

GENERAL TERMS AND CONDITIONS OF PURCHASE ROTORK CONTROLS (DEUTSCHLAND) GMBH

Article 1 Area of Application

- (1) The following Terms and Conditions of Purchase of Rotork Controls (Deutschland) GmbH apply exclusively to all present and future purchase orders that the contractual partner (Supplier) recognises by accepting the order - at the latest at the time of delivering the goods ordered.
- (2) The general terms and conditions of the Supplier have no application whatsoever even if Rotork Controls (Deutschland) GmbH does not expressly object to such terms and conditions. This applies even if the Supplier has made it understood that the Supplier will only deliver subject to the Supplier's own terms and conditions.

Article 2 Quotations and Conclusion of the Contract

- (1) The Supplier must give a quotation free of charge without incurring any obligation on the part of Rotork Controls (Deutschland) GmbH.
- (2) Purchase orders from Rotork Controls (Deutschland) GmbH are binding only if they are placed in writing. The same applies to any addenda, modifications and ancillary agreements relating to purchase orders. Orders placed verbally or by telephone as well as addenda, modifications and ancillary agreements relating to purchase orders must be confirmed in writing by Rotork Controls (Deutschland) GmbH in order to be legally binding.
- (3) The Supplier must notify the acceptance of purchase orders from Rotork Controls (Deutschland) GmbH in writing within three days counted from the date of the purchase order. If the content of the Supplier's acceptance differs from the purchase order, this represents a new offer, which requires written acceptance by Rotork Controls (Deutschland) GmbH. If Rotork Controls (Deutschland) GmbH does not respond to the modified offer or to a letter of confirmation from the Supplier, this does not constitute tacit acceptance.
- (4) Samples, Rotork Controls (Deutschland) GmbH samples, moulds, models, tools, ancillary equipment and similar, which are manufactured by the Supplier to prepare for or to perform the purchase order pass into the ownership of Rotork Controls (Deutschland) GmbH on payment of the agreed remuneration and must be surrendered to Rotork Controls (Deutschland) GmbH on demand.

Article 3 Prices, Terms of Payment

- (1) The price shown in the purchase order is binding. The price covers delivery free to the delivery address and includes, unless otherwise agreed, packaging and freight and other ancillary costs and the statutory rate of value-added tax.
- (2) Payment of the amount invoiced is made within 14 days with 2% discount or within 30 days net. The period for payment commenced on the date of receipt of the invoice by Rotork Controls (Deutschland) GmbH, however, not before receipt of the item for delivery.
- (3) Rotork Controls (Deutschland) GmbH undertakes the payment of invoices in the form of a bank giro transfer. The date of receipt of the giro transfer amount by the bank determines the timeliness of payment.
- (4) In the event of failure to pay on time, the Supplier must put Rotork Controls (Deutschland) GmbH in default by sending a written reminder.
- (5) Rotork Controls (Deutschland) GmbH is entitled to set off the Supplier's receivables against its own receivables in accordance with the statutory regulations.
- (6) The Supplier may only set off its receivables of its own against the receivables of Rotork Controls (Deutschland) GmbH if they are undisputed or have been legally confirmed with final and non-appealable effect

Article 4 Delivery Date, Delivery Periods and Passing of the Risk

- (1) Unless otherwise agreed, delivery is made by normal delivery channels. The Supplier must select the most suitable and cheapest form of transport for Rotork Controls (Deutschland) GmbH.
- (2) If the purchase order contains a delivery date, it is binding.
- (3) If no particular date for delivery has been agreed, the Supplier is obliged to notify Rotork Controls (Deutschland) GmbH of the probable delivery date in writing without being asked. If the Supplier is unable to specify a delivery date, the Supplier must notify Rotork Controls (Deutschland) GmbH in writing of the earliest and latest delivery date.
- (4) If circumstances arise which could impair the timely delivery, the Supplier must notify Rotork Controls (Deutschland) GmbH in writing without delay of these circumstances and the probable duration of the delay. The Supplier cannot subsequently rely on this impairment vis-à-vis Rotork Controls (Deutschland) GmbH if it failed to make the notification.
- (5) If delivery is not made on the agreed delivery date, Rotork Controls (Deutschland) GmbH reserves the right to withdraw from the contract and/or to claim damages in accordance with the statutory provisions by making a written declaration to this effect to the Supplier.
- (6) Delivery has taken place when the subject item for delivery is received at the scheduled time or at the destination specified by Rotork Controls (Deutschland) GmbH.
- (7) A delivery note and an indication of contents containing the following details must be enclosed with the delivery: purchase order number, date of the purchase order, the markings as required by the purchase order, indication of the contents of the delivery (quantity, weight, etc.)
- (8) The Supplier is liable for damages suffered by Rotork Controls (Deutschland) GmbH as a result of failure to comply with these delivery regulations. The Supplier is also responsible for ensuring that subcontractors comply with delivery regulations.
- (9) Suppliers who have constant business relations with Rotork Controls (Deutschland) GmbH are obliged to notify Rotork Controls (Deutschland) GmbH in writing, normally three months before the intended change, of changes in delivery items, changes in the composition of delivery items or in the production process.

Article 5 Force Majeure

- (1) In cases of force majeure (e.g. war, natural disasters) and other unavoidable events beyond the Supplier's control, which were unforeseeable the time of concluding the contract, (e.g. operating stoppages, strikes, lockouts, orders from the authorities), the parties are released from their obligation to perform for the duration of the disruption and to the extent of its effects. The parties are obliged to adapt the contract to the changed circumstances in good faith. The consequence of this may be that Rotork Controls (Deutschland) GmbH continues to require delivery after the disruption has ceased or may waive the remainder of the delivery.

