



ADDING VALUE

RUF
BRIKETTIERSYSTEME

General Conditions of Sale of Ruf Maschinenbau GmbH & Co.KG As of: 2017

Section 1 General provisions, scope of application

1. The provisions set out below shall only apply if the Buyer is an entrepreneur (§ 14 of the German Civil Code), a legal entity under public law or a special fund under public law.
2. Our Conditions of Sale shall apply exclusively; we do not accept any contrary or deviating provisions of the Buyer unless we have approved their application expressly in writing. Our Conditions of Sale will apply even if we carry out delivery to the Buyer without reservation while aware of the contrary or deviating provisions of the Buyer. They shall also apply to all future business relationships, even if not expressly agreed upon once again.
4. Agreements made between the contracting parties in the individual case will prevail over these Conditions of Sale.
5. Oral ancillary agreements must be confirmed by us in writing to become effective. Statements and notifications of legal relevance which must be made to us by the Buyer after conclusion of the contract must be made in writing. The written form requirement under this contract shall also be deemed fulfilled if the statement is transmitted electronically (e.g. by e-mail) or by fax.

Section 2 Offer

1. Our offers are subject to confirmation and not binding unless expressly identified by us as binding.
2. The Buyer's order constitutes the binding offer to conclude a sales contract, which we can accept within two weeks. The sales contract will only come into existence with our written order confirmation, however, by shipping the purchased item at the latest. The content of the contract will exclusively depend on the order confirmation.

Section 3 Prices, terms of payment

1. All payments must be made in euros and exclusively to us.
2. Our prices are plus legal VAT, which will be shown separately on the invoice at the statutory rate at the invoice date.

3. Unless otherwise stated in the order confirmation, our prices apply “EXW” (Incoterms 2010), exclusive of packaging, which will be charged on a separate basis.
4. Unless otherwise agreed upon, all invoices will be due without deductions within 30 days from the invoice date. A discount shall not be granted. Unless otherwise agreed upon, a payment on account of 30% of the purchase price shall be made when the order is confirmed.
5. For delay or default in payment, default interest will apply amounting to the statutory default interest applicable in each case.
6. If there is a reasonable suspicion of a lack of the financial capacity of the Buyer, we are entitled (a) to request cash in advance or (b) any other terms of payment in lieu of those already agreed and / or (c) a security. If cash in advance or the security has not been provided even after expiry of a reasonable period of time set or if the Buyer refuses to accept the amended terms of payment, we may, without prejudice to further rights, withdraw from individual or all contracts concerned in part or in full. If after conclusion of the contract it becomes obvious that our entitlement to the purchase price is put at risk by the Buyer’s lack of financial capacity, we have a statutory right to refuse performance and - after setting a period, if applicable - to withdraw from the contract (§ 321 *German Civil Code*).
7. A right of lien and set-off based on any counter-claim of the Buyer disputed by us shall not be permissible; in fact, a prerequisite for the assertion of such rights is the existence of claims in a relationship requiring reciprocal performance, undisputed claims and / or claims recognised by declaratory judgment.

Section 4 Time of delivery

1. Delivery dates or periods not expressly agreed upon as binding are deemed exclusively non-binding dates.
2. Delivery periods commence upon clarification of all technical matters and after receipt of all documents required for completing the order, the downpayment agreed, timely provision of materials and fulfilment of the Buyer’s necessary obligations to co-operate. The defence of non-performance of the contract shall remain reserved. With the notice of readiness for despatch, the delivery period shall be deemed complied with even if despatch is impossible without our fault.
3. Unforeseeable, unavoidable events beyond our or our subcontractor’s control and without our fault, such as acts of God, war, natural disasters, industrial disputes , official directives or a lack of means of transport, will release us from our obligation of timely delivery or performance for the duration of such an event. Periods agreed will be extended by the duration of the disruption; the Buyer shall be informed of the occurrence of the event in an appropriate way. If an end of the disruption is unforeseeable or if a disruption lasts for more than two months, each party shall be entitled to withdraw from the contract.

4. We are entitled to partial deliveries or partial performance at all times provided that doing so is reasonable for the Buyer.
5. Goods notified as ready for collection or despatch in accordance with the contract must be accepted by the Buyer immediately. If the Buyer is in default of acceptance or culpably infringes any obligation to co-operate, we shall be entitled to claim compensation for the damage incurred by us. If the despatch is delayed at the request or by fault of the Buyer, we will store the goods at the Buyer's cost and risk. In this case, the notice of readiness will be considered as despatch. We reserve the right to assert further claims.
6. If we are in delay , the Buyer will be entitled - provided that it shows credibly that it has suffered a loss therefrom - to request a compensation of 0.5% for each full week of delay, however, in total not more than 5% of the price for the part of the delivery which could not be put into the intended operation due to the delay.
7. Any claim for compensation of the Buyer exceeding the limits set out in Section 4 Para. 6 shall be excluded in all cases of delayed delivery, also after expiry of a grace period possibly granted to us and subject to Section 9 of these Terms.

