no agreement on, or warranty of, a corresponding quality or characteristic of the goods.
3. For technical reasons linked to production, we reserve the right to make excess or short deliveries of up to 5% of the scope of supply when supplying consumables or small parts. No refunds will be made in the event of short deliveries.
4. Unless referring to our catalogue data when placing the order, the Customer is obliged to provide us with general information regarding the intended use, installation type, operating conditions, and other conditions to be taken into account.

5. Protective devices will be supplied if and when this is expressly agreed. We reserve without restriction all rights of ownership and copyright utilisation in respect of our cost estimates, drawings, and other documents. These items are not permitted to be made accessible to third parties. Drawings and other documents accompanying our offers must be returned to us without undue delay if the order is not placed with us.
6. If a Party invokes a subsidiary agreement, that same Party will bear the burden of proof relating to the conclusion of said agreement.

III. Specificities when corresponding via electronic messaging and faxes

1. If a message (declaration of intent) is sent electronically (electronic exchange of messages), such message is deemed received by the recipient when it has been delivered to the recipient's communication device.
2. The Contracting Parties recognise the legal validity of messages transmitted in accordance with Item 1.
3. If the Contracting Parties correspond by fax, presentation of the transmission report should be regarded as sufficient evidence of the receipt of our declarations.

IV. Price

1. In the absence of a special agreement, our prices are ex works including loading at our works, but excluding packaging. Value added tax will be added to the prices at the statutory rate applicable.
2. If the delivery or service is to be made or provided more than four months after the conclusion of the contract, we reserve the right to increase our fee by a reasonable amount, provided that the circumstances prevailing at the time of the contract's conclusion and playing a decisive role in determining our fee have changed substantially – in particular, if material costs, wages, and public charges have substantially increased.

V. Reservation of title

1. Until all current and future receivables (including all outstanding balances and current accounts), owed to us by the Customer for any legal reason have been honoured, the following securities under Items 2-8 of this Section V will be granted to us, which we will release on request at our discretion if their value exceeds the receivables by more than 20% on a long-term basis. The key factor when valuing the securities is: i) the nominal value in the case of receivables; ii) the net purchase price excluding VAT as stated in the invoice for goods with reservation of title; and iii) the portion of the real value of the joint item in the case of co-ownership. Third-party security interests with a higher ranking will be deducted from this value, such deduction to be limited to the amount of said third parties' receivables secured in this manner at the time of the release request.
2. The delivered goods will remain our property until all our claims arising from the business relationship with the Customer – including claims that have not yet fallen due – have been satisfied. We are entitled to have a reservation of title entered into the register for recording reservations of title for the purpose of Article 715 of the Swiss Civil Code. This also applies in the event that a confirmation of balance is issued. In this case, the reservation of title serves as security for the receivable resulting from the balance. The Customer is obliged to handle the goods under reservation of title with care for the duration of the reservation of title. In particular, the Customer is obliged to insure the goods adequately at their replacement value against fire or water damage and theft, such insurance to be at the Customer's own expense. The Customer hereby assigns to us all compensations claims arising from this insurance. We hereby accept this assignment. Should an assignment not be permissible, the Customer hereby irrevocably instructs its insurer to make any payments solely to us. Further claims on our part remain unaffected. At our request, the Customer must provide evidence that insurance cover has been taken out.
3. The Customer is entitled to resell or process the delivered goods in the ordinary course of its business. In the event of a resale, the delivered goods will be replaced by the Customer's claim against the purchaser, which the Customer hereby assigns to us with all ancillary rights up to the amount of our total receivables. We hereby accept this assignment. Should an assignment not be permissible, the Customer hereby irrevocably instructs the purchaser to make any payments solely to us. The Customer is entitled to collect the receivable until further notice. The amounts collected should be deposited together and paid over to us by the Customer until our receivables have been settled in full. If the purchaser pays the Customer by bank transfer, the Customer hereby assigns to us its resulting claim against the financial institution concerned. We hereby accept this assignment. At our request, the Customer must provide us with all information in this regard and allow us to inspect the records.
4. If the Customer processes goods that remain our property, the Contracting Parties agree that this processing will be on our behalf, meaning that we will become the owners of the new items. The Customer's expectant right to the goods under reservation of title will devolve, in the corresponding amount, to the processed or transformed item. Should the processing costs significantly exceed the value of our goods, the Contracting Parties agree that the processing is also on our behalf and that we will acquire co-ownership of the new item in proportion to the ratio of the invoice value of our goods to the value of the new item at the time of processing. If the Customer combines goods that remain our property with another item, so that the goods become an essential part of another item which is to be regarded as the main item, the Customer hereby assigns to us proportional co-ownership of the new item. The Customer will hold the new item for us in safekeeping free of charge. In the event of resale, the above provisions apply *mutatis mutandis*.
5. If, upon conclusion of the contract, we become aware of circumstances which give rise to justified doubts regarding the Customer's creditworthiness, or if the Customer defaults in the settlement of a liability in relation to us, we are entitled to rescind the contract without setting a grace period and to demand by way of security that any goods owned or co-owned by us be surrendered to us until all our receivables have been settled in full.
6. If third parties access goods that are owned or co-owned by us or receivables to which we are entitled, particularly in the event of seizures, the Customer must promptly provide the third party or enforcement officer with evidence of our ownership of, or title to, the item. Moreover, the Customer must notify us of these measures without undue delay and assist us in any manner in protecting our rights. Any seizure of the goods by us will not be construed as a waiver of our reservation of title or a rescission of the contract.
7. The goods owned or co-owned by us may not be transferred, pledged, or the like to third parties by way of security.
8. If the event of deliveries to other jurisdictions, in which the provisions in Items 1 to 6 (above) of this Section V regarding the reservation of title have less effect in providing security than in the country where our company has its registered office, the Customer hereby grants us a security interest that is customary in that location and