Article 6 Warranty Claims

- (1) The Supplier guarantees that the delivery item exhibits the contractually guaranteed characteristics, is free of material and legal defects and conforms to the generally acknowledged state of the art and technology and to all valid technical safety requirements.
- (2) Rotork Controls (Deutschland) GmbH shall be obliged to inspect the goods within an appropriate period for any quality or quantity deviations. The notice of defect shall be regarded in time if received by the supplier within a period of 10 working days, calculated as from the date of receipt or calculated as from the date of discovery as far as latent defects are concerned. If examination cannot take place without unreasonable effort, the examination and notification of any defect is still deemed to be in time if this takes place without delay after installation of the delivered item on the premises of the customer of Rotork Controls (Deutschland) GmbH and after commissioning for the customer of Rotork Controls (Deutschland) GmbH.
- (3) If the Supplier breaches an obligation to deliver the contractual item in accordance with the aforementioned Para. (1), the rights of Rotork Controls (Deutschland) GmbH to subsequent performance, withdrawal, reduction in price, damages or refund of expenses are determined by the statutory provisions.
- (4) Independently of the rights specified in Para. (3) above, Rotork Controls (Deutschland) GmbH is entitled to eliminate the defects in the delivery at the Supplier's expense itself, if subsequent performance fails, the Supplier fails to undertake subsequent performance within a reasonable period allowed by Rotork Controls (Deutschland) GmbH or if there is particular urgency, e.g. danger in delay.
- (5) The warranty period shall be 36 months, calculated from the transfer of risk.
- (6) The acceptance of the delivery, payment of the invoice and acceptance of samples, specimens, models, etc. are not deemed to be acknowledgement of proper delivery.

Article 7 Product Liability

- (1) Insofar as the supplier is responsible for product damage, he shall be obliged to indemnify Rotork Controls (Deutschland) GmbH from damage claims of third parties upon first request to the extent that the cause is in his area of control and organisation and he is liable vis-à-vis third parties.
- (2) Within the supplier's liability under paragraph (1), he shall also be obliged to reimburse any expenses pursuant to sections 683, 670 and sections 830, 840, 426 of the German Civil Code, arising from or in connection with a recall action made by us. We shall inform the supplier as far as possible and as far as can be reasonably expected on the content and scope of the recall measures and shall give him the opportunity to comment. Other statutory claims shall remain unaffected.
- (3) The Supplier is obliged to arrange and maintain product-liability insurance in a reasonable amount for the delivery item and to verify the existence of the product-liability insurance to Rotork Controls (Deutschland) GmbH in suitable form.

Article 8 Protection of Documents/Confidentiality

- (1) All illustrations, drawings, plans, calculations, descriptions, models, tools, drafts specimens, utility models, documents and other aids, which were provided by Rotork Controls (Deutschland) GmbH to the Supplier for the purpose of manufacturing the delivered item or which the Supplier manufactures for Rotork Controls (Deutschland) GmbH are the property of Rotork Controls (Deutschland) GmbH; the Supplier may not use these for other purposes, reproduce them or make them available to third parties. If Rotork Controls (Deutschland) GmbH so requests, these items must be surrendered without delay. The Supplier must treat these items carefully and keep them separate from its own property. Rotork Controls (Deutschland) GmbH reserves the industrial property rights and copyrights to all documents handed over to the Supplier.
- (2) The Supplier undertakes to treat as business secrets all commercial and technical knowledge and information that come to its knowledge through the business relations and which are not generally known and not to make the same available to third parties.
- (3) The Supplier undertakes to pass on the obligations in accordance with Paras. (1) and (2) above to subcontractors employed by it and to impose these obligations on them.

Article 9 Proprietary Rights

- (1) The Supplier gives an undertaking that no proprietary rights (patents, licences, utility models or other industrial property rights) or applications for proprietary rights of third parties will be infringed by the delivery and use of the delivered item.
- (2) The Supplier releases Rotork Controls (Deutschland) GmbH and customers of Rotork Controls (Deutschland) GmbH on first demand against claims of third parties arising from the breach of proprietary rights. The Supplier is liable for all damages suffered by Rotork Controls (Deutschland) GmbH as a result of the infringement of proprietary rights.

Article 10 Dangerous Goods and Securities

- (1) If the delivered item is governed by dangerous-goods regulations, the Supplier is obliged to package, mark and ship the delivered item in accordance with the relevant applicable statutory provisions. The Supplier is liable for all damages and costs resulting from failure to comply with this provision.

Article 11 General Provisions

- (1) Alterations and addenda to the contract and/or to these Terms and Conditions of Purchase as well as ancillary agreements must be made in writing. This also applies to any change in the requirement for the written form.
- (2) If any provision of the contract and/or of these Terms and Conditions of Purchase should be or become invalid, this shall not affect the validity of the remaining provisions. Instead of the invalid provision, a valid provision is deemed to have been agreed that most corresponds to the economic sense and purpose of the invalid provision.
- (3) The law of the Federal Republic of Germany governs the contractual relations to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG)
- (4) Exclusive court of jurisdiction for all disputes arising from the contractual relations is the registered office of Rotork Controls (Deutschland) GmbH. Rotork Controls (Deutschland) GmbH is entitled to bring a claim against the Supplier at any other statutory court of jurisdiction.