

General terms and conditions of business

H & S Maschinentchnik GmbH / Kranichborner Straße 12, D - 99195 Großrudestedt

A. General

1. We deliver only under the following terms and conditions, even if no express reference is made to them in subsequent ongoing business relationships. We hereby object to any changes to these terms and conditions, in particular any differing terms and conditions of the buyer in orders or counter-confirmations. Our silence regarding order confirmations that refer to differing terms and conditions shall not be construed as acceptance. By accepting our delivery, the buyer irrevocably agrees to the exclusive validity of our terms and conditions of sale, payment, and delivery.

2. All offers made by us are non-binding. Orders are only considered accepted once they have been confirmed by us in writing. Our order confirmation is decisive for the content of the contract unless we receive a written objection from the buyer within 14 days of the date of our order confirmation.

3. Any supplementary agreements made before or at the time of conclusion of the contract require our written consent to be valid. Oral agreements, promises, assurances, and guarantees made by our employees in connection with the conclusion of the contract only become binding upon our written confirmation.

B. Scope of delivery

1. Documents provided to the buyer, such as illustrations, descriptions, drawings, assembly sketches
Weight, consumption and performance figures are only approximate.

2. Technical changes compared to our order confirmation are permitted, provided that this does not impair the suitability for the intended purpose.

3. Protective devices, safety equipment and other devices required by law or official regulations will only be supplied to the extent that this has been expressly agreed.

4. Unless expressly agreed otherwise, assembly is not included in our scope of delivery. If we undertake the assembly, the resulting costs will be invoiced separately. In any case, even if we have undertaken the assembly, the following items are specifically excluded from the delivery:

Lifting equipment, material and installation work for connecting electricity, compressed air, gas and other media.

C. Prices and Payment

1. Our prices are ex works or ex warehouse, including packaging, plus insurance and statutory VAT.

2. Unless otherwise stated in the order confirmation, our invoices are payable immediately without any deductions in euros to the payment address specified by us.

3. If the buyer is a merchant and the transaction is part of their commercial business, they will be in default even without a reminder; default interest will be charged at a rate of 5 percentage points above the current base interest rate. This rate will be higher if we can demonstrate a higher interest burden.

4. Bills of exchange and checks are accepted only as conditional payment. All costs and expenses for discounting or collecting the bills of exchange shall be borne by the buyer.

5. If we become aware of circumstances that call into question the buyer's creditworthiness, all our claims become due for immediate payment. In this case, we are entitled to demand cash payment against return of any accepted bills of exchange, regardless of their maturity date. Our rights under Section 321 of the German Civil Code (BGB) remain unaffected.

6. The buyer is not entitled to assert a right of retention against our claims or to offset them with counterclaims, unless they are expressly acknowledged by us or have been legally established.

D. Delivery time

1. Binding delivery dates must be expressly agreed upon in writing. An agreed delivery period (delivery period) only begins upon receipt of our order confirmation by the customer, but not before the customer has provided all necessary information and documents, nor before receipt of any agreed down payment, guarantee, etc. Changes or additions to the original scope of the order agreed upon after conclusion of the contract will extend or postpone the original delivery periods or dates accordingly. The delivery period is considered met if the goods have left the dispatch warehouse or notification of readiness for shipment has been given by the end of the period. Partial deliveries are permitted.

2. Two weeks after the expiry of a non-binding delivery date or delivery period, the buyer may request in writing that we deliver within a reasonable delivery period. Upon receipt of this reminder, we will be in default. If we are in default, the buyer is obligated to grant us a reasonable grace period in writing. After the expiry of this grace period, the buyer is entitled to withdraw from the contract.

3. Delivery and performance disruptions due to force majeure or as a result of labor disputes, government intervention, operational disruptions, difficulties in procuring materials or energy, or other unforeseeable, exceptional, and unavoidable circumstances, regardless of whether these circumstances occur at our company or at our sub-suppliers, extend the delivery period by the duration of the disruption. This does not apply to cases in which we have entered into our delivery commitment despite the foreseeability of these circumstances, or have failed to take possible and reasonable measures to prevent or avert the disruption, or in which the disruption itself is our fault.

In accordance with the aforementioned provisions, we are not responsible for the circumstances mentioned, even if they arise during an existing delay. We must inform the buyer immediately of the occurrence and the expected duration of such disruptions.

If, as a result of these circumstances, the performance of the contract becomes impossible or economically unreasonable for us, we may withdraw from the contract in whole or in part. The buyer shall not be entitled to damages as a result of such withdrawal. Should we intend to exercise our right of withdrawal, we shall inform the buyer immediately upon becoming aware of the extent of the event, even if an extension of the delivery period had initially been agreed upon with the buyer.

