

# General Terms and Conditions (GTC)

## of ROPA Fahrzeug- und Maschinenbau GmbH, Sittelsdorf 24, D-84097 Herrngiersdorf

### Article 1 Scope of Application - Contracting Parties

- These General Terms and Conditions (GTC) are exclusively valid for legal transactions which ROPA Fahrzeug- und Maschinenbau GmbH, Sittelsdorf 24, D-84097 Herrngiersdorf (hereinafter: „the Vendor“) undertakes with entrepreneurs or legal entities under public law or special funds under public law (hereinafter: „the Purchaser“).
- An entrepreneur is a natural or legal person or a partnership with legal capacity who, when concluding a legal transaction, is engaged in the pursuance of a commercial or a self-employed professional activity.
- Any contradicting or conflicting general terms and conditions used by the Purchaser shall be expressly excluded and rejected. We do not recognize any terms and conditions of the Purchaser standing contrary to or deviating from our Terms and Conditions of Sale unless we expressly agreed to their validity in writing.
- These General Terms and Conditions shall also apply to all present and future business dealings with the Purchaser where these involve legal transactions of a similar nature, even where they are not mentioned expressly in subsequent contracts.

### Article 2 Price Quotations and Conclusion of Contract

- Vendor's price quotations are subject to change without notice and non-binding.
- Unless indicated otherwise, Vendor agrees to remain committed to the prices quoted in its price quotations for a period of 30 days from the date of quotation.
- Vendor may accept purchase orders qualifying as offers pursuant to Section 145 of the German Civil Code (BGB) within two (2) weeks, unless an acceptance period was agreed.
- Acceptance notices shall require Vendor's express written confirmation in order to be legally effective.
- Acceptance notices deviating from the Purchaser's price quotation will become binding unless objected to within a two (2) week period.
- Public statements, drawings, illustrations, dimensions, weights, descriptions and other technical data provided by Vendor shall be viewed as approximate values only. They remain non-binding for Vendor unless expressly confirmed in writing.
- Any application-related statements or recommendations made by Vendor in relation to the contract shall not constitute any warranty declarations.
- Vendor is entitled to assign any claims arising from the business relationship.

### Article 3 Prices

- Unless otherwise agreed, all prices quoted by Vendor shall apply ex works plus shipping, packaging and insurance and are quoted in Euro currency.
- All prices are quoted exclusive of the statutory value added tax applicable in Germany on the day of delivery. Statutory VAT will be charged for deliveries to other member states of the European Union in cases where Purchaser's VAT identification number is not available.

### Article 4 Payment - Offset/Right of Retention

- Unless otherwise agreed in the purchase agreement, Vendor's invoices shall due without deduction on the invoice date and shall be payable exclusively Vendor's as specified in the order confirmation / purchase agreement.
- International payments must be free of charges to Vendor. Any fees and expenses incurred shall be borne by Purchaser.
- Vendor has the right to offset payments against older debts first. If expenses have already been incurred or interest is already due, Vendor is entitled to first offset payment against expenses, subsequently against the interest, and finally against the main account.
- Payments will be deemed made only once Vendor is free to dispose of the amount.
- If there is reasonable doubt about Purchaser's solvency or creditworthiness and if Purchaser is unwilling to make an advance payment despite Vendor's request for payment or is unwilling to provide suitable collateral for the payment it is obliged to make, Vendor shall have the right to terminate that part of the contract which it has not yet performed.
- Vendor is entitled to charge €15 for each justified written reminder.
- If Purchaser has defaulted on more than one payment obligation, all of Purchaser's outstanding accounts receivable shall become due for payment immediately.
- In case of Purchaser's default, Vendor, after having granted a reasonable period of grace for Purchaser's payment or provision of collateral, and such period of grace having expired to no avail, may withhold any outstanding deliveries until payment of all outstanding claims, or to withdraw from all contracts to which these Terms and Conditions of Sale apply.
- Vendor reserves the right to claim further damages caused by Purchaser's delay.
- Vendor may for financing purposes assign its trade receivables to third parties, e.g. to a factoring agency.
- Purchaser is not entitled to offset any claims against Vendor's claims unless such claims are undisputed or have been recognized by final and unappealable court ruling.
- Purchaser may only exercise any rights of retention to the extent that Purchaser's counterclaim is based on the same contractual relationship.

