

## 1. Scope

- 1.1. These General Terms and Conditions of Sale apply exclusively to entrepreneurs carrying out commercial or self-employed activities and in respect of legal entities under public law. These terms and conditions apply to all business dealings between MAJA-Maschinenfabrik Hermann Schill GmbH (hereinafter "MAJA") and the customer, even where reference is not explicitly made hereto in subsequent contractual agreements. These terms and conditions also apply mutatis mutandis to contracts for work and services. In the case of contracts for work, acceptance of the work rendered takes the place of acceptance of the supplied goods and in the case of services, the receipt of the service.
- 1.2. Terms of the customer that contradict, supplement or deviate from these General Terms and Conditions of Sale do not become part of the contract, unless MAJA would have consented, in writing, to their application. These General Terms and Conditions of Sale also apply if MAJA makes a delivery to the customer without reservation in full knowledge of terms that contradict, supplement or deviate from these Terms and Conditions.
- 1.3. Agreements that contradict, supplement or deviate from these General Terms and Conditions of Sale and are concluded between MAJA and the Customer in performance of a contractual agreement must be stipulated in the contract. This also applies to the waiver of this written form requirement.
- 1.4. This is without prejudice to any other rights going beyond those set forth in these General Terms and Conditions of Sale to which MAJA is entitled pursuant to the statutory provisions or under other agreements.

## 2. Conclusion of contract

- 2.1. Offers issued by MAJA are non-binding and subject to alteration.
- 2.2. Diagrams, drawings, specifications as to weight, dimension, performance and use, as well as other descriptions of the goods set forth in the documents included with the offer are indicative only, unless they are expressly confirmed to be binding. Such statements do not constitute any agreement or guarantee as to corresponding condition or durability of the goods, unless expressly agreed, in writing, to constitute the same. Customer expectations concerning the goods or the use thereof do not constitute any agreement or guarantee.
- 2.3. MAJA retains all ownership, copyright and other proprietary rights pertaining to all offer documentation. Such documentation is not permitted to be made available to third parties. The customer must at MAJA's request immediately return all offer documentation, provided such documents are no longer required in the course of ordinary business dealings. This applies in the same way to all other documents, drafts, samples, models and mock-ups.
- 2.4. An order is binding only once it has been confirmed by MAJA by written order confirmation within two weeks, or if MAJA fulfils the order, in particular by sending the goods ordered. Order confirmations issued with the help of automated responses that do not contain any signature or name are deemed to constitute written order confirmation. If the order confirmation contains evident errors, typing errors or errors in calculation, it shall not be binding on MAJA.
- 2.5. MAJA's silence in response to offers, orders, requests or other declarations by the customer shall be deemed to constitute consent only where this was previously agreed, in writing.
- 2.6. MAJA shall be entitled to withdraw from the contract, in whole or in part if the customer's financial circumstances deteriorate to a material degree or if a justified application for the initiation of insolvency proceedings or similar proceedings concerning the assets of the customer are rejected due to lack of assets.

## 3. Scope of supply

- 3.1. The written order confirmation issued by MAJA is decisive with respect to the scope of supply. Amendments to the scope of supply made by the customer must be confirmed by MAJA, in writing, in order to be effective. MAJA reserves the right to make changes to the characteristics and/or composition of the goods, provided such changes constitute deviations customary within the industry or if the changes are non-material and the customer can reasonably be expected to accept them.
- 3.2. Partial delivery is permissible unless such partial delivery is not reasonable for the customer, taking account of MAJA's interests.

## 4. Delivery term

- 4.1. Agreements concerning the delivery term (delivery dates and periods) must be made in writing. Delivery dates and periods are non-binding unless they have previously been confirmed by MAJA, in writing, to be binding. If a delivery date is agreed pursuant to Incoterms, Incoterms 2010 apply.
- 4.2. The delivery period begins upon conclusion of the contract, but not before complete delivery of all documents, permits and approvals to be procured by the customer, as well as the clarification of all technical issues and the receipt of any agreed deposit or, in the case of overseas transactions, on receipt of full payment. In the case of a delivery date, the delivery date shall be delayed as appropriate if the customer fails to procure the requisite documents and permits, does not issue approval on time, if technical issues have not been clarified on time or if the agreed deposit and in the case of overseas transactions the entire payment, have not been remitted to MAJA. Compliance with the delivery date is conditional on the timely and proper fulfilment of the customer's other obligations.
- 4.3. The delivery date is deemed to have been met if the goods have left the works by the time the agreed delivery period expires or if MAJA has notified the customer that the goods are ready for collection or dispatch. Compliance with the delivery period is subject to the proper, specifically timely, supply to MAJA, unless MAJA is itself responsible for non-timely supply to it. In the event of non-timely or improper supply to it, MAJA is entitled to withdraw from the agreement. MAJA shall notify the customer without delay if it intends to exercise its right of withdrawal and shall return any advance payment made by the customer.
- 4.4. In the case of delay to delivery, the customer is entitled upon expiry of a reasonable additional period to be stipulated to MAJA as soon as the delivery is delayed, to withdraw from the agreement.

