

**General Terms and Conditions of Trade of
Maschinenfabrik Seydelmann KG, Stuttgart/Aalen**
In the following, Maschinenfabrik Seydelmann KG is referred to as „KG“
and the contracting party as „CP“.

I. General

- (1) These terms and conditions of sale and supply shall only apply for registered businesses, legal entities under public law or public-law special funds within the meaning of § 310 Section 1 of the German Civil Code [BGB].
- (2) The following terms and conditions of trade shall form the exclusive basis for all deliveries and services.
- (3) Any divergent conditions of the CP, which are not expressly accepted by KG, are not binding, even when KG does not expressly object to them.
- (4) The inclusion and interpretation of these terms and conditions of trade as well as the formation and interpretation of legal transactions with the CP shall be governed exclusively by the laws of the Federal Republic of Germany. The application of the Uniform Law on the Formation of Contracts for the International Sale of Goods and the Uniform Law on the International Sale of Goods of the UN Sales Convention shall be excluded.
- (5) The inoperativeness of single provisions of this contract or its components shall not affect the validity of the remaining provisions. Within reasonable limits and in accordance with the requirements of good faith, the parties to the contract are bound to replace an invalid provision by a valid provision equivalent in its economic success unless this causes a substantial alteration of the contents of the contract; the same applies to cases requiring regulation which are not expressly regulated.

II. Place of fulfilment

For all obligations arising directly or indirectly from this contract, including the obligations to pay, is Stuttgart.

III. Quotations, scope of delivery and conclusion of contract

- (1) Offers of contract made by KG are not legally binding
- (2) The purchase order/the order is binding for the CP. The CP's purchase order/order may be accepted by KG within 4 weeks. The acknowledgement of order by KG is solely authoritative for the scope of obligation according to the contract.
- (3) Even after the despatch of the acknowledgement of order, KG reserves the right to make alterations in construction, models, choice of materials, specification and design as far as such alterations disagree with neither the acknowledgement of order or the CP's specification. In addition, the CP shall agree to KG's suggestions for changes as far as they are reasonable.
- (4) Partial deliveries are permitted.
- (5) Documents, such as images, drawings, specifications of dimension and weight and other technical data which are the basis of the quotation or the acknowledgement of order are, as a rule, to be interpreted as approximate values and are not binding for KG.
- (6) If parts and machines are to comply with foreign technical standards and/or legal provisions, the CP must give notice thereof prior to the conclusion of a contract and must provide for all necessary tests, inspection and modifications at his own expense.
- (7) Documentation in German or English is made available free of charge by KG as standard.

IV. Prices and terms of payment

- (1) Payment shall be made without any deduction and free of charges and expenses for KG. The CP bears all charges of discount, collection and financing, cheques and drafts are accepted only on account of performance. If due amounts or accepted bills of exchange are not paid, all unsettled claims become due immediately.
- (2) KG's representatives are not entitled to undertake collection without special authorization.
- (3) Prices are valid ex works (EXW), packaging and other despatch and transport costs excluded, plus the respectively valid value added tax. Packaging is charged at cost and can be returned only to KG, if KG is obliged to do so according to imperative provision of the law.
- (4) If the parties have agreed upon delivery terms exceeding „free domicile“, the CP must provide for facilities for bringing-in, structural requirements, labour, transport and lifting equipment, and ensure the necessary and adequate energy supply as well as the installation and connection of the necessary supplies and services (including all wiring and connections between panel box and machine). Costs incurred for crane trucks and labour and the like, costs incurred due to false information from the CP, and the risk to machine and building incurred by bringing-in and installation are fully borne by the CP. (The transfer of risk is stipulated in Paragraph VII.)
- (5) If more than 4 months shall elapse between the conclusion of the contract and the delivery where KG is not responsible for the delivery delay, KG is entitled to appropriately increase the price in consideration of the increase in the incurred material, labour and other ancillary costs to be borne by KG. If the purchase price is increased by more than 10%, the CP is entitled to withdraw from the contract.
- (6) If KG implements modifications specified by the CP, the additional costs thereby incurred shall be charged to the CP.
- (7) In the event of negligent delay in payment interest amounting to 8% in excess of the respective base lending rate of the German Central Bank shall be charged subject to enforcement of further claims. However, the CP shall be permitted to prove that KG has incurred no damages at all or that damages of KG are considerably less.

V. Set-off and restraint

Shall be excluded unless the set-off claim has not been contested or has become res judicata.

VI. Time of delivery

- (1) The indication of a delivery date is not binding. It shall be made in good faith and is adequately extended if the CP delays or fails to take necessary or agreed measures of cooperation on his part. The same shall apply to measures concerning industrial disputes, strike and lock-out in particular, and the occurrence of unforeseeable obstacles beyond the intentions of KG, i.e. delay in delivery by a supplier, interruption of transport and operations, material and energy shortages etc. Alterations of the goods to be supplied required by the CP also result in an adequate extension of the delivery term.
- (2) In the event of a wrongful delay caused by KG, damages caused by this delay and proven by the CP, shall be limited, after the expiration of an appropriate extension, to 0.5% of the net price of the delayed parts per month, however not exceeding 5% of this net price, except in the case of withdrawal from the contract. Further claims from the CP shall be excluded unless KG has acted intentionally or with gross negligence.
- (3) Compliance with firmly agreed delivery dates is subject to correct and punctual self-supply.

