

General Terms and Conditions of C. Christopel Maschinenhandel & Vermittlungen GmbH

I. Area of validity and conclusion of contract

1. Our Terms and Conditions apply exclusively.

a) All commercial transactions, including future ones, as well as deliveries and services, ancillary services and offers, are conducted exclusively on the basis of the terms of delivery and payment below. Our conditions of sale apply only to companies as defined in § 14 section 1 of the German Civil Code (BGB), as well as to entities of public law or special funds under public law. In addition to these General Terms and Conditions, the General Terms and Conditions and conditions of sale and delivery of the manufacturer commissioned with delivery apply, insofar as they do not contradict our Terms and Conditions. These conditions are available for viewing in the shop areas and are presented to the purchaser on request.

b) Deviations from the General Terms and Conditions of the ordering party are expressly rejected. They only become an inherent part of the contract when their validity is confirmed by us expressly and in writing for each individual contract. No response from our side to letters of confirmation from the ordering party who wishes to make their terms and conditions an inherent part of the contract does not imply the incorporation of the terms and conditions of the ordering party, but is to be regarded as a rejection.

A conclusion of contract shall not fail to occur as a result of contradictory general terms and conditions.

Each specification stipulated in these conditions is valid in itself.

If colliding terms and conditions contradict each other, the terms agreed unambiguously apply. Furthermore, the portions of our sales conditions are regarded as being agreed which do not contradict the colliding specifications of the general terms and conditions of the ordering party. On the other hand, such specifications of the general terms and conditions of the ordering party are not included in the contract that do not concur fully with the regulatory content of our general terms and conditions. In all cases, the dispositive law applies.

c) The scope of delivery and services is oriented solely to the offer of our company, the deliveries and services contract or the deliveries or services, ancillary or subsidiary services confirmed separately in writing.

d) Offers made by us are non-binding. They represent a request to the ordering party to submit a binding offer on conclusion of a contract (order) and therefore do not yet bind us. We can accept orders within a period of 4 weeks. The ordering party is bound to their offer during this period.

For us, contracts are only binding when we accept the order in the form of a written order confirmation. The right to intermediate sale remains reserved insofar as nothing else is stated in the order confirmation. We are not obliged to contradict an order letter from a potential ordering party referring to such an offer if the contract is not concluded.

II. Delivery periods, delivery deadlines

1. The periods and deadlines for deliveries and services are always approximate. Periods or deadlines only become binding when we have expressly confirmed these in writing.

2. All technical issues must be clarified prior to the start of the delivery period specified by us.

3. Further, the obligation of the customer must be fulfilled in due time and in an orderly manner as a prerequisite for the observance of our obligation to deliver. Should the purchaser be behind schedule in fulfilling these obligations, the delivery periods will be interrupted or extended by the respective length of the delay of the purchaser. The right to object to unfulfilled contracts remains reserved.

4. Should the customer delay acceptance, or should they culpably be in infringement of other obligations to cooperate, we retain the right to demand compensation for the damage incurred, including any additional expenses. The right to assert further claims or rights remains reserved.

5. Insofar as the prerequisites stipulated in para. 4 have been fulfilled, the risk of accidental destruction or accidental deterioration of the purchased object is transferred to the customer at the point in time at which they default on acceptance or on debts.

6. We are liable according to the statutory regulations when

a) the purchase contract is a fixed date transaction as defined in § 286, section 2, no. 4 of the German Civil Code or § 376 of the Commercial Code

b) the customer is authorised, as a result of a delay in delivery for which we are responsible, to assert that their interest in the further fulfilment of the agreement has ceased

c) insofar as the delay in delivery is due to an infringement of contract by us that is intentional or grossly negligent, whereby a culpability of our representatives or agents is to be ascribed to us. Insofar as the delay in delivery is due to an infringement of contract by us that is intentional or grossly negligent, our liability to provide damage compensation is limited to the foreseeable damage that typically occurs.

7. All force majeure events, including strikes and lock-outs, as well as circumstances for which the seller is not responsible within the scope of operational risk - regardless of whether they have arisen at the seller, the preliminary supplier or the agent - release the seller from the fulfilment of the delivery and service obligations to which they are subject for the duration of the occurrence, and authorise the seller to withdraw from the portion of the contract that has not yet been fulfilled.