Section 5 Provision of material

1. If material is supplied by the Buyer, it must be delivered at Buyer's cost and risk, with an appropriate quantity surcharge of at least 5%, in due time and in perfect condition.
2. If the Buyer fails to comply with these prerequisites, the time of delivery will be extended appropriately. Additional costs incurred, also for interruptions of production, shall be borne by the Buyer except for cases of force majeure.

Section 6 Transfer of risk, packaging

1. The terms of delivery shall be interpreted in accordance with Incoterms 2010. Unless a deviating delivery clause has been agreed, EXW Ruf Brikettiersysteme shall apply.
2. The risk of loss of or damage to the goods shall pass to the Buyer according to the delivery clause agreed in accordance with Incoterms 2010.
3. If the goods are ready for collection and/or despatch and collection and/or despatch is delayed without our fault, the risk shall pass to the Buyer upon receipt of the notice of readiness for despatch by the Buyer. At the Buyer's written request, the goods will be insured at Buyer's cost against storage damage, breakage, transport damage and fire.
4. Loading and despatch will occur uninsured at Buyer's risk. Unless otherwise agreed, we will select packaging and method of despatch to the best of our knowledge. We will seek to cater for the Buyer's preferences and interests concerning method and route of despatch; additional costs caused thereby - also if carriage paid delivery has been agreed - shall be borne by the Buyer.

5. We will not accept returned transport packaging and any other packaging under the packaging ordinance; this shall not apply to pallets. The Buyer shall pay and arrange for the disposal of packaging.

Section 7 Acceptance

An acceptance test will only take place if expressly agreed upon in the sales contract.

Section 8 Liability for defects

1. Claims of the Buyer based on defects will only be accepted if the Buyer examined the goods immediately after receipt and informed us immediately in writing of any damage detected. Hidden defects must be notified to us by the Buyer as soon as they are discovered.
2. Deliveries are deemed free of defects in quality if they have the agreed quality at the time of transfer of risk. Other or further characteristics and properties with respect to the quality expressly agreed for the deliveries shall not be due. Any further warranty for a special purpose or suitability, period of use or durability after the transfer of risk beyond such warranty for this quality agreement shall only be given if expressly agreed in writing; for the rest, the risk of suitability and use shall exclusively be borne by the Buyer. In accordance with this provision, we will be liable for defects in quality as follows:
3. If the delivery presents a defect in quality when the risk is passed, we shall be entitled and obliged to subsequent performance. Subsequent performance will be effected, at our option, either through repair or replacement. Place of performance for subsequent performance shall be our head office.
4. We shall be granted reasonable time and opportunity for subsequent performance. If we are not granted such reasonable time and opportunity, we shall be released from our warranty obligations.
5. If subsequent performance fails, is not effected within a reasonable period of time set by the Buyer, or is refused, the Buyer may, at its option, request a reduction of the purchase price (reduction) or withdraw from the contract. Subsequent performance is deemed failed after the second unsuccessful attempt if nothing else arises in particular from the type of goods, type of defect or from the other circumstances. Claims for damages and reimbursement of expenses shall remain unaffected, provided that they are not limited or excluded under Section 9 of these Terms.
6. We shall not give warranty for defects to the goods delivered which are due to normal wear and tear. If operating and maintenance instructions are not adhered to, changes are made to deliveries and performance or parts are replaced, any warranty will be forfeited unless the Buyer can prove that the damage is not based thereon.

7. In the event of only a minor infringement of the contract, in particular in the event of minor defects, the Buyer shall have no right to withdraw from the contract.
8. § 478 *German Civil Code* shall remain unaffected by the above paragraphs.

Section 9 Limitation on liability

1. In the event of a breach of duty, defective delivery or tort we shall be liable for damages and reimbursement of expenses - subject to further contractual or legal requirements for liability - only in case of intent, gross negligence and slightly negligent infringement of an essential contractual duty (contractual obligation whose infringement would put the attainment of the purpose of the contract at risk). However, our liability in case of a slightly negligent infringement of an essential contractual duty shall be limited to the damage typical of the contract and foreseeable at the time of its conclusion.
2. The exclusions and limitations of liability set out in Section 9 Para. 1 of these Terms shall not apply if a warranty is given for the quality of the object in accordance with § 444 *German Civil Code*, for fraudulent concealment of a defect, damage arising from injury to life, body or health and statutory liability under the German Product Liability Act.
3. For breaches of a pre-contractual obligation or a bar to performance existing already upon conclusion of the contract (§ 311 II, 311 a *German Civil Code*), our liability for damages shall be limited to the loss incurred by relying on a declaration.
4. If our liability is excluded or limited, this shall also apply to the personal liability of our employees, workers, agents, and vicarious agents.
5. The regulations set out in Section 9 and 10 shall not imply a change to the burden of proof.

