



## RSP GmbH General Terms of Sale and Delivery, version 03/2018

### 1. Scope, customer conditions, amendments

1.1. These General Terms of Sale and Delivery (in the following called "Terms") refer to all the quotations and deliveries/performances of RSP GmbH („RSP“). The Terms, in particular, apply to contracts of sale and delivery of movable, new and used objects ("Goods") from RSP. This applies irrespectively of whether RSP purchases goods from suppliers or produces or processes such goods by themselves to match the goods to the customer requirements.

1.2. The Terms apply exclusively to enterprises for the purpose of § 310, section 1 in connection with § 14, Civil Law Code.

1.3. Concluding the very first contract on basis of these Terms, the customer accepts their validity for any future contracts he will enter into with RSP (also oral or by email). As for sale and delivery of movable goods, the Terms apply in their respective, current version as framework agreement for those goods, unless the contract partners agree expressly otherwise in writing. The respective, current version of the Terms can be downloaded from the RSP-homepage ([www.rsp-germany.com](http://www.rsp-germany.com)) and is submitted to the customer on his request.

1.4. Regarding the business relations between RSP and customer, these Terms shall exclusively apply. Deviating, contradictory or additional Business Terms of the customer shall not form part of contract. This will also apply, if RSP, knowing the customer's Business Terms, provides unconditionally the delivery to the customer.

1.5. RSP's employees are not entitled amending the content of the Terms (neither in writing nor orally). Any amendment requires confirmation by the RSP-management in writing. The written confirmation will get into effect only if the authorised representatives named in the respective, actual commercial register entry have signed such confirmation. The customer is obliged to verify the validity of the right of representation.

1.6. Notes on the validity of legal provisions have clarifying significance only. Thus, the legal provisions shall apply even without such clarification if not amended by contract or in these Terms or expressly excluded.

1.7. All the contracts concluded with the customer are subject to the laws of the Federal Republic of Germany. The international purchase right on movable goods (UN-Purchase Right; CISG, Vienna Purchase Right Agreement) is excluded, unless otherwise expressly agreed in writing.

2. Quotation; period of acceptance; condition; scope of delivery and service; guarantee; used and new goods; purchase risk, property of quotation records

2.1. RSP's quotations are unlimited in time; they are considered a request only, directed to the customer submitting his own quotation only. Any quotation or customer order is considered a binding quotation to RSP. The customer exclusively bears both the utilization risk for types of application or sites of application of the goods and/or the risk whether the goods are suitable for the customer's purpose.

2.2. RSP may accept the customer quotation within 4 (four) weeks after receipt of the quotation (period of acceptance). A contract is considered concluded only, when RSP declares acceptance in writing or by rendering the performance or by delivering the goods to the customer. Non-response to the customer quotation does not mean acceptance. As far as RSP accepts the customer's quotation and confirms acceptance in writing (email will do as well), the customer is obliged to immediately double-check the specification

of the scope of delivery. If the customer does not raise objection to the order confirmation, the conditions or state of the goods specified in the order confirmation are approved.

2.3. In order to prove the content of an agreement referring to the condition or state or scope of delivery of the goods, RSP shall submit a written notice, unless section 2.4 stipulates otherwise. Same is true for the acceptance of a guarantee by RSP referring to the condition or durability of the goods. Specifications, illustrations or drawings of the goods published in catalogues, advertisements and other quotation records or in the internet are rough descriptions only, which may deviate in some points. They are binding only if expressly confirmed as binding by RSP. In not, the condition of the owed goods refers to the contract stipulations only.

2.4. RSP expressly reserves the right of changes of design, material, specification and type also after submitting the order confirmation, if such changes do not infringe the customer specification, do not violate the legitimate customer interest or do not endanger the purpose of the contract. The customer shall accept RSP's requests for additional changes, as far as such changes are reasonable for him.

2.5. As far as not otherwise agreed upon, used goods are sold in that state and condition, the goods had at the date of delivery to the customer. The condition of used goods according to contract covers especially typical damage due to age as well as former wear and use so far of the goods (so-called "wear and tear"). Spare parts in the sense of these Terms are used goods as well. Such goods are used spare parts, which have been refurbished by the manufacturer or RSP, but have a shorter residual service time. New goods are items, which have not yet been put into operation (except for test or demonstration or change of site or transport). The year of construction does not play any role with qualifying a piece of goods as new.

### 2.6.

In not otherwise expressly agreed upon by contract, RSP is not obliged to procurement. Therefore, RSP does not accept any risk of procurement. This applies also to those cases, if a piece of goods is owed, whose type is the only decisive criterion. The prove of acceptance of a risk of procurement by RSP presupposes a written notice of RSP according to the stipulation in section 1.5.