In important cases, the seller shall inform the purchaser of the beginning and end of such obstacles. The declaration of their supplier submitted by the seller is regarded as being sufficient evidence that the seller is prevented from providing the delivery. Delivery periods and deadlines are regarded as being observed when the subject of delivery has left the delivery warehouse prior to their expiry, or if readiness for dispatch has been reported in due time.

In cases of delay by the seller, the purchaser shall set the seller a reasonable extension period. Only when the extension period has expired is the purchaser authorised to withdraw from the contract.

III. Transportation dispatch and transfer of risk

1. Dispatch, transportation and assembly are provided at the risk and cost of the purchaser. On transfer to the transportation company or freight company, however at the latest on leaving the factory or warehouse, the risk - including that of seizure - is transferred to the purchaser. Should dispatch be delayed as a result of circumstances for which the purchaser is responsible, the risk is already transferred to the purchaser on the date of notification of readiness for dispatch. Should the subject of delivery be transported by the seller, the goods reported as being ready for dispatch should be retrieved immediately. If the subject of delivery cannot be sent within four days after notification of readiness for dispatch, the seller is authorised to send them in a manner of their choice or, at the cost and risk of the purchaser, to store them as they see fit and to charge for them as being delivered from the warehouse following notification of readiness for dispatch, unless the seller is responsible for non-contractual dispatch.

If the seller has not issued any particular dispatch specifications, dispatch is conducted as they see fit. Unless no other agreement is reached, the goods are delivered unpackaged and without anti-rust protection.

Packaging is charged as production costs and must be disposed of by the purchaser.

The seller is authorised to conclude, at the cost of the purchaser, an insurance policy agreement against transportation damage, transportation loss and breakage if the purchaser does not provide evidence of the conclusion of such a policy agreement 3 days prior to the delivery date.

IV. Prices, conditions of payment and delay

1. All prices, unless otherwise agreed, are net "ex works", plus the statutory VAT at the point in time the invoice is written.

The obligation to pay all ancillary costs, such as packaging, freight, dispatch costs, all customs fees arising for processing, assembly, insurance costs and banking fees, lies with the purchaser. These are invoiced separately when disbursed by the seller.

Should the calculated costs change (in particular due to collective agreements or changes in material prices, or the occurrence of or changes to customs fees) following conclusion of contract and prior to delivery, the agreed prices may be adjusted by the seller.

We shall provide evidence of the cost changes to the purchaser on request.

The prices are newly agreed for subsequent orders. If no such agreement is possible, we retain the right to determine the prices unilaterally according to our reasonable judgement.

Insofar as VAT is not included in our calculation, in particular since on the basis of information provided by the ordering party, we assume an "inter-Community supply" as defined in § 4 no. 1 in conjunction with § 6 of the VAT Act (UStG), and we are subsequently charged VAT (§ 6a IV UStG), the ordering party is obliged to pay us the amount that we are charged. This obligation applies regardless of whether we must subsequently pay VAT, input-turnover tax or comparable taxes within Germany or abroad.

The deduction of discounts must be agreed separately in writing.

2. Should the purchaser be in default of payment, the seller is authorised to charge default interest of 9% per annum above the respective basic interest rate of the European Central Bank. Should the seller suffer greater damage caused by the delay, they retain the right to assert this claim.

3. The purchaser is only entitled to offset rights when their counterclaims are legally established, are uncontested or are recognised by us. Furthermore, they are only authorised to exert a right to withhold insofar as their counterclaim is based on the same contractual relationship.

4. If the conditions of payment are not observed, or if after conclusion of contract, circumstances are made known to the seller that cause doubt as to the ability or willingness to pay of the purchaser, such as a deterioration in financial circumstances or the initiation of legal bankruptcy proceedings regarding the assets of the purchaser, the seller is authorised to demand immediate cash payment, even if they have accepted bills or cheques, or to demand the return of the goods without the prior setting of an extension period, and to declare that they withdraw from the contract. The purchaser shall bear the costs of return transport. The seller is authorised to sell the goods elsewhere. The purchaser is obliged to provide the seller access to the delivered goods at any time for the purpose of collection and assurance.

