



**Maschinenbau GmbH**

**Konstruktion**

**Fertigung**

**Terms of Sale**

## **Contracting parties**

- 1.1 Rosas Maschinenbau GmbH stands for Rosas Maschinenbau GmbH or persons used by Rosas Maschinenbau GmbH for fulfilment of its contractual obligations to customers.
- 1.2 The customer is the purchaser of Rosas Maschinenbau GmbH, including appliances, spare parts and merchandise; said customer may only assign claims against Rosas Maschinenbau GmbH to third parties subject to the consent of Rosas Maschinenbau GmbH.

## **2. Making of contract**

- 2.1 These Terms of Sale apply exclusively, including to all future transactions with the customer; any contrary or deviating terms of the customer only apply if expressly approved by Rosas Maschinenbau GmbH.
- 2.2 Contracts are only made with a written confirmation of order from Rosas Maschinenbau GmbH; any amendments, additions or supplementary arrangements must be recorded in writing.

## **3. Offers**

- 3.1 Prices quoted in offers made by Rosas Maschinenbau GmbH are valid for 2 months; however the right is reserved to make price amendments corresponding to any wage or material cost amendments that may occur or based on any changes in exchange rates.
- 3.2 Supply dates quoted in offers are approximate; offers made by Rosas Maschinenbau GmbH are without commitment.

## **4. Descriptions**

Drawings, representations and data on performance, weight or size are only approximate, provided that Rosas Maschinenbau GmbH does not expressly state them to be binding. Rosas Maschinenbau GmbH reserves property rights and copyrights to such material, which must not be made available to third parties. The right to make technical alterations is also reserved.



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## 5. Supply

5.1 Supply periods begin on dispatch of the confirmation of order by Rosas Maschinenbau GmbH but not before the customer has submitted the documents, licences, approvals etc. for which he is responsible or has made an agreed advance payment. Force majeure or other obstacles for which Rosas Maschinenbau GmbH is not responsible (e.g. labour disputes, public authority intervention, import problems, delays in supply by upstream suppliers, etc.) will lengthen supply periods by the duration of the said obstacle but not for longer than 6 months. Thereafter the customer has the right to rescind the contract in writing. Any arrears in payment on the part of the customer will also lengthen the supply period.

5.2 If an agreed supply date is not met for reasons for which Rosas Maschinenbau GmbH is responsible, the customer can specify in writing a reasonable extension period of no less than 4 weeks and then rescind the contract in writing if said extension period expires without result.

5.3 Partial deliveries are permitted.

5.4 Risk is passed to the customer no later than at the time of dispatch of goods. This also includes partial deliveries. If supply is delayed for reasons for which the customer is responsible, risk shall be passed to the customer as of the day on which goods were ready for shipment. If no other requests are made by the customer, Rosas Maschinenbau GmbH will insure consignments against general transportation risks at the customer's expense.

## 6. Carriage, packaging

If no special arrangements have been made, Rosas Maschinenbau GmbH will specify the means and routes of carriage and the type of packaging at its reasonable discretion.

## 7. Assembly, commissioning

7.1 Assembly and commissioning will be performed by Rosas Maschinenbau GmbH if nothing has been agreed to the contrary; they will begin within 2 weeks of supply, provided that the customer has met all his obligations, including completion or, respectively, provision by the customer of the preparatory work or installations necessary of appropriate for assembly and commission, this to be at the customer's own expense.

7.2 When assembly work has been finished, a test run will be made in the presence of the customer. As soon as test results comply with the performance data provided by Rosas Maschinenbau GmbH, commissioning will be deemed completed and this will be confirmed in writing by the customer.

7.3 Commissioning will also be deemed completed if

- a. the customer refuses to confirm commissioning or
- b. commissioning was not performed for reasons for which the customer was responsible, in particular the customer failed to complete preparatory work in compliance with data supplied by Rosas Maschinenbau GmbH or did not complete the same in due time

## 8. Prices

The agreed prices are subject to value-added tax at the statutory rate and do not include carriage, assembly and test run, unless anything has been agreed to the contrary. If assembly or the test run is delayed due to circumstances for which Rosas Maschinenbau GmbH is not responsible, any additional costs incurred will be payable by the customer.

