

# General Terms and Conditions

## Rädlinger Maschinenbau GmbH

### I. Integral to all contracts

1. The General Terms and Conditions described here are integral to all contracts. Any deviating General Terms and Conditions or any other deviating agreements are valid only if explicitly agreed in writing.
2. Our General Terms and Conditions apply also to future contracts.
3. Any contradiction or objection to these General Terms and Conditions by our contractual partner, e.g. as part of an order confirmation or order, is invalid.
4. Any verbal agreements or other agreements that intend to alter the contract or these General Terms and Conditions must be documented in writing.

### II. Conclusion of the contract

1. When an order is placed, the purchaser is bound to this offer for four weeks. Acceptance of the offer of contract by *Rädlinger Maschinenbau GmbH* is initiated either by way of written confirmation or conclusively through performance. Offers of contract made by *Rädlinger Maschinenbau GmbH* are without obligation. This applies also to cost estimates.

### III. Retention of property rights

1. We retain the property rights to the sold/delivered goods until full payment of all of our current and future claims from the contractual relationship and an ongoing business relationship (secured claims).
2. The goods to which property rights are retained may neither be distrained to third parties nor assigned as collateral until full payment of the secured claims. The purchaser must notify us in writing without delay if an application to open bankruptcy proceedings is submitted or third parties obtain claims (e.g. distraint) to the goods owned by us.
3. In the event of actions by the purchaser contrary to the contract, particularly failure to pay the due purchase price, we will be able to withdraw from the contract in accordance with legal requirements and/or demand surrender of the goods on the basis of retained property rights. Demand for surrender does not simultaneously contain a declaration of contract withdrawal; instead, we are able to merely demand surrender of the goods and retain our right to withdraw. If the purchaser does not pay the due purchase price, we may assert these rights only if we have previously and without success granted the purchaser an appropriate grace period for payment or if granting of such a period is legally unnecessary.
4. In the normal course of business, the purchaser is authorized, up to the point of revocation in accordance with (c) below, to dispose of and/or to further process the goods

to which we retain property rights. In this case, the following stipulations apply additionally.

(a) The retention of property rights will extend to the products resulting from the processing, mixing, or connection of our goods at the full value of the products, whereby we are considered manufacturer. If property rights of third parties remain in effect during the processing, mixing, or connection with such goods, we will acquire partial ownership in proportion to the invoice values of the processed, mixed, or connected goods. Otherwise, the same applies to the resulting product(s) as for the goods to which property rights are retained.

(b) The purchaser at this time cedes to us, as collateral, the third-party claims resulting from the sale of the goods or the resulting products in their entirety or in the amount of our proportional joint ownership in accordance with the preceding paragraph. We accept the cession. The purchaser's obligations as stated in Paragraph 2 apply likewise in consideration of the ceded claims.

(c) The purchaser remains empowered, in addition to us, to collect the claim. We commit to not collecting the claim as long as the purchaser fulfills its payment obligations to us, there are no deficits in its ability to pay, and we do not invoke the right to property retention in accordance with Paragraph 3. However, if this is the case, we can demand that the purchaser notify us of the ceded claims and the corresponding debtor, provide all data necessary for collection of the claims, surrender associated documents, and inform the creditors (third parties) of the cession. In addition, in this case we are entitled to retract the purchaser's authority to dispose of and process the goods subject to property retention.

(d) If the marketable value of the collateral exceeds our claims by more than 10% we will, at the request of the purchaser, release collateral according to our choice.

5. Employees of *Rädlinger Maschinenbau GmbH* are authorized to enter the purchaser's premises for the purpose of preserving the property-retention rights or rights that take the place of these.

### IV. Payment methods

1. Unless otherwise agreed, payment must be made within eight days of the invoice date without discounts, strictly net.
2. All payments must be made in EURO, exempt from charges and fees.
3. If the payment term is exceeded, we will be entitled to charge interest in the amount of 4% over the respective base rate in accordance with Section 247 of the German Civil Code (*BGB*).

4. We retain the right to refuse checks or bills of exchange. Checks and rediscountable bills will be accepted only on account of payment. All associated costs will be borne by the customer. Payments will be considered complete only once an irrevocable credit appears on our account.
5. All payments will be applied, without regard for the customer's stipulations, first to interest and expenses and then to principal claims. If multiple claims exist, credits will be applied in accordance with the stipulations of Section 366 Paragraph 2 of *BGB*.
6. In the event of payment default, dishonored or bounced checks or bills of exchange, suspension of payment, initiation of bankruptcy insolvency proceedings, failure to observe payment terms, and/or presence of conditions that can reduce the creditworthiness of the customer, all of our claims, including deferrals, will be due immediately. Additionally, we are entitled to require cash payment in advance for pending deliveries, withdraw from the contract after setting of a suitable grace period, or to demand compensation due to non-fulfillment.

#### V. Prohibition of offsetting

1. It is agreed that offsetting is prohibited. The purchaser retains the option of offsetting against its own claims only to the extent that these are documented by a legally binding title or are undisputed. This applies in the same manner to the exercising of retention rights and the unfulfilled contract objection.

