

RENK SYSTEMS CORPORATION
GENERAL SALES TERMS & CONDITIONS



1. SELLER'S TERMS CONTROL

These Seller General Conditions of Sale ("Terms") shall control and prevail over any contrary terms in Buyer's purchase offers or purchase orders. These Terms are for delivery to Buyer's carrier, Ex Works, Seller's plant, or F.O.B. other point or points of delivery designated by Seller.

2. CONFIRMATION

Seller shall, promptly upon receipt of each of Buyer's purchase offers, verbally or in writing accept or reject such purchase offer, Seller's acceptance shall indicate the expected date of shipment.

3. OFFERS AND SCOPE OF DELIVERY

- a) Offers for purchase are submitted without obligation on Seller's part. No contract shall be formed and no purchase order shall be considered accepted by Seller until such acceptance has been confirmed in writing by Seller as provided in paragraph 2 above. The scope of any and all contractual obligations shall be as defined in Seller's written acknowledgment of such order, and any modifications, supplements, verbal arrangements must be confirmed in writing by Seller before they are binding on Seller.
- b) Any deviations from specified weight or quantity, provided that such deviations are within customary, commercially acceptable limits, shall not constitute a justification for a price reduction from the stipulated price agreed upon, or other claims.
- c) Buyer shall bear full and sole responsibility for the accuracy and correctness of all such information provided by Buyer as drawings, patterns, gauges, samples, and the like.
- d) Guards and other safety devices will be furnished with the equipment ordered as far as specified in the offer and the order acknowledgment. It is Buyer's responsibility to have the proper design and construction of guards and other safety devices examined and testified to by the trade supervision authority concerned before putting the installation or machine into operation. In case such authority should demand the provision of additional safety devices, these would be supplied on the basis of special agreement to that effect and charged for as extras.

4. PRICES AND CONDITIONS OF PAYMENT

- a) Unless specifically stated in writing otherwise, all prices are quoted Ex Works and do not include costs of packing, carriage, freight, postage or insurance. Payment of all applicable taxes shall be by Buyer. Seller reserves the right to add the value of any taxes due to the price of the goods, and such price shall be treated in the same manner as if it were the original agreed upon price. Goods will be packed in such manner as deemed suitable by Seller to prevent damage during shipment, provided shipper exercises reasonable care. Seller shall assume no additional responsibility. Insurance against damage in transit will be covered by the Seller only at Buyer's express request at Buyer's expense.
- b) Unless otherwise agreed upon in writing, payment shall be in full in cash or by check in accordance with the provisions of Section 2-511(3) of the Uniform Commercial Code delivered to Seller's address or to a financial institution designated by Seller in compliance with the conditions of payment agreed upon.
- c) There shall be no withholding of part or all of any payment due Seller or any deduction in the amount of payment due on the ground of any counterclaims unless specifically acknowledged and accepted by Seller. Any failure of Buyer to make payment under the stipulated Terms, as well as any information received by Seller reflecting information unsatisfactory to Seller concerning Buyer's financial standing, shall be cause for Seller to demand payment in advance for any material or goods still to be supplied under a pending contract or any other contract which may exist between Buyer and Seller.
- d) Should an arrangement be made to the effect that the execution of an order shall be suspended, the stipulated price, reduced by the amount of direct costs that would have been expanded by the Seller for the completion of that order, shall immediately become due and payable.

5. RESERVATION OF OWNERSHIP

- a) Title to the goods and property delivered to Buyer shall remain with the Seller until such time as any and all claims as may be asserted by Seller and Seller's agents against Buyer or by MAN Aktiengesellschaft, or by any company in which said MAN Aktiengesellschaft holds a minimum fifty percent (50%) share either directly or indirectly have been satisfied. Any property to which title has been reserved to the Seller shall serve as security for any balance in payments due Seller.
- b) Seller is entitled to set off Seller's claims, whether due or not yet due, against any claims whether due or not yet due, which Buyer may have against Seller or against MAN Aktiengesellschaft or against any company in which MAN Aktiengesellschaft holds a minimum share of fifty percent (50%) either directly or indirectly.
- c) Buyer shall not be allowed to mortgage the goods supplied or to convey them to a third party as a security. Buyer shall inform Seller at once of any case involving seizure, distraint, imposition of liens, or any other similar action taken by a third party affecting such goods. Should Seller assert his right of reserved ownership, or cause the goods supplied to be seized, such action shall not constitute cancellation of an uncompleted contract.
- d) In case goods in which Seller still has title have been used in the manufacture of other goods and have become inseparable from such other goods, Buyer agrees to convey to Seller a partial interest in such manufactured goods in proportion to the value Seller's goods have comparative to the value of the manufactured goods as a whole.

