

**GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY**  
of  
**MAYER & CIE. GmbH & Co. KG**  
(for orders outside the Webshop)

### **1. Scope of Application**

Contracts for sales and deliveries (hereinafter: "Contracts" or "Contract") concluded by MAYER & CIE. GMBH & CO. KG (hereinafter: "MAYER & CIE.") shall exclusively be subject to the following general terms and conditions of sale and delivery (hereinafter: "General Terms and Condition"). In relation to any order, the General Terms and Conditions shall be deemed to be accepted by the customer when the order is placed or when delivery is accepted. The General Terms and Conditions shall apply to all Contracts and all future business with the customer. The application of different and additional terms and conditions of the customer shall be excluded, even if MAYER & CIE. does not expressly reject them. However, the General Terms and Conditions shall not apply to sales through the Mayer & Cie. Webshop.

### **2. Conclusion of the Contract**

2.1 MAYER & CIE.'s offers are non-binding. Unless otherwise agreed in individual cases, a Contract shall only be concluded when the customer has signed MAYER & CIE.'s written order confirmation and sent it back to MAYER & CIE. The content of the Contract shall exclusively be based on the content of the order confirmation and the General Terms and Conditions. Oral agreements or promises, or changes to the order confirmation, need to be confirmed in writing by MAYER & CIE. in order to be effective. MAYER & CIE.'s field service is not authorized to act in the name of MAYER & CIE. In particular, it cannot conclude any Contracts or make any binding commitments with regard to the delivery item or other conditions.

2.2 MAYER & CIE. reserves all rights to the sales documents (in particular images, drawings, information on weight and dimensions) and the samples. These are the intellectual property of MAYER & CIE., may only be made available to third parties with the prior written consent of MAYER & CIE., and shall not be used for purposes outside the Contract or for customer's own purposes. They shall be returned to MAYER & CIE. immediately upon request.

### **3. Delivery Times and Dates**

3.1 When accepting the order, MAYER & CIE. will specify delivery periods of a maximum of 14 days. MAYER & CIE. will notify the customer of the specific delivery date, which will be within the specified delivery period, at least 5 working days before the start of this delivery period. This notified delivery date shall be considered the binding delivery date. Delivery dates and delivery periods shall only be binding if they have been confirmed by MAYER & CIE. in writing and the customer has timely provided MAYER & CIE. with all information and documents required for the execution of the delivery, and has made the agreed down payments, if any, or provided bank guarantees or similar securities, including letters of credit. Agreed periods of time shall start with the date of the conclusion of the Contract. In the case of additional or extension orders placed a later stage, or changes to orders, the time periods shall be extended accordingly.

3.2 Events that are unforeseeable, unavoidable and beyond MAYER & CIE.'s control, and for which MAYER & CIE. is not responsible, such as force majeure, war, natural disasters, official orders or industrial disputes, shall, during their continuance, release MAYER & CIE. from the obligation to deliver or perform on time. Agreed periods of time shall be extended by the duration of the disruption; the customer will be appropriately informed of the occurrence of the disruption. If the end of the disruption cannot be foreseen or if it lasts longer than two months, each party is entitled to withdraw from the Contract.

3.3 If MAYER & CIE.'s deliveries are delayed, the customer shall only have the right to withdraw from the Contract if MAYER & CIE. is responsible for the delay and a reasonable period of time for delivery set by the customer has expired without success.

3.4 If the customer is in default of acceptance or in breach of other duties to cooperate, or if the customer wishes delivery after the binding delivery date, MAYER & CIE. shall have the right to (i) store the goods appropriately at the risk and expense of the customer and (ii) claim from the customer, for the duration of such storage, payment of liquidated damages in an amount of EUR 30.00 per day of storage and per machine as compensation for handling costs incurred by MAYER & CIE. as a result thereof (such as storage costs, administrative expenses, etc.); the customer's right to prove lower damages, and MAYER & CIE.'s right to claim additional damages, insofar as these can be proven, remains unaffected. Without prejudice to its other rights, MAYER & CIE. shall have the right to withdraw from the Contract if a reasonable grace period set for the customer to accept the delivery expires unsuccessfully.

3.5 MAYER & CIE. has the right to make partial deliveries for justified reasons, provided this is reasonably

acceptable to the customer.

