

Maiko Engineering GmbH, Braunschweig

General

As at October 2023

1 General information

1.1.

The following terms and conditions form the basis of all offers submitted by us and apply to all contracts concluded with us for services and deliveries of our own or third-party products of all kinds, in particular our toolings, devices and systems or parts thereof. Any conflicting terms and conditions of purchase of our customers are hereby rejected. Contracts with us shall only come into effect when our written order confirmation is sent. However, we reserve the right, especially in urgent cases, to tacitly accept orders placed with us by immediate fulfilment.

1.2.

Deviating agreements or supplementary commitments must be made in writing. Promises made by our sales representatives or employees shall only be legally binding if and to the extent that they are confirmed by us in writing. The content of the contract shall take precedence over information in brochures, advertising material, instructions for use or similar.

1.3.

We reserve the right to make design and mould changes, provided that the delivery item is not changed in a way that is unreasonable for the purchaser and the changes are due to further technical developments or equipment changes by us or our suppliers. We reserve the right to deviate from samples and materials provided.

1.4.

These terms and conditions apply to all business relationships with our commercial customers.

2. Prices and terms of payment

2.1.

Prices agreed with us shall be valid if and insofar as the agreed deliveries and services are carried out within a maximum of four months, unless we are responsible for the delay beyond this period. After expiry of this period, we shall be entitled, at our discretion, to pass on increased parts and/or labour costs to the customer or, if applicable, to invoice on the basis of a new price list that has become available in the meantime.

2.2.

Our invoices shall become due for payment upon notification of readiness for dispatch upon delivery ex works. Our invoices for services are payable immediately without deduction. Our invoices for consumables (spare parts, accessories, etc.) are payable net within 10 days of receipt of the invoice. In the case of automation, special machine construction, plant and equipment construction on the basis of a contract for work and labour, payment of 30% of the total price shall be due upon receipt of the order confirmation, a further 60% after acceptance and test run at our premises prior to delivery, at the latest 30 days after notification of readiness for acceptance by Maiko Engineering GmbH. The remaining 10% is due at the start of production.

2.3.

If the customer defaults on payment of a due claim, we shall be entitled to demand statutory default interest in the amount applicable to transactions between merchants in the amount of 8% above the ECB base rate. The assertion of further damages caused by default remains unaffected.

2.4.

Our prices are subject to the applicable statutory value added tax, provided that the delivery is made within Germany.

2.5.

If the customer is in arrears with a payment for more than 30 days, we shall be entitled to declare all claims from the entire business relationship due and payable, even if deferral and instalment payment promises have been made, and to collect the total balance. We shall be entitled to withhold further outstanding performances. The commitment to delivery dates within the framework of the entire business relationship shall lapse.

2.6.

The customer shall only be entitled to a right of retention with regard to counterclaims that originate from the same contractual relationship. The customer is only permitted to offset against our remuneration claims with undisputed or legally established claims.

2.7.

The acceptance of payment instructions (debit order) or cheques, as well as their forwarding, shall be on account of performance. Any charges incurred shall be borne by the customer.

2.8.

Incoming payments shall first be offset against any costs incurred, then against interest, then against claims for any ancillary services and finally against the oldest purchase price/wages.

2.9.

The minimum order value is 150.00 euros. If we receive an order below this value, we will charge a minimum quantity surcharge until this limit is reached.

3. Reservation of title

3.1.

We reserve title to the delivered goods until all claims arising from the delivery contract have been paid in full. This shall also apply to all future deliveries, even if we do not always expressly refer to this. We shall be entitled to take back the purchased item if the customer is in breach of contract.

3.2.

The customer is obliged to treat the purchased item with care as long as ownership has not yet been transferred to him. In particular, he is obliged to insure it adequately at his own expense against theft, fire and water damage at replacement value (note: only permissible for the sale of high-value goods). If maintenance and inspection work has to be carried out, the customer must carry this out in good time at his own expense. As long as ownership has not yet been transferred, the customer must inform us immediately in writing if the delivered item is seized or exposed to other interventions by third parties. If the third party is not in a position to reimburse us for the judicial and extrajudicial costs of an action pursuant to § 771 ZPO (German Code of Civil Procedure), the customer shall be liable for the loss incurred by us.

3.3.

The customer is authorised to resell the goods subject to retention of title in the normal course of business. The purchaser hereby assigns to us the claims against the customer arising from the resale of the reserved goods in the amount of the final invoice amount agreed with us (including VAT). This assignment shall apply irrespective of whether the purchased item has been resold without or after processing. The customer remains authorised to collect the claim even after the assignment. Our authorisation to collect the claim ourselves remains unaffected by this. However, we shall not collect the claim as long as the customer fulfils his payment obligations from the collected proceeds, is not in default of payment and, in particular, no application for the opening of insolvency proceedings has been filed and payments have not been suspended.

3.4.