### Article 5 Delivery and default of acceptance

- Vendor will not be responsible for any delays in delivery and performance due to force majeure or due to events making delivery significantly more difficult or impossible for Vendor through no fault of its own - including material procurement difficulties that occur subsequently, operational disruptions, strikes, lockouts, lack of means of transport, official orders, etc., even if these events of force majeure affect Vendor's suppliers or their sub-suppliers, not even in the case of bindingly agreed dates and deadlines. In such cases, Vendor may postpone the delivery and/or performance for the duration of the impediment plus a reasonable start-up time, or to cancel the contract wholly or in part in respect of the part of the contract not yet performed. Such extension shall not be granted if the other party was not informed forthwith about the reason for the impediment as soon as it is foreseeable that the contractual delivery deadlines cannot be met. Purchaser's right to claim compensation shall be ruled out in the aforementioned cases if Vendor has satisfied its obligations under this provision.
- If Vendor responsible for the non-observance of bindingly agreed dates and deadlines or if Vendor is in default, Purchaser shall be entitled to compensation for default in the amount of ½ % for each full week of default, but in the aggregate not exceeding 5% of the invoice value of the deliveries and services affected by the default. Any claims over and above the foregoing shall be excluded unless the delay is due to gross negligence or intent on the Vendor's part.
- Delivery of the goods is generally Ex Works (EXW) Vendor's premises.
- Delivery transport and packaging is generally at Purchaser's expense.
- In the absence of a special agreement, Vendor shall be free to choose the carrier and the means of transportation.
- Vendor expressly reserves the right to reasonable partial deliveries and partial performance and to invoice the same to the extent Purchaser can be reasonably expected to accept a partial delivery.
- Purchaser has to right to make deliveries earlier than the delivery date communicated.
- Unless otherwise agreed in the purchase contract, delivery dates generally refer to the handover of the goods to the carrier/delivery agent, and in the event

of default or performance disruptions due to reasons for which Purchaser is responsible, the delivery date shall generally be the date on which the goods are ready for dispatch at the Vendor's premises.

- If, due to Purchaser's fault, acceptance of the goods does not take place on time, Vendor will be entitled to store the goods at Purchaser's expense and/or, after granting a reasonable period of grace, to withdraw from the contract and to sell the goods elsewhere. Any losses suffered by Vendor as a result and any additional expenses incurred shall be borne by Purchaser. Vendor reserves the right to make further and more extensive claims to compensation.

### Article 6 Risk Transfer

- The risk shall pass to Purchaser as soon as Vendor has delivered the goods to the forwarding agent, the carrier, or any other person or institution designated to carry out the shipment, or as soon as the goods have left Vendor's works for the purpose of shipment. This shall also apply if the goods are shipped within the same location or if the goods are transported by Vendor's own personnel and/or means of transport.
- If the goods are ready for shipment and the shipment or acceptance of the goods is delayed for reasons for which Vendor is not responsible, the risk shall pass to Purchaser upon receipt of the notification that the goods are ready for shipment.
- If delivery is delayed due to circumstances for which Purchaser is responsible, the risk of accidental loss or deterioration of the goods shall pass to Purchaser at the time Purchaser defaults on acceptance or on payment.