equivalent, in economic terms, to the retention of title in the country in which our company has its registered office. If further declarations or actions are necessary to this end, the Customer will provide these declarations and take these actions. The Customer will assist with all measures that are necessary and conducive to the validity and enforceability of security rights of this type.

VI. Terms of payment

1. Unless otherwise agreed, our invoices will be due for payment without deduction thirty days after they are issued. Payment in cash or by bill of exchange is accepted only on the basis of a special agreement. Despite provisions of the Customer to the contrary, we are entitled to offset payments first against the Customer's older debts, in which case we will inform the Customer of the type of offset effected. If costs and interest have already been incurred, we are entitled to first credit the payment to the costs, then to the interest, and finally to the principal claim.
2. Payment will be deemed to have been made only when we can dispose of the amount. In the case of payment by cheque, the payment will only be deemed to have been made when the cheque is honoured.
3. If the Customer defaults on a payment, we are entitled to demand interest on arrears in the amount of 8% from the first day of default. We reserve the right to claim additional compensation.
4. If we become aware of circumstances that cast doubt on the Customer's creditworthiness, in particular if the Customer fails to honour a cheque or ceases its payments, we are entitled to declare all of the remaining debt due for payment, even if we have accepted cheques. In this event, we are also entitled to demand advance payments or the provision of security. We also have the rights set out under Item 5 of this Section V.
5. Counter-claims on the part of the Customer entitle the Customer to a set-off only if they have become res judicata or are beyond dispute. The Customer may assert a right of retention only if the Customer's counter-claim is based on the same contractual relationship.

VII. Period for delivery and performance

1. Delivery dates and deadlines can be agreed as binding or non-binding. Agreements regarding delivery dates or deadlines must be in writing.
2. We are not responsible for delays in delivery or

performance – even if periods or deadlines have been agreed with binding effect – if such delays occur due to force majeure (e.g. wars, epidemics, mobilisations, civil unrest, natural disasters) or due to events that significantly hamper our delivery or make delivery impossible (particularly strikes, lockouts, official decrees, etc.), regardless of whether these events are experienced by us, our suppliers, or their sub-suppliers. Such events entitle us to postpone the delivery or performance for the duration of the impediment plus a reasonable grace period. If these events considerably change the economic importance or content of the delivery or performance, or if they have a significant impact upon our business, we can additionally request that the contract be appropriately adjusted. If the impediment lasts for more than a month, we will be entitled to rescind the contract wholly or partially due to the part of the contract remaining unfulfilled. If we wish to make use of this right of rescission, we must inform the Customer of this as soon as we become aware of the implications of the event. If the delivery period is extended or we are freed from our obligation due to an event of this type, no claims for damages can be derived from this by the Customer. However, we can only appeal to the above-mentioned circumstances if we have informed the Customer of these.

