

# General Terms and Conditions of Sale and Delivery Raith GmbH effective from April 1, 2019

## 1. General information

All deliveries, services and quotations of Raith are subject to the following terms and conditions. By placing an order, the Customer accepts these General Terms and Conditions without expressly stating so. Any contractual terms of the Customer that contradict these General Terms and Conditions of Sale and Delivery shall not become part of the contract.

## 2. Quotations and conclusion of contracts

2.1. Our quotations are generally subject to change without notice. They are valid for 90 days from the sending date, unless specified otherwise.

2.2. A sales contract is concluded once we send the Customer an order confirmation.

2.3. If the Customer withdraws from the purchase and/or service contract without legal cause, we are entitled to demand a lump sum of 15% of the contract value as compensation for the damage incurred by us, insofar as we agree to a termination of the contract. This lump sum shall be set to a higher or lower amount if we can prove that a higher damage incurred or the Customer can prove that the damage caused is lower.

## 3. Prices and delivery times

3.1. Our prices are quoted ex works Dortmund, unless agreed otherwise.

3.2. All prices quoted are exclusive of the statutory value added tax applicable on the day of invoicing.

3.3. The delivery time is calculated from the date of order confirmation. The delivery dates stated are always estimated and non-binding, unless special agreements have been made in individual cases. In the event of a delay in delivery, the Customer shall grant us a reasonable extension of the delivery date without any obligation for us to pay damages. An extension of the delivery date without any obligation for us to pay damages shall also apply in cases of force majeure or unforeseen events.

## 4. Delivery, transfer of risk

4.1. Unless agreed otherwise, we shall deliver ex works Dortmund, with transfer of risk at our loading ramp. If other shipping conditions are agreed, the rules of Incoterms 2010 shall apply.

4.2. In the event that we do take care of transport, damages and losses must be reported to us immediately after delivery of the consignment, enclosing a damage report of the transport company, in order to safeguard any claims against the transport insurer.

## 5. Terms of payment

5.1 a) The following terms of payment shall apply to the delivery of goods:

50 % of the order value after order confirmation, 40 % of the order value after delivery free domicile and 30 days after invoice date, 10 % of the order value after written acceptance of the goods and 30 days after acceptance date.

b) The following terms of payment shall apply to software deliveries:

100 % of the order value after delivery and 30 days after date of invoice.

c) The following terms of payment shall apply to services, repairs and the delivery of spare parts:

100 % of the order value after delivery or execution and 14 days after date of invoice.

5.2. If after one reminder (14 or 30 days after the due date) the invoice amounts are not paid, we shall be entitled to charge 9% interest on arrears on top of the base interest rate determined by the European Central Bank, unless the Customer proves that the cost of the damage is lower.

5.3. We are entitled to make partial deliveries and issue corresponding partial invoices within the stated delivery periods as far as this is reasonable for the Customer. In any case, the Customer shall be informed accordingly in good time.

## 6. Setup

6.1. The products are set up, connected and put into operation by our technical staff, unless agreed otherwise.

6.2. Any construction or installation work required shall not be part of the service contract.

6.3. If the Customer does not want us to carry out delivery and setup or if we are prevented from doing so for reasons the customer is responsible for, we may charge a storage interest of 0.5 % per month or part thereof, based on the order value, starting one month after notification, unless the Customer proves that the cost of the damage is less. The storage interest is limited to 5% of the order value, unless higher costs are proven. If at the Customer's request or for reasons the customer is responsible for acceptance does not take place, the remaining amount of the order value (usually 10%) shall be due immediately.

## 7. Liability for defects

7.1 We assume a warranty for our products of 12 months from commissioning, but no longer than 15 months from delivery, for any material and manufacturing defects. The warranty covers - at our discretion - a free repair or replacement, provided that:

a. we are notified within 10 calendar days of the occurrence of an apparent defect and

b. the defect has not been caused by external damage, improper handling or improper attempts at repair.

7.2. During the warranty period, defective devices shall be repaired at our discretion at the place of installation or at our workshop. We shall bear any costs incurred for the repair.

7.3 In the event of unsuccessful rectification or replacement delivery, the Customer reserves the right to withdraw from the purchase contract or to reduce the purchase price proportionately in accordance with the applicable statutory provisions.

7.4. Devices that we deliver but that are produced by another manufacturer are subject to the warranty conditions of the respective manufacturer.

## 8. Software and software license

### 8.1. License agreement:

The Customer shall be granted a limited software license, including license number, and thus the right to use the software supplied. The Customer shall be granted an exclusive and non-transferable right to use software programs, any related documentation and subsequent additions for no other purpose than that of operating the products, for which such software is intended. The Customer shall not acquire any property right in respect of the software programs. The Customer shall not make these programs, documentations and subsequent additions accessible to third parties without our written consent and shall neither copy nor otherwise duplicate them - not even for his own purposes, with the exception of data backup duplicates. The Customer may not rent, lease or lend the software or parts thereof. Furthermore, it is not permitted to copy the written accompanying material. Our software offers optional functions that can only be accessed when purchasing the appropriate license. The Customer may not reverse engineer, modify or disassemble the software. Raith systems may contain parts that are subject to other license agreements. The corresponding documentation is provided with the software.