2.7. Records such as cost estimations, descriptions of performance and deliveries, samples or other documentations as drawings and schematics, except pure advertising materials, remain property of RSP and must not be transferred to Third Parties. Such documents, insofar no contract has been signed, have to be immediately returned to RSP.

3. Prices; price changes; handling costs for returned goods; customer payments; SEPA-direct debiting; default of payment

3.1. If not otherwise agreed upon, the end price to be paid by the customer, is calculated on basis of the net prices being effective at the date of conclusion of the contract, plus the current legal value added tax. If not otherwise agreed upon, all prices are based ex works. The delivery does not include costs for postage, insurance, packaging, custom clearance and transport. This fits also to additional deliveries desired by the customer. Special packagings (for ex. boxes) with added freight bill remain property of RSP and have to be returned. If the above mentioned items are not returned within 14 days, then the packing material will be invoiced at cost price.

3.2. The customer has to pay, in addition to the price, the legal value added tax being current at the date of delivery. As for deliveries within the European



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Union (EU), the customer informs in time on his exemption from the value added tax and submits his value added tax identification number before the date of delivery agreed upon by contract. In case that the customer fails to inform in time and completely, RSP reserves the right to invoice the currently valid value added tax. As for deliveries to outside the European Union (EU), RSP shall be entitled invoice later the value added tax if the customer fails to submit the certificate of export within one month after the respective shipment.

3.3. RSP issues invoices with the date of the planned day of acceptance of goods or partial delivery or, in case of call by customer has been agreed upon, with the date of readiness for shipment.

3.4. If not otherwise agreed upon, the purchase price (net) is due to payment without deduction at the day of information on readiness for shipment of the delivery object.

3.5. Deduction of discount is not permitted, unless the contract partners agree upon otherwise in writing.

3.6. Any special design or deviating scope of order exceeding EUR 30,000.00 net, especially with all the complete deliveries for suction dredgers or other machines, RSP is authorised issuing a part invoice to the buyer covering a reasonable pre-payment already before start of execution of the order. Such part invoice amounts to 30 % of the order value, unless another amount of value has been fixed by contract for the order. This part invoice will be due to be paid by the customer on receipt of the invoice. RSP is entitled predicating the execution on the receipt of pre-payment. The paid part invoice is cleared with the final one. Instead of pre-payment, RSP is entitled demanding from the customer another payment security such as guarantee of an internationally recognised credit institute or German Federal Bank. As far as the goods shall be shipped before the fulfilment of the payment obligations of the customer according to section 3.4, the amount of the guarantee of payment is determined on basis of the full amount of the contractually agreed-upon price.

3.7. The legal consequences in case of default of payment by the customer shall be governed by the legal provisions of the Civil Law Code, insofar these conditions do not contain deviating regulations. If the customer gets in payment arrears, RSP has the right declare due all payments against the customer after a failed period of grace of one week has elapsed.

3.8. If it becomes apparent after conclusion of the contract that the customer does not seem to be in a position satisfying the payment claim, RSP shall be entitled claiming the rights from § 321, Civil Law Code (Objections Due to Uncertainty). In such case, RSP is entitled as well declaring due all not yet statute-barred demands from the business relation against the customer. This objection due to uncertainty covers also all further pending deliveries and performances resulting from the business relation with the customer.

3.9. The claims of RSP for payment will become statute-barred to 5 (five) years, deviating from § 195, Civil Law Code. As regards the begin of limitation, § 199, Civil Law Code, will come into effect.

3.10. Payments of the customer are always cleared according to § 366, section 2, Civil Law Code. This is also true if the customer takes a repayment decision deviating from the above mentioned one.

3.11. If not otherwise agreed upon by contract, RSP is entitled to collect owed payments from the customer at the due date by direct debiting from the customer's account. The payment is collected by means of SEPA-basis direct debiting. For that purpose, the customer is obliged to grant RSP on his

demand a written SEPA- direct debiting mandate or a written authorization as direct debiting mandate, and to submit to RSP the required details.

3.12. RSP assures that the customer is granted a reasonable period of time (at least 5 (five) work days) between the agreed due date (if no defined due date has been agreed upon) after receipt of the invoice and the collection of the actually owed amount to check the asserted claims as well as for providing sufficient account funds. Further requirements (for ex. regarding the notice of collection of due payments provided by the SEPA-direct debiting) remain unaffected.

3.13. If the customer falls behind with payment of a claim of RSP to full or partial extent, then RSP shall be entitled to (1) cancel without notice a possibly existing financing or deferment agreement and to declare due all claims resulting from it, (2) to retain performances from not yet executed contracts, (3) to assert rights from the reservation of ownership (item 6), and (4) to withdraw from the contract according to section (8).