3. If we are responsible for failing to adhere to periods or deadlines agreed with binding effect, the Customer's claim will be limited to compensation in the amount of 0.5% for each entire week of delay, subject to an overall cap of 5% of the invoice value of the deliveries or performance affected by the delay. Any additional claims or rights are excluded unless the delay is due at least to gross negligence.
4. We are entitled to make partial deliveries and render partial services unless this is unreasonable for the Customer.
5. A pre-requisite for complying with our undertakings regarding delivery and performance is the timely and proper fulfilment of the Customer's obligations.
6. The delivery period will be deemed to have been met if the goods have left the works or if we have provided notification of their readiness for dispatch before the expiration of this period. Delivery is subject to the proviso that we are properly supplied in good time by our own suppliers.
7. In the event of a delay in delivery, the Customer is entitled to rescind the contract if, when the delay arose, the Customer set us a reasonable grace period including the threat of rescission, and this period has now expired to no avail.

8. If the Customer is late in accepting delivery, we are entitled to claim compensation for the damage or loss incurred by us as a result of this. The risk of accidental deterioration or accidental destruction will pass to the Customer upon the commencement of this delay in acceptance.

VIII. Supply of software

1. If software is supplied, the Customer is granted a non-exclusive and non-transferable right to use the software and the associated documentation for the operation of the goods for which the software is supplied. The Customer is not permitted to make reproductions, apart from a single backup copy. Copyright notices, serial numbers, and other features serving to identify the software may not be removed or changed.
2. The Customer is obliged to take suitable precautions to prevent third parties from accessing the software or the documentation without authorisation, and must store the original data storage media provided, together with the backup copy, at a place which is secured against unauthorized access by third parties. The Customer must emphatically point out to its employees their duty to comply with these General Terms and Conditions and with the provisions of copyright law.
3. Our liability for the loss or modification of data is limited to the typical recovery expense that would be incurred if backup copies are made at regular intervals in accordance with the risk involved.

IX. Transfer of benefits and risks

1. Benefits and risk pass to the Customer upon dispatch of the parts to be delivered at the latest, even if partial deliveries are made or if we have agreed to undertake additional services, e.g. bear the shipping costs or provide transport and installation. If, through no fault of our own, shipment becomes impossible, risk passes to the Customer upon notification of the goods' readiness for dispatch.
2. If shipment is delayed as a result of circumstances, for which we are not responsible or for which the Customer is responsible, risk passes to the Customer from the date of the goods' readiness for dispatch.

X. Warranty

1. The Customer may not refuse to accept deliveries due to defects. The Customer must provide written notification of obvious defects or defects that are identifiable upon

proper inspection no later than eight days after the goods have been handed over. Concealed defects should be notified to us in writing no later than eight days after their discovery. Notifications of defects should be sent to our company headquarters in written form. Complaints made to field staff, transport companies or other third parties will not be deemed to have been made in due form or time.

