



## General Terms and Conditions for deliveries of used machines

### 1. Validity

The following conditions apply to all business relationships with our contractual partners when selling used equipment, machines and facilities. Any deviating purchasing or General Terms and Conditions of the buyer are hereby rejected. They are not valid for us even without express rejection and, even in parts, as well as additional agreements and additions, verbal agreements, promises, assurances and guarantees are only binding for us if we have expressly acknowledged them in writing.

In addition, our General Terms and Conditions for assembly, maintenance, repair and overhaul services in the currently valid version apply, where applicable.

### 2. Offer, conclusion of contract and scope of delivery

Our offers are non-binding. The documents included in the offer, such as illustrations, descriptions, sketches, drawings, as well as information on manufacturers, makes, types or models, years of manufacture, capacities, performance data, dimensions and weights or statements on condition, fixed and loose accessories are only approximate unless they are expressly designated as binding. Information on performance and consumption can only be given approximately anyway due to wear and tear and the different nature of the material to be processed or worked on. They therefore only provide an approximate guide unless a specific performance is expressly guaranteed. We reserve the right to make design changes or improvements - provided they do not entail an additional charge - without notification of changes.

We reserve the right of ownership, copyright and use of cost forecasts, project proposals, drawings, documentation and other documents and information. They may not be made accessible to third parties without our express permission, even after the contractual relationship has been completed or terminated.

The scope of our delivery only includes those items that are expressly listed in our order confirmation or in the contract. We expressly reserve the right to sell machines and systems, even in parts, offered to third parties until a binding agreement is reached. The obligation to deliver the used machine is void without replacement if there is an inadvertent double sale or if the machine has been destroyed or is so damaged that it is no longer suitable for further use or delivery.

For third-party products that are part of our scope of delivery and are designated as such in our order confirmation, our rights and obligations in relation to the buyer are limited by the extent to which we can enforce these rights and obligations against our suppliers of the third-party products and, if necessary, indemnify ourselves.

Foundation and layout drawings and, if applicable, calculations required to obtain the building permit and other official approvals requested by the buyer will be supplied by us, provided they are available and included in the agreed service and relate to it, without guaranteeing that the approving authority will not raise objections, make changes or request completion. The buyer bears the risk of non-issuance of building permits, commercial permits or other official approvals. Any protective measures that may become necessary due to operating conditions must be taken by the buyer. They are not included in the scope of delivery. This also applies to cases in which we carry out the installation and commissioning. Unloading the parts and transporting them from the unloading point to the place of use are the responsibility of the buyer and are carried out at his expense, even if we deliver freight-free or carriage-free.

If machines are not offered ex works or ex warehouse and the location and address are shown or made known to the prospective buyer, the offer recipient undertakes not to pass on the address to third parties and not to purchase the machine shown either personally or through third parties other than through us, and also undertakes to conduct all price and final negotiations only through us. In the event of a breach of this, the offer recipient must reimburse us in full for the lost profit in the amount of the difference between the purchase price shown by us and the offer price.



### 3. Legal basis

Delivery and provision of services shall only take place on the basis of and in the order set out below:

- our written order confirmation
- our written offer
- these General Terms and Conditions for deliveries of used machines
- the legal regulations of the Federal Republic of Germany

The contractual relationships shall be governed exclusively by the law of the Federal Republic of Germany, excluding the conflict of laws and the United Nations (UN) Convention on Contracts for the International Sale of Goods. (CISG).