3.14. In case of default of payment of the customer, RSP shall have the right to interests of arrears amounting to 12% of the amount in arrears. RSP remains entitled to assert further legal claims. The customer may prove that RSP has suffered no damage at all, or a substantially lower damage has occurred only.

3.15. RSP reserves the right to change its prices accordingly, when a period of time longer than 4 (four) months has passed between conclusion of the contract and shipment, and increase or decrease of costs, in particular due to pay settlements, changes of prices for materials and raw materials or other market price changes by involved Third Parties, occur. RSP informs the customer on price changes and gives evidence on the price adjustment factor and the resulting concrete increase, on customer's request. If any price increase amounts to 20% or more over the agreed price, the customer has the right withdrawing from the contract. This right has to be immediately asserted. In case of withdrawal, the legal provisions shall come in to force. If RSP considers demands for special executions or changes of the customer, then such requirements shall be agreed upon in writing. RSP invoices the customer with the resulting extra costs.

3.16. If not otherwise agreed upon in the following, the customer may return goods to RSP and/or replace goods, even if no case of warranty has occurred. RSP shall not be obliged to accept returns, if the value of goods is less than 100.00 € net of the actual list price, or the goods are special parts, which were produced according to customer's requirements, or the (technical) durability of goods has elapsed. The customer may return all the other goods at his expense within a period of time of 2 (two) months after shipment from RSP to the customer (data of the freight bill) and/or replace them. In case of erroneous delivery by RSP, RSP pay the costs of return. RSP has the right to inspect the returned/replaced goods at the customer's expense. In addition, RSP is entitled to charge for such returns a re-stocking fee amounting to 20% of the net sale price ranging from minimum 50.00 € to maximum 500.00 €. The re-stocking fee and inspection costs are deducted from the amount to be reimbursed to the customer.

4. Date of delivery; delay of performance and delivery; right of withdrawal of the customer; non-availability of delivery; premature delivery; part deliveries

4.1. RSP specifies within the frame of the concluded contract a date of delivery according to the production plan existing at the date of contract. This date of delivery is not binding. The real date of delivery may vary from the stated one, in particular if technical details of the goods have to be discussed with the customer, and possible supplies of the customer or Third Parties or other



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assistance of the customer are required. Moreover, the customer shall fulfil at due date and in due manner all his obligations (in particular the required confirmations and permits, supplies of records, vehicles or parts, pre-payments). If such pre-requisites are not met, the real date of delivery will be postponed by at least the duration of delay. Fixed-date bargains shall not be agreed upon.

4.2. Changes of the goods to be delivered, introduced by the customer after conclusion of contract, postpone the date of delivery for the duration of the delay.

4.3. If RSP is hindered in realization of the performance, which RSP has to provide, by reasons RSP is not to be blamed for, the due date shall be postponed until the hindrance of performance has been eliminated. RSP immediately informs the customer on the hindrance of performance and its expected duration. Same is true with activities in the frame of labour disputes, in particular with strike and lockout as well as occurring, unforeseen obstacles, which are out of RSP's control, for ex. delayed deliveries of sub-suppliers, traffic disruptions, breakdowns, lack of material and energy supplies, etc.

4.4. If, apart from the delivery date, a handing-over date is agreed upon, then the handing-over date will be postponed by that period of time the delivery date is postponed or delayed.

4.5. If a handing-over date is agreed upon only, then the clauses of sections 4.1. to 4.4. will come into effect.

4.6. If RSP falls behind the realization of the owed performance, then the customer shall be entitled withdrawing from the contract only, if RSP has unsuccessfully fixed a reasonable deadline for the realization of the performance. In all the other respects, section 5.1. applies. As for claims for damage and reimburses of expenses of the customers due to delay of performance or non-fulfilment by RSP, section 10 will come into force.

4.7. If the performance, which RSP has to provide, is not available, then RSP is entitled withdrawing from the contract, if the non-availability is not only temporary, and RSP is not responsible for that condition. Non-availability exists in particular, if RSP, on basis of a congruent cover transaction that RSP, has concluded for the purpose of fulfilment of its obligation of performance, is neither supplied at all nor properly supplied by its sub-contractors. Same is true if the owed performance RSP cannot deliver from stock or not provide any more. RSP is obliged to immediately inform the customer on the non-availability of the performance and to reimburse at once any already payment received from the customer.

4.8. RSP is entitled to premature deliveries and partial ones. RSP has the right immediately invoicing premature deliveries and partial ones.