#### VI. Risk assumption and transport

1. If the purchaser explicitly desires transport insurance, *Rädlinger Maschinenbau GmbH* will conclude this at the expense of the purchaser. The same applies to transport orders desired by the purchaser. Transport, insurance, and packaging are not contractually owed.
2. The risk of coincidental destruction or coincidental deterioration of the object of the contract is likewise transferred to the purchaser at the time of dispatch. This transfer of risk will occur regardless of whether
  - transport or assembly services are performed by *Rädlinger Maschinenbau GmbH* or
  - only partial performances are concluded.
3. *Rädlinger Maschinenbau GmbH* is authorized to partial performance to the extent this is not documented as undesired by the purchaser. If the purchaser is in acceptance default or if the shipment cannot be performed for other reasons due to reasons of the purchaser's responsibility, the transfer of risk will take place when the purchaser is notified thereof.
4. The purchaser will bear the expense of returning packaging material.
5. *Rädlinger Maschinenbau GmbH* explicitly retains the right to withdraw from delivery when impediments due to national or international foreign trade regulations or embargoes and/or other sanctions are present. In these cases, the purchaser cannot assert damage claims.

6. Export controls:

The purchaser will strictly observe pertinent export regulations, particularly those of the EU, the Federal Republic of Germany, and the export controls of the United States as they relate to the goods, documentation, and other data.

#### VII. Diagrams and documentation; cooperative actions by the purchaser

1. The purchaser must provide diagrams, documents, drawings, etc. in a timely manner to the extent these are required. If the purchaser's cooperative actions are defective, any and all liability by *Rädlinger Maschinenbau GmbH* for resulting disadvantages will be excluded. The purchaser is solely responsible for timely provision of any necessary construction permits. In addition, the purchaser must provide electrical power in a timely manner. The purchaser is responsible for securing the construction site. All cooperative actions of the purchaser fall within its own area of responsibility and will be at its own cost. If the purchaser does not or does not adequately meet its cooperative obligations, it will be liable for all resulting damages and will additionally indemnify *Rädlinger Maschinenbau GmbH* against the claims of third parties or the interventions of public authorities.

Any other delays to the assembly work for *Rädlinger Maschinenbau GmbH* that are not caused by its own actions will trigger compensatory damages and reimbursement claims to be borne by the purchaser. Any rights of recourse against third parties by the purchaser remain unaffected. Such a delay will be present also if equipment is not formally accepted following completion of assembly or if commissioning cannot occur.

Governmental approvals of all types that are necessary for completion of the contract must be present in a timely manner and be complete. Unimpeded access to the place of installation, potentially also with large vehicles (large trucks, flat-bed trailers, truck-mounted cranes, etc.), must be ensured. Access roads must be arranged in such a way that they can be used even by such large vehicles without the potential for causing damage for third parties. If damages occur nonetheless, the purchaser will indemnify *Rädlinger Maschinenbau GmbH*. The purchaser must provide information about any existing pipes and lines in a timely manner. *Rädlinger Maschinenbau GmbH* will not attach drainpipes to existing sewers or drainage wells, nor will the levelness of the on-site foundations be established.

2. To the extent that *Rädlinger Maschinenbau GmbH* provides diagrams, documents, drawings, these shall be treated confidentially. This principal applies also to any trade secrets that become known to the purchaser.
3. The purchaser must observe manufacturer operating instructions for utilized equipment.

#### VIII. Prices

1. Prices are ex factory, net (without sales tax).

2. The agreed price is binding. Price adjustments by *Rädlinger Maschinenbau GmbH* may be made only if the agreed delivery date is more than one year after contract formation. The price adjustment must be reasonable pursuant to Section 315 Paragraph 1 of the *BGB*. The purchaser can withdraw from the contract following a reasonable price adjustment of more than 20%.

#### **IX. Liability and warranty**

1. The warranty period is 12 months from delivery or 1500 operating hours, whichever occurs first, excepting all parts subject to wear.
2. The warranty obligation of *Rädlinger Maschinenbau GmbH* is limited to remediation. Remediation occurs at *Rädlinger Maschinenbau GmbH*, therefore, the items requiring remediation must be sent to Rädlinger at the expense of the purchaser. Remediation obligations do not exist as long as the purchaser is in arrears of due payments. Additional warranty rights are excluded as long as *Rädlinger Maschinenbau GmbH* is not in default of its remediation obligation. This does not apply if the remediation is not possible or cannot definitely be expected of the purchaser.
3. Independent attempts at remediation by the purchaser will result in loss of all warranty rights to the extent these attempts were not provably harmless.
4. In order to preserve its rights, the purchaser must, without culpable delay upon receipt, carefully inspect the goods for defects. We must be notified in writing of any defects detected during this inspection. This notification must clearly and unambiguously describe the detected defects. We must be notified of any defects that are detectable and detected only later likewise without delay after detection.
5. We are liable for damage compensation – irrespective of legal reason – for intentional and grossly negligent acts within the framework of fault-based liability (*Verschuldenshaftung*). In cases of simple negligence we will be liable according to statutory requirements (e.g. for diligence in our own matters), conditioned upon a milder standard of liability, only for:
  - a) damages resulting in death, injury, or health consequences;
  - b) for damages resulting from not inconsequential violation of a major contractual obligation (obligation, the fulfillment of which enables proper execution of the contract in the first place and on whose fulfillment the contract partner regularly relies and may rely); in this case, however, our liability is limited to compensation of foreseeable, typically appearing damages.
6. The liability limitations resulting from Paragraph 5 apply also to breaches of duty by or to the benefit of persons for whose fault we are held responsible according to statutory requirements. They do not apply to the extent that we maliciously conceal a defect or have assumed a warranty for the qualitative character of the goods nor for the purchaser's claims in accordance with the Product Liability Law (*ProdHaftG*).

7. The regulation of Page 439 Paragraph 3 of the Civil Code will be excluded so the purchaser cannot demand reimbursement of installation and removal costs.

#### **X. Place of jurisdiction**

1. The court responsible for the headquarters of *Rädlinger Maschinenbau GmbH* is the place of jurisdiction.
2. The law of the Federal Republic of Germany, in the entirety of its formal and material sources, is exclusively applicable to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).