



# General Terms & Conditions

## § 1

### Validity of the terms and conditions

1. The deliveries, services and offers of Raussendorf Maschinen-und Gerätebau GmbH, hereinafter referred to as „contractor“, shall be based exclusively on these Terms and Conditions, and if necessary, the specifications of the customer, supply and / or specifications of the contractor, the framework agreement, the individual contract and / or the confirmed order. Any counter confirmation and such like submitted by the customer referring to his own business or purchase conditions will be hereby expressly rejected.

2. Regulations apart of this Terms and Conditions shall be part of the according contract and considered of higher priority.

## § 2

### Offers and conclusions of contracts

1. Offers contained in brochures, advertisements, etc. are, also regarding price, non-binding. Specifically elaborated offers are binding for 30 calendar days from the date of offer.

2. Side agreements, amendments, additions and / or other deviations from these terms and conditions are only valid if the contractor has agreed to them. Such agreements must be concluded in writing.

3. Information in offers and / or order confirmations of the contractor which are based on a manifest error, especially clerical errors or errors in calculation, are not binding for the contractor. Rather, the apparently intended statement applies.

4. The offer documents, descriptions, samples and cost estimates of the contractor may not be made available, either as such or in their contents, published, reproduced or otherwise given to third parties without the express written consent of the contractor. The contractor reserves the right of ownership and copyright to these documents. Upon request, the documents are to be returned without withholding of copies.

5. Differences between ordering and offer become valid only with the explicit confirmation of the contractor.

## § 3

### Duration of contract

1. The contract is valid until the fulfillment of the contract and can be terminated only in accordance with § 649 BGB (German Civil Code) by the customer during the time of performance.

2. The legal right of extraordinary termination for good cause remains unaffected. An extraordinary termination must be made in writing.

## § 4

### Prices

1. The prices include VAT. This is shown separately in the invoice.

## § 5

### Delivery Times

1. Time periods for delivery apply subject to correct and punctual delivery by the ordering party itself, unless they have been assured beforehand.

2. If the delivery or service is delayed due to circumstances for which the contractor, his legal representatives or agents are responsible, the liability is subject to legal provisions. In minor or medium negligence, liability is excluded. This also applies to the liability for reimbursement of consequential costs incurred by the delay in delivery. This principle applies in particular to force majeure, strike, lockout, official orders etc., even if these obstacles affect suppliers of the contractor or its subcontractors. The duration of a period of grace to be granted by the customer according to the statutory provisions in cases of delay of performance is set at two weeks, beginning with receipt of grace period by the contractor.

## § 6

### Acceptance, shipping, place of performance and transfer of risk

1. If the contractor demands acceptance of partial / deliveries, he must indicate that in writing to the customer. Then, the customer has to carry out acceptance within a period of 7 days. Minor defects do not constitute a reason for refusal of acceptance.

2. If no acceptance is requested, the delivery shall be deemed as accepted upon the expiration of 30 days after written notification of the completion.

3. 7 days after the delivered object has been used for the first time, the acceptance is considered as approved. This only applies if no acceptance has been requested and / or no refusal of acceptance has been declared.

4. Partial use of the delivery, which is required to continue the work, does not constitute acceptance. The use of parts of the delivery by the customer for other purposes, especially for testing and evaluation purposes, is deemed as partial acceptance in accordance with the paragraph 3. above. Reservations due to known defects must be raised and described in writing no later than the expiration of the aforementioned period (paragraph 3).

5. If the purchaser is a merchant according to the German Commercial Code, a legal entity under public law or public law special fund, the place of performance for all obligations under the contract is the place of business of the contractor.



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6. Unless otherwise agreed, the terms FCA Raussendorf (Incoterms 2010) apply. If shipment is delayed at the request of the customer or not carried out, the risk with the notification of readiness for shipment is transferred to him.