5. Acceptance; sales shipment; transport charges; acceptance delay of the customer; non-acceptance; turn of the year and change of the model series

5.1. The goods are accepted at their respective production site in Saalfeld/Saale or Camburg (place of fulfilment) in RSP's discretion, unless otherwise agreed upon by contract. If the customer wishes to get the goods delivered to another destination (sales shipment), then he shall pay the shipping charge. Such charge includes also custom clearances, taxes, fees and other public duties. Accepting the goods, the customer bears the risk of performance and price, unless otherwise agreed upon by contract.

5.2. As far as not agreed upon otherwise, RSP determines both the forwarder and type of shipment in case of sales shipment. With it, RSP does not

assume liability for selection and control of the forwarder. RSP does not necessarily need to choose the cheapest and fastest type of shipment. RSP concludes a transport insurance on customer's request only. As prove of such request, RSP requires the customer's written notice. The charges of the transport insurance shall be paid by the customer.

5.3. In case of sales shipment, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay of delivery including handing-over of the goods to the forwarder, shall be borne by the customer. This holds true as well if goods are shipped in partial deliveries, or RSP organises the shipment or has paid the shipping costs. In case of damage RSP assigns the claims against the insurance company and/or forwarder to the customer. Any claims directed to RSP, which reach beyond the above mentioned ones, are excluded.

5.4. If the customer gets in arrears with the acceptance or RSP falls behind its performance by reasons the customer is responsible for, RSP is authorised claiming compensation for the damage caused to RSP by this (for example, stocking and shipping costs). In particular, RSP is entitled to store the goods by themselves and to demand a lump sum of EUR 100.00 for machines, or a lump sum for other goods of EUR 4.50 per calendar day from the agreed date of handing-over or (if no date of handing-over has been agreed upon) from the date of notice of handing-over of the goods up to their acceptance. The lump sum is owed plus the current legal value added tax. The lump sum plus the owed, current legal value added tax must not exceed the maximum amount of 5 % of the gross purchase price of the goods. The customer may prove that RSP, due to the storage, has suffered no damage at all or a substantially lower damage has occurred only. RSP shall remain entitled to assert further claims in connection with the storage of the goods and to give evidence for higher damage. The lump sum, however, is to be added to the claims.

5.5. If the customer does not fulfil his obligation of acceptance, RSP shall be entitled to indemnification according to legal provisions. Within the frame of indemnification, RSP shall be compensated for the depreciation of a machine, which occurs independently of the real utilization rate at the end of each calendar year (change of year), or by change of the model series or within a model series, as far as RSP suffers damage by this. RSP's claim according to section 5.4. remains unaffected. In such case, the lump sum according to section 5.4., clause 2, is not calculated on basis of the acceptance by the customer, but on basis of the delivery or handing-over of the machine within the frame of another utilization by RSP.

### 6. Extended reservation of property of RSP

6.1. RSP reserves the right of property of the goods until complete payment of the purchase price has been effected. The property of the goods will pass to the customer only then, when all the claims, which exist due to the conclusion of the contract and which RSP will raise in the future from that business deal with the customer, will have been paid. Moreover, all the claims from subsequent deals related to the goods (for ex. payments for spare parts supplies or repairs of the goods) have to be completely paid.

6.2. As soon as all the claims secured by the (extended) reservation of property have been completely paid, the property of the goods will pass; as for any claims raised afterwards, the reservation of property will not apply any more. During the duration of the reservation of property, the customer is obliged to carefully treat, service and maintain the goods ("Reserved goods"). The customer carries out at his expense maintenance and inspections as well as repairs as required according to the manufacturer's specification. In case of need, RSP themselves or another company, which has been approved by RSP or manufacturer, shall be ordered to do such jobs.



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6.3. The customer is obliged to conclude and maintain a machine-related insurance, which particularly includes liability insurance as well as comprehensive insurance, for the reserved goods at his expense, especially covering the risks of fire, theft and damage. On RSP's request, the customer shall give evidence on the conclusion as well as continuation of such insurance at any time desired. All the claims the customer is entitled to at present and in future regarding the reserved goods against the insurance company or any other Third Party, the customer assigns already today to RSP. RSP accepts that assignment.

6.4. The customer is entitled to sale, pledge, chattel mortgage or any other disposition of the reserved goods with RSP's consent only. Same is true for rental of the reserved goods. Such consent may also be generally granted by RSP. Same fits to the export of the reserved goods or their use outside of the Federal Republic of Germany. To prove the consent, a written notice of RSP shall be required (according to section 1.5.).

6.5. On RSP's request, the customer informs about the actual site of the reserved goods. Every change of property or site of the reserved goods is to be immediately and unasked notified to RSP. Same holds true for any change of the customer's company address.