### 4. Price and payment, VAT

- 4.1. Our prices are in EUR (€) and, unless otherwise agreed, are net, uninsured and duty unpaid, not dismantled and not loaded, ex foundation, location, works or warehouse, excluding freight, postage and packaging, which is calculated at cost price, becomes the property of the customer and is not taken back, plus the VAT applicable at the time of invoicing for deliveries and services subject to sales tax.
- 4.2. Our pricing is based on the cost factors on the day the offer is made. In the event of an increase in the material, wage and/or other costs underlying our calculation that was not foreseeable by us at the time the contract was concluded and which has a lasting impact on our sales price, we reserve the right to adjust the price accordingly.
- 4.3. Unless otherwise agreed, invoices are due for payment immediately, net and without any deductions. The buyer bears the costs of payment transactions. The total amount must be paid in full in cash or, in the case of larger amounts, by wire bank transfer as requested, prior to collection, loading or dismantling.
- 4.4. If the payment deadline or the specified payment dates are exceeded, we are entitled to charge interest on the outstanding amount at a rate of 5% p.a. above the respective discount rate of the Deutsche Bundesbank or the European Central Bank, but at least 8% p.a. We reserve the right to claim further damages for late payment.
- 4.5. If the customer defaults on a payment, we may, after notifying the customer, stop work on all current orders until the full advance payment or appropriate security is received. If the advance payment or security is not made within a reasonable period set by us, we are entitled, subject to further claims for damages, to cancel the current orders and invoice the customer for the costs incurred to date.
- 4.6. The buyer is in default no later than ten days after the due date and receipt of the invoice or receipt of the consideration. If the buyer defaults on a partial payment, we can demand immediate payment of our entire (remaining) claim.
- 4.7. The purchaser is not entitled to a right of retention arising from another contractual relationship. We can avert the purchaser's right of retention arising from the same contractual relationship in accordance with Section 273 of the German Civil Code (BGB), Sections 369 et seq. of the German Commercial Code (HGB) by providing a written, directly enforceable bank guarantee in the value of the right to be secured. The purchaser is only permitted to offset if we do not dispute the counterclaim or if it has been legally established.
- 4.8. If it becomes apparent after the conclusion of the contract that our claim for payment is jeopardized by the client's inability to pay, we are entitled to the rights under Section 321 of the German Civil Code (BGB) (defenses based on uncertainty). We are then entitled to demand payment of all claims from the current business relationship with the client that are not time-barred.
- 4.9. If a customer who is resident outside the EU or their representative collects goods that have been cleared for EU customs or transports or ships them to an EU territory, the customer must provide us with the export certificate required for tax purposes. If this certificate is not provided, the customer must pay the sales tax owed by us on the invoice amount for the delivery made.
- 4.10. For deliveries of goods cleared through EU customs from one EU member state to another EU member state, the customer must inform us of his VAT identification number, under which he carries out the acquisition tax within the EU, before delivery. Otherwise, he must pay the amount of VAT owed by us by law for our deliveries in addition to the agreed purchase price.



## 5. Delivery time

- 5.1. The delivery period begins with the dispatch of our order confirmation, but not before the complete provision of all documents, approvals, software system analyses, clarifications or releases to be provided by the customer and not before receipt of an agreed payment. The dates and deadlines for deliveries specified by the supplier are non-binding unless they have been confirmed by him in writing with a calendar date. Approximate periods or dates are non-binding.
- 5.2. The delivery period is met if the item to be delivered has left the factory or if readiness for dispatch has been communicated before the delivery period expires.
- 5.3. If the customer defaults on fulfilling his contractual obligations (duty to cooperate and/or payment), the agreed time of performance becomes non-binding. In this case, we are entitled to re-determine the time of performance at our reasonable discretion, in particular taking into account our other obligations.
- 5.4. The delivery period shall be extended appropriately in the event of industrial action, in particular strikes and lockouts, as well as in the event of unavoidable obstacles that are beyond the control of the supplier, whether in our factories or those of our subcontractors (e.g. disruptions, delays), insofar as such obstacles can be proven to have a significant impact on the completion or delivery of the purchased item. We are not responsible for the aforementioned circumstances even if they arise during an existing delay.
- 5.5. We are only liable for any damage caused by delay and/or damage due to non-performance if the delay is due to intent or gross negligence on our part or on the part of our senior employees. Otherwise, i.e. if we are only responsible for intent or gross negligence on the part of non-senior employees or subcontractors or if we are only responsible for negligence, the buyer is not entitled to compensation for damage caused by delay or damage due to non-performance. If it turns out that this exclusion of liability disproportionately disadvantages the customer, contrary to the principles of good faith, we will pay damages, but not for production downtime and lost profits of the customer or his customer, or for damage that is not a regular consequence of delay. In addition, this liability for damages is limited to the amount of the net remuneration agreed with us (excluding incidental costs and sales tax).
- 5.6. If completion or dispatch is delayed at the request of the customer or if the delivery is not called off on the agreed date or immediately after notification that the goods are ready for dispatch, they will be stored - if necessary partially finished - at the customer's expense and risk. We are then entitled to charge the customer for the costs of storage and preservation in the amount of the costs incurred, but at least 0.5% of the invoice amount for each month from the day the goods are ready for dispatch. We reserve the right to assert further claims for damages. We are also entitled, after setting and fruitless expiry of a reasonable deadline, to dispose of the delivery item in another way and to deliver to the customer within a reasonably extended deadline.