7. Upon request of the purchaser, deliveries are insured in his name and on his account.

### § 7 Claims for defects

1. The statutory warranty regulations apply with a warranty period of one year unless the mandatory law requires another minimum period. The warranty period begins on the day of the delivery, latest on the day of acceptance of the work.

2. If the service or the item delivered by the contractor is defective, the contractor may at his discretion either provide a replacement or remedy the defect. Multiple remedies, usually two, are permissible within a reasonable time.

3. The customer's right to assert claims of defects expires in all instances from the time of the transfer of risk in 12 months, unless by law a longer period is required.

If the buyer is an entrepreneur within the meaning of § 14 BGB (German Civil Code), additionally the paras 4 and 5 apply.

4. The regulations of the HGB (German commercial law) apply, especially §§ 377 ff. HGB. Liability for tortious acts and consequential damages is excluded as far as permissible. However, any liability is, in any case, limited to the replacement of contract-typical and foreseeable damages. The liability for intent and gross negligence remains unaffected. The defect items shall, for inspection by the contractor, be kept in the state in which they are at the time of discovery of the defect.

5. Insignificant, reasonable deviations in the dimensions and designs - especially for reorders - do not justify any objection, unless the absolute compliance has been expressly agreed. Technical improvements and necessary technical modifications are also considered as agreed upon in the contract, unless they constitute a deterioration of serviceability.

6. If operating or maintenance instructions of the contractor are not complied with, any changes are done to the products, parts replaced or consumables used which do not meet the original specifications, any warranty will lapse if the buyer does not leave an appropriate substantiated thesis, that just one of these circumstances caused this defect.

7. No liability shall be accepted for normal wear and tear.

8. In the event that supplementary performance fails within an appropriate period, the buyer may withdraw from the contract or demand a reasonable reduction in price.

9. The foregoing provisions of this section do not apply to the sale of already used goods. Consumers shall have a deadline for the assertion of claims for defects of one year. Entrepreneurs are supplied with used items under exclusion of any warranty claims.

10. If the contractor is available to the customer regarding the use of his product beyond his legal obligations to provide information, he is only liable under § 8 if a special payment has been agreed upon.

### § 8 Limitation of liability

1. Claims for compensation from disruptions in performance due to breaches of duty § 280 para. 1 BGB (German Civil Code) from negligence at conclusion of contract and tort that are not the same due to the breach of a contractual obligation by the contractor, are both against the contractor and against its vicarious agents excluded if the damage was not caused intentionally or by gross negligence. This does not apply to claims for damages from the absence of contractually stipulated suitability, intended to protect the customer against the risk of consequential damages.

2. If another employee of the contractor who is not an institution of the contractor, causes a damage by intentional or grossly negligent conduct, the contractor is liable only to the amount of the agreed net - compensation.

3. Further claims for damages under the German law on liability for defective products (PrdHG), or applicable foreign laws remain as unaffected as a liability for damage to life, limb or health.

### § 9 Retention of title

1. The Contractor shall retain the title to the delivered goods (reserved objects) until all claims, which the Contractor has against the customer for any legal reason, are fulfilled.

2. The purchaser is obliged to immediately inform the contractor in writing about distrains of the reserved objects and to inform the pledgee of the retention of title. The customer is not entitled to sell, give away, to pledge or to assign the reserved objects under retention of title as security, except in the cases of the following paragraphs.

3. If the delivery is made within the purchaser's business operations, the reserved objects may be resold in ordinary course. In such case, the claims of the purchaser against the buyer from the sale are hereby assigned to the contractor. For goods being sold on credit, the customer in turn has to retain title of the reserved objects towards his customer. The rights and claims from this retention of title to his customer, the ordering party hereby assigns to the contractor.



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4. Any handling and processing of the reserved objects by the purchaser is done by him for the contractor without charge. Processing, combining, mixing or mingling of the reserved objects with other goods not belonging to the contractor results in the contractor's co-ownership of the new item in proportion to the factor value of the reserved goods to the other processed goods at the time of processing, combining, mixing or mingling. If the purchaser acquires sole ownership of a new object, the contracting parties agree that the purchaser grants the contractor co-ownership of the new object in relation of factors value of the processed, connected or mixed reserved objects and that these will be provided to the supplier without any compensation for the same.