## 5. Cross-border deliveries

- 5.1. In the case of cross-border deliveries, the customer must in good time submit to the competent authorities all declarations necessary for export from Germany and import into the destination country and take all measures, in particular procure the necessary documentation for customs processing, and fulfil all requirements pertaining to export controls or other restrictions on marketability.
- 5.2. Deliveries are conditional upon fulfilment not being precluded by any national or international provisions, in particular export control regulations, as well as embargoes and other sanctions.
- 5.3. Delays caused by export controls shall extend delivery periods accordingly; delivery dates will be postponed as appropriate.

**6. Prices and payment**

- 6.1. In the absence of any agreement to the contrary, all prices are ex works and do not include freight or packaging costs, insurance, statutory taxes, customs charges or other fees. The costs incurred in this connection, in particular the costs of packaging and transportation of the goods, will be invoiced to the customer separately. VAT at the statutory rate is stated separately on the invoice at the rate applicable on the invoice date.
- 6.2. Orders for which fixed prices are not explicitly agreed and for which the delivery period is stipulated as a date at least three months from the conclusion of the contract, will in each case be charged at the MAJA prices applicable on the date of delivery. The entry of the list price applicable on the order date into an order form or order confirmation shall not be deemed to constitute the agreement of a fixed price. The customer is entitled to withdraw from the contract in the event of a price increase of more than 5 %. On request by MAJA, the customer will without delay declare whether it intends to exercise its right of withdrawal.
- 6.3. In the absence of any specific agreement, the delivery price is payable, net, immediately upon delivery and receipt of the invoice. The payment date is deemed to be the date upon which MAJA is able to freely dispose of the delivery price. In the event of default in payment, the customer is required to pay default interest of 9 percentage points above the basic rate of interest p.a. The customer is required to reimburse to MAJA any expenses incurred as a result of the involvement of collection agencies. This is without prejudice to any further claims to which MAJA is entitled.
- 6.4. In derogation from subsection 3, above, unless otherwise agreed in advance and in writing, payment is due prior to delivery in the case of overseas transactions.
- 6.5. Bills of exchange and cheques are accepted in consideration of performance. The debt-discharging effect is fulfilled only if the sum concerned has been irrevocably credited to MAJA. The customer shall bear any costs in connection with payment by bill of exchange or cheque, in particular fees and charges for bills of exchange or cheques.

**7. Transfer of risk**

- 7.1. The risk of the accidental destruction and deterioration passes to the customer as soon as the goods have been handed over to the party commissioned to transport the goods, or leave MAJA's warehouse for the purpose of dispatch. In the case of collection by the customer, the risk passes to the customer upon notification of readiness for collection. Sentence 1 and sentence 2 also apply if the delivery is made in parts or if MAJA has assumed other services, such as the transportation of the goods to the customer.
- 7.2. If the customer is in default of acceptance, MAJA may demand reimbursement of the costs incurred and compensation of any damage suffered, unless the customer is not responsible for the non-acceptance of the goods. MAJA is entitled in particular at the customer's expense to place the goods into storage for the duration of the default of acceptance. The costs of storing the goods shall be charged at a flat rate of 0.5 % of the net invoice value per calendar week commenced. This is without prejudice to any further claims of MAJA. The customer has the right to furnish evidence that MAJA did not incur any costs or that the costs incurred were lower. The same applies if the customer is in breach of other cooperation duties, unless the customer is not responsible for such breach. The risk of the accidental destruction or deterioration of the goods passes to the customer no later than at the time it enters into default of acceptance. MAJA is entitled upon fruitless expiry of a reasonable period to be stipulated by MAJA to otherwise dispose of the goods and to supply to the customer with a reasonably extended delivery deadline..
- 7.3. If delivery is delayed as a result of circumstances beyond MAJA's control, the risk passes to the customer upon notification of readiness for dispatch.
- 7.4. Without prejudice to its rights based on defects, supplied goods must be accepted by the customer even if they have non-material defects.