6. TIME OF DELIVERY

- a) The time of delivery begins to run, at the earliest, at the date of the order acknowledgment and confirmation by Seller, but not before receipt by Seller of any information, licenses, releases, and the like, to be procured and furnished by Buyer, and, if applicable, of the Letter of Credit or stipulated pre-payment. The time of delivery will be adequately extended if the manufacture of the goods is impeded by unforeseen events or circumstances beyond Seller's control (irrespective of whether they affect the Seller's own Works or those of the firms from whom Seller obtains materials, and the like, required for the execution of the contract), such as statutory measures, labor disputes, breakdowns of machinery or services, mishaps in production resulting in rejection of castings or other components, delay in obtaining materials from outside sources, fire, flood, tornado, earthquake, war, riot, insurrection, strike, lockout, slowdown, epidemic, quarantine restriction, delay in transportation, car shortage, labor shortage, materials shortage, manufacturing facility shortage, accident at Seller' plant, boycott, embargo or any act or regulation of government or governmental authority (including, without limitation, preference, allocation or priority systems for government), force majeure and other contingencies beyond Seller's control resulting in impossibility of performance of Seller's duties and obligations hereunder, provided such obstacles provably and materially influence the completion of delivery of the goods. Seller shall not be liable for any damages direct or consequential due to such delays even if such delays would not have occurred had Seller delivered as originally anticipated in the contract.
- b) Modifications to specifications subsequently demanded by Buyer will occasion an interruption of the delivery time, which will begin to run again after an agreement about such modification has been arrived at, indemnity for delay in delivery will not be granted.
- c) If dispatch cannot be effected for reasons beyond Seller's control, Buyer will - after having been notified of the availability of the goods - be charged with the costs of storage of same (in the case of storage at Seller's Works, at the rate of at least one-half percent (½%) per month of the value as per invoice of the goods thus stored). Seller shall be at liberty to warehouse the goods outside his premises.

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7. FAIR LABOR STANDARDS ACT

Seller certifies that goods subject to these Terms were produced in compliance with all applicable requirements of Sections 6, 7, and 12 of the Fair Labor Standard Act, as amended, and of Regulations and Orders of the United States Department of Labor under Section 14 thereof.

8. RESPONSIBILITY FOR GOODS

- a) At the latest at the moment, when the goods are dispatched from Seller's Works, Seller's responsibility for loss or damage ceases and all risks pass on to Buyer, even in the exceptional case that the stipulated price should include delivery carriage paid and/or cost of erection.
- b) Should dispatch be delayed for reasons for which Seller is not responsible, Buyer shall bear all risks to which the goods may be exposed from the date when they are ready for dispatch. Immediately upon receipt of the goods, Seller shall be notified in writing of any loss, damage or deterioration that might have been caused in transit.