4. If the buyer incurs damages due to a delay for which we are responsible, the buyer is entitled to compensation. The amount of compensation is limited to 0.5% for each commenced week of delay, up to a maximum of 5% of the contract value of that part of the total delivery which cannot be used in a timely manner or for its intended purpose as a result of the delay. This does not affect our liability in accordance with Section H, Paragraph 2 of our Terms and Conditions.

E. Transfer of risk and acceptance

1. The risk passes to the buyer no later than the commencement of loading of the delivery items, even if partial deliveries are made and, contrary to section C 1, we have agreed with the buyer to assume the shipping costs or other services such as delivery and installation. Shipping is generally at the buyer's expense and risk.

2. If shipment is delayed due to circumstances beyond our control, the risk passes to the buyer from the day the goods are ready for shipment.

3. At the buyer's request and expense, we will insure the shipment against theft, breakage, transport damage, fire and water damage, as well as other insurable risks.

4. Delivered items must be accepted by the buyer even if they have minor defects, without prejudice to his rights under Section G.

5. If shipment is delayed at the buyer's request, we are entitled, starting one month after notification of readiness for shipment, to charge for the resulting storage costs. If stored at our factory, the charge will be at least 0.5% of the invoice amount per month. Furthermore, we are entitled, after the unsuccessful expiry of a reasonable period set in writing, to dispose of the goods elsewhere and to supply the buyer at a later date with a reasonably longer delivery period.

F. Retention of title

1. The delivered item remains our property until all our claims arising from the business relationship with the buyer have been paid in full.

2. Until ownership is transferred, the buyer must insure the delivered goods against theft, breakage, fire, water damage, and other risks. The buyer hereby assigns to us all rights arising from the insurance contracts and any claims against the insurers. We accept this assignment.

3. The buyer may neither pledge nor assign the delivered goods as security. The buyer must notify us immediately of any attachments, seizures, or other dispositions. In the event of a breach of contract by the buyer, particularly in the case of default in payment, we are entitled to repossess the goods subject to retention of title after issuing a reminder. The assertion of our retention of title and any attachment of the delivered goods by us shall not be deemed a withdrawal from the contract.

4. If the buyer is engaged in the commercial resale of the delivered goods, he is entitled to resell the delivered goods in the ordinary course of business on his normal terms and conditions, provided he is not in default of payment. In the event of resale, the claim arising from the corresponding legal transaction is hereby assigned to us in the amount of our invoice value. We hereby accept this assignment. The buyer remains authorized to collect these claims even after the assignment until we revoke this authorization, which we may do at any time.

Our right to collect the debt ourselves remains unaffected; however, we undertake not to collect the debt as long as the buyer duly fulfills their payment obligations. We may at any time demand that the buyer disclose to us the assigned claims and their debtors, provide all information necessary for collection, hand over the relevant documents, and notify the debtors of the assignment.

5. We undertake to release the securities to which we are entitled to the extent that their value exceeds the claims to be secured by more than 20%.

G. Warranty and notification of defects

1. The buyer must carefully inspect the delivered item immediately upon receipt and notify us in writing of any defects immediately upon discovery.

2. In the event of defective delivery, the buyer is entitled, at our discretion, to repair or free replacement. If repair or replacement also fails, the buyer may, at their option, demand a reduction in the purchase price (abatement) or rescission of the contract (cancellation). The latter is only possible if the defect is so significant that the delivered goods are no longer suitable for their intended purpose. If we are in default with the repair or replacement, the buyer may assert the same rights after the unsuccessful expiry of a grace period set in writing. Our liability under Section H, Paragraph 2 of the Terms and Conditions remains unaffected. The buyer must grant us the necessary time and opportunity to carry out all repairs and replacements that we deem necessary at our reasonable discretion, after notification; otherwise, we are released from our warranty obligations.

The buyer must provide us with the same number of assistants upon request as were provided for delivery and assembly.

3. Of the direct costs of rectification or replacement delivery, we shall bear — insofar as the complaint proves to be justified — only the costs of the replacement part including shipping as well as the reasonable costs of removal and installation.

4. A warranty for a specific quality within the meaning of § 434 BGB is only assumed if and to the extent that we have given an express written warranty of this quality.

5. A warranty is excluded in particular in the following cases:

Unsuitable or improper use, faulty assembly or commissioning by the customer or third parties, natural wear and tear, faulty or negligent handling — in particular excessive stress — unsuitable operating materials, etc., insofar as they are not attributable to us.

