

General Terms and Conditions

I. Preamble

The subject of these General Terms and Conditions is the regulation of the contractual relationship between AM Maschinenbau GmbH & Co. KG (hereinafter referred to as AM Maschinenbau) with the respective Client.

These GTC explicitly do not affect individually negotiated contractual conditions.

These GTC are made available to the Client (in writing or electronically) and are also available on the website at <https://www.am-maschinenbau.de>.

II. Scope of Application

1.

AM Maschinenbau bases all contracts on these following GTC. Upon conclusion of the contract, the respective Client explicitly agrees that these GTC become the basis of the contract.

2.

Differing or conflicting General Terms and Conditions of the Client or companies associated with the Client are expressly not recognized. It is expressly not waived to rely on the company's own GTC on the part of AM Maschinenbau.

3.

These General Terms and Conditions apply in the version valid at the time of contract conclusion. AM Maschinenbau reserves the right to amend or supplement these GTC in justified exceptional cases, such as changes in law or changes in jurisdiction. These changes apply from the time of publication (written or online). In the event of changes to these GTC during an ongoing order, these will be sent to the Client together with a consent form. Consent can be given by signing the consent form and returning it to AM Maschinenbau.

III. Offer and Conclusion of Contract

1.

All offers made by AM Maschinenbau remain non-binding until accepted by the prospective Client. Any additions and changes to the offers require written form to be effective.

2.

The prices stated in the respective offer are valid for a period of 6 weeks. After the expiration of this period, a recalculation is required.

3.

A contract binding on both sides comes into effect only through a written order confirmation by the Client, but at the latest with the uncontradicted commencement of activity by AM Maschinenbau.

4.

AM Maschinenbau is entitled to have orders executed in whole or in part by subcontractors. However, AM Maschinenbau remains the sole contractual partner of the Client.

AM Maschinenbau informs the respective Client in electronic form about the deployment of a subcontractor if this is necessary from the perspective of AM Maschinenbau for the execution of the order.

5.

AM Maschinenbau will only become active and render its contractually owed performance insofar as the Client is creditworthy. If a material deterioration in the Client's financial condition occurs after conclusion of the contract, AM Maschinenbau has the right to refuse its contractual obligations until the Client provides adequate security. If the Client does not provide such security within four weeks, AM Maschinenbau is granted the right to withdraw from the contract. A material deterioration in the Client's financial condition is particularly given if the Client has already submitted an affirmation of assets, enforcement proceedings have been initiated against them, or insolvency proceedings have been opened over their assets.

Insofar as the Client cannot be integrated into trade credit insurance on the part of AM Maschinenbau, advance payment is expressly agreed.

6.

Cost estimates or offers that do not lead to an order can be invoiced with the amount stated in the respective offer.

IV. Performance of Services

1.

AM Maschinenbau is obligated to render the required service in accordance with the content of the order confirmation or the written contract.

This in compliance with applicable statutory provisions.

2.

Change requests by the Client are only deemed accepted insofar as AM Maschinenbau grants approval in written or electronic form.

3.

AM Maschinenbau is entitled to make deviations insofar as deviations concerning specifications of the contractual object, as well as structural and material changes, are reasonable for the Client and a fulfillment of the contractually owed performance is not prevented thereby.

4.

With regard to notices of defect for individual quantities, statutory regulations apply. Differing agreements of the respective Client are expressly contradicted.

5.

Insofar as the Client issues a change order, this requires written form to be effective.

If a change order leads to a corresponding increase in costs regarding the contractual object, this increase will be communicated to the Client in writing as quickly as possible. If the Client does not explicitly agree to the price increase in writing or electronically, the price increase shall nevertheless be deemed accepted if the Client does not object within 15 calendar days.

6.

With regard to industrial accidents occurring within the scope of delivery, AM Maschinenbau assumes liability within the statutory scope.

Liability occurs exclusively for circumstances for which AM Maschinenbau is responsible. Any indemnification of the respective Client expressly does not take place.

V. Delivery Period

1.

AM Maschinenbau undertakes to deliver the respective contractual object by the time individually negotiated in the written contract.

The delivery period begins from the time a written order confirmation is issued by the Client.

In the event that advance payment is agreed with the Client, the delivery period begins only with payment of the advance payment.

Should a material provision by the Client be necessary first, the delivery period begins only with the receipt of the material at AM Maschinenbau. Provided that the Client makes the material provision without delay. Should the Client not make the material provision without delay, the delivery period is extended accordingly by this period until the material has been received at AM Maschinenbau.

Insofar as AM Maschinenbau has to make a material order, the delivery period begins only once the material has been received at AM Maschinenbau.

2.

AM Maschinenbau is liable for delays to the extent of statutory regulations. Thereby, AM Maschinenbau is liable only insofar as the delay is demonstrably based on its fault.

3.

The Client is not entitled to rescind the contract insofar as the Client, without proof, is merely convinced that a delivery will be delayed.

Delivery is Ex Works (EXW).

4.

No liability is assumed for force majeure.

5.