The treatment and processing or transformation of the object of sale by the customer shall always be carried out in our name and on our behalf. In this case, the expectant right of the purchaser to the object of sale shall continue in the remodelled object. If the purchased item is processed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the objective value of our purchased item to the other processed items at the time of processing. The same shall apply in the event of mixing. If the mixing takes place in such a way that the customer's item is to be regarded as the main item, it is agreed that the customer shall transfer co-ownership to us on a pro rata basis and shall keep the sole ownership or co-ownership thus created in safe custody for us. To secure our claims against the customer, the customer shall also assign to us such claims which accrue to him against a third party through the combination of the reserved goods with a property; we hereby accept this assignment.

4. Packaging and despatch

4.1

Crates, pallets and other packing materials shall be charged at cost price and shall not be taken back by us unless otherwise stipulated by law. In the latter case, they must be returned to us by the customer free of charge.

4.2.

We shall only be liable for the proper condition of the packaging until the goods leave our factory gates or are handed over to the carrier. In the event of default of acceptance, we assume no responsibility for the proper condition of the packaging.

4.3.

The dispatch of our systems, tools and spare parts - whether after purchase or repair - shall take place within Germany ex works at the risk of the customer. This also applies if carriage paid delivery has been agreed. We are only obliged to insure the goods during transport if this is part of the order confirmation or otherwise agreed in writing. We accept no liability for delays in despatch. We deliver accessories, spare parts, documentation, etc. free of charge, excluding packaging, with the mode of dispatch at our discretion (special requests, express or similar against payment).

5. Installation

5.1.

If part of the contract is the installation of the system at the customer's premises, training and familiarisation of the customer's personnel is not part of the contract. After a fault-free trial run, we are not obliged to rectify subsequent faults unless they are due to a defect in the contractual delivery. Otherwise, such additional services shall require a separate contract, in which case the customer shall be obliged to immediately settle the remuneration owed for them without defence.

5.2.

We shall not be obliged to carry out installation until the customer has notified us of the complete existence of the structural and technical prerequisites for the installation of the system and has guaranteed free access and has provided suitable lifting and transport equipment within his premises at his own expense. makes available. We shall not be liable for employees and equipment applied by him in this connection. If these conditions are not met upon delivery, we shall be entitled to withdraw our assembly personnel from the construction site and we shall be entitled to claim the additional personnel and machine costs incurred as a result. Any commitment to assembly deadlines and such for the establishment of operational readiness shall lapse.

5.3.

The customer must provide its own auxiliary and supervisory personnel as well as a person responsible for the construction site free of charge at the customer's expense for the entire duration of the installation and also for the instruction of the personnel who are to work on the machine or system in the future.

5.4.

Each machine is tested by us before despatch. The original material required for setting and testing must be made available to us by the customer free of charge at our request. If we are charged customs and/or freight charges for transport to and/or from the site, these shall be reimbursed by the customer. For return of the total quantity as well as for marking, damage or devaluation no liability is assumed.

6. Delivery

6.1.

The scope of delivery results exclusively from the order confirmation. Unless expressly stated, additional tools are not included in the scope of delivery.

6.2.

Delivery dates and delivery periods are non-binding unless otherwise confirmed. Even if this is the case, the deadlines are subject to unforeseen obstacles, e.g. force majeure, strikes, distribution and transport disruptions. In particular, we accept no liability for the fulfilment of export requirements and are not liable for delays in cross-border transport.

6.3.

Delivery deadlines shall lapse if the customer does not fulfil its duty to cooperate in good time, e.g. by providing material samples and/or providing the information and instructions required for production and commissioning in good time, i.e. by providing information and documents immediately upon request. The same shall apply if the customer subsequently requests changes to the delivery item or its equipment or subsequently changes instructions for execution.

6.4.

Otherwise, we shall only be liable for damages caused by delay in cases of intent or gross negligence on our part or on the part of our employees. Further claims of any kind are excluded.

6.5.

If we are in default, the customer may only make use of his rights arising from this if he has set us a reasonable period of grace of at least three weeks, or at least one month in the case of plant construction contracts where assembly and commissioning is to take place at the customer's premises.

6.6.

If the delivery of prototypes has been agreed, we shall not be liable for damages or default in cases of non-performance or non-existence of warranted characteristics, provided that the order is labelled as such. This exclusion of our liability is linked to the fact that we prove that compliance with the contractual promises within the scope of the contract is either technically impossible or economically unrealisable within the scope of the contract. In these cases, we are entitled to refuse fulfilment.

6.7.

Our delivery obligation is subject to correct and timely delivery by our suppliers, unless we are responsible for the non-delivery. The customer shall be informed immediately of the non-availability of the performance. In this case, we shall immediately refund any consideration already paid.

7. Tools, models

The tools, models, small parts, drawings and plans necessary for the execution of orders shall remain our property even if they have been produced according to the customer's specifications and even if the costs incurred for their production have been reimbursed in whole or in part by the customer.