## 6. Transfer of risk and acceptance

- 6.1. Unless otherwise agreed, the risk shall pass to the customer as soon as the goods have been handed over to a forwarding agent, freight carrier or other person or company designated to carry out the shipment, but at the latest as soon as the goods leave our factory or warehouse or the factories or warehouses of our subcontractors, even if partial deliveries are made, freight-free delivery has been agreed or we have undertaken further services, e.g. shipping costs, delivery, assembly and/or commissioning.
- 6.2. If shipment is delayed due to circumstances for which we are not responsible, the risk shall pass to the customer as soon as the goods are ready for shipment.
- 6.3. In the case of the purchase of non-dismantled, used equipment, machines and facilities, the risk of damage to the purchased items passes to the purchaser upon signing the purchase contract or upon receipt of our order confirmation.
- 6.4. All shipments, including any returns, travel at the customer's risk. At the customer's request, we will insure the shipment at the customer's expense against theft, breakage, transport, fire and water damage, as well as other insurable risks.
- 6.5. Delivered items must be accepted by the Purchaser, even if they have minor defects, without prejudice to his rights under Section 8.
- 6.6. Partial deliveries and partial invoices are permitted.



- 6.7. If the customer is required to accept the delivery item in accordance with the contract or due to legal regulations, acceptance will take place as part of an acceptance test carried out by us. To this end, the customer must make all parts that may be required for the acceptance test available to us in good time before the test.

Acceptance takes place after the functional test has been successfully carried out, which will be recorded if necessary. The functional test is successfully carried out if test programs or procedures developed by us for this purpose do not detect any errors in the ordered item.

If we set up the delivery item in accordance with the agreement, we will carry out the functional test after delivery and installation at the installation site. For all other delivery items, we carry out the functional test as part of the final inspection in our factory or in the factory of our subcontractor. After a successful functional test, the customer must accept the delivery item if it is also otherwise in accordance with the contract. The customer is required to take part in the functional test and to inform us of this in good time.

## 7. Retention of title

- 7.1. We retain full ownership of the delivery item until all our claims against the buyer arising from the business relationship, in particular from the delivery contract, have been settled.
- 7.2. Delivery is subject to extended retention of title. Until then, the buyer may not transfer our ownership rights to third parties without our express consent. Irrespective of the existence of the prohibition on further sale stipulated here, claims against the third-party purchaser shall pass to us in the event of non-compliance.
- 7.3. As a dealer, the purchaser is entitled to resell the delivery item in the normal course of business, either against cash payment or subject to retention of title to the third party purchaser. He is not entitled to make other dispositions, in particular transfer of ownership by way of security or pledging. The purchaser's right to sell is subject to the proviso that he does not agree with the third party purchaser of the reserved goods on a prohibition on assignment with regard to his claims from the resale.
- 7.4. The customer hereby assigns to us all claims arising from the resale of the reserved goods against the buyer or against third parties, regardless of whether the reserved goods are resold with other goods that do not belong to us and whether without or after processing. In the case of resale together with other goods, the customer's claim against the buyer is deemed to be assigned in the amount of the delivery price agreed between us and the customer. In the case of processing of reserved goods with other items that do not belong to us and the resulting co-ownership of the new item, the assignment only covers the share of the claim corresponding to our co-ownership.
- 7.5. If machines, accessories, etc. are connected to land, parts of buildings or other objects in any other way by means of foundations or the like, it is agreed that this connection is only temporary and can only become permanent once the buyer has acquired ownership after fulfilling his obligations.
- 7.6. In the event that the Purchaser's claims from the resale of the delivery item are incorporated into a current account relationship, the Purchaser hereby assigns to us his claims from the current account against his customers, namely in the amount that we have charged him for the resold reserved goods.
- 7.7. The customer is authorized to collect the claims assigned to us until revoked. Our authority to collect the claims ourselves remains unaffected. The customer is obliged, at our request, to immediately notify the debtors in writing of the assignment of the claim, to inform us of the debtors, to provide us with all information required for collection, and to hand over the relevant documents. We are also entitled to notify the debtors of the assignment directly.
- 7.8. If we assert our (remaining) claim in accordance with Section 4.6, the customer must grant us access to the reserved goods, send us a precise list of the reserved goods available, separate the goods for us and, after we have withdrawn from the contract or have unsuccessfully set a grace period in accordance with Section 326 of the German Civil Code (BGB), return them to us.
- 7.9. If our securities consist of several items and their value exceeds the amount of our claim by more than 20%, not only temporarily, we will release individual items of security at our discretion at the request of the customer.
- 7.10. In order to protect our rights, the purchaser must immediately notify us in writing of any third-party access to the items delivered by us or to the claims assigned to us and must support us in every way in the intervention and bear the costs thereof.