5. Should the purchaser fail to approve the delivery, or not do so in due time or in full, the seller is authorised to store the subject of the performance at the cost and risk of the purchaser. The goods are regarded as having been delivered in accordance with the contract in all respects on dispatch or when admitted for storage. Partial deliveries are permitted. The purchaser must accept partial deliveries, unless they provide evidence that such an acceptance is unreasonable. The purchaser is obliged to accept goods, including those with minor defects, without prejudice to their rights arising from liability for defects. With regard to the condition of the subject of performance in accordance with the contract, the point in time at which the goods left the warehouse or factory is decisive.

The seller retains the right to only provide outstanding deliveries or services against pre-payment or a security deposit.

V. Notice of defects, liability for defects

1. The customer must have fulfilled their obligations to conduct examinations and submit complaints in an orderly manner, as defined in § 377 of the Commercial Code, in order to assert claims for defects.

2. If there is a defect in the purchased item, the seller retains the right, as they see fit, to provide subsequent fulfilment in the form of rectification of the defect, or to deliver a new, defect-free, item. If defects are rectified or if a replacement delivery is provided, the seller is obliged to bear the cost of all expenses arising for the purpose of subsequent fulfilment, up to the level of the purchase price, in particular transportation, journey, labour and material costs, insofar as these do not increase due to the fact that the purchased item has been taken to a site other than the place of fulfilment.

3. If the subsequent fulfilment fails, the customer retains the right, as they see fit, to withdraw or demand a price reduction.

4. The seller is liable according to the statutory regulations insofar as the purchaser asserts claims for damage compensation that are based on intent or gross negligence, including intent or gross negligence on the part of our representatives and agents. Insofar as we are not accused of intentional infringement of contract, the liability for damage compensation is limited to the foreseeable damage that typically occurs.

5. The seller is liable according to the statutory regulations insofar as they are culpably in infringement of a key contractual obligation; here, too, the liability for damage compensation is limited to the foreseeable damage that typically occurs, however. A key contractual obligation also applies when the infringement of the obligation relates to an obligation on which the customer has relied and can reasonably rely.

Claims for damage compensation due to a failure in production or loss of profit are excluded.

6. Liability due to culpable injury to life, body or health remains unaffected; this also applies to mandatory liability according to the product liability legislation.

7. Unless no other regulation is stipulated above, liability is excluded. This applies in the following cases in particular:

unsuitable or incorrect use, faulty commissioning, natural wear, faulty or negligent treatment, unsuitable operating means or materials, structural modifications by the purchaser, faulty chemical, electrochemical or electric influences and similar reasons, failure to provide full servicing, or servicing not conducted in an orderly manner as specified in accordance with checklists given to the purchaser, failure to conduct an inspection after 100 operating hours, as specified, and the failure to present signed service logs (from 250 hours).

8. Should the seller forward a separate declaration of guarantee from the supplier to the purchaser, the seller is not bound by such a declaration.

9. The limitation period for claims for defects is 12 months, calculated from the transfer of risk. Insofar as is legally permissible, this period shall be shortened to 6 months.

10. Used machines and devices are sold under the exclusion of all liability for defects. No guarantee for parts of these machines or devices is provided.

11. If a claim for a defect is asserted, the seller must be provided access to the subject of delivery at all times for examination and testing purposes. The storage of the subject of performance must be provided by the purchaser free of charge until any defects have been clarified.

12. Return deliveries of delivered goods are only accepted when the seller has provided their agreement in advance. The seller decides on the place of return receipt.

VI. Liability

1. The purchaser must inspect the operational safety of the delivered subject of performance themselves. They are solely responsible for the fulfilment of the statutory, official and professional obligations vis-à-vis the respective official bodies and their employees. It is exclusively their task to fulfil the recognised technical regulations, and in particular all safety standards, and to reach agreements and take measures that regulate their relationship to employees.

2. Further liability for damage compensation other than that provided in section V is excluded - without taking into account the legal nature of the asserted claim. This applies in particular to damage compensation claims arising from culpability on conclusion of contract due to other infringements of obligations, or tortious claims for material damage compensation in accordance with § 823 of the German Civil Code. The limitation according to sentence 1 also applies when the purchaser demands reimbursement for useless expenses in lieu of the claim for compensation for damages in place of performance.

3. Insofar as liability for damage compensation is excluded or limited in relation to us, this also applies with regard to liability for personal damage compensation by our employees, staff, colleagues, representatives and agents.