### Article 7 Defects Liability - Obligation of Inspection and Defect Notification

- The defects liability period for new goods is twelve (12) months from the transfer of risk.
- Used goods are generally sold without liability for material defects.
- Purchaser has a duty to immediately inspect the delivered goods for deviations in quality and quantity and to notify Vendor in writing of any recognizable defects not later than one (1) week from receipt of the goods. If no defects are notified within seven (7) days from the date of the goods' receipt, the goods shall be deemed duly and fully delivered, unless the defect was not recognizable during the inspection. The deadline for defects notification shall be deemed met if the notice of defects was sent in good time.
- The foregoing also applies to damages in transit.
- Defects in a portion of the delivery do not entitle Purchaser to object to the entire delivery.
- Purchaser hereby grants Vendor the right to have alleged defects examined either by itself or by a neutral sworn expert before commencing any repair work. The costs of such expert examination shall be borne by the party who the expert decides is at fault.
- In the event of defects, Vendor has the right, at its discretion, to either rectify the defect or to deliver defect-free replacement goods (replacement delivery). Vendor shall always be granted the opportunity to remedy the defect within a reasonable period of time (substitute performance).
- If, despite all due care, the delivered goods show a defect which was already present at the time of the transfer of risk, Vendor may, at its own discretion, demand that
  - a) the defective part and/or goods be sent back to Vendor for repair and subsequent return free of charge to Purchaser;
  - b) Purchaser keep the defective part and/or goods ready and for Vendor's service technician to come to Vendor's premises after a binding appointment was scheduled in order to carry out the repair;
  - c) the repair be carried either by Purchaser itself or by a third party on Vendor's express instructions and for Vendor to reimburse Purchaser for the costs incurred.
- In case of replacement, Purchaser shall be obliged to return the defective item to Vendor.
- Replaced parts shall become Vendor's property.
- If Purchaser requests that warranty work be carried out at a location specified by Purchaser, Vendor may comply with this request, in which case no charges will be made for parts covered under the warranty although working hours and travel expenses will be charged at Vendor's standard rates.
- The statute performance fails three times, Purchaser may, at its option and without prejudice to any claims for damages, demand either rescission of the contract or reduction of the remuneration.
- No defects liability will be granted for damage for which Purchaser is responsible after the transfer of risk, due to unsuitable or improper use or damage occurring as a result of special external influences not considered under the contract, or due to damage caused by faulty assembly or commissioning by the Purchaser or third parties, or faulty or negligent handling, or damage to the painted surface and the resulting corrosion, or unsuitable operating materials, or chemical or electrochemical or electrical influences, or natural wear and tear.
- The warranty obligations do not cover any damage caused by continued use of the goods despite the occurrence of a defect.
- No claims for defects will be accepted in the case of merely insignificant deviation from the agreed quality, or in the case of merely insignificant impairment of usability, or in the case of natural wear and tear.
- For seasonal machines, the warranty period for new goods will terminate at the end of the first period of use, provided that the machine has been used for harvesting purposes.
- No warranty shall be provided when defects occur because Vendor's assembly, operating or maintenance instructions are not observed, or because modifications are made to the products, and/or because parts are replaced and/or consumables are used that do not comply with the Vendor's original specifications, unless Purchaser party is able to confute the substantial statement that one of the above mentioned circumstances has caused the defect.
- Claims on the part of Purchaser for expenditures necessary for the purpose of subsequent performance, particularly transport, travel, labor, and material costs, shall be excluded if these expenditures increase because the goods delivered by Vendor were subsequently transported to a location other than Purchaser's place of business, unless such transport is consistent with the goods' intended use.
- Only Purchaser shall be entitled to pursue claims against Vendor based on defects and such claims shall not be assignable.
- The foregoing limitations of warranty shall not apply in the case of damages resulting from injury to life, body or health, or for other damages based on an intentional or grossly negligent breach of duty or fraudulent intent on Vendor's part, or for damages covered by liability under mandatory statutes under law, such as the Product Liability Act, or in case a warranty was accepted.

### Section 8 Liability

- Vendor shall be liable in accordance with the statutory provisions insofar as the Purchaser asserts claims for damages based on willful intent or gross negligence, including the intent and gross negligence of its representatives or vicarious agents, or insofar as Vendor culpably breaches a material contractual obligation. Material contractual obligations are obligations the proper fulfillment of which constitutes a condition sine qua non and the fulfillment of which any contractual partner regularly relies and may rely on.
- Unless Vendor is accused of deliberate breach of contract, the liability for damages shall be limited to the foreseeable, typical damage.
- The statute of limitation period for claims for damages shall be twelve (12) months from the transfer of risk.
- Liability for culpable injury to life, limb or health shall remain unaffected; this shall also apply to mandatory liability under the Product Liability Act.

- Unless otherwise stipulated above, any further liability of Vendor shall be excluded.
- To the extent Vendor's liability is excluded or limited, the same shall apply to Vendor's vicarious agents.

