

**RAPID Biomedizinische Geräte  
RAPID Biomedical GmbH (RAPID)  
Kettelerstraße 3-11, 97222 Rimpfing  
General Terms of Business (Goods and  
Services)**

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**I. General**

All goods and/or services (hereinafter called Services) provided by RAPID Biomedizinische Geräte RAPID Biomedical GmbH (hereafter called RAPID) unless otherwise expressly agreed in writing, shall be provided solely on the basis of the following terms of business. This also applies for future business relations during the period of validity of these Terms of Business. All purchase orders and commissions on the part of the buyer require the written confirmation of RAPID. Any particular promises on the part of RAPID must also be in writing. The orderer's purchase conditions shall also not apply even if they have not been objected to expressly and the contract has been executed without reservation in the full knowledge that the buyer's terms of business are contrary or different from these. The buyer agrees that his data may be electronically stored and processed within RAPID.

**II. Offer**

1. If no binding date is given for any binding written offer submitted by RAPID, RAPID shall cease to be bound by the offer at the end of three (3) months after the date of the offer.
2. Offers in the catalogues and brochures of RAPID shall not be binding unless they are expressly described as binding. Immaterial changes in illustrations, drawings, dimensions and weights, consumption and performance information etc. as given in the offers or order confirmations of RAPID shall be accepted by the buyer.
3. RAPID retains without restriction the right of ownership of and copyright in cost estimate and all offer documents; they may only be made accessible to third parties with the express written consent of RAPID.
4. In the case of Services provided outside the Federal Republic of Germany, the execution of the contract is subject to the granting of the necessary export permits.

**III. Scope of delivery, delivery dates, cancellation of delivery**

1. The scope of the delivery shall be determined solely by the written order confirmation of RAPID; changes and secondary agreements must be in writing.
2. Technical protection devices will only be provided where this is required by law or if it has been expressly agreed in writing.
3. RAPID is entitled to make partial deliveries.
4. All dates and deadlines for the RAPID goods and services shall only be binding if they have been described by RAPID in writing as being binding. If non-compliance with deadlines is due to reasons for which RAPID is not responsible, the deadline shall be extended correspondingly. This applies particularly in cases of force majeure, measures taken as part of an industrial dispute (especially strikes and lock-outs) and the failure of sub-contractors to deliver goods or services in so far as RAPID is not responsible, and other unforeseeable circumstances for which RAPID is not responsible.
5. If RAPID should be culpably late, the purchaser may, for each complete week by which the goods or services are delayed and in so far as he can prove that he has suffered a loss as a result of such lateness, claim damages of 0.5% but not exceeding 5% of the aggregate price for that part of the deliveries and services which could not be used for the production purpose intended.
6. Claims both for loss or damage on the part of the purchaser due to delayed delivery and claims for loss or damage in place of delivery which exceed the restrictions set out in Clause III/5 are excluded in all cases of delayed delivery even after the expiry of an extension of the delivery period granted to us. This does not apply in so far as compulsory liability exists in cases of intent, gross negligence or where there is damage to life,

limb or health: a change on the burden of proof to the purchaser's disadvantage is not associated with this. The purchaser may only withdraw from the contract within the constraints of the provisions of law in so far as RAPID is responsible for the delayed delivery.

7. When so requested by RAPID, the purchaser is obliged to state within a reasonable period of time if he will withdraw from the contract due to the delayed delivery and / or claim damages in place of delivery, or if he will insist on delivery.

**IV. Prices**

The prices ex works given in the binding written offer of RAPID, plus packaging, insurance and transport, shall apply.

2. Value added tax at the appropriate statutory rate shall also be added to the prices.

**V. Terms of payment**

1. Payments shall be made within 30 days after date of invoice without deduction. The crucial factor in deciding whether the payment has been made in time is the date on which the payment arrives on the account of RAPID.
2. The payment periods stated under Clause 1 shall apply correspondingly for all partial deliveries. The buyer shall not be entitled to hold back payments if the partial delivery/deliveries can be used as such.
3. If the payment periods are exceeded, the vendor shall be entitled to demand interest at 5% above the base interest rate in accordance with § 247 of the German Civil Code (BGB). In addition, the purchaser is only entitled to refuse payments or off-set any counter-claims in so far as these are recognised in writing or established by a declaratory judgement.