4. Insofar as is legally permissible, the seller is not liable for indirect or direct damage to persons or property, also not for damage arising during the transfer of machines, instructions to drivers or inspection, repairs or similar work. The purchaser is obliged to provide sufficient insurance protection in due time.

VII. Retention of title

1. The delivered goods remain the property of the seller until all payments in accordance with the delivery contract and from other legal circumstances arising from the commercial relationship have been received. Insofar as the payment of the purchase price debt has been agreed with the purchaser on the basis of the cheque-bill procedure, the retention also extends to the redemption of the bill by the seller, and is not extinguished by a credit for the cheque obtained. The retention of title also applies to future demands made by the seller to the purchaser, and remains valid when individual demands by the seller are included in a current account, and the account balance has been settled and acknowledged.

2. The purchaser retains the right to sell or lease the purchased item through the ordinary course of business; however, they already now assign to the seller all demands to the amount of the final invoice sum, including VAT and a security surcharge of 10%, which accrue to them against buyers or third parties from the further sale. The purchaser also retains the authority to collect this demand following assignment. The authorisation of the seller to collect this demand themselves remains unaffected.

The seller is obliged not to collect the demand as long as the purchaser fulfils their payment obligations. If this is not the case, the seller may demand that the purchaser notifies them of their assigned demands and their debtors, provides all the information required for collection, presents them with the related documents and informs the debtors of the assignment.

The purchaser may neither pledge the subject of delivery, nor assume ownership of it for security purposes. In cases of the seizure or disposition of third parties, the purchaser is obliged to inform the seller immediately.

The purchaser is obliged to store for the seller the reserved goods and the stocks with which they mix them, or the objects with which they were connected, and if appropriate, the new items produced from them, with due professional care. The seller is authorised, at the cost of the purchaser, to conclude an insurance policy for these against hazard, fire, value reduction and loss, unless the purchaser provides evidence that they themselves have concluded an insurance policy in the scope intended by the seller, and that they have assigned their claims arising from this insurance to the seller.

The purchaser is not entitled to any dispositions regarding reserved goods, with the exception of those named above, the stocks with which they are mixed, connected objects or new items produced. The purchaser must inform the seller immediately of any impairment to the rights of the seller by third parties, giving all details that enable the seller to assert a claim against the impairment of their rights.

Should the value of the security given to the seller exceed their demands by more than 20%, the seller is obliged to approve the security at the request of the purchaser.

The assertion of the retention of title does not require the seller to first withdraw from the contract in accordance with § 449, section 2 of the German Civil Code. Rather, the seller is authorised to regain direct ownership of the delivered objects in cases of delay of payment by the purchaser in order to secure their demands. A withdrawal from the contract by the seller only occurs with the revocation and seizure of the purchased item delivered under reservation when the seller announces this withdrawal. Following withdrawal, the seller is authorised to re-sell the subject of delivery if they have threatened to do so one week in advance. The purchaser shall bear the costs of recovery and re-use.

3. Should the retention of title or assignment be not effective according to the law applicable in the area in which the goods are located, the security that corresponds to the retention of title or the assignment in this area is regarded as having been agreed. Should the cooperation of the purchaser be required in such cases, they must take all measures necessary for the justification and observance of such rights.

The demand assigned in advance by the purchaser relates to the recognised account balance, and in the case of bankruptcy proceedings of the purchaser, to the account balance then applicable when the bankruptcy proceedings were initiated.

VIII. Place of jurisdiction, place of fulfilment and applicable law

1. The place of fulfilment for all contractual obligations is the headquarters of the seller.

If the ordering party is a commercial agent, a legal entity of public law or a special fund under public law, our choice of the place of jurisdiction for all legal disputes arising from the contractual relationship is Lübeck. However, the seller is also authorised to file suit against the purchaser at their general place of jurisdiction. This also applies to disputes arising from cheques and bills.

2. All legal relations between the ordering party and ourselves are subject to the law of the Federal Republic of Germany and are based on current EU law, alongside the respective regulations relating to the customs-free movement of goods to and from Germany.

The UN sales law does not apply.

XII. Final clause

Should a clause in these conditions of delivery and payment be or become invalid, the validity of the remaining content remains unaffected. The purchaser and the seller are obliged to replace the invalid clause with one that comes closest to the intended commercial purpose.