5. If the reserved objects are installed as fixtures in a real property of a third party by the purchaser or in his name, the purchaser will have already assigned to the contractor any resulting claims for remuneration along with all the ancillary rights and including the right to be granted a legal mortgage with priority over others.

6. If the value for the contractor of existing securities according to the above provisions exceed the value of the contractor's claims, not only temporary, by more than 20%, the contractor is obliged to the appropriate release of securities of his choice upon request of the customer.

7. If the purchaser has breached the contract, especially regarding late payment, the contractor is entitled to take back the delivered goods after a reasonable period of grace and resignation declaration, and the customer is obligated to hand them over. When the purchaser has fulfilled the contract, the contractor must return the items.

### § 10 Terms of payment

1. Unless otherwise agreed, the invoices of the contractor are payable without deduction after invoicing.

2. The Contractor shall require from the customer anticipatory payments amounting to the respective value of the listed up to the date partial invoice services and supplies, including according VAT.

3. For rendered part payments shall be concluded that the services rendered until the date of each partial invoice have been accepted as free of defects by the customer, unless the customer delivers an explicit declaration to the contractor within three weeks after receiving the partial invoice. The contractor informs the customers to this effect of the initial payment in the partial invoice. Regarding the completion of the services of the contractor, the customer must be informed in writing.

4. The final invoice must contain the overall performance including all amendments, and must be submitted within 7 days after completion of the contractor's performance with all necessary documents. The final invoice is fully due without deductions 7 days after receipt by the customer.

5. The contractor expressly reserves his right to reject checks or bills of exchange. The acceptance always results only through fulfilment.

6. If the Contractor becomes aware of circumstances that put the credit-worthiness of the customer in question, in particular does not honor a check or stops his payments, the contractor is entitled to declare that the remaining debt be due, even if he has accepted checks. In addition, in such case, the contractor is entitled to demand advance payments or securities.

7. If the purchaser definitively stops payment and / or requests insolvency proceedings on his assets, the contractor is entitled to withdraw from the still unfulfilled part of the contract.

8. The contractor shall be entitled to set-off payments against older debts despite any other determination of the purchaser. The contractor will notify the customer of this type of settlement. If costs and interest have already accrued, the contractor is entitled to set-off the payment first against the costs, then the interest and finally against the principal performance.

9. If the purchaser defaults on payment, the customer will owe the statutory interest on arrears to the contractor. During the default of the customer, the contractor is entitled to withhold any further performance until the default is finished.

10. The assertion of further damage caused to the contractor by default is reserved. The purchaser retains the right to prove lesser damage in the aforementioned cases, which is then decisive.

11. Set-off to claims being made by the purchaser shall be excluded unless there are counterclaims which are uncontested by the contractor has been finally adjudged.

### § 11 Exclusion of Customer Terms and Conditions

If on the part of the customer also General Terms and Conditions or similar conditions are used, these shall not apply to the contractual relationship unless individual provisions are expressly approved in writing by the contractor. In particular, a provision is excluded in the General Terms and Conditions of the customer, after which the Terms and Conditions of the contractor shall have no validity, also not in part.

### § 12 Applicable Law, Jurisdiction, Severability

1. All disputes regarding these terms and conditions and the entire legal relationship between contractor and purchaser shall be governed by German law. In international cases the UN Convention on Contracts for the International Sale of Goods (CISG), apply.



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2. If the customer is a merchant according to the German Commercial Code, a legal entity under public law or a public law special fund, the place of business of the contractor will be the exclusive jurisdiction for all directly or indirectly arising disputes from the contractual relationship.

3. If any provision of these terms and conditions is or becomes invalid, the validity of all other provisions and agreements between the contractor and the purchaser will not be affected.

As of 25/08/2016