2. We provide a warranty for a particular purpose or a particular suitability only if this has been expressly agreed in writing. Otherwise, the risk of fitness for use and application is borne by the Customer.
3. If we have informed the Customer of technical framework conditions regarding the goods or other specifications regarding their use, the Customer is responsible for complying with these general conditions or specifications and must also inform its purchasers of these, and oblige its purchasers to comply with them. We accept no warranty obligation for defects resulting from the use of the goods in a way that does not conform to the specifications.
4. There is no warranty case in particular if and insofar as any damage to the delivered item or to other assets of the Customer is attributable to the following causes:
 - a. incorrect processing, assembly, or handling by the Customer;
 - b. incorrect installation of the delivery item by the Customer or a third party, unless the incorrect installation is due to our instructions, although our field staff are not authorised to issue instructions,
 - c. failure to heed the instructions in the delivery item's documentation, operating instructions, or other specifications provided by us on the commissioning, possible uses, and operation of the delivery item,
 - d. natural wear and tear that cannot be attributed to manufacturing or material defects,
 - e. inappropriate handling, or changes or repairs to the goods that were improperly performed by the Customer or a third party, particularly in the event of interventions by non-experts or the use of non-original spare parts or resources.
5. Goods with a defect necessitating their return may be sent back to us only with our prior consent. We are not obliged to accept items that have been returned to us without our prior consent. In this event, the Customer will bear the cost of returning the goods.
6. If the goods are repaired or a replaced due to a justified defect notification, the provisions in Section VII concerning delivery periods apply mutatis mutandis.
7. The existence of a defect communicated by an effective complaint confers the following rights on the Customer:



- a. In the event of defective goods, the Customer first has the right to demand supplementary performance from us. We will choose at our own discretion whether to render this supplementary performance through provision of a replacement or through rectification. We will not have this right to choose if the provision pursuant to Item 7 c of this Section X (below) applies. If the complaint proves to be justified and the defect is remedied, we are obliged to bear any costs incurred directly by us for the purposes of remedying the defect – specifically transportation and travel expenses and the cost of our own labour and materials. This obligation to bear costs is limited to the costs that arise or would arise in relation to the delivery address of the goods. If the goods are brought to an address other than the delivery address, the Customer must bear any extra costs arising from this if this transfer was not part of the delivery contract between the Customer and us.
 - b. We are entitled, at our discretion, to use third parties to carry out repair works. This does not establish a contractual relationship between the Customer and third parties. In this case, our warranty does not go further than if we had carried out the works or the delivery ourselves. If an attempt at supplementary performance fails, we additionally have the right, under Item 7 c of Section X, to render further supplementary performance, again at our discretion. Only if this repeated attempt at supplementary performance fails does the Customer have the right to rescind the contract or reduce the purchase price.
 - c. The provisions in connection with supplementary performance pursuant to Items 7 a and b of this Section X should not be applied if they would cause an unreasonable burden to the Customer, for example if the rectification were to be refused by us without justification or unreasonably delayed.
 - d. If a notification of a defect by the Customer proves to be unfounded, the Customer must reimburse us for all costs and expenses incurred as a result.
8. The warranty period for defect claims on the part of the Customer is one year. This also applies to claims arising from liability in tort that are based on a defect in the goods. The warranty period begins with delivery of the goods. The statutory periods of limitation apply in respect of damage or loss due to the breach of a warranty, loss of life, bodily injury, or damage to health, and in the event of wilful intent or gross negligence. The Customer must prove, in each case, that the defect already existed when the item was delivered.
 9. The Customer has no rights and claims other than those specified in Section X in connection with defects in delivered goods.

XI. Liability

1. We are liable without limitation for damage or loss due to breach of warranty or loss of life, bodily injury, or damage to health. The same applies if we, our senior employees, or agents are guilty of wilful intent, fraudulent misrepresentation, or gross negligence.
2. We are liable for slight negligence only in the event of a violation of material contractual obligations arising from the nature of the contract that are of particular importance for achieving the purpose of the contract and upon whose observance the Customer relies and may rely. If a material contractual obligation is breached, and/or in the event of impossibility of performance, for which we are responsible, the Customer's claim is limited to compensation for the foreseeable damage that is typical of a contract of this type and reimbursement of expenses.
3. Our mandatory statutory liability for product defects remains unaffected by the above provisions.
4. Claims for reimbursement of expenses by the Customer are excluded unless a reasonable third party would also have incurred these expenses. In addition, claims for compensation or reimbursement of expenses on the part of the Customer – regardless of the legal reason – which go beyond the provisions of Items 1 to 3 of Section XI are excluded.
5. Our liability for essential third-party products is limited to assignment of the claims for defects against the supplier of the third-party products. This does not apply if these claims against the supplier are not legally enforceable or if this is unacceptable for the Customer.
6. No rectification of material defects or payment of damages may be regarded as recognition of a legal obligation unless we expressly confirm otherwise in an individual case.