9. SELLER'S WARRANTY AND REMEDY

- a) The liability of Seller with respect to defects in goods supplied, which term is to be understood to also cover the absence of properties expressly promised, shall be limited to curing such defects in the way and to the extent specified hereafter in this paragraph 9. No further claims will be considered.
- b) Any part or parts that should become unserviceable or whose serviceability should prove to be materially impaired, within six (6) months from the date on which responsibility for supplies has passed on to Buyer (in accordance with paragraph 8 above), or within three (3) months from that date when goods are first subjected to day-and-night operation, owing to a defect having provably existed before the date heretofore defined, and more particularly due to the use of interior materials procured by Seller or deficient workmanship, will, at Seller's option, be either repaired or replaced by Seller, free of charge. This liability of Seller is conditional upon Buyer having fulfilled all Buyer's obligations under the contract, especially in respect to the stipulated condition of payment. Seller shall be notified of such defects as soon as they become known. Buyer's right to raise claims on the basis of defects terminates in all cases six (6) months from the date of prompt notification of Seller of the existence of such defects or at the expiration of the warranty period, whichever may be the earliest.
- c) Buyer shall afford Seller, free of charge, the necessary time and opportunity to make any modifications or replacements deemed necessary. Parts deemed defective by buyer are not to be returned to Seller without Seller's express authorization. Buyer shall pay all shipping costs for the return of any defective parts and shipment of replacements. Replaced parts become the property of Seller.
- d) Any parts that suffer damage or prove comparatively short-lived owing to the very nature of the material they consist of, the application used in normal wear and tear, abusive or careless treatment, overcharging, use of unsuitable lubricants or other inappropriate operating materials, chemical, electro-chemical or electrical influences, effects of atmospheric or other natural phenomena, shall be excluded from Seller's warranty. As regards goods not of Seller's make, the latter's liability is restricted to ceding to Buyer Seller's claims against the suppliers of such goods.
- e) Where individual components are delivered, Seller shall not be liable for any problems arising because of improper installation or care. Seller shall be liable only to see that the workmanship of Seller's products shall be in conformity with drawings and specifications.
- f) Seller shall not be liable for any injury, loss or damage, direct or consequential, arising out of the use of or the inability to use the product. Prior to use, Buyer shall determine the suitability of the product for Buyer's intended use, and Buyer shall assume all risk and liability whatsoever in connection with such use.
- g) Any claim for defective material or workmanship must be verified by Seller's authorized representative. Seller's liability to the extent stated above shall arise only after proper examination by such authorized representative.
- h) Warranty for repair work done or replacement parts furnished will cease at the expiration of the warranty period covering the goods originally supplied.
- i) Seller's liability terminates if any rectifications, modifications or repair work is carried out without his previous consent.
- j) Buyer shall make no claims on whatever legal ground they may be based for any further indemnification, and particularly for direct or consequential damages or losses as well as for costs of demounting and installing.
- k) The foregoing terms may not be changed except by express written agreement executed by an officer of the Seller. Seller makes no other warranty with respect to its products including warranties of merchantability and fitness for a particular use.

10. DISCLAIMER OF WARRANTIES

The foregoing seller's warranty and remedy shall be in lieu of any other warranty or remedy, express or implied; including, without limitation, any implied warranty of merchantability or fitness for a particular purpose.

11. LIMITATION OF LIABILITY

Buyer's sole and exclusive remedy relating to products shall be the remedy, if any, afforded by seller's warranty and remedy and within the time period specified therein. No other remedy, including, without limitation, incidental or consequential damages for lost profits, lost sales, injury to persons or property or any other incidental or consequential loss, shall be available to buyer. Seller shall have no liability for any claims made more than six (6) months from the date of dispatch of products. In no event shall any damages in excess of the purchase price actually paid for products be available to buyer.

12. RIGHT OF CANCELLATION OF CONTRACT AND OTHER RIGHTS

- a) Buyer shall have the right to cancel the contract if it becomes entirely impossible for Seller to perform, or if Seller, already in default, has without proper cause, allowed to expire an adequate extension granted to Seller under threat of cancellation for performing the contract or for remedying a defect to which Seller is responsible pursuant to these present conditions or if remedy of such defect proves to be impossible.
- b) Unforeseen events in the meaning of paragraph 6, which lead to delay in delivery shall give Seller the right to cancel the contract in whole or in part, without becoming liable to Buyer for any claims, if, since the time of placing the order, economic conditions have changed so considerably that Seller cannot reasonably be expected to fulfill the contract. This provision is to apply even in case a time extension had initially been agreed upon.
- c) Excepting the right of cancellation of the contract pursuant to the first paragraph of this paragraph 12 and the rights according to paragraph 9 the Buyer shall not be justified in asserting against Seller any claims for indemnification or any other rights in connection with the contract or the supplies whatever may be the juridical fact or facts upon which Buyer bases such claims.

13. PLACE OF PERFORMANCE AND JURISDICTION

- a) Place of performance for both parties to the contract shall be the place where the Seller's head offices are registered. Any disputes arising - directly or indirectly - from the contract shall be subject to the jurisdiction of the courts of the state of Indiana. The Seller shall also have the right to enter an action relating to the contract and the Terms thereof in the court of competent jurisdiction for the place where Buyer's head offices are registered.
- b) The contract and all Terms thereof shall be governed by and interpreted in accordance with Indiana law.

14. ERRORS / SEVERABILITY

- a) Stenographic and other clerical errors are subject to correction and have no effect on the contract.
- b) This contract is severable and if any one clause is found inoperable, such inoperability shall be limited to the clause in question the remainder of the contract remaining in force.