#### **4. Shipping, Customs**

4.1 Unless the customer has made any determination, shipment will be made through appropriate means of transport in ordinary packaging.

4.2 Shipment is made in accordance with INCOTERMS 2020 as set out in the order confirmation.

4.3 After the conclusion of the Contract, the customer shall inform MAYER & CIE. whether it is certified as an Authorized Economic Operator (AEO) in accordance with the Union Customs Code (Regulation (EU) No. 952/2013) and its implementing regulations (DA - Delegated Regulation (EU) 2015/2446 and IA - Implementing Regulation (EU) 2015/2447), and shall notify MAYER & CIE., without being requested to do so, if this certification changes. At the request of MAYER & CIE., the customer shall submit the necessary documents to prove its certification as an Authorized Economic Operator.

4.4 The customer shall not sell, export or re-export, directly or indirectly, to the Russian Federation or for use in the Russian Federation any goods supplied under or in connection with this Agreement that fall under the scope of Article 12g of Council Regulation (EU) No 833/2014.

4.5 The customer shall undertake its best efforts to ensure that the purpose of paragraph 4.4 is not frustrated by any third parties further down the commercial chain, including by possible resellers.

4.6 The customer shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including by possible resellers, that would frustrate the purpose of paragraph 4.4.

4.7 Any violation of paragraphs 4.4, 4.5 or 4.6 shall constitute a material breach of an essential element of this Agreement, and MAYER & CIE. shall be entitled to seek appropriate remedies, including, but not limited to:

(i) termination of this Agreement; and

(ii) a penalty / liquidated damages of 5 % of the total value of this order / purchase or price of the goods exported, whichever is higher.

(iii) Penalties, other costs incurred as a result of the breach, threatened by governmental authorities, shall be passed on to the originator.

4.8 The customer shall immediately inform MAYER & CIE. about any problems in applying paragraphs 4.4, 4.5 or 4.6, including any relevant activities by third parties that could frustrate the purpose of paragraph 4.4. The customer shall make available to MAYER & CIE. information concerning compliance with the obligations under paragraph 4.4, 4.5 or 4.6 within two weeks of the simple request of such information.”

#### **5. Prices, Payment Terms**

5.1 The price agreed between the parties shall apply in relation to the goods. MAYER & CIE.'s prices shall be in accordance with the provisions of the order confirmation.

5.2 If the parties have not agreed on a specific price, the price shall be in accordance with MAYER & CIE.'s price list as valid at the time of the conclusion of the Contract.

5.3 Unless otherwise agreed, the prices are ex works prices, exclusive of the relevant statutory VAT, any customs duties, and packaging and shipping costs, which shall be charged separately.

5.4 Unless otherwise specified in the order confirmation, invoice amounts are due for payment upon receipt of the invoice without deduction. Payments by the customer shall only be deemed to be made when MAYER & CIE. can dispose of the amount. MAYER & CIE. may issue partial invoices for partial deliveries within the meaning of section 3.5.

5.5 MAYER & CIE. sends invoices to the e-mail address of the customer currently known to it. The additional provision of an invoice in paper form shall only take place if this is expressly requested by the customer.

5.6 If the customer is in delay with any payment, MAYER & CIE. shall be entitled to delay interest at the statutory rate. The claim for additional damages caused by delay shall remain unaffected.

5.7 The customer shall only have the right to set off claims if its counterclaim is undisputed, ready for a decision or confirmed by court judgment. In the event of defects in the delivery item, the right of the customer to set off claims against rights that are due to defects remains unaffected.

5.8 The customer only has the right to retain performance of its obligations if its counterclaim is based on the same contract and is undisputed, ready for a decision or confirmed by court judgment. In the event of defects in the delivery item, the customer's right of retention that is based on any rights relating to defects remains unaffected.

5.9 If, after the conclusion of the Contract, MAYER & CIE. becomes aware of the risk of insufficient performance by the customer, MAYER & CIE. shall have the right to carry out outstanding deliveries only against advance payment or provision of security. If the advance payments are not made, or the security is not provided, although a reasonable grace period has expired, MAYER & CIE. may withdraw from individual or all of the affected Contracts, in whole or in part. MAYER & CIE. reserves the right to additional claims.