XII. Other duties on the part of the Customer, export control

1. The Customer will not alter the goods in any respect that is relevant for safety; in particular, the Customer will not alter or remove existing warnings of dangers in case of improper use of the contractual goods. If this duty is violated, the Customer will indemnify us internally against third-party product liability claims if the Customer is responsible for the error giving rise to liability.
2. If we have to issue a product recall or a product warning due to a product defect in the goods, the Customer will assist us and take all reasonable actions prescribed by

us. The Customer is obliged to bear the cost of the product recall or product warning if it is liable under the principles of product liability law for the product defect and the damage sustained. Further claims on our part remain unaffected.

3. The Customer will inform us without undue delay of any risks in using the contractual goods or possible product defects of which it becomes aware.
4. The supply of goods (products, software, technology) in the performance of this contract may be subject to export control restrictions or export bans. The Customer undertakes to comply with all applicable export control provisions or restrictions existing in this connection. This particularly concerns European, Swiss, and – if applicable – US provisions relating to (re)exports. In the event that the goods are resold/forwarded, the Customer undertakes to draw the purchaser's/recipient's attention to the provisions of export control law and to the obligations resulting from these.
5. The Customer specifically undertakes to ensure that the goods are not directly or indirectly put to a use that is connected in any way with chemical, biological, or nuclear weapons or their carrying systems. The Customer additionally undertakes to ensure that the goods are not directly or indirectly put to a military end-use in a country subject to a weapons embargo. The Customer undertakes to refrain from selling, exporting, re-exporting, supplying, or forwarding the supplied goods, or otherwise making them available either directly or indirectly, to persons, companies, facilities, organisations, or in countries, if this would violate European, Swiss, or otherwise applicable export control laws, such as US provisions relating to (re) exports.
6. The Customer will provide end-use documents on request, so that the end-use and intended use of goods can be proved with regard to an export licence application.
7. The Customer is fully liable to us for any damage or losses incurred by us as a result of the Customer's culpable failure to comply with applicable export control provisions or US (re)export provisions.
8. The performance of the contract and corresponding obligations are subject to the issuing of the export licences or transfer permits required in each case, or any other authorizations stipulated by foreign trade law or the competent authorities, and that this is not opposed by any other legal restrictions that must be observed under export control law.
9. All taxes, charges, and duties in connection with services outside Switzerland will be borne by the Customer and reimbursed to us if necessary.

XIII. Non-disclosure

The Contracting Parties are obliged to refrain from disclosing, for an indefinite period, any and all information that becomes available to them or is identifiable under other circumstances as a trade or business secret, nor may they record, pass on or exploit any such information. The Contracting Parties will ensure, through suitable contractual agreements with their employees and agents, that these persons also refrain from any exploitation, forwarding, or unauthorised recording of such trade and business secrets for an indefinite period.

XIV. Final provisions

1. Rights and duties of the Customer may be assigned to third parties only with our written consent.
2. The legal relations between the Contracting Parties are subject to Swiss substantive law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
3. The sole place of jurisdiction for all disputes arising out of the business relationship between the Contracting Parties is the place where our company has its registered office. We are also entitled to institute legal proceedings at the location of the Customer's registered office, and at any other permissible place of jurisdiction. The provisions of Item 3 of Section XIV apply solely with regard to commercial legal relations.
4. The place of performance for all services rendered by the Contracting Parties is the place where our company has its registered office.
5. Should a provision within these General Terms and Conditions be or become wholly or partially invalid or unenforceable, or should this contract prove to have a loophole, this will not affect the validity of the remaining provisions. The statutory provisions will apply in place of any invalid provision. If a provision proves to be unenforceable or a loophole emerges, and the statutory provisions constitute an unreasonable solution for one of the Contracting Parties, whichever provision corresponds with what would have been agreed according to the purpose of this contract if the Contracting Parties had considered the matter from the start will be deemed agreed.



The Royal League

