

General Terms and Conditions of Sale and Delivery of AMIS Maschinen-Vertriebs GmbH

As of: November 2023

1. Scope of Application

- (1) These General Terms and Conditions apply to all our contracts, deliveries, and other services to entrepreneurs within the meaning of § 310, paragraph 1 of the German Civil Code (BGB).
- (2) Conditions of the customer that contradict or deviate from these terms are not applicable unless we have expressly agreed to their validity in writing. We hereby object to the inclusion of such conditions by the customer.
- (3) These General Terms and Conditions also apply if we carry out the delivery to the customer unconditionally, with knowledge of the customer's contradictory or deviating conditions from our sales terms.
- (4) The terms and conditions apply to all future contracts, deliveries, and other services between us and the customer.

2. Offers and Conclusion of Contract

- (1) Our offers are always non-binding unless otherwise agreed in writing. Our offers are valid for a maximum of 14 days from the date of the offer. A signed offer from the customer is considered a binding order. We are entitled to accept this offer within four weeks of its receipt.
- (2) Only orders in text form (e.g., email) are valid. Acceptance by us may be declared either in writing/in text form or by delivery of the goods to the customer. The invoice is also considered an order confirmation. Any telephone or verbal additional agreements are only binding for us after express confirmation, at least in text form.
- (3) For the acceptance of the order, the scope of the delivery, and the delivery time, only our order confirmation is decisive.
- (4) The illustrations, drawings, weight and size specifications, and other performance data concerning our goods are considered only as industry-standard approximations unless explicitly stated as binding in the order confirmation.
- (5) Construction changes due to technical progress for technical improvements are reserved, provided the customer has not expressed a particular interest in maintaining a specific version before the conclusion of the contract.
- (6) If plant components, spare parts, or used machines are not offered from our warehouse and the location is specified or made known to the customer, the customer agrees not to disclose the address to third parties. These machines may only be purchased by the customer or third parties from us, and any price and conclusion negotiations must be conducted by us. In the event of a violation, the customer agrees to reimburse us for the lost profit, which is determined as follows: the difference between the proven purchase price and the offered price.

3. Delivery and Delivery Time

- (1) The delivery times specified by us are always approximate and therefore non-binding unless expressly agreed to be fixed.
- (2) If we have bindingly promised delivery times in a specific case, their adherence is contingent upon all commercial and technical matters being clarified between us and the customer, and the customer having fulfilled all of their obligations, such as providing the required official certificates or approvals, or making a down payment. If this is not the case, the delivery time is extended by the delay caused by the customer's failure to cooperate. This does not apply if we are responsible for the delay.

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(3) The delivery time is considered met if the delivery item has left our factory or warehouse by the deadline, or if the customer has been notified of the readiness for dispatch.

(4) We are not liable for the impossibility of delivery or for delivery delays caused by force majeure or other events that could not be foreseen at the time of contract conclusion (e.g., disruptions of operations of any kind, difficulties in procuring materials or energy, transport delays, strikes, lawful lockouts, shortages of labor, energy, or raw materials, difficulties in obtaining necessary official permits, pandemics or epidemics, governmental measures, or the failure of timely or correct delivery by suppliers despite a corresponding cover transaction concluded by us) that are not within our control. If such events make delivery or performance substantially more difficult or impossible, and the hindrance is not merely temporary, we are entitled to withdraw from the contract. In the case of temporary hindrances, the delivery or performance periods will be extended or the delivery or performance dates will be postponed by the duration of the hindrance plus a reasonable startup period. If the delay makes it unreasonable for the customer to accept the delivery or performance, the customer may withdraw from the contract by providing immediate written notice to us.

(5) If the dispatch is delayed at the request of the customer, they will be charged for the storage costs incurred, starting one month after the notification of readiness for dispatch, as follows:

- o For storage in our factory: 0.5% of the partial or total order per calendar week, but not exceeding 5% in total.
- o The customer may prove to us that a smaller damage amount has occurred.
- o For storage outside our factory: the actual storage costs incurred with the third party, including handling costs.

4. Prices and Payment Terms

(1) All price offers are non-binding. Unless otherwise stated in the order confirmation, our prices for new machines, used machines, and spare parts are „ex works“ or from the respective location of the purchased goods, including loading, but excluding packaging, postage, freight, other shipping costs, insurance, and customs duties; these will be invoiced separately.

(2) Our prices do not include the value-added tax (VAT) applicable at the time of delivery; it will be separately stated in the invoice at the statutory rate on the day of invoicing. Discount agreements or promises apply to each order individually. There is no binding effect for follow-up orders.

