

1. Validity

- 1.1. These terms and conditions are valid between us (Merten Maschinenbau und Vertriebs GmbH) and natural persons or legal entities (short customer) for the representational legal transaction and for all future transactions, even if in a given case, especially in case of additional and follow-up orders, it was not referred to them explicitly.
- 1.2. The version of the terms and conditions that is current at a contract conclusion is valid. It is available at www.in-log.com.
- 1.3. We only conclude a contract taking our terms and conditions as a basis.
- 1.4. Terms and conditions of the customer or changes or additions to our terms and conditions require our explicit written agreement for being valid.
- 1.5. Terms and conditions of the customer are not accepted, even if we did not contradict them when received.

2. Offers, contract conclusion

- 2.1. Our offers are not binding.
- 2.2. Assurances, promises and guarantees on our part or agreements that deviate from our terms and conditions in the context of a contract conclusion are only valid if we agree on them in written form.
- 2.3. Information about our products and services that is not attributed to us and appears in catalogs, price lists, brochures, advertisements at exhibition stands, circulars, advertising or any other media (informative material), has to be explained to us by the customer, provided that the customer explains it to retention.
- 2.4. Quotes are not binding.
- 2.5. Quotes are against payment.

3. Prices

- 3.1. In principle, our prices are not all-inclusive prices.
- 3.2. Services that are requested by the customer and are not included in the original order are to be compensated adequately, lacking an agreement on wage pay.
- 3.3. All prices exclude the legal tax sales and are prices ex warehouse. Packing charges, transportation costs, load fees and shipping charges are charged to the customer. Only in the case of an explicit agreement we have to take back packaging.
- 3.4. The professional and environmentally suitable disposal of waste material has to be carried out by the customer. If we are