## **6. Agreement on Quality without Assumption of Guarantee**

6.1 The delivery item shall, at the time of the transfer of risk, be in conformity with the agreed specifications. The agreed specifications shall be determined exclusively on the basis of the specific agreements made in writing between the parties in relation to the properties, features and performance characteristics of the delivery item. MAYER & CIE. reserves the right to make changes due to production requirements, as well as minor model deviations that do not affect the functionality of the delivery item. In the case of delivery items manufactured according to specific instructions or information provided by the customer, MAYER & CIE. does not accept any liability for the suitability for the intended purpose or the correctness of the relevant information.

6.2 MAYER & CIE does not, in any circumstances, guarantee the quality of the delivery item in the legal sense.

6.3 Information in catalogs, price lists, the Mayer & Cie. Webshop and other information material provided to the customer by MAYER & CIE are in no way guarantees for a particular quality of the delivery item or an indication of its quality.

6.4 If the parties wish to agree on a guarantee in individual cases contrary to Clauses 6.2 and 6.3, this needs to be expressly agreed in writing.

## **7. Rights arising from Defects, Obligation to Examine**

7.1 The customer's rights arising from defects are conditional on the customer inspecting the delivery item immediately after delivery, and immediately notifying MAYER & CIE. in writing of any obvious defects, but in any event no later than two weeks after delivery; hidden defects need to be notified to MAYER & CIE. in writing immediately after they are discovered.

7.2 In the event of any notification of defects, MAYER & CIE. has the right to inspect and examine the delivery item complained about and the specific conditions of use. MAYER & CIE. may request the customer to send, at MAYER & CIE.'s cost, the delivery item complained about back to MAYER & CIE. If a complaint by the customer proves to be unjustified, and if the customer has realised this prior to the notification of the defect or negligently did not realise it, the customer shall reimburse MAYER & CIE. for all expenses incurred in this context – such as, e.g., shipping costs.

7.3 Defects that are covered by MAYER & CIE.'s warranty will be remedied by MAYER & CIE. at its own discretion by removal of the defect, free of charge, or by delivery of a defect-free item (hereinafter jointly referred to as "Remedy of the Defect").

7.4 If the delivery item is at a location different from the original delivery address, the customer shall bear the additional costs incurred with regard to the Remedy of the Defect as a result thereof, in particular transport and travel costs. Parts replaced by MAYER & CIE. in the context of the Remedy of the Defect shall be returned to MAYER & CIE. by the customer.

7.5 If MAYER & CIE. seriously and finally refuses Remedy of the Defect, if there are special circumstances which, after careful consideration of the interests of both parties, justify the immediate claim of rights other than those mentioned in Section 7.3, if the removal of the defect or the replacement of the defective item fails, is unreasonable for the customer, or if MAYER & CIE. has refused it in accordance with Section 439 (4) of the German Civil Code (BGB), the customer may, at its option, and in accordance with the applicable legal provisions, withdraw from the Contract, reduce the purchase price, or claim compensation in accordance with Section 8 or reimbursement of its expenses, if any.

7.6 The customer shall notify MAYER & CIE. of the periods for the Remedy of the Defect in accordance with Section 7.5.

7.7 The customer shall have no claims for defects in the event of defects and damage caused by unsuitable or improper use, incorrect commissioning or handling, incorrect repair or improvement attempts by the customer or third parties, natural wear and tear or unsuitable operating materials. Section 8 of the General Terms and Conditions shall remain unaffected.

7.8 Warranty claims shall expire within twelve (12) months. The warranty period shall start with the delivery of the delivery item. If MAYER & CIE. is, under the Contract, responsible for the installation and commissioning in addition to the delivery, the warranty period shall start upon completion of commissioning; the date of the takeover minutes shall be the relevant date. If commissioning is delayed for reasons for which the customer is responsible, the warranty period shall start at the time of commissioning as foreseen in the Contract. In the case of spare parts, the warranty period shall always start with the delivery of the goods and end twelve (12) months after the delivery date.