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## 9. Terms of payment

9.1 If nothing has been agreed to the contrary, the customer shall pay in cash and without any deductions as follows:

- 9.1.1 for appliances and machines with a value of over EUR 8,000.--:  
30 % of the agreed price on receipt of confirmation of the order,  
55 % after supply or notification of readiness for shipment, these percentages being  
proportional in the event of partial deliveries, and the remaining  
15 % after commissioning.
- 9.1.2 for appliances up to EUR 8,000.--, spare parts and merchandise:  
100 % after 30 days.
- 9.1.3 for installation, repairs and other after-sales services:  
100 % immediately on receipt of the account.

9.2 For default in payment, 1% interest will be charged per month or part of a month; the right is reserved for the customer to provide evidence of lower default damages or for Rosas Maschinenbau GmbH to provide evidence of higher default damages.

9.3 The customer is not permitted to retain payments or offset them against any counter-claims of said customer which are disputed by Rosas Maschinenbau GmbH.

## 10. Reservation of ownership

Rosas Maschinenbau GmbH reserves ownership to all supplies until receipt of all payments under the contract. Prior to this time, neither pledging nor assignment as security is permitted. In the event of such action, Rosas Maschinenbau GmbH must be notified by the customer immediately. If the customer breaches the contract, especially by defaulting on payment obligations, Rosas Maschinenbau GmbH is entitled to repossess supplies after giving notification of deficiency and the customer is under obligation to surrender said supplies. Insofar as the customer resells the merchandise in a proper business transaction, he hands over to Rosas Maschinenbau GmbH all claims to the value of the total invoice value, including sales tax which accrue to the customer from the resale to a purchaser or third party, regardless whether the merchandise was resold after or without modification. Rosas Maschinenbau GmbH accepts the claims and is entitled to demand disclosure and request payment as soon as the customer fails to meet the financial obligations. Modification or remodelling of the merchandise or inseparable mixing with other items is always carried out on the behalf of Rosas Maschinenbau GmbH. Where this is the case, Rosas Maschinenbau GmbH acquires joint ownership of the new object in the proportion of the value of the merchandise to the value of the other processed or mixed objects at the time of mixing or processing. The same stipulations apply to the object created as a result of processing as to the merchandise supplied subject to the agreed conditions.



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## 11. Warranty

11.1 For 12 months as of commissioning, Rosas Maschinenbau GmbH gives a warranty that supplies are free from material or assembly faults. If faults or defects occur, including any lack of expressly warranted qualities, Rosas Maschinenbau GmbH shall, at its discretion, either replace or rework the goods. Rosas Maschinenbau GmbH warranty obligations cease to apply if

- a. the customer did not report the fault/defect immediately after it occurred and in any case no later than within 12 months of commissioning or
- b. faults/defects are due to contractual wear and tear or improper use or intervention, especially any such use or intervention which is contrary to the instructions for use and to which Rosas Maschinenbau GmbH did not give its written consent.

Replaced parts become the property of Rosas Maschinenbau GmbH.

11.2 In all cases, warranty claims expire under a statutory time limitation of 6 months as of the time of due reporting but not before expiry of the warranty period.

11.3 The customer must grant Rosas Maschinenbau GmbH the necessary time and opportunity to perform all repair work or make all replacements which Rosas Maschinenbau GmbH considers necessary at its reasonable discretion; if this is not the case, Rosas Maschinenbau GmbH is released from its warranty obligation.

## 12. Liability

12.1 Any damages claims by the customer are ruled out, especially claims to compensation for damage not incurred to the supplied item itself, unless such claims are based on intent or gross negligence or on mandatory statutory provisions. This also applies to claims following rescission of the contract by the customer.

12.2 Damages claims are also ruled out if Rosas Maschinenbau GmbH rescinds a contract because supply has become impossible or financially unreasonable for Rosas Maschinenbau GmbH.

## 13. Applicable law, place of fulfilment and place of jurisdiction

13.1 The law of the Federal Republic of Germany shall apply. If any provision in these terms or in a contract made with the customer is or becomes ineffective, the effectiveness of the rest of the provisions will not be affected.

13.2 The place of fulfilment is D-86420 Diedorf.  
 The place of jurisdiction is Augsburg/Bayern (Germany).

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