Ownership of goods passes to the Client upon delivery. AM Maschinenbau expressly does not grant the Client and all potential users a worldwide, irrevocable, perpetual, transferable, non-exclusive, and royalty-free right to use the embedded software as an integral part of the goods. Such transfer occurs only insofar as AM Maschinenbau has received written consent from the respective manufacturer of the software.

VI. Transfer of Risk

1.

Delivery of goods generally takes place Ex Works from AM Maschinenbau or subcontractors, with risk transferring to the Client upon commencement of the loading process onto the respective transport vehicle on the respective premises of AM Maschinenbau or a subcontractor.

2.

Packaging of goods is standard commercial packaging. Excluding any liability, AM Maschinenbau may freely select transport and packaging methods as well as the shipping route at its discretion. This rule also applies to partial deliveries. The Client bears all costs for shipping within the scope of this provision.

3.

For any delay in delivery attributable to the Client, liability is excluded. In particular, risk transfers to the Client as of the contractually agreed delivery date or, if applicable, the declaration of readiness for acceptance by the Client.

The goods will then be stored at the Client's expense at a location chosen at AM Maschinenbau's discretion.

No liability is assumed for this aforementioned intermediate storage.

4.

Regarding formal acceptance, statutory regulations apply.

VII. Terms of Payment

1.

All prices are always plus value added tax according to the applicable statutory value added tax.

2.

In principle, the price specified in the order confirmation applies.

AM Maschinenbau reserves the right to adjust prices if material or energy prices increase from the time of the offer to order placement.

Should a price adjustment be necessary, this will be communicated to the Client in writing prior to order processing.

The following applies to price adjustments:

Insofar as AM Maschinenbau discloses that calculated costs, in particular in the area of raw materials, labor, energy, or other procurement prices, have changed significantly, the entitlement exists to demand an adjustment of the agreed prices. This also applies if a supplier increases prices to AM Maschinenbau. Significance is given if prices in one of the above positions change by at least 5% compared to the offer date or since the time of a previous price adjustment. If the Client rejects these price changes or does not conduct negotiations on price adjustments within one month of being requested to negotiate, AM Maschinenbau has the right to terminate the existing supply contract in writing with six months' notice to the end of a month. The Client cannot derive claims for damages from this termination.

In general, in the event of a delay in the Client's sphere, AM Maschinenbau is entitled to demand payment for materials and raw products procured under the order.

The Client does not have the right to rescind the contract insofar as AM Maschinenbau provides written or text proof of the supplier's price increase to the Client.

3.

Insofar as the Client collects invoices until the end of a calendar month according to their invoice processing procedure, this expressly does not affect the due date of the respective claims.

4.

The Client is obligated to reimburse expenses only according to actual effort and within the contractually agreed scope.

5.

Insofar as AM Maschinenbau bills on an hourly basis, written confirmation of timesheets by the Client is required. If the Client agrees to this timesheet in written form, it is deemed accepted. This also applies if the Client does not grant written approval within 15 days of receiving the timesheets.

6.

The total amount shown on the invoice is due immediately and payable without deduction within 15 calendar days from the invoice date, insofar as the Client does not comply with contractual payment terms. In such a case, AM Maschinenbau is entitled to exercise a right of retention on the goods. The Client can avert the exercise of the right of retention by providing security. Security by a guarantor is excluded.

Insofar as an individual price agreement was made with the Client, such agreement takes precedence over these conditions.

7.

A right of retention of AM Maschinenbau is also given insofar as the Client is in default with the fulfillment of their performance and cooperation duties. The Client can avert the exercise of the right of retention by providing security. Security by a guarantor is also excluded.

8.

If the Client has not settled the due amount, AM Maschinenbau may, after setting a reasonable grace period, rescind the contract and claim compensation for loss incurred.

9.

For deliveries to countries outside the European Union (third countries), additional costs such as customs duties, taxes, or import fees may apply. These additional charges are to be borne by the Client in addition to the agreed contract price.

VIII. Set-Off and Right of Retention

1.

If the Client is a merchant/entrepreneur pursuant to § 14 BGB or a public legal entity, a right of retention exists only with respect to undisputed or legally established claims against AM Maschinenbau.

2.

The Client can declare set-off with a counterclaim only if it is an undisputed or legally established claim. This expressly does not apply to mutually dependent claims.

IX. Acceptance and Warranty

1.

AM Maschinenbau can demand acceptance of properly created work from the Client. Upon request, the Client must accept self-contained parts of the overall performance separately. This applies in particular to parts of the overall performance whose inspection becomes impossible through further execution of work.

2.

If the Client is a merchant/entrepreneur pursuant to § 14 BGB or a public legal entity, obvious defects must be reported in writing to AM Maschinenbau within two weeks of obtaining knowledge. Timely dispatch of defect notice and proof of receipt within a reasonable period suffices for deadline adherence. Insofar as the Client fails to give timely written notice, any warranty regarding these obvious defects is forfeited. Excepted from this is liability for intent.

X. Retention of Title

1.

All goods delivered by AM Maschinenbau remain the property of AM Maschinenbau until receipt of all payments from the respective contractual relationship with the Client, including all claims from follow-up orders, reorders, spare parts orders, and similar.