(3) Unless otherwise stated in the order confirmation, our invoices are payable in cash without any deductions, free of our designated payment office, as follows:

(3.1) For new machines:

- 30% down payment after receipt of the order confirmation,
- 60% as soon as the customer has been notified that the main parts are ready for dispatch,
- 10% within 14 days after delivery.

(3.2) For used machines and spare parts:

- 30% down payment after receipt of the order confirmation,
- 70% immediately after notification of readiness for dispatch, net.

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As of: November 2023

((4) A discount deduction requires a special written agreement.

(5) If our list prices are the basis for the agreed prices, and delivery is to take place more than four months after the conclusion of the contract, our list prices valid at the time of delivery will apply (with any agreed percentage or fixed discount deducted). In the event that the net purchase prices we pay for the goods increase by more than 5% after the conclusion of the contract and within less than four months after delivery, we have the right to pass the price increase on to the buyer. If the price increase exceeds 10%, both parties agree to enter into supplementary contract negotiations to reach an appropriate adjustment of the agreed prices. If the parties cannot agree on a reasonable price adjustment, each party is entitled to withdraw from the contract.

(6) In the case of exceeding the payment deadlines, the customer shall pay default interest at the statutory rate, with the right reserved for us to claim any higher default damage incurred.

(7) In the event of non-compliance with the payment terms or if circumstances arise after the conclusion of the contract that reduce the customer's creditworthiness based on standard banking practices, all outstanding claims will become immediately due after a reminder. In this case, we are entitled to make any outstanding deliveries and services only against prepayment or security. Alternatively, after the expiration of a reasonable grace period, we may withdraw from the contract.

(8) The customer is only entitled to offset if their counterclaims are legally established, undisputed, or acknowledged by us. For disputed counterclaims, the customer also has no right of retention. The customer may exercise a right of retention only if their counterclaim arises from the same contractual relationship.

(9) The customer's rights under the contract are non-transferable.

(10) We are entitled, despite any contrary instruction from the customer, to initially apply payments to their older debts. If costs and interest have already been incurred, we are entitled to apply the payment first to the costs, then to the interest, and lastly to the principal amount.

5. Transfer of Risk

(1) In all deliveries, the risk passes to the customer upon handover of the delivery item to the collector, forwarder, or carrier, or, in the case of transport using our means of transportation, at the latest when the item leaves our warehouse, or in the case of direct delivery of non-manufactured goods, when it leaves the warehouse of our sub-supplier – even if partial deliveries are made or we have assumed other services (such as shipping costs, delivery, or installation). If the shipment or collection is delayed or becomes impossible due to no fault of ours, the risk passes to the customer when the notification of readiness for dispatch is made. The same applies if the customer is in default of acceptance.

(2) Transport and all other packaging materials used at the customer's request are to be disposed of by the customer at their own cost.

(3) At the customer's request, we will insure the shipment against theft, breakage, transport damage, fire, water damage, and other insurable risks at the customer's cost.

General Terms and Conditions of Sale and Delivery of AMIS Maschinen-Vertriebs GmbH

As of: November 2023

(4) If the shipment is delayed due to circumstances for which the customer is responsible, the risk passes to the customer from the day the goods are ready for dispatch. However, we are obligated, at the customer's request and cost, to arrange the insurance required by the customer.

(5) Partial deliveries are permissible as long as they are reasonable for the customer.

6. Retention of Title

(1) We retain ownership of the delivery item until all payments from the business relationship with the customer have been received. The retention of title extends to the recognized balance, provided we book receivables against the customer in current accounts (current account retention of title).

(2) In the event of contractual breach by the customer, particularly in the case of payment default, we are entitled to take back the delivery item after a reasonable period. The customer is obligated to return the item. The return of the delivery item by us always constitutes a withdrawal from the contract. Seizure of the delivery item by us also always constitutes a withdrawal from the contract. In the case of seizures or other third-party interventions, the customer must notify us immediately in writing so that we can file a claim in accordance with § 771 of the German Code of Civil Procedure (ZPO). If the third party is unable to reimburse us for the judicial and extrajudicial costs of a claim according to § 771 ZPO, the customer will be liable for the loss we incur. If an insolvency procedure is initiated regarding the customer's assets, the customer must inform us immediately.