6.6. In case of pledge or other access of Third Parties to the reserved goods, the customer immediately informs both the Third Party on RSP's property and RSP. Insofar the Third Party is not in a position reimbursing the judicial and extra-judicial costs of a successful suit (for ex. third-party proceedings against execution) according to § 771, Civil Procedure, to RSP, then the customer shall these costs reimburse to RSP.

6.7. In that case that the customer processes and/or reconstructs the reserved goods or links them with other objects or sells them, then the following regulations shall apply:

6.7.1. If the reserved goods are processed or reconstructed to create a new object, then this is considered made by order of RSP as manufacturer. RSP acquires co-ownership in proportion of the value of the reserved goods related to the value of the new object.

6.7.2. If the reserved goods are inseparably integrated into other movable objects, which are not property of RSP, to make up a new object, RSP acquires co-ownership of the new object in proportion of the value of the reserved goods related to the other objects. If the reserved goods are integrated into an object of the customer and in this process the customer's object is considered the main component, then the customer assigns already today the co-ownership of the new object in the above mentioned proportion to RSP.

6.7.3. The property or co-ownership of the new object created according to the above mentioned clauses, the customer shall preserve for RSP, in every case. The customer is obliged to provide RSP with all the information required to pursue its rights of property.

6.7.4. The legal relations, which existed with the reserved goods, are passed to the new object. This is particularly true for the customer's expectant right. The regulations in this section 6 apply accordingly to the new object.

6.7.5. The customer assigns already today every claim arising from the resale of the reserved goods or new object to RSP as security at the value of the reserved goods. RSP accepts this assignment. This applies independently of the fact whether the new object is resold with or without (contrarily to the terms of contract) RSP's consent. In each case, the customer is obliged to give information on RSP's request, which RSP needs for assertion of the assigned claims.

6.7.6. In that case that the customer ties the reserved goods with an estate, he shall assign already today all the claims, which will be raised against him due to the connection to Third Parties, at the value of the reserved goods as security. RSP accepts the assignment. Section 6.7.5, clause 3, shall apply accordingly.

6.8. If the realizable value of the securities, which RSP is entitled to, exceeds the secured claims of RSP against the customer by more than 10%, then RSP is obliged on customer's request, releasing securities of corresponding volume at own discretion. This is only true as far as the securities are divisible.

6.9. In case that the customer acts contrarily to the terms of the contract, RSP is entitled within the legal provisions to withdraw from the contract or to demand the handing-over of the reserved goods. This becomes particularly true if the customer does not pay due claims secured by reservation of property and despite determining a reasonable deadline, or violates his obligations in this section 11 despite a fixed deadline or written warning. In any case, there is no need for determination of a deadline or submission of a written warning, if that is not required according to the legal provisions.

RSP has the right to demand the handing-over of the reserved goods even without withdrawal, provided that RSP would be entitled to withdraw from the contract by law or contract. In this case, RSP will buy the reserved goods from the customer after notice at the estimated value determined by expert. The estimating costs shall be paid by the customer. RSP has the right demanding insofar a lump sum of 15% of the net purchase price; the customer, however, may prove that RSP has suffered no damage at all or substantially lower estimating costs occurred only. The purchase price of pending claims of RSP is cleared against the customer. RSP is entitled to issue a respective credit note to the customer.

### 7. Further rights of withdrawal or notice of the customer; restrictions

7.1. Any violation of obligation by RSP, apart from the delivery of defect goods, the customer can withdraw from the contract or cancel the contract only, if RSP is to be blamed for that violation of obligation. A free cancellation right of the customer (in particular according to §§ 651, 649, Civil Law Code) is excluded.

7.2. The customer has not the right to cancel the contract on economic grounds, which the customer has to bear the risk for. In particular, the customer shall not be entitled to withdraw from or to cancel the contract since his economic situation has deteriorated or his order intake or the possibilities of utilization and application of the goods have changed.

7.3. Moreover, the legal pre-requisites and legal consequences resulting from the customer's rights of withdrawal and cancellation remain unaffected, as far as nothing different has been expressly stipulated both in the contract and in these Terms.

7.4. If the contract is not fulfilled by reasons the customer is responsible for or at his instigation, RSP shall be entitled to indemnification according to legal provisions.

### 8. Withdrawal of RSP; claim for losses of utilization and indemnification

8.1. RSP shall be entitled to withdrawal from the contract according to legal provisions. This shall especially apply to those cases, if the customer falls behind of payment demanded by RSP to full or partial extent or violates basic stipulations of the contract or Terms despite of a set deadline or issued written warning.