8. Industrial property rights, patents

8.1.

We are not obliged to check whether patents or other industrial property rights of third parties are infringed by the manufacture and/or use of the delivery item if it deviates from our standard programme according to the catalogue at the customer's request. In this case, the customer shall indemnify us against all possible claims by third parties due to infringements of industrial property rights.

8.2.

The customer is obliged to respect the patents and industrial property rights used in our production and technology and not to copy our machines or their details and accessories himself or make them available to third parties for copying.

9. Sample parts

If we provide the customer with test pieces as reference samples for inspection and approval as part of the production of operational readiness, their quality shall be deemed to be correct and approved unless the customer makes written complaints within two weeks of receipt. This shall only apply if we have expressly drawn the customer's attention to this period when sending the goods.

10. Warranty

10. 1.

The toolings, devices and systems we supply (standard and customised machines) are always designed for single-shift operation.

10. 2.

The customer is obliged to inspect delivered systems and/or parts and materials immediately upon receipt and to put machines into operation. Any defects must be reported to us in writing within eight working days, stating the complaint in detail. Otherwise the warranty shall lapse

10. 3.

For our standard equipment, we provide a 12-month warranty for cases of contractual use in single-shift operation. An extension to 18 or 24 months is possible under conditions to be agreed separately.

10. 4.

The warranty extends to the right to subsequent fulfilment. Instead, we are entitled, at our own option, to replace the delivery item with a defect-free item. Further claims are excluded, in particular claims for damages, irrespective of the legal grounds, unless due to gross negligence or in the event of fraudulent or intentional behaviour.

10. 5.

If the object of purchase is defective at the time of transfer of risk, the customer shall be entitled to set us a period of grace of at least three weeks to rectify the defect or supply a replacement; in the case of delivery of complete systems including installation at the customer's premises, this period shall be one month. If the rectification of defects by us has failed several times, the customer may make use of his legal right to cancel the contract. The right to reduce the purchase price is excluded, unless the defect is only insignificant.

10. 6.

If our delivery lacks a warranted characteristic at the time of handover, the customer's statutory rights in this respect shall remain unaffected. However, we shall not be liable for consequential damages, except in the case of gross negligence on our part. A warranted characteristic only exists if it is expressly designated as such in the contract and not already in the description of the technical characteristics of the delivery item. Information on quantities per time unit and production capacities are only an indication of the machine's performance.

10. 7.

We do not provide any warranty if other materials are processed as they were intended as semi-finished products or sample parts, provided to us and used, if other workpiece holders are used or in the event of dust or other air pollution or relevant changes to the production conditions in the production area. The same applies in the event of contamination of materials or changes to the materials to be processed (type, thickness, quality, structure, etc.). Any warranty is subject to the condition that only original parts supplied by us are used in our systems and machines and that only consumables approved by us are used.

10. 8.

If this is deviated from or if operating errors are discovered during warranty work, the warranty shall expire not only for the contractual performance of the system, but also for its functionality as such. Operating errors shall be presumed if, following malfunctions, our employees determine that the system is functioning properly when operated in accordance with the instructions.

10. 9.

Further claims by the customer, irrespective of the legal grounds, in particular for warranty or compensation for damages, also due to positive breach of contract or unauthorised action, are excluded, unless due to gross negligence on our part. We shall not be liable for advice we have given with regard to the organisation of the customer's company with regard to installations carried out.

10. 10.

In the case of production according to the customer's drawing, we shall only be liable for execution in accordance with the drawing. If we are entrusted with the independent solution of design tasks, warranty claims can only be asserted if the customer proves that our product does not correspond to the general state of the art.

10. 11.

In the event of faulty delivery of wear parts, the warranty shall be limited to free replacement of the part delivered by us, unless the replacement delivery has failed several times. Claims for damages are excluded within the limits of the above provisions. We provide no warranty for supplied consumables and wear parts whose normal service life does not exceed the 12-month warranty period specified above.

11. Illustrations and drawings

11. 1.

Illustrations and drawings of our machines and systems in the brochure, on the Internet portal or in other written documents are for general illustration purposes only and are not technically binding. Dimensions and weights given are approximate. Such documents remain our property even when handed over and are subject to our copyright.

11. 2.

The customer is aware that the installation and production plans provided to us by him as well as drawings of his local conditions are an essential basis for our order processing, design and production. If changes are required on site due to deviations, the customer shall bear the additional costs.

12. Final provisions

12. 1.

The place of fulfilment for all obligations arising from contracts concluded with us is Braunschweig. The place of jurisdiction for all disputes arising therefrom shall also be Braunschweig.

12. 2.

German law shall apply exclusively to all contracts concluded with us.

12. 3.

Should one of the above provisions be or become invalid, the remaining provisions shall remain unaffected.

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