**VI. Retention of ownership**

1. All the goods supplied shall remain the Company's property until the complete payment has been made by the buyer. The buyer is entitled to sell the goods on further as part of a proper business transaction. In the event of their being sold on, the buyer here and now assigns to the Company the payments owing from the sales transaction and any other claims against his customers with all secondary rights in the sum of the claims that the Company has against the customer (extended retention of ownership). The purchaser shall only be authorised to recover the assigned claims as part of normal business; this authorisation may be revoked. RAPID will only make use of the power of revocation if the purchaser fails to fulfil his payment obligations towards RAPID or if other circumstances should intervene which endanger the claim of RAPID as a result of the deterioration of the purchaser's credit-worthiness. In this case, the purchaser is obliged, if so requested by RAPID, to inform his customers immediately of the assignment of the claim and to provide RAPID with all information and documentation necessary for its collection.
2. In the event of failure to comply with the terms of payment, unauthorised disposal of the reserved property, material deterioration of the purchaser's financial situation, protest of cheques or bills of exchange, or if the purchaser himself applies for insolvency proceedings or if insolvency proceedings are initiated by third parties, RAPID is entitled to prohibit the processing, manufacture and sale of the reserved property. In such cases RAPID is further entitled to seize such property and to enter the purchaser's premises for this purpose. In this connection all information relevant to this purpose may be demanded and the purchaser's books examined.
- The demand for the return of the reserved goods but not its mere seizure counts as withdrawal from the contract.
3. In so far as the value of all the liens of RAPID exceed in aggregate the claim by more than 10%, RAPID will, at the purchaser's request, release a corresponding part of the liens at the option of RAPID
4. As long as all of the claims to payment of RAPID have not been met, the purchaser may

not pledge the delivered goods or offer them as security without the prior written consent of RAPID. RAPID shall be informed immediately of any seizures, attachments or other disposals by third parties.

5. In the event of behaviour in breach of contract, especially late payment, RAPID shall be entitled, after sending a reminder, to take back the goods delivered, and the buyer shall be obliged to return them.

6. Processing and manufacture of the reserved goods occur for RAPID as a manufacturer within the meaning of § 950 of the German Civil Code (BGB), without any obligation for RAPID being thereby created. The manufactured and processed goods count as reserved goods within the meaning of the provision in Clause VI.1.) of these Conditions. In the event that the purchaser manufactures, combines and mixes the reserved goods with other goods, the joint ownership of the item shall be in proportion to the invoice value of reserved goods to the invoice value of other goods from RAPID which have been used. If the reserved goods have been combined with other goods into an indivisible item, and if the other item is to be regarded as a principal claim, the purchaser is obliged to transfer proportionate joint ownership in so far as the principal claim belongs to the purchaser.

**VII. Assumption of risk**

1. Risk passes to the buyer as soon as the goods have left the factory of RAPID. The goods shall be transported to the named delivery address at the expense and risk of the buyer. The same shall apply accordingly for partial deliveries.
2. RAPID shall, at the buyer's cost, insure the delivery against transport damage for a sufficient sum. To preserve any claims against RAPID providing transport insurance, we must be informed of any damage or losses, and a damage report from the transport company must be provided, immediately after the delivery of the goods dispatched.
3. If delivery should be delayed as a result of circumstances for which the purchaser is responsible, risk passes to the purchaser on the arrival of the notification that the goods are ready for despatch. After the expiry of a reasonable extension of time to accept the goods, RAPID is entitled to dispose of the goods elsewhere, and to supply the purchaser after a reasonable period of time.
4. If despatch or delivery is delayed at the request of the purchaser by more than one month after being informed of the readiness of the goods, RAPID may invoice the purchaser with storage charges in the amount of 0.5% of the price of the goods for each month or part month but in aggregate not more than 5% of the price. The right is reserved to the contractual parties to prove higher or lower storage costs.