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8.2. RSP is entitled to withdrawal, if its owed performance has not yet been delivered and it becomes evident after conclusion of the contract that the request for payment of RSP is at risk due to lacking performance of the customer. This holds particularly true, if the customer (before or after conclusion of contract) has made an affidavit in lieu of an oath or he is subject to compulsory execution. Withdrawal in this case is only admissible, if RSP has unsuccessfully set a reasonable deadline to get payment effected by the customer step by step in conformity with RSP's performance or the customer establishes security for payments. Setting a deadline is not necessary, if such deadline would be dispensable as pre-requisite of withdrawal according to law.

8.3. RSP is entitled to withdraw from the contract, if the customer stops his payments or his economic situation considerably deteriorate. Same applies, if an application to open insolvency proceedings on the customer's assets has been filed or dismissed or the insolvency proceedings suspended.

8.4. In case of withdrawal from the contract, RSP is entitled to compensation for use. The amount of compensation for use corresponds to the usual rental fee the customer had to pay if he had rented the goods or a comparable object for the period of time until the return of the goods to RSP. In case of financing of the purchase price by RSP, the compensation of use shall be at least as high as the sum of all the instalments and down payments of both purchase price and financing, which have been owed until the date of return of the goods to RSP according to the stipulations in the purchase or financing contract. The customer may prove that RSP has suffered no damage at all or a substantially lower damage has occurred only.

8.5. RSP's right of assertion of further claims for indemnification or compensation of use remains reserved. Payments of the customer according to section 8.4., however, are to be cleared with further claims of compensation of use.

### 9. Defect claims of the customer; limitation of defect claims

9.1. RSP's liability for defects of quality and title depends is governed by legal provisions, unless otherwise stated in the clauses of section 9. As for defect claims of the customer addressed to indemnification or reimbursement of wasted expenses, the clauses in section 10 shall apply.

9.2. Insofar the condition has not been agreed upon, the existence of a material defect is to be assessed on basis of the legal provisions. As for the condition of used goods, section 2.5. shall apply. Wear and tear or damages due to the former utilization do not back up any material defect. Moreover, damages having a causative connection with the condition that

9.2.1. the goods were erroneously started up or wrongly assembled (in particular, by ignoring the operating manual), or

9.2.2. the goods have been used in wrongly, inappropriately or excessively mode, or

9.2.3. the goods have not been maintained and serviced as they should have been, or

9.2.4. the goods have been modified or inappropriately repaired before by the customer or Third Party without RSP's consent, or

9.2.5. improper spare parts (in particular, non-compatible ones or parts not approved by the manufacturer) have been assembled or attachments mounted, or

9.2.6. inappropriate consumables have been used or the goods have been exposed to damaging conditions (for ex. physical, chemical, electrical), or

9.2.7. previous defects or damages have not been indicated in time, do not justify material defect.

9.3. If the customer is entrepreneur, the defect claims directed against RSP, in addition, are subject to the following restrictions according to section 9.3. Such restrictions, however, do not apply as far as claims are asserted to indemnification and reimbursement of expenses according to section 10 or recourse to claims according to §§ 478, 479, Civil Law Code.

9.3.1. If a Third Party has assumed guarantee for defined properties or condition of the goods, the customer shall be basically entitled to the rights derived from the guarantee in addition and independently of his defect claims against RSP. In case of physical defects or defects in title covered by guarantee, the customer, however, is obliged asserting his claims derived from the guarantee at first against the Third Party. As long as this action has not been taken, RSP may refuse the fulfilment of the customer's defect claims. In this, the customer, however, is not obliged to take legal proceedings against the Third Party. On the contrary, RSP shall be obliged to fulfil the customer's claims, if and as far as the Third Party does not voluntarily meet the guarantee claims raised against him, or the customer's claims are not completely satisfied by this.

9.3.2. RSP does not assume responsibility for public statements of Third Parties (for ex. adverts or advertising messages). Third Party, in this sense, is also the real manufacturer of the goods, as far as RSP has not produced the goods by themselves.

9.3.3. Defect claims are allowed to be raised only, if the customer has not fulfilled his duties for examination and indication of possible defects according to §§ 377, 381, Commercial Law Code. Independently of the above mentioned clauses, defect claims do apply only, if obvious defects are indicated to RSP within 2 (two) weeks after acceptance of goods. Any claim is to be issued in writing. Submission in time shall be sufficient to observe the deadline.