### 8.2. Warranty:

We guarantee that the software provided to the Customer complies with the program specifications, provided that the software was installed on our systems (PC delivery) in accordance with our guidelines. Software defects are only those defects that can be reproduced at any time. We undertake to eliminate software errors, which considerably impair the contractual use. This is done at our discretion and based on the degree of fault severity by installing a correction package or by providing information on how to eliminate or circumvent the effects of an error. We do not guarantee that the software will run trouble-free and without interruption in all combinations selected by the Customer, but not specified by us. Insofar as programs, software, interfaces, etc. are made available to the Customer as third-party products, we are neither liable nor guarantee that the third-party software operates error-free and without interruption.

## 9. Liability and compensation claims

9.1. Claims for damages shall be excluded, regardless of the legal grounds. When software is supplied, we shall not be liable for the loss or alteration of data caused by program errors, nor shall we be obliged to replace any data, which may become necessary as a result thereof.

9.2. The above exclusion of liability does not apply in the case of

a) intent or gross negligence on our part, on the part of our legal representatives or vicarious agents

b) negligent breaches of essential contractual obligations (cardinal obligations)

c) fraudulent concealment of defects

d) assumption of warranty

e) culpable injury to life, limb or health by us, our legal representatives or vicarious agents

f) mandatory liability in accordance with the Product Liability Act.

In the event of a negligent breach of material contractual obligations (cardinal obligations), the claim shall be limited to the amount of the foreseeable damage typical for this type of contract.

9.3. The regulations on the sale of consumer goods (Sections 474-479 BGB [German Civil Code]) remain unaffected; claims for damages are excluded to the extent of clauses 9.1. and 9.2.

## 10. Retention of title

The products shall remain our property until all claims, that we are entitled to as a result of the business relationship with the Customer, have been fulfilled. Prior to this, pledging, transfer by way of security and resale are prohibited. Any costs of interventions shall be borne by the Purchaser. The processing or transformation of goods subject to retention of title shall always be carried by the Customer on our behalf. We reserve unrestricted ownership rights and copyright exploitation rights to cost estimates, drawings and other documents. They may only be made accessible to third parties with our prior written consent.

## 11. Cancellation guarantee for trainings and workshops

### 11.1. Substitute participant

Rebooking in favor of a substitute participant is possible anytime free of charge..

### 11.2. Rebooking

You can move your booking to another date or change it to a different course/workshop. Please notify us thereof in writing. A handwritten signature is not required. We charge the following processing fees:for rebookings (only possible once):

Rebooking up to 3 weeks before the start of the event: free of charge

Rebooking 3 - 1 weeks before the start of the event: 10% of course/workshop fee, plus VAT.

Rebooking from 1 week before the start of the event: 20% of course/workshop fee, plus VAT.

### **11.3. Cancellation**

You may withdraw from the contract anytime. However, you must to do so in writing. A handwritten signature is not required. Please note that we charge the following processing fees for cancellations:

Cancellation up to 3 weeks before the start of the event: free of charge

Cancellation 3 - 1 weeks before the start of the event: 20% of course/workshop fee, plus VAT.

Cancellation from 1 week before the start of the event: the full course/workshop fee, plus VAT.

The full amount, plus VAT, is also charged in the event that a registered participant does not show up for the course/workshop.

## **12. Place of jurisdiction, applicable law**

12.1. The exclusive place of jurisdiction for business transactions shall be Dortmund, Germany.

12.2. The place of performance for payment shall be Dortmund; the other place of performance shall be the respective place of delivery.

12.3 The legal relations between the parties shall be exclusively subject to German law; the UN Convention on Contracts for the International Sale of Goods does not apply.

## **13. Data protection**

We are entitled to process and store data received within the scope of the business relationship with the Customer (regardless of whether these originate from the Customer himself or from third parties) in compliance with the requirements of the General Data Protection Regulation (GDPR) and the data privacy laws of the Federal Republic of Germany (BDSG neu).

## **14. Severability clause**

Should a provision stipulated in these General Terms and Conditions of Sale and Delivery or a provision within the framework of other agreements be invalid in whole or in part or become

legally invalid, this shall not affect the validity of the remaining provisions. The ineffective provision shall be replaced by another appropriate provision which comes closest in economic terms to what was intended.

## 15. Coming into force

The General Terms and Conditions of Sale and Delivery shall be effective as April 1, 2019.

For current orders that were placed before these conditions came into force, the terms stated in the order confirmation shall apply.