VII. Transfer of risk

The risk shall pass to the CP as soon as KG has placed the goods at CP's disposal ex works and has notified the CP accordingly or has despatched the goods at CP's request.

VIII. Revocation of contract/compensation/default of acceptance

- (1) If the CP withdraws from the contract without any fault on KG's part, the CP must pay to KG flat-rate damages amounting to 30% of the purchase price unless the CP gives evidence that no or only minor damage has been caused to KG. KG reserves the right to enforce a higher damage or the performance of the contract.
- (2) The same applies in case of CP not fulfilling obligations regarding downpayment or any other agreed arrangement for payment or if down-payment is delayed. In such cases KG is entitled to withdraw from the contract and claim compensation from CP as described in item 1, without detriment to further claims.
- (3) In the event of default of acceptance by the CP, 0.5% of the invoice amount per month will be due for payment subject to further claims by KG and regardless of the CP's obligation to accept delivery.

IX. Reservation of title

- (1) KG shall retain title to the goods supplied until payment in full. The reservation of title shall be valid until all claims, including future and qualified ones, incurred from the business connection between CP and KG have been settled.
- (2) The CP is not entitled to pledge or transfer the goods by securing, he is, however, permitted to resell the reserved goods in the ordinary course of business. The CP hereby assigns to KG the claims arising against his business partners as a result; KG accepts the assignment.
- (3) If the goods are processed or revised by the CP, the reservation of title shall apply to the entire new subject. The CP shall acquire co-ownership of the fraction corresponding to the ratio between the value of his goods and the value of the goods supplied by KG.
- (4) If the value of all collaterals furnished to KG sustainably exceeds the present claims by more than 10%, KG shall release collaterals at KG's option on CP's demand.
- (5) KG is entitled to enforce reservation of title without withdrawing from the contract. Should the CP violate the contract, in particular in the case of delayed payment, then KG is entitled to repossess the goods supplied following a reminder, and the CP is obliged to surrender the goods. Neither assertion of reservation of title nor seizure of the goods supplied by KG shall be deemed as withdrawal from the contract.
- (6) Goods to be supplied by the CP in return pass into the ownership of KG by delivery and must be stored free of charge until the day of delivery.
- (7) Application for the opening of insolvency proceeding by the CP shall entitle KG to withdraw from the contract and to demand immediate surrender of the goods supplied.

X. Warranty/liability for defects

- (1) Warranty claims shall become time-barred 12 months after the goods supplied by KG have been delivered to CP. Are excluded thereof defect claims from users as well as compensation claims for injury to life, limb or health, and/or compensation claims for gross negligence or deliberate damage caused by KG. The above provision shall not apply in so far as the law in accordance with § 438 Section 1 No 2 BGB (Construction and things for construction), § 479 Section 1 BGB (Right of recourse) and § 634a Section 1 BGB (Defects or deficiencies in construction) prescribe longer periods and these periods are compulsory. Our consent is to be obtained before returning goods.
- (2) Is the purchase a business transaction for both partners, the CP must check the goods immediately after receipt, as far as this is advisable in the ordinary course of business, and, if a defect is discovered, must give notice to KG without delay. If the CP fails to give notice of a defect, the goods shall be considered accepted unless the defect could not be discovered during the check. Apart from this, Commercial Code, Sections 377 thereafter shall apply.
- (3) At KG's option warranty claims within the statutory period of warranty shall initially cover subsequent performance consisting of either rectification of defects or subsequent delivery. Should subsequent be unsuccessful, and only after unsuccessful subsequent performance, the CP shall be justified in taking the option of either demanding a reduction in price or revocation of the contract. All other warranty rights are excluded.
- (4) The component which, within the warranty period, has become unusable as a result of circumstances for which KG is responsible must be sent to KG at the CP's expense. The replacement will be delivered by KG in accordance with the same delivery terms as of the original delivery.
- (5) Further claims of the CP, particularly regarding consequential damage caused by defects, are excluded, unless they result from the lack of warranted characteristics. This does neither apply to damage to life, limb or health nor to intent, gross carelessness or breach of a duty by KG, the very fulfilment of which makes it possible to carry out the contract properly in the first place and upon compliance with which the CP may normally rely (Important contractual duties). Production liability claims on KG shall remain unaffected by this condition.
- (6) No guarantee shall be assumed in particular in the case of unsuitable or improper usage, in particular in the case of failure to observe the machine documentation, defective assembly or commissioning by the CP or third parties, natural wear and tear (e.g. spare parts for cutting, like knives, hole plates, cutting blades, etc. and seals), defective or careless handling, maintenance not in accordance with rules, unsuitable equipment, defective preliminary work (e.g. construction) by the CP or third parties, chemical, electrochemical or electrical influences, insofar as not within the sphere of responsibility of KG.
- (7) Warranty abroad is subject to the decision of KG, unless installation and commissioning of the goods is made by KG or in case this conflicts with imperative provisions of the law.

XI. Liability

Liability by KG shall be excluded in cases of only careless breach of obligation by KG, its legal representative or by KG's vicarious agents. This shall not apply to damage to life, limb or health or to intent, gross carelessness, breach of a duty, the very fulfilment of which makes it possible to carry out the contract properly in the first place and upon compliance with which the CP may normally rely (Important contractual duties) or in the absence of qualities warranted in writing.

XII. Court of jurisdiction

The place of jurisdiction for all disputes arising from the contractual relationship is Stuttgart. KG is also entitled to take legal action before a court having jurisdiction for the principal place of business or a branch office of CP.