If an ongoing business relationship (current account relationship) exists between AM Maschinenbau and the Client, all delivered goods remain the property of AM Maschinenbau until receipt of all payments from the existing current account relationship, with the reservation referring to the recognized balance.

Insofar as AM Maschinenbau agrees payment of purchase price debt based on check/bill of exchange procedure, reservation also extends to redemption of accepted bill of exchange by Client and does not expire upon credit of check at AM Maschinenbau.

The goods remain property of AM Maschinenbau until complete settlement of all claims from business relationship. Client is entitled to resell goods in regular business. In this case, Client hereby assigns all claims arising from resale against customers to AM Maschinenbau. These serve to secure claims of AM Maschinenbau against Client.

Regarding retention of title, statutory regulations apply.

2.

It is expressly pointed out that pledging or transferring ownership by way of security of goods under retention of title is impermissible.

3.

As soon as the Client files an application to open insolvency proceedings, AM Maschinenbau is entitled to withdraw from the contract and demand immediate return of the delivery item.

XI. Defects Warranty

1.

For quality and concrete execution of delivered goods, offer specifications, if applicable supplemented by detailed agreements, are exclusively decisive. Insofar as custom manufacturing is subject of contract, Client carries sole responsibility for correct design and technical/practical suitability. This applies in particular if Client was advised free of charge during development of part without consulting agreement being concluded.

This also applies if percentage components of work are manufactured based on customer specifications upon customer request.

2.

Insofar as no acceptance was agreed, Client is obligated to inspect delivery items immediately, at latest within 14 days after receipt, for errors/deviations. These are then to be reported in writing within 14 days after receipt to AM Maschinenbau.

3.

It is exclusively warranted by AM Maschinenbau that delivery items possess agreed quality upon risk transfer. In particular, warranty and liability are assumed only for specifications of goods quality that became part of contract. Liability for specifications in advertisements of any kind is not assumed.

4.

The warranty period is generally 12 months.

5.

Should rectification and/or replacement delivery be necessary, Client must grant reasonable time after consultation with AM Maschinenbau. If Client fails to fulfill this duty, liability for consequences arising therefrom is excluded for AM Maschinenbau.

Only in urgent exceptional cases of endangering operational safety or preventing disproportionately large damage does Client have right to remedy defect themselves or through third party and demand objectively necessary expenses from AM Maschinenbau. Duty to consult with AM Maschinenbau first regarding damage remains unaffected for Client.

6.

Liability for defects occurring only after risk transfer or caused by Client is expressly not assumed as far as legally possible.

7.

For damage not occurred on delivery item itself, AM Maschinenbau is liable only in case of intent, gross negligence of owner/organs/executives, culpable injury to life/body/health, defects fraudulently concealed or absence guaranteed, as well as defects of delivery item insofar as liability exists under Product Liability Act for personal/property damage to privately used items. Liability is limited to reasonably foreseeable and contract-typical damage. No liability is assumed for tortious claims.

8.

If essential contractual duties are culpably breached, liability is assumed even for gross negligence of non-executive employees, limited to contract-typical and reasonably foreseeable damage. Liability from tort does not occur here either.

9.

Further claims of Client are excluded. This applies above all to damage to delivered goods not caused or caused negligently by AM Maschinenbau.

All other claims of Client, on whatever legal grounds, expire within twelve months. Limitation period begins at delivery time or, in case of default of acceptance, notice of readiness for delivery by AM Maschinenbau or agreed acceptance day.

XII. Intellectual Property Rights and Licenses

In principle, no license to use intellectual property rights in goods including embedded software is granted to Client. This clause can exclusively be waived by individual contractual agreement in written form.

A waiver requires that AM Maschinenbau and Client have individually agreed on licensing. Client must pay appropriate compensation for use individually agreed.

XIII. Cybersecurity

AM Maschinenbau takes appropriate technical and organizational measures to ensure security level appropriate to state of art. Absolute security cannot be guaranteed.

Client is obligated to take appropriate IT security measures (authentication processes, firewalls, anti-virus, encryption), handle access data confidentially, prevent unauthorized access/disturbances/data loss, and report security incidents immediately to AM Maschinenbau.

XIV. Contract Termination

1.

Termination right is governed by statutory provisions.

2.

Remuneration claim for services unperformed due to termination is standardized at 10% of agreed price without VAT. Client may prove lower claim due to saved expenses.

3.

In case of culpable breach of contract, Client is entitled to terminate contract.

XV. Assignment

Client is permitted to assign, transfer, or subcontract contract only with prior written consent of AM Maschinenbau.

XVI. Waiver

If a party does not assert claims within six months after accrual, they can no longer be enforced.

XVII. Applicable Law

1.

Exclusively law of Federal Republic of Germany applies. In case of contradictions between German and foreign language versions, German version prevails in case of doubt.

2.

Place of jurisdiction is registered office of AM Maschinenbau at choice of AM Maschinenbau (insofar as Client is merchant under HGB or public entity).

XVIII. Amendments Clause

Amendments and supplements require written form to be effective.

XIX. Severability Clause

Should individual provisions prove invalid, validity of remaining provisions remains unaffected.