6. Warranty claims expire six months after delivery, or, in the case of work services, after acceptance, but no later than the commissioning of the delivered item. If shipment, installation, or commissioning is delayed through no fault of ours, the warranty claims expire no later than twelve months after the transfer of risk.

7. We may refuse to remedy defects as long as the customer is in default of their obligations. This does not affect the right of retention due to any delivery defects up to twice the value of the rectification costs.

8. Replaced parts become our property.

H. Liability

1. Claims for damages by the customer arising from contract, impossibility of performance due to non-performance, positive breach of contract, fault in the conclusion of the contract and from tort are excluded — in particular with regard to consequential damages such as lost profits, production downtime, data loss, wasted expenditure of time and materials, etc.

2. Our liability for claims under the Product Liability Act remains unaffected, as does our liability for the warranted quality as defined in Section G.4 of our Terms and Conditions, and in all cases of intent or gross negligence on the part of our officers and senior employees. For intent and gross negligence on the part of other vicarious agents, as well as for the culpable breach of essential contractual obligations as defined in Section 307 Paragraph 2 No. 2 of the German Civil Code (BGB), our liability is limited to €800,000.

I. Contract documents, intellectual property rights

We retain ownership of all contractual documents, such as circuit diagrams, programs, etc. They may not be reproduced or made accessible to third parties without our consent. Any rights to patents, utility models, etc., belong exclusively to us or our affiliated companies, even if they have not yet been registered. Reproduction of our products is only permitted with our written consent.

K. Place of performance, jurisdiction and applicable law

1. The exclusive place of performance for both contracting parties is our company headquarters, 99195 Großrudestedt / Germany.

Provided our customers are merchants as defined by the German Commercial Code, Erfurt is agreed as the place of jurisdiction. However, we are also entitled to assert claims at any other legally permissible place of jurisdiction.

2. The legal relationship with our customers is governed exclusively by the laws of the Federal Republic of Germany. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG – Vienna Convention) is excluded.

L. Amendments, invalidity clause

1. Changes to these terms and conditions or other contractual agreements must be made in writing.

2. Should individual parts of these terms and conditions of sale, payment and delivery be rendered invalid by law or individual contract, the validity of the remaining provisions shall not be affected.

SPECIAL PROVISIONS FOR THE DELIVERY OF SOFTWARE

The following additional conditions apply to the delivery of software:

1. In accordance with our order confirmation, the delivery includes, in the case of programs for programmable logic controllers, the program stored on the respective data carrier and an annotated listing; in the case of computer software, the program stored on the respective data carrier in machine code, but not a source program in the form of an annotated listing, as well as other written material, insofar as it is necessary to ensure satisfactory operation of the machine or system (hereinafter collectively referred to as "software").

2. According to the current state of the art, it is not possible to develop computer and control software that functions flawlessly under all operating conditions. We guarantee the usability of the provided software based on the program specifications agreed upon in the contract. Beyond this, we assume no liability for the software's suitability for the task intended by the customer.

3. We do not own all rights to the programs. We therefore grant the customer a perpetual, non-transferable, and non-exclusive right to use the software only for the machines or systems specified in the respective contract. Use of the software on other machines supplied by us or by third parties is permitted only by separate written agreement with us. Transfer of the granted usage rights or granting of sublicenses is not permitted.

4. The customer undertakes to keep the software, including copies of all kinds, even in any version modified, extended, or altered by them, confidential from third parties without any time limitation. All rights to the software, including all copies of the machine-readable program made by the customer, regardless of whether they are modified, altered, or combined with other programs, remain with us.

5. Warranty claims are valid only if the notice of defects is given in a comprehensible form and the reported defect is reproducible. The warranty is void with regard to software or software components that have been modified or extended by the customer, unless the customer proves that such modifications or extensions are not the cause of the defect. If the customer has extended the software via interfaces, we provide a warranty up to the interface; in this case, the burden of proof that the defect lies in the software we supplied rests with the customer.

6. In the event of a warranty claim, the customer shall provide us with all documents and information in their possession that are necessary for remedying the defect. If we carry out the repair work at the customer's premises, they shall also provide the necessary hardware and software free of charge for the required working time. They are responsible for ensuring that the repair work can be carried out promptly. In particular, they shall implement all operationally or legally required safety measures and shall establish the necessary operating conditions for carrying out the work, as well as provide suitable personnel free of charge.

DECLARATION OF CONFORMITY:

The buyer may not re-export the machine and machine equipment, as well as any copies thereof, to other countries without the prior written consent of the seller.