The statutory limitation periods shall remain applicable

- (a) in relation to the customer's rights in the event of fraudulently concealed or deliberately caused defects;
- (b) if and to the extent MAYER & CIE. has given a guarantee;
- (c) in relation to the customer's claims for damages due to culpable injury to life, limb or health;
- (d) in relation to the customer's claims for damages due to damage caused intentionally or as a result of gross negligence by MAYER & CIE.;

(e) in relation to the customer's claims for damages for reasons other than defects in the delivery item, as well as  
(f) in relation to claims under the Product Liability Act or other mandatory provisions on liability.  
The statute of limitations of Section 445b BGB shall remain unaffected if and to the extent the last buyer in the supply chain is a consumer.

7.9 If MAYER & CIE. is, under the Contract, responsible for the installation and commissioning in addition to the delivery, the customer shall notify MAYER & CIE. of any damage to the original packaging immediately after receipt of the delivery items; the customer shall also ensure that the delivery items are properly and safely stored until they are commissioned. The customer shall be liable for all damage resulting from a breach of these obligations.

## **8. Liability and Compensation**

8.1 MAYER & CIE.'s liability for damages shall be unlimited in accordance with the statutory provisions

(a) in the event of MAYER & CIE.'s, its legal representatives' or its vicarious agents' willful misconduct or gross negligence;

(b) if and to the extent MAYER & CIE. has given a guarantee, an event covered by the guarantee has occurred, and the purpose of the guarantee is to protect the customer against the damage that has occurred;

(c) in relation to culpably caused damage resulting from injury to life, limb or health;

(d) in relation to claims under the Product Liability Act;

(e) under any other mandatory legal provisions on liability.

8.2 In addition, MAYER & CIE. shall also be liable in the event of slight negligence for damages caused by MAYER & CIE., its vicarious agents or legal representatives in breach of an essential contractual obligation, provided that the liability shall be limited to the amount of the typically foreseeable damage at the time the Contract was concluded.

8.3 Any liability exceeding Sections 8.1 and 8.2, in particular for consequential damage caused by a defect, shall be excluded.

8.4 This limitation of liability shall apply with regard to all claims for damages, regardless of their legal basis, in particular with regard to pre-contractual or secondary contractual claims as well as claims based on unlawful acts.

8.5 The customer shall be obliged to take appropriate measures to avoid and mitigate damages.

## **9. Retention of Title**

9.1 The delivery items shall remain the property of MAYER & CIE until all of MAYER & CIE.'s claims arising from the business relationship with the customer have been paid in full (hereinafter: "Retention of Title Products").

9.2 In the case of a current account, the retention of title shall be considered security for the balance due to MAYER & CIE.

9.3 The customer shall not have the right to sell, pledge or otherwise dispose of the Retention of Title Products in a way that negatively affects MAYER & CIE.'s ownership, unless with the prior written consent of MAYER & CIE.

9.4 Any processing and modification of the Retention of Title Products by the customer shall at all times be on behalf of MAYER & CIE. If the Retention of Title Products are processed together with other items, MAYER & CIE. shall acquire co-ownership of the new item in the proportion of the value of the Retention of Title Products to the other processed items at the time of processing. In addition, the provisions concerning the products delivered under retention of title shall apply to the new items created through processing.

9.5 If the Retention of Title Products are joined with other items, MAYER & CIE. shall acquire co-ownership of the new item in the proportion of the value of the Retention of Title Products to the other items at the time of joining. If the joining is made in such a way that the customer's item is to be regarded as the main item, the parties agree that the customer shall transfer proportional co-ownership to MAYER & CIE. The customer will keep in trust the co-ownership created in this way on behalf of MAYER & CIE.

9.6 The customer hereby assigns to MAYER & CIE. all future claims arising from the resale; MAYER & CIE. hereby accepts this assignment. If the customer sells the Retention of Title Products after processing or modification, or after joining them with or together with other goods, the assignment of claims shall only apply in the amount of the part that corresponds with the price agreed between MAYER & CIE. and the customer plus a security margin of 10%. The customer is revocably authorized to collect the claims assigned to MAYER & CIE. in trust and on behalf of MAYER & CIE., but in his own name. MAYER & CIE. may revoke this authorization as well as the right to resell if the customer is in delay with essential obligations such as payment to MAYER & CIE.; in the event of revocation, MAYER & CIE. is entitled to collect the claim on its own.