Section 10 Limitation of action

Contractual claims arising for the Buyer against us on the occasion of or in connection with the delivery of the goods will be subject to a one-year limitation period after delivery of the goods. This shall not apply to our liability for wilful or grossly negligent breaches of duty, damage to life, body or health caused by our fault, and to the limitation of action for legal rights of recourse. In the cases of supplementary performance, the limitation period will not start again.

Section 11 Reservation of title

1. We shall retain title to the object of purchase until receipt of all payments under the contract for delivery. In case of a behaviour of the Buyer in breach of the contract, in particular in case of a delay or default in payment, we shall be entitled to take back the object purchased. By taking back the object purchased we withdraw from the contract. After having taken back the object purchased, we are entitled to sell it again; the proceeds thereof will be set off against the Buyer's liabilities less reasonable utilisation costs.

2. The Buyer is obliged to handle the object purchased with care; in particular, it shall be obliged to take out sufficient insurance for it at its value when new, at its own expense, against the risk of fire, water damage and theft. If maintenance and inspection work is required, the Buyer shall perform such work in due time at its own expense.
3. In the event of attachments or other interventions by third parties, the Buyer shall inform us immediately in writing so that we can take legal action in accordance with § 771 of the German Code of Civil Procedure (*ZPO*). If third parties are unable to compensate us for the judicial and extrajudicial costs of an action pursuant to § 771 *ZPO*, the Buyer will be liable for any loss we incur.
4. The Buyer is entitled to resell the object purchased in the ordinary course of business; the Buyer shall have not entitlement to any other disposal of the goods subject to retention of title, in particular seizure and transfer by way of security.

However, the Buyer already now assigns all claims up to the final invoice amount (including VAT) of our claim to us, which arise for it from the resale against its purchasers or third parties, irrespective of whether the object purchased has been resold without or after being processed. The Buyer shall remain entitled to collect this claim also after the assignment. Our authority to collect the claim ourselves shall remain unaffected thereof. However, we undertake not to collect the claim until the Buyer performs its payment obligations from the proceeds collected, does not get into arrears and, in particular, no application for the opening of a composition or insolvency proceeding has been filed and if there is no suspension of payments. If this is the case, however, we may request that the Buyer discloses the claims assigned and their respective debtors, provides all information required for the collection, surrenders the corresponding documents and communicates the assignment to the debtors (third parties).

5. The processing and alteration of the object purchased by the Buyer shall always be carried out on our behalf. If the object purchased is processed with other objects not belonging to us, we shall acquire co-ownership in the new object in the ratio of the value of the object purchased (final invoice amount including VAT) to the other objects processed at the time of processing. For the rest, the same shall apply to the object purchased resulting through the processing which applies to the object purchased delivered with a reservation of title.
6. If the object purchased is inseparably mixed with other objects not belonging to us, we shall acquire co-ownership in the new object in the ratio of the value of the object purchased (final invoice amount including VAT) to the other objects mixed at the time of mixing. If mixing is done in a way that the Buyer's object is regarded as the main object, it is agreed that the Buyer assigns co-ownership to us on a pro-rata basis. The Buyer will hold the resulting sole property or jointly held property in custody on our behalf.
7. The Buyer shall also assign to us all claims against a third party that accrue to it due to the combination of the object purchased with real property.

8. We undertake to release the securities due to us at the Buyer's request insofar as the realisable value of the securities exceeds the claims to be secured by more than 10%; the selection of the securities to be released will be incumbent on us.
9. For deliveries to other legal systems in which the foregoing regulation regarding the reservation of title does not have the same effect in providing security, the Buyer will make every effort to provide us with the appropriate security interests immediately. The Buyer will co-operate in all measures such as registration, publication, etc., which are necessary and useful for the validity and enforceability of such security interests. Non-compliance with the above-mentioned obligation is deemed a serious breach of contract.

Section 12 Industrial property rights

We will reserve our title, copyright and any other industrial property right to all illustrations, calculations, drawings and other documents. The Buyer shall submit them to third parties or publish them only with our written consent, irrespective of whether we have identified them as confidential. The Buyer undertakes to inform us immediately of any third-party property rights claims with regard to products delivered by us. We are entitled, but not obliged to take care of the legal defence at our own cost and risk.

Section 13 Venue, place of performance

1. Place of performance and venue for deliveries and payments (including actions on deeds, bills of exchange and cheques) and all disputes arising between the Buyer and us from or in connection with this contract shall be our head office. However, we shall be entitled to bring an action against the Buyer also at the Buyer's domicile or place of business.
2. The relationships between the parties to the contract shall exclusively be subject to the laws applicable in the Federal Republic of Germany. The application of the Private International Law and the UN Sales Convention shall be excluded.