**8. Claims based on defects**

- 8.1. The customer's claims based on defects are conditional upon the delivered goods being inspected upon receipt, wherever reasonable also by means of test processing or test use, and the notification of any blatant defects to MAJA in text form immediately, but no later than eight days from receipt of the goods, (e.g. by letter, fax or e-mail). Latent defects must be notified to MAJA immediately upon discovery, in text form. The customer must provide a description of the defect in its notification to MAJA in text form. In addition, the customer must observe all requirements, indications, guidelines and conditions set forth in the technical specifications and other documents provided by MAJA concerning individual goods. Claims based on defects for defects resulting from any breach of the foregoing duty are hereby excluded.
- 8.2. In the case of defects in the goods, MAJA is entitled at its discretion to render subsequent performance by rectifying the defect or by supplying defect-free goods. In the case of subsequent performance, MAJA is required to bear all expenses incurred in the course of the subsequent performance, in particular transportation, travel, costs of labour and materials. Personnel costs and costs of materials claimed by the customer in this connection are to be charged at cost price. Replaced goods become the property of MAJA and are to be returned to MAJA.
- 8.3. If MAJA is unwilling or unable to render subsequent performance, the customer may, irrespective of any claims to compensation or reimbursement of expenses, at its discretion withdraw from the contract or reduce the delivery price. The same applies if subsequent performance is unsuccessful, is unreasonable for the customer or for reasons within MAJA's control is delayed for more than a reasonable period of time.
- 8.4. The customer's right to withdraw from the contract is excluded if it is unable to return the service received and this is not attributable to the service being non-returnable by its very nature, being attributable to MAJA or the defect only becoming evident upon processing or remodelling. The right to withdrawal is furthermore excluded if MAJA is not responsible for the defect and if the customer is required in place of return, to reimburse the value.
- 8.5. Claims based on defects are not established with respect to defects attributable to natural wear and tear, incorrect handling, use or storage or to alterations to the goods incorrectly performed by the customer or third parties. The same applies to defects attributable to the customer or which have a different technical cause than the original defect.
- 8.6. Claims of the customer to the reimbursement of expenses instead of damages in place of performance are excluded unless a reasonable third party would also have incurred such expenses.
- 8.7. MAJA shall not accept any guarantees, in particular guarantees pertaining to characteristics or durability, unless otherwise agreed, in writing, in individual cases.
- 8.8. The limitation period for the customer's claims based on defects is one year, unless there is a sale of consumer goods at the end of the supply chain. If in line with their customary use the defective goods are used in construction and cause such construction to be defective, the limitation period is five years. The limitation period of one year also applies to claims in tort based on defects in the goods. The limitation period commences upon delivery of the goods. The one-year limitation period does not apply to the unlimited liability of MAJA for damage based on the breach of a guarantee or damages to life, limb or health, for intentional acts and gross negligence, as well as for product defects or insofar as MAJA assumed a procurement risk.

Any statement by MAJA concerning a claim based on defects asserted by the customer shall not be deemed to construe any entry into negotiations concerning the claim or the circumstances establishing the claim, provided MAJA rejects the claim based on defects in full.

## **9. Liability of MAJA**

- 9.1. MAJA is liable without restriction for damage relating to the breach of a guarantee or damage to life, limb or health. The same applies to intentional acts and gross negligence or insofar as MAJA assumed a procurement risk. MAJA is liable for slight negligence only where material obligations arising from the nature of the contract are breached and such obligations are of particular importance for the attainment of the contractual purpose. In the event of any breach of such obligations, as well as in the case of default and frustration of contract, MAJA's liability is limited to the kind of damage typically foreseeable in this type of agreement. This is without prejudice to its mandatory statutory liability for product defects.
- 9.2. If MAJA's liability is excluded or restricted, this also applies to the personal liability of MAJA's staff, employees, representatives and agents.