9.7 The customer shall at all times provide MAYER & CIE. with all information requested in relation to the Retention of Title Products or to claims that have been assigned to MAYER & CIE. The customer shall notify MAYER & CIE. immediately of any seizure or claims by third parties concerning the Retention of Title Products

and hand over the necessary documents. At the same time, the customer will inform the relevant third party of MAYER & CIE.'s retention of title. The customer shall bear the costs of defense against such seizure and claims.

9.8 The customer shall handle the Retention of Title Products carefully for the duration of the retention of title.

9.9 If the realizable value of the collateral exceeds MAYER & CIE.'s total claims that need to be secured by more than 10%, the customer shall, to that extent, have the right to request release of the security.

9.10 If the customer fails to fulfil an obligation that is due to MAYER & CIE., in particular payment obligations, MAYER & CIE. may, without prejudice to any other rights, and after expiry of a reasonable period of time, unless this is not required in accordance with Section 323 (2) BGB, withdraw from the Contract, take back the Retention of Title Products and use them for the purpose of satisfying its due claims against the customer. In this case, the customer shall immediately grant MAYER & CIE., or persons appointed by MAYER & CIE., access to the Retention of Title Products and hand them over. If MAYER & CIE. requests handover on the basis of this provision, this shall be considered a withdrawal from the Contract.

9.11 In the case of deliveries to other jurisdictions in which the retention of title provision of this section 9 does not have the same security effect as in Germany, the customer will do everything possible to immediately grant appropriate security rights to MAYER & CIE. The customer will cooperate in relation to all measures, such as registration, publication, etc., which are necessary and helpful for the effectiveness and enforceability of such security rights.

9.12 The customer shall insure the Retention of Title Products appropriately, provide MAYER & CIE. with evidence of the insurance, and assign the claims arising from the insurance contract to MAYER & CIE.

9.13 If the customer culpably violates its obligations under section 9.11 or 9.12 of the General Terms and Conditions, the customer shall pay to MAYER & CIE a contractual penalty in the amount of the purchase price for each Retention of Title Product concerned, without having the right to argue that the violation was a continuation of previous violations.

## **10. Product Liability**

If the customer sells the delivery items unchanged or after processing, modifying or joining them with other goods, the customer shall indemnify MAYER & CIE. against product liability claims by third parties, if and to the extent the customer is responsible for the defect that is the reason for the liability.

## **11. Industrial Property Rights**

If the customer prescribes, by means of certain instructions, information, documents, drafts or drawings, how MAYER & CIE. should manufacture the products to be delivered, the customer shall warrant that MAYER & CIE. will not infringe on any third party rights such as patents, utility models and other industrial property and copyrights. The customer shall indemnify MAYER & CIE. against all claims by third parties against MAYER & CIE. on the basis of such an infringement, if and to the extent the customer is responsible for it.

## **12. General Provisions**

12.1 Changes and additions to the Contract and ancillary agreements need to be made in writing. This shall also apply to an amendment to this requirement of written form.

12.2 If any provision of the Contract is, wholly or partially, not enforceable, the validity of the remaining provisions shall remain unaffected. In this case, the parties undertake to replace the invalid provision with a valid provision that comes closest to the economic purpose of the invalid provision.

12.3 If the customer is a trader, a legal entity subject to public law, or a special fund under public law, the exclusive place of jurisdiction for all disputes arising from the contractual relationship shall be Stuttgart, Germany. This shall also apply if the customer does not have a general place of jurisdiction in the Federal Republic of Germany or has relocated its habitual place of residence abroad after the conclusion of the Contract. However, MAYER & CIE. shall be entitled to start legal action against the customer at any other legal place of jurisdiction.

12.4 The law of the Federal Republic of Germany shall apply, with the exclusion of the Convention on the International Sale of Goods (CISG).

12.5 The German version of the General Terms and Conditions shall be authoritative and legally binding in every respect and take precedence in the event of contradictions.

## **13. Data Protection**

Information on data protection can be found in MAYER & CIE's data protection statement that is available on the homepage

[www.mayercie.com/datenschutzerklaerung-eu/](http://www.mayercie.com/datenschutzerklaerung-eu/)

If required, this can be requested directly from MAYER & CIE.

*Albstadt, September 2024*