9.3.4. Customer's defect claims for used goods are excluded.

9.3.5. As far as there is a material defect or a defect of title, at first RSP is entitled in his own discretion to rectification by eliminating the defect (rework) or to delivery of a faultless object (replacement). In so far the customer has no right of choice. RSP may predicate the rectification on the payment of the purchase price. In this, the customer, however, is entitled to withhold, under consideration of an existing defect, a proportional amount of the purchase price.

9.3.6. RSP's right of refusal of rectification according to legal provisions remains unaffected. This applies in particular, if rectification is possible at disproportionate expense only.

9.3.7. If RSP is not obliged by contract to assemble the goods, then there is neither any obligation in the frame of spare part delivery to disassemble the defect piece of goods or to assemble a faultless piece of goods or to pay the respective expenses.

9.3.8. The customer shall have the right to reduce the purchase price or withdraw from the contract in his own discretion and to claim indemnification or reimbursement of expenses according to section 10., if the rectification failed or the customer reasonably refuses such rectification, or a reasonable deadline set by the customer to RSP for rectification has unsuccessfully



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elapsed, or such rectification is dispensable according to law. Same is true, if RSP justifiably refuses the rectification or such rectification proves to be impossible to RSP. Minor defect, however, does not justify right of withdrawal.

9.3.9. If the customer requests RSP remedying a defect, and if it turns out that there was in fact no defect at all, then the customer is obliged to reimburse the incurred costs and expenses to RSP.

9.3.10. The place of rectification is RSP's site of production (Saalfeld/Saale or Camburg), unless otherwise agreed upon. RSP does not pay the transport charge, if the defect could have been remedied at the location of the goods (situs of the goods) and the customer has shipped the goods to the site of production.

9.3.11. Any further liability of RSP for material defects or defects in title is excluded. This does not apply, as far as RSP has fraudulently hidden a material defect or defect in title or assumed guarantee for the condition of the object.

9.4. The customer shall not be entitled to eliminate possible defects by himself and claim reimbursement of the expenses for that purpose from RSP.

9.5. As for the limitation of customer's defect claims, the legal provisions apply, unless otherwise agreed upon in this section 9.5.

9.5.1. Defect claims become time-barred after 12 (twelve) months.

9.5.2. Defect claims for parts, which have been built in due to rectification, become time-barred according to the limitation period of the goods.

9.5.3. The stipulations in sections 9.5.1. to 9.5.2. do not apply, if and as far as RSP has fraudulently hidden a defect. In addition, such stipulations do not apply as far as claims of indemnification and reimbursement of expenses according to section 10 or recourse to claims according to §§ 478, 479, Civil Law Code are asserted. The legal limitation period for defect claims related to buildings (§ 438, chapter 1, no. 2, Civil Law Code) or real surrender claims of Third Parties (§ 438, chapter 1, no. 1, Civil Law Code) remain unaffected as well.

10. Customer's claims for indemnification and reimbursement of expenses

10.1. RSP'S liability for indemnification and reimbursement of expenses is governed by this section 10. This applies both to RSP's contractual liability and its tortious liability or other legal arguments.

10.2. RSP shall be held liable for damages caused by deliberate or grossly negligent breach of duty of RSP, its legal representatives or vicarious agents according to legal provisions.

10.3. RSP shall be held liable only for damages caused by grossly negligent breach of duty of RSP, its legal representatives or vicarious agents, if

10.3.1. essential contractual obligations are violated. Such essential contractual obligations are duties, which enable the proper execution of the contract at all, and on whose fulfilment the customer relies and may ordinarily rely. Further essential contractual obligations are duties raising from the nature of the contract and whose breach jeopardises the achievement of the purpose of the contract.

10.3.2. Further essential contractual obligations are duties to respect the rights, legal assets and interests of the customer and if violated, give reason to the customer not to expect RSP adhering to its performance any more.

10.4. Moreover, RSP's liability for simple negligence is excluded. As far as RSP is liable under the stipulations of section 10.3., its liability shall be limited to the amount of the foreseeable damage typical of the contract. If the customer is entrepreneur, this limitation of liability shall apply also to those cases, in which RSP is liable for the violation of obligations by ordinary agents (who are no legal representatives or managers of RSP) according to section 10.2. Compensation for consequential loss is excluded in each case.

10.5. If RSP is liable, but not at fault, the liability shall be limited as well to the foreseeable damage typical for the contract. Section 10.4., clause 3 applies also to this case.

10.6. The above mentioned exclusions and limitations of liability in sections 10.3. to 10.5. do not apply to the following damages and claims:

10.6.1. Damage from injuries of life, body or health;

10.6.2. Customer's claims according to the Product Liability Act;

10.6.3. Claims due to fraudulently hidden defects or procurement guarantee assumed by RSP, and

10.6.4. every other case, in which legal liability provisions are obligatory.