- 7.11. During the period of retention of title, the customer must protect the delivery item against dangers and damage, keep it in proper condition and have any necessary repairs and maintenance carried out professionally. The customer must insure the item against fire, water, theft and burglary, with the proviso that the rights arising from the insurance remain with us. If proof of insurance is not provided upon request by the supplier, we are entitled to take out appropriate insurance at the customer's expense.

## 8. Warranty

- 8.1. With the exception of claims due to the lack of guaranteed properties, our warranty extends exclusively to newly manufactured items and services. Unless otherwise agreed, the goods/services will be delivered/provided in the design and quality that is usual for us at the time of delivery/service, taking into account the recognized rules of technology.
- 8.2. We do not guarantee that the static and/or dynamic forces emanating from the delivery item can be absorbed by the installation site or its surroundings without damage. There is also no warranty claim if damage is caused by the following: unsuitable or improper use, incorrect assembly or commissioning by the customer or third parties, failure to observe our operating instructions, incorrect operation and handling, natural wear and tear, incorrect and/or negligent repair and maintenance work by the customer or third parties, defective construction work, unsuitable building ground, unsuitable operating materials, replacement materials, chemical, electronic or electrical influences, unless such influences have their sole or predominant cause in our delivery item.
- 8.3. We sell used equipment, machines and facilities with the accessories included in the condition in which they were purchased at the time of purchase. Every buyer has the right to inspect the items in question in detail before concluding the contract. Subsequent complaints are therefore excluded. The items are therefore purchased as inspected or as could have been inspected, without any claim to completeness or functionality. Acceptance is subject to the exclusion of any liability for defects, warranty and without assurance of special properties; the seller gives no guarantees whatsoever. This exclusion also applies if a purchased item is damaged during inspection, dismantling, loading, transport or use of other equipment such as overhead cranes, forklifts, etc. The buyer is aware that the purchased items are used and may therefore have defects. The purchase price is agreed taking these circumstances into account.
- 8.4. Defects, short deliveries or incorrect deliveries as well as the lack of guaranteed properties must be reported immediately in writing.
- 8.5. In the event of a justified complaint, we will remedy the defects at our discretion by carrying out repairs free of charge, for which we must be given a reasonable opportunity under the circumstances, or by supplying a replacement. If repairs are repeatedly unsuccessful or if the replacement delivery is not free of defects, the customer is entitled to withdraw from the contract (rescission) or to a reduction in price in accordance with Section 472 of the German Civil Code (BGB).  
Sentence 2 shall apply accordingly if the repairs/replacement delivery fail because a required import/export permit or a required visa for technical personnel is not issued, as well as if we are in default with the repairs/replacement delivery and the customer has unsuccessfully granted us a reasonable grace period. Claims for damages due to non-fulfillment or inadequate fulfillment of the right to repair are excluded.
- 8.6. The technical description of the delivery item or our service in our offer and/or our order confirmation does not contain an assurance of properties within the meaning of the warranty law, but rather an indication of technical features, in the absence of which we shall be liable in accordance with point 8.5 in the event of a defect that reduces the suitability of the delivery item for the use stipulated in the contract.
- 8.7. If we have expressly guaranteed properties in an individual contract, we guarantee their presence in accordance with point 8.5. We will only pay compensation for the absence of a guaranteed property if we have guaranteed the property in order to indemnify the customer from the type of damage for which he is seeking compensation (e.g. protection of his other property, protection against disadvantages resulting from the failure to achieve guaranteed performance characteristics for the customer's production, other consequential damages due to defects, etc.). We will only compensate the customer for production downtime and lost profits if we have expressly committed ourselves to this in the contract.
- 8.8. Parts for which replacements have been delivered become our property.
- 8.9. The warranty period is 6 months. In the case of sales contracts, it begins upon transfer of risk and in the case of work and materials contracts, upon acceptance, but no later than 6 months after delivery.