## **10. Product liability**

- 10.1. The customer will not alter the goods, specifically, it will not alter or remove existing warnings concerning the risks of improper use of the goods. In the event of any breach of this obligation, the customer shall release MAJA in the internal relationship from any third-party product liability claims, unless the customer is not responsible for the alteration of the goods.
- 10.2. If MAJA has to issue a product recall or a product warning due to a product defect, the customer shall take best efforts to cooperate in such measures as MAJA deems necessary and expedient and will support MAJA in such endeavours, in particular in identifying the necessary customer information. The customer is required to bear the costs of the product recall or warning, unless it is not responsible for the product defect pursuant to product liability law principles. This is without prejudice to any further claims to which MAJA may be entitled.
- 10.3. The customer will without delay and in text form (e.g. by letter, fax or e-mail) notify MAJA of any risks and possible product defects that come to its attention during the use of the goods.

## **11. Force majeure**

- 11.1. If MAJA is prevented from fulfilling its contractual duties by force majeure, in particular if it is unable to deliver the goods, MAJA will for the duration of the impediment and for a reasonable start-up period thereafter be released from its performance duty without being liable to pay the customer compensation. The same applies if MAJA's performance of its duties is unreasonably rendered more difficult or temporarily impossible as a result of unforeseeable circumstances beyond MAJA's control including, in particular, industrial action, official measures, energy shortages, impediments to supply at a downstream supplier or material disruptions to operations. This also applies if these circumstances are experienced by a downstream supplier and if MAJA is already in default. If MAJA is released from its supply obligation, MAJA will return any advance payments rendered by the customer.
- 11.2. MAJA is entitled upon expiry of a reasonable period to withdraw from the contract if such impediment lasts more than four months and MAJA as a result no longer has any interest in fulfilling the contract. On demand by the customer, MAJA will on expiry of the deadline declare whether it intends to exercise its right to withdraw or deliver the goods within a reasonable period.

## **12. Retention of title**

- 12.1. The delivered goods remain the property of MAJA until such time as the delivery price and all claims to which MAJA is entitled against the customer under the business transaction have been satisfied in full. The customer is under an obligation to take due care of the goods that are subject to retention of title for the duration of the retention of title. It is required, in particular, to take out adequate insurance for the goods against fire, water damage and theft at invoice value. At MAJA's request, the customer must furnish MAJA with evidence of the conclusion of such insurance. The customer as per today assigns to MAJA all compensation claims under this insurance. MAJA hereby accepts the assignment. Should such assignment not be permissible, the customer hereby instructs the insurer to make any payments only to MAJA. This is without prejudice to any further claims of MAJA.
- 12.2. The customer is permitted to sell the goods that are subject to retention of title only in the course of ordinary business. The customer is not otherwise entitled to pledge the goods subject to retention of title, to transfer the same as security or to make other dispositions that could jeopardise MAJA's ownership rights. In the case of seizures or other third-party interventions, the customer must notify MAJA immediately in text form (e.g. by letter, fax or e-mail) and provide all necessary information, to notify third parties of MAJA's ownership rights and to cooperate in measures taken by MAJA to protect the goods subject to retention of title. If the third party is unable to reimburse to MAJA the judicial and extra-judicial costs of asserting MAJA's ownership rights, the customer is required to reimburse MAJA for the resulting shortfall, unless the customer is not responsible for the breach of duty.
- 12.3. The customer as per today assigns to MAJA the claims relating to the further sale of the goods, together with all ancillary rights, irrespective of whether the goods that are subject to retention of title are sold unprocessed or following processing. MAJA hereby now accepts this assignment. If assignment is not permissible, the customer hereby instructs the third-party debtor to make any payments only to MAJA. The customer is authorised, such authorisation subject to revocation, to collect the claims assigned to MAJA in its own name on MAJA's behalf. The collected sums are to be transferred to MAJA immediately. MAJA can revoke the customer's collection authorisation, as well as the customer's authorisation to resell the goods for good cause ('aus wichtigem Grund'), in particular if the customer fails to duly fulfil its payment obligations vis-à-vis MAJA, if it enters into default of payment, ceases to make payments or if the customer has submitted an application for the initiation of insolvency proceedings or a similar procedure for the settlement of debts concerning the customer's assets has been rejected due to lack of assets. In the event of global assignment by the customer, the claims assigned to MAJA are to be expressly excluded.
- 12.4. At MAJA's request, the customer is required immediately to notify the third-party debtors of the assignment and to procure for MAJA the information and documentation required for collection.
- 12.5. In the event of any conduct in breach of contract, in particular default in payment on the part of the customer and irrespective of its other rights, MAJA is entitled on expiry of an appropriate additional period to be stipulated by MAJA to withdraw from the contract. The customer must immediately grant MAJA or its agents access to the goods subject to retention of title and to surrender these goods. Following timely announcement to this effect, MAJA may otherwise utilise the goods subject to retention of title to satisfy its due claims against the customer.
- 12.6. MAJA is required on request by the customer to release the security to which it is entitled insofar as, taking account of customary banking valuation charges, the realisable value of the security exceeds the claims of MAJA under the business relationship with the customer by more than 10 %. For the valuation, the invoice value of the goods subject to retention of title and in the case of claims, the nominal value is to be taken as the basis. The detailed selection of the security to be released is incumbent upon MAJA.