(3) The customer is entitled to resell the delivery item in the ordinary course of business; however, they hereby assign to us all claims in the amount of the invoice total (including VAT) that arise from the resale to their buyers or third parties, regardless of whether the delivery item was sold without or after processing. The customer is also authorized to collect these claims even after their assignment. Our authority to collect the claims ourselves remains unaffected; however, we undertake to not collect the claims as long as the customer properly fulfills their payment obligations and is not in default of payment. In this case, we may request that the customer informs us of the assigned claims and their debtors, provides all necessary information for collection, hands over the related documents, and notifies the debtors (third parties) of the assignment.

(4) The processing or transformation of the delivery item by the customer is always done on our behalf. If the delivery item is processed with other goods not owned by us, we acquire co-ownership of the new item in proportion to the value of the delivery item compared to the other processed items at the time of processing. The new item resulting from the processing is subject to the same terms as the goods subject to retention of title.

(5) If the delivery item is inseparably combined or mixed with other goods not owned by us, we acquire co-ownership of the new item in proportion to the value of the delivery item compared to the other combined or mixed items at the time of connection or mixing. If the connection or mixing occurs in such a way that the customer's item is considered the principal item, it is agreed that the customer transfers to us co-ownership in proportion. The customer holds sole or co-ownership on our behalf.

(6) The customer also assigns to us the claims arising from the connection of the delivery item with a property against a third party to secure our claims against the customer.

General Terms and Conditions of Sale and Delivery of AMIS Maschinen-Vertriebs GmbH

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(7) We undertake to release the securities to which we are entitled, at the customer's request, to the extent that their value exceeds the claims to be secured (as long as they have not yet been paid) by more than 10%.

7. Warranty, Rights in Case of Defects

(1) The customer's rights in case of defects are contingent upon the customer having properly fulfilled their inspection and notification obligations under § 377 of the German Commercial Code (HGB). Otherwise, any claim for defects is excluded. The customer bears the full burden of proof for all claim prerequisites, particularly for the defect itself, the time of its discovery, and the timeliness of the defect notification.

(2) If crack- or break-free condition is warranted, this assurance only applies to breaks that exclude the usability of the goods. No warranty is provided for defects in parts that are particularly subject to wear, such as cutting blades, grinding discs, gears, bushes, etc., even if crack- and break-free conditions are guaranteed. Welded and riveted machines are considered crack- and break-free.

(3) In the event of a defect for which we are responsible, we are, at our discretion, initially entitled to multiple attempts at repair or to a replacement delivery. In the case of repair, we are obligated to bear all necessary expenses for this purpose, especially transport, travel, labor, and material costs, unless these are increased because the goods were moved to a location other than the place of performance.

(4) If the subsequent performance fails, the customer may, as a general rule, choose to demand a reduction in price (abatement) or cancellation of the contract (withdrawal). However, the customer is not entitled to withdraw from the contract in the case of only minor contractual violations, especially in the case of only minor defects.

(5) If the customer chooses to withdraw from the contract due to a legal or material defect after failed subsequent performance, they are not entitled to a claim for damages due to the defect. If the customer opts for damages after failed subsequent performance, the goods remain with the customer, provided this is reasonable for them. The damages are limited to the difference between the purchase price and the value of the defective goods. This does not apply if we have caused the breach of contract fraudulently.

(6) The warranty period for new machines and new spare parts is one year from the delivery of the goods.

(6a) For used machines and used parts, the warranty is excluded.

(6b) The same applies if new machines are operated by the customer in multiple shifts contrary to our specifications, unless the warranty is explicitly agreed upon for this.

(7) The quality of the goods is generally defined only by the manufacturer's product description as agreed. Public statements, promotions, or advertising by the manufacturer do not constitute a contractual quality description of the goods. We do not warrant that the goods are suitable for ordinary use or must have a typical quality. We do not provide any guarantees unless explicitly agreed to in writing.

(8) Exclusions of industry-standard deviations require explicit written agreement. Our descriptions of the delivery and

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performance items in our catalogs, brochures, and price lists are merely descriptions, labels, or guidelines unless otherwise stated in the order confirmation. Minor, insignificant deviations from the catalogs or from previously delivered goods are not considered defects.

(9) The customer must examine before entering into the contract whether the goods ordered from us are suitable for the intended purpose. Goods that are not suitable for the intended use are only considered defective if we have confirmed their suitability in writing.

(10) Wear and tear of consumable parts due to normal use is not considered a defect.

(11) If the customer receives a defective assembly or operating manual, we are only obligated to deliver a non-defective manual, and only if the defect in the manual prevents proper assembly.

(12) If our assembly, installation, sales, operating, or maintenance instructions are not followed, changes are made to our products, parts are replaced, or consumables are used that do not meet the original specifications, claims for defects exist only if the customer proves that the defect was not caused by these actions but was already present at the time the risk was transferred.