**VIII. Warranty**

1. RAPID warrants that at the point of the transfer of risk, the goods are free from material and manufacturing defects and that the delivered product has the physical and technical characteristics laid down in the product description enclosed with the delivery.
2. The warranty period is 24 months starting with the time at which the risk was transferred to the buyer.
3. For subsequent repairs, the warranty period is 6 months from the time when the need for repairs was reported. However, this period shall run at least until the end of the warranty period given in Figure VIII, 2.
4. The buyer is obliged to check the object of the delivery on arrival to ensure that it is complete and its characteristics are as described in the contract, and to report in writing any obvious damage and defects found to RAPID immediately; however, at the latest within a period of 4 weeks. If the buyer does not meet this obligation, the RAPID does not bear any liability for defects.
5. The warranty covers, at the option of RAPID, either the repair or the correction of the faulty products at the factory of RAPID or at the place to which the delivered object was contractually delivered. If the repair or the

correction is performed in the factory of RAPID, RAPID shall bear the dispatch costs. In the event of an inadequate repair or replacement delivery, the buyer may demand that either the price is reduced or that the contract is cancelled.

6. No responsibility is taken for damages that are due to improper use or operation of the delivered object by the buyer or third parties. The same applies for improper start-up, violation of operating regulations, instructions for use or the recognised technical regulations, and for use of unsuitable fuels, negligent treatment, excessive stress and strain, etc. by the buyer or third parties, for normal wear and tear and chemical, electrochemical or electrical factors which could not be foreseen under the terms of the contract. Liability shall also be excluded if the buyer or third parties have made changes to the object delivered without the prior agreement of RAPID.

**IX. Claims for compensation**

All further claims on the part of the buyer shall be excluded, especially compensation for damages that were not suffered directly by the delivery object (consequential damages), unless RAPID showed intent or gross negligence when the damage occurred or a warranted characteristic is absent.

This is also not applicable in so far as a legal liability exists under the Product Liability Act. Claims for loss or damage arising from material breach of contractual obligations are nevertheless limited to foreseeable loss or damage typical under the contract in so far as intent or gross negligence are not present and in so far as the liability is not for life, limb and health.

In so far as the purchaser is entitled to claim for loss or damage under this Clause, such claims lapse at the end of the period applicable to claims for defective materials set out in Clause VIII./2.

**XI. Impossibility, Adaptation of Contracts.**

1. In so far as delivery is impossible, the purchaser is entitled to claim for loss or damage unless RAPID is not responsible for the impossibility. Nevertheless, the purchaser's claim for loss or damage shall be limited to 10% of that part of the delivery which cannot be used for the operational purpose intended due to the impossibility. This limitation does not apply in so far as liability is compulsory in cases of intent or gross negligence or of danger to life, limb or health; a change in the burden of proof to the purchaser's disadvantage is not associated with this. The purchaser's right to withdraw from the contract remains unaffected.
2. In so far as unforeseeable events within the meaning of Clause III/4 materially alter the economic significance of the content of the delivery or materially affect the operations of RAPID, the contract shall be suitably adapted in good faith. In so far as this is not economically justifiable for RAPID, it has the right to withdraw from the contract. In such a case this must be communicated to the purchaser without delay as soon as the extent of the event is recognised and even when an extension of the delivery period was agreed with the purchaser.

**XI. Miscellaneous.**

1. Even if individual points are legally invalid, the remaining parts of the contract and the General Terms of Business shall remain valid. If a provision or agreement is invalid, the parties shall agree on a provision that comes commercially as close as possible to the original intent of the invalid provision (salvatory clause). If there are any omissions in the contract, the parties shall reach an agreement that comes as close as possible to the commercial sense and purpose of the contract.
2. The law of the Federal Republic of Germany shall apply.
3. The place of performance and legal venue for both parties shall be Würzburg in so far as both parties are registered traders.