- 8.10. The customer must give us the opportunity to carry out any repairs or replacement deliveries that we reasonably deem necessary without delay; if the customer breaches this obligation, we shall be released from liability for defects.
- 8.11. The warranty obligation also ceases to apply if modifications to the delivery item or repair work are carried out by another party without our consent or if the customer does not immediately comply with our request to return the defective item despite setting a deadline.
- 8.12. The goods in question must be sent to us in appropriate packaging.

## 9. CE- marking, safety approval

The buyer declares that he will comply with the statutory safety regulations when putting the used equipment back into operation and will take all measures resulting from this obligation at his own expense in order to obtain the necessary safety approval or CE marking. He also releases the seller from his liability towards the buyer and is liable for all damage and accidents resulting from non-compliance with this provision.

## 10. Limitation of Liability

Unless otherwise agreed or specified in these terms and conditions for deliveries, the following limitations of our liability apply to all cases of liability, in particular for delay, positive breach of contract, fault arising from the conclusion of the contract, tort:

- In the event of intent on the part of our management, we shall be liable without limitation.
- In the event of gross negligence on the part of our management, in the event of intent and gross negligence on the part of our senior employees and in the event of culpable breach of essential contractual obligations (cardinal obligations), we shall be liable without limitation within the scope of the damage typically foreseeable under the contract.
- In all other cases, we are only liable if and to the extent that this liability is covered by liability and production liability insurance as is customary in the industry, unless the risk is covered by insurance by the customer as is customary in the industry. If we have taken out liability insurance for the risk in question that exceeds the level customary in the industry, our liability is extended to the amount of the insurance cover.

## 11. Impossibility of performance

If it is finally established that we cannot provide the entire service for reasons for which we are responsible, the customer can withdraw from the contract under the conditions of Section 325 of the German Civil Code (BGB). In the case of partial impossibility, the right of withdrawal only exists if the partial service provided is demonstrably of no interest to the customer; otherwise, the customer can demand an appropriate reduction in the purchase price.

## 12. Adjustment of the contract, withdrawal by us

- 12.1. In the event of unforeseen events such as traffic disruptions, operational disruptions (e.g. machine failure), rejects, strikes, lockouts, delays in the delivery of necessary raw and auxiliary materials, the customer and we are obliged to adapt the contract in good faith, in particular with regard to the delivery time. If an adaptation is unreasonable, we can withdraw from the contract in whole or in part. The customer has no right to claim damages due to such a withdrawal. We will inform you immediately of any intention to withdraw.
- 12.2. If the customer withdraws from the contract or refuses to accept the goods without reasons for which we are responsible, we can either claim performance or a flat rate of 15% of the purchase price as lost profit, without having to prove the specific damage.



## **13. Partial invalidity**

The invalidity of a provision or part of a provision of these General Terms and Conditions for Deliveries or other contractual agreements does not result in the invalidity of the remaining provisions or the remaining part of the provision.

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

- 14.1. The place of jurisdiction for all possible disputes is Meinerzhagen. However, we are also entitled to assert our claims at one of the customer's places of jurisdiction.
- 14.2. The law of the Federal Republic of Germany applies. International sales law does not apply.