12.7. In the case of deliveries to other legal systems in which this retention of title does not have the same security effect as in the Federal Republic of Germany, the customer hereby grants MAJA a corresponding security right. Should further measures be necessary in this connection, the customer will do everything it can in order to grant MAJA such security rights without delay. The customer will cooperate in all measures necessary and expedient for the validity and enforceability of such security rights.

**13. Confidentiality**

- 13.1. The parties are required to maintain strict confidentiality with respect to all information made available to them that is designated confidential or, based on other circumstances, evidently constitutes business or trading secrets and, insofar as this is not necessary for the business dealings, not to record, disclose or exploit such information.
- 13.2. The confidentiality obligation does not apply insofar as the information was demonstrably already known to the recipient prior to the commencement of the contractual relationship or was generally known or publicly accessible prior to the commencement of the contractual dealings without this being attributable to any fault on the part of the recipient. The recipient bears the burden of proof.
- 13.3. The parties will ensure by means of appropriate contractual agreements with their employees and agents, in particular freelance staff and contractors, as well as service providers, that they too refrain from any utilisation, disclosure or unauthorised recording of such business and trading secrets.

**14. Final provisions**

- 14.1. The assignment of the rights and duties of the customer to third parties is possible only with MAJA's prior written consent.
- 14.2. Counterclaims of the customer entitle it to set-off only if these have been conclusively legally determined or are uncontested. The customer can assert a retention right only if its counterclaim is based on the same contractual relationship.
- 14.3. The legal relationship between the customer and MAJA is governed by the laws of the Federal Republic of Germany, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
- 14.4. The exclusive place of jurisdiction for all disputes arising under or in connection with the business dealings between MAJA and the customer is the registered seat of MAJA. MAJA is also permitted to file suit at the customer's registered seat, as well as at any other permissible legal venue. Arbitration clauses are hereby excluded.
- 14.5. Unless otherwise agreed, the place of performance for all services of the customer and MAJA is the registered seat of MAJA.
- 14.6. The language of the contract is German.
- 14.7. Should any provision of these General Terms and Conditions of Sale be invalid or unenforceable, in whole or in part, or if there is an omission in these General Terms and Conditions of Sale, this shall not affect the validity of the remaining provisions. In place of the invalid or unenforceable provision, the valid or enforceable provision is deemed agreed that comes as close as possible to attaining the purpose of the invalid or unenforceable provision. In the event of an omission, the provision is deemed agreed that corresponds to what would have been agreed, in light of the purpose of these General Terms and Conditions of Sale, had the parties considered the matter from the outset.

**15. Special conditions: If the Corona (COVID 19) virus or comparable events:**

- 15.1. results in or contributes to a delay in delivery of Products or any other of Seller's obligations (in example because raw materials, parts or transport means are not available in time at commercially reasonable conditions or travel restrictions are in force or expected), this shall be regarded as force majeure for Seller and Seller shall not be liable for the consequences thereof. If the consequences can be reduced or avoided by using in example other means of transport, another transport route, remote support, local engineers, etc. this shall be discussed with the Customer and if the Customer would like to make use of this then any extra costs shall be for the account of the Customer.
- 15.2. will make the execution of Seller's obligations more expensive (in example because of a period of forced quarantine, waiting time of Seller's engineers, increase of the price of components used in the Products, etc.) Seller is entitled to increase the Contract prices accordingly and this price increase shall be added to the next payment being due or shall be invoiced separately.