

# Terms and Conditions of Sale for RAHN UK Ltd.

based in Peterborough, Wales

Version 1, 27.04.04



## 1 Basis of the sale

- 1.1 The Seller shall sell and the Customer shall purchase the Goods subject to these Terms which shall govern the Contract to the exclusion of any other terms subject to which any such order is accepted or purported to be accepted, or any such order is made or purported to be made, by the Customer.
- 1.2 The Buyer shall provide to the Seller a Written request for the Goods and the Seller shall accept the request either by providing an Order Confirmation or by supplying the Goods as specified.
- 1.3 RAHN UK may choose to perform its contractual obligation partly or entirely through an affiliated company i.e. RAHN AG with headquarter in Switzerland. In these cases RAHN UK, nevertheless, remains in every respect solely legitimated and obliged towards its clients.

## 2 Orders and specifications

- 2.1 No request for an order submitted by the Customer shall be deemed to be accepted by the Seller unless and until either an Order Confirmation is provided by the Seller or the Seller's authorised representative or the Goods are supplied as specified.
- 2.2 The Customer shall be responsible to the Seller for ensuring the accuracy of the terms of any written order request (including any applicable specification) submitted by the Customer, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.
- 2.3 The quantity and description of the Goods and any specification for them shall be as set out in the request for order by the Seller and confirmed by the Seller in the Order Confirmation.
- 2.4 If the Goods are to be manufactured or any process is to be applied to the Goods by the Seller in accordance with a specification submitted by the Customer, the Customer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with, or paid or agreed to be paid by the Seller in settlement of, any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Customer's specification.
- 2.5 The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable statutory or E.U. requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.
- 2.6 No order which has been accepted by the Seller (as evidenced by the provision of an Order Confirmation) may be cancelled by the Customer except with the agreement in Writing of the Seller. Where such cancellation is accepted by the Seller the Customer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.

## 3 Price of the goods

- 3.1 The price of the Goods shall be the price stated in the Order Confirmation of the seller. Unless stated otherwise the agreed Incoterms (Incoterms 2000) apply. If no Incoterms have been agreed, prices are to be understood as ex works, not including transportation, taxes, or any other charges attributable to the sale.
- 3.2 The Seller reserves the right, by giving Written notice to the Customer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture or importation duties), any change in delivery dates, quantities or specifications for the Goods which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Seller adequate information or instructions.
- 3.3 Any price is exclusive of any applicable value added tax, which the Customer shall be additionally liable to pay to the Seller.

## 4 Terms of payment

- 4.1 Subject to any special terms agreed in Writing between the Customer and the Seller, the Seller may invoice the Customer for the price of the Goods at any time after delivery of the Goods.
- 4.2 Unless otherwise agreed, the Customer shall pay the price of the Goods without any deduction 30 days after delivery.

## 5 Delivery

- 5.1 Delivery of the Goods shall be made by the Seller delivering the Goods to the place requested by the Customer detailed in the Order Confirmation.
- 5.2 The Seller shall use all reasonable endeavours to deliver the Goods on the stated delivery date but the dates and times quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods where the delay is beyond the Seller's reasonable control however caused. Time for delivery shall not be of the essence upon the Contract. The Goods may be delivered by the Seller in advance of the quoted delivery date on giving reasonable notice to the Customer.
- 5.3 If the Seller fails to deliver the Goods for any reason other than any cause beyond the Seller's reasonable control or the Customer's fault, and the Seller is accordingly liable to the Customer, the Seller's liability shall be limited to the excess (if any) of the cost to the Customer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

## 6 Risk and property

- 6.1 Legal and equitable title in all Goods delivered by the Seller shall remain with the Seller until all invoices or debts owed by the Buyer to Seller have been paid in full, whether such debts were incurred in respect of the Goods delivered under this Contract or in respect of any other goods delivered under any other contract or in respect of other forms of indebtedness no matters how such indebtedness may have occurred.
- 6.2 Where the Buyer has failed to discharge any debt owed to the Seller (no matter how such debt was incurred) in accordance with and by the time stipulated in the contract under which the debt was incurred, all other amounts owing by the Buyer under any other contract shall also fall due with immediate effect and the Buyer irrevocably authorises the Seller to enter upon the premises for the buyer to recover its Goods.
- 6.3 With regard to all illustrations, calculations, technical descriptions and other documents, we reserve our property rights, copyrights, and other patent rights. The Buyer may only pass these documents on to third parties with our written consent, regardless of whether we have marked these as confidential or legally protected.
- 6.4 Any purported amendment of the terms in clause 6 shall be of no effect unless such amendment is entered into in Writing between an authorised representative of the Buyer and Seller.

## 7 Warranties and liability

- 7.1 All recommendations or statements about the goods by Seller, including statements concerning substances present or not present in the goods, are based upon Seller's research and experience and are believed to be reliable, but such recommendations or statements shall not constitute a warranty. Buyer must determine for itself, by preliminary tests or otherwise, the suitability of the goods for Buyer's purpose and the substances present or not present in the goods. Seller warrants only that the goods shall conform to the agreed specifications, that Seller will convey good title thereto, and that such goods shall be delivered free from any lawful security interest or encumbrance unknown to Buyer. Seller makes no other warranty, express or implied, except as expressly provided herein. Seller makes no warranty that the goods are merchantable or fit for any particular purpose. Subject to the following provisions the Seller warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship. Unless otherwise agreed, the seller warrants that the goods will correspond with their specifications for at least three months after the time of delivery.
- 7.2 The above warranty is given by the Seller subject to the following conditions:
  - 7.2.1 the Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;
  - 7.2.2 the Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment;
  - 7.2.3 the above warranty does not extend to parts, materials or equipment not manufactured by the Seller, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Seller.
- 7.3 Subject as expressly provided in these Terms, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 7.4 A claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification according to the Certificate of Analysis shall (whether or not delivery is refused by the Buyer) be notified to the Seller within ten days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
- 7.5 Where a valid claim in respect of any of the Goods which is based on a defect in the quality or condition of the Goods or their failure to meet specification is notified to the Seller in accordance with these Terms, the Seller may replace the Goods (or the part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), in which case the Seller shall have no further liability to the Buyer.
- 7.6 Except in respect of death or personal injury caused by the Seller's negligence, or liability for defective products under the Consumer Protection Act 1987, the Seller shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for loss of profit or for any indirect, special or consequential loss or damage, costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods (including any delay in supplying or any failure to supply the Goods in accordance with the Contract or at all) or their use or resale by the Buyer, and the entire liability of the Seller under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Terms.

## 8 General

- 8.1 A notice required or permitted to be given by either party to the other under these Terms shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 8.2 No waiver by the Seller of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 8.3 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this contract.
- 8.4 If any provision of the Contract is held by a court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected.
- 8.5 This agreement shall constitute the entire agreement and understanding between the parties with respect to all matters which are referred to and shall supersede any previous agreement(s) between the parties in relation to the matters referred to in this agreement.
- 8.6 The Contract shall be governed by the laws of England, and the Customer agrees to submit to the non-exclusive jurisdiction of the Courts of England and Wales.