(13) The customer does not receive any guarantees in the legal sense from us. Manufacturer warranties remain unaffected.

8. Limitation of Liability, Overall Liability

(1) We are not liable, particularly not for claims by the customer for damages, regardless of the legal grounds, particularly in the case of breach of obligations arising from the contractual relationship and from tort.

(2) This does not apply where mandatory legal liability exists, particularly for our own intentional or grossly negligent breach of duty, and the intentional or grossly negligent breach of duty by legal representatives or vicarious agents, as well as in cases of fraud; for the violation of essential contractual obligations and in the case of impossible performance, delay in fixed contracts, or binding delivery dates and significant breach of duty; if, in the case of other obligations under § 241, paragraph 2 BGB, our performance is no longer reasonable for the customer; in the case of culpable injury to life, body, or health, even by legal representatives or vicarious agents; to the extent that we have assumed a warranty for the condition of our goods or the presence of a performance result or procurement risk, as well as liability under the Product Liability Act.

(3) „Essential contractual obligations“ are those obligations that protect the customer’s fundamental legal positions, which the contract is specifically intended to grant the customer according to its content and purpose. Also considered essential are contractual obligations whose fulfillment enables the proper execution of the contract and on which the customer regularly relies or is entitled to rely. Essential contractual obligations include the obligation to deliver the contractual item free from material defects that significantly impair its functionality or usability, as well as advisory and care obligations that should enable the customer to use the delivery item as intended or to protect the customer’s staff or property from significant damage.

(4) In cases other than those specified in paragraph (2), we are not liable for any claims for damages or reimbursement of expenses arising from the present contractual relationship due to negligent breach of duty, unless it involves gross negligence.

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(5) To the extent that we are liable for damages under the provisions of § 8, this liability is limited to damages that we could foresee at the time of contract conclusion as a potential consequence of the breach of contract or that we should have recognized or anticipated with due commercial care. Indirect and consequential damages resulting from defects in the delivery item are also only compensable to the extent that such damages can typically be expected from the proper use of the delivery item.

(6) In the event of liability for ordinary negligence, our obligation to compensate for property damage and resulting further financial losses shall be limited per damage event to the amount of the coverage under our product liability insurance or (business) liability insurance (currently EUR 500,000.00 per damage event), even if essential contractual obligations have been breached.

(7) We shall only be liable for assuming a procurement risk if we have expressly undertaken such procurement risk by written agreement as a “transfer of the procurement risk.”

(8) Liability for indirect damages and consequential damages (such as production downtime losses) is excluded unless we have breached a material contractual obligation or unless we, our executive employees, or our vicarious agents are guilty of intent or gross negligence.

(9) Unless otherwise stipulated above, liability is excluded.

(10) The limitations of liability under Section 8 shall not apply in cases of liability for intentional misconduct, for guaranteed procurement characteristics, for injury to life, body, or health, or under the Product Liability Act.

9. Data Protection and Confidentiality

(1) With regard to data protection, the contents of our privacy policy shall apply, which can be accessed at:

<https://www.amis.de/datenschutzerklaerung/>

(2) The purchaser is obliged to keep confidential all commercial and technical details related to orders and contracts as well as information about our business operations that are not typically accessible to third parties, and not to exploit them personally.

(3) Drawings, samples, models, tools, or similar items provided by us, as well as items produced on their basis, may not be reproduced, passed on to third parties, or used for purposes other than those contractually agreed, without our written consent. The aforementioned drawings, samples, models, tools, etc. remain our property. They must be returned to us without request if no order is placed or after the completion of an order.

10. Severability

Should any individual provision of the contract with the purchaser, including these General Terms and Conditions of Sale and Delivery, or any provision of other agreements between the purchaser and us be or become wholly or partially invalid, this shall not affect the validity of the remaining provisions. The wholly or partially invalid provision shall be replaced by a valid provision whose economic purpose comes as close as possible to that of the invalid provision.

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11. Place of Performance, Jurisdiction, Applicable Law

- (1) Unless otherwise stated in the order confirmation, the place of performance shall be our registered office.
- (2) The place of jurisdiction shall be the court with local jurisdiction for our registered office. However, we shall also be entitled to bring legal action against the purchaser at the purchaser's registered office or any other legally permitted jurisdiction.
- (3) The law of the Federal Republic of Germany shall apply. The application of the so-called United Nations Convention on Contracts for the International Sale of Goods (CISG) is expressly excluded.