### § 9 Retention of Ownership Title

- Vendor retains the title to the delivered goods until full payment of all accounts receivable under the contract. This shall also apply to any claims arising in the future, including claims from contracts concluded at the same time or a later date during an ongoing business relationship, until such time as these claims are settled, even without Vendor's expressed reference to this clause.
- Until passage of ownership to Purchaser, Purchaser shall be obliged to treat the purchased item with due care. In particular, Purchaser has a duty to take out adequate insurance for the purchased item, at its own expense, and insure it against theft, fire and water damage at replacement value. If maintenance and inspection work has to be carried out, Purchaser shall carry out such work in good time at its own expense.
- While ownership has not yet transferred, Purchaser shall point out Vendor's ownership in the event of third-party access to the reserved goods, in particular seizures, and shall notify Vendor immediately in writing if the purchased item is seized or exposed to other interventions by third parties.
- In case the third party is not in a position to reimburse Vendor for the judicial and extra-judicial costs related to a legal action pursuant to Section 771 of the German Code of Civil Procedure (ZPO), Purchaser shall be liable for the loss incurred by Vendor.
- Purchaser is entitled to resell the reserved goods in the ordinary course of business. Purchaser hereby assigns to Vendor the full amount of any receivables to Vendor which may arise out of such resale.
- If reserved goods, i.e., goods subject to reservation of ownership, are resold after processing or after combination with goods which are the exclusive property of Purchaser, Purchaser hereby assigns to Vendor the full amount of any receivables to Vendor which may arise out of such resale. If reserved goods, i.e., goods subject to reservation of ownership, are sold by Purchaser either unprocessed or after processing or combination along with goods which are not the property of Purchaser, Purchaser hereby assigns to the Vendor any claims for receivables arising from the resale in the amount of the value of the reserved goods, together with all ancillary rights, with priority given to our claims. Vendor hereby accepts such assignments.
- Any processing or treatment of the reserved goods shall be carried out by Purchaser on behalf of Vendor without any obligations arising for Vendor as a result thereof. In the event of processing, combining, mixing or blending of the reserved goods with other goods not belonging to Vendor, Vendor shall be entitled to the resulting co-ownership share in the new item in proportion to the value of the reserved goods to the other processed or blended goods at the time of processing, combining, mixing, or blending. If Purchaser acquires sole ownership of the new item, it hereby grants Vendor co-ownership of the new item in proportion to the value of the processed or treated, combined, mixed or blended goods subject to retention of title; Purchaser agrees to hold and safekeep the new item free of charge for Vendor.
- If Purchaser resells the reserved goods, i.e., the goods subject to reservation of ownership, Vendor shall nevertheless remain the owner of such reserved goods until all claims arising from the business relationship have been satisfied in full, and Purchaser hereby assigns to Vendor any claims it may have against its customers for surrender of the reserved goods and all other rights against its customers. Vendor hereby accepts such assignments.
- Purchaser remains authorized to collect the outstanding receivables even after the assignment. Vendor's right to collect the outstanding receivables itself shall remain unaffected. However, Vendor will refrain from collecting the outstanding receivables as long as Purchaser meets its payment obligations from the proceeds collected, is not in default of payment, and for as long as no application for the opening of insolvency proceedings has been filed or as long as no payments have been suspended.
- At Vendor's request, Purchaser undertakes to provide Vendor with the information on the assigned claims required for collection, or forwarding corresponding documents, and for notifying the debtor of the assignment.
- At Purchaser's request, Vendor undertakes to release the collaterals to which it is entitled if their value exceeds the outstanding receivables to be collateralized by more than 20%. The collateral to be released shall be up to the Vendor choice.
- In case of Purchaser's breach of contract, notably default in payment or a significant deterioration of its financial situation - Vendor shall be entitled to withdraw from the contract and to demand surrender of the reserved goods. The costs of surrendering the goods shall be borne by Purchaser.
- Vendor may assert its rights arising from retention of title contrary to Section 449 (2) of the German Civil Code (BGB) without prior rescission of the respective purchase contract. After assertion of the retention of title, Purchaser may no longer derive any right to possession from the concluded contract.

### Article 10 Design Modifications

- Vendor reserves the right to make design modifications.
- If such a design modification is made between the conclusion of the contract and the delivery or handover of the goods or the performance of the service, Purchaser shall not be entitled to rescind the contract if the design change was necessitated by a change in the legal situation and/or the change in other technical standards (DIN, TA, etc.) and/or the design modification is at least technically equivalent.
- Vendor is not obliged to make design modifications even to products already delivered, provided that the products already delivered are not defective.

### Article 11 Surrendered Documents - Confidentiality

- Vendor reserves the property rights and copyrights to all documents provided to Purchaser in connection with the placing of the order, such as calculations, drawings, programs, etc. These documents shall not be disclosed to third parties unless Vendor grants Purchaser its express written consent to disclosure.
- Purchaser is obliged to keep as secret and confidential any and all commercial and technical information or knowledge that is not in the public domain and that becomes known through the business relationship between the Vendor and the Purchaser.

### Article 12 Choice of Law - Language of Contract - Place of Performance - Place of Venue

- The law of the Federal Republic of Germany shall apply, to the exclusion of the provisions on the Uniform UN Sales Law on the Sale of Goods (CISG).
- Contract language shall be German.
- Place of performance shall be Herrngiersdorf.
- If Purchaser is a merchant, a legal entity under public law or a special fund under public law, or has no place of jurisdiction in Germany, the exclusive place of jurisdiction for all disputes arising from this contract shall be the registered office of the Vendor. Vendor is furthermore entitled to sue Purchaser at its general place of jurisdiction.