10.7. The provisions in this section 10 also apply to, should the occasion arise, existing, personal liability of bodies, representatives or vicarious agents of RSP.

11. Offsetting; rights to refuse performance and withholding; non-assignment clause

11.1. The customer shall be entitled to declare the offsetting against RSP'S claims only on basis of undisputed or legally established claims only. Rights of refusal of performance or withholding the customer shall assert on basis of undisputed or legally established claims only. This also applies to the commercial right of withholding according to §§ 369 to 372, Commercial Law Code.

11.2. Moreover, rights of withholding can be asserted only, if RSP's claim and customer's counterclaim are based on the same contract relation.

11.3. As mentioned in the individual cases in sections 11.1. to 11.2., the customer's right to offsetting the payment entitlement of RSP regarding a defective or incomplete performance of RSP against legally confirmed counterclaims due to expenses of correction of defects or manufacture or for that reason, asserting the objection of a non-fulfilled contract, remains unaffected. With this, however, the customer may retain a proportional amount of the payment corresponding to defect or incompleteness only.

11.4. The claims against RSP are permitted to be assigned with RSP's consent only. To prove the consent, a written notice of RSP shall be required (according to section 1.5.). In particular, any assignment of the customer's claim for delivery or performance without RSP's consent is excluded.

12. Leasing relation

12.1. If RSP agrees upon a leasing relation, the customer wants to establish with a leasing company, the customer shall be obliged to examine the object of delivery for absence of defects and to submit all the required notices on acceptance and hand-over immediately within 3 (three) days under consideration of the lessor's conditions.



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12.2. In case of the lessor's justified withdrawal for reasons the customer is responsible for, the original contract between customer and RSP will be re-enter into force. Otherwise both the customer and lessor shall be jointly and severally liable.

13. Special and additional provisions for maintenance, service and repairs

13.1. The scope of the above mentioned clauses in sections 1 to 12 basically apply to maintenance, service and repairs ("Performances") as well, unless otherwise stipulated separately in the maintenance, service and repair contract or in the following provisions.

13.2. After the performances have been terminated and the notice of completion immediately sent from RSP, the acceptance shall take place without delay. The results of the acceptance and prove of performance are laid down in a protocol to be signed by both the contractual Parties. If the customer does not participate in the acceptance at the agreed date, the acceptance is considered fulfilled.

13.3. RSP does not assume responsibility and liability for culpable conduct of persons delegated by the customer. Such persons are vicarious agents of the customer.

13.4. When assembly errors occur, which RSP is to be blamed for, the customer is entitled for rectification free-of-charge. Further claims of indemnification are excluded according to the provisions in section 10.

13.5. If deadlines for performances are fixed in binding form, then they shall start only then, when the customer has met all his duties of co-operation. In case RSP is responsible for culpable breach of deadline, the customer is entitled to set a reasonable extension in writing. After the extended deadline has elapsed, the customer has the right of withdrawal from the contract. Claims for compensation of the damage due to delay are excluded, unless they were caused by intent or gross negligence. Later requirements for change desired by the customer are carried out on his expenses as far as possible and reasonable. They extend the deadlines according to their effects.

13.6. Extra expenditures beyond the placed order, in particular for modified performances as well as for other unforeseeable obstacles, the customer is responsible for, are invoiced according to expenditure.

13.7. After acceptance the invoice for such performances becomes due for payment. RSP has the right of withholding the respective contractual object, especially of the suction dredger itself, until the full amount of invoice has been paid.

13.8. Defect claims in the sense of section 13 will be limited to 6 (six) months after acceptance.

14. Written form; severability clause; governing law; court of jurisdiction

14.1. In order to be able proving changes, modifications, supplements or collateral agreements, the written form is compulsory. Same is true for the prove of any agreement deviating from clause 1.

14.2. If single contractual provisions or the Terms are or will become ineffective and impracticable either completely or partially, the other provisions will not be affected. In place of the ineffective and impracticable provisions, the Parties shall agree upon provisions, which come as closely as possible to the economically and lawfully desired success of the provisions in lawful manner. Same holds true if loopholes to be rectified are revealed.

14.3. As for the legal relations between customer and RSP, the laws of the Federal Republic of Germany shall apply. The application of uniform international law, in particular the UN-purchase right (CISG) is excluded.

14.4. National and international court of jurisdiction for any dispute, resulting from and in connection with the contract, is Saalfeld/Saale, as far as the customer is merchant in the sense of the Commercial Law Code, a legal entity of public law or a special fund under public law. This place of jurisdiction is exclusively competent for law suits. RSP has the right to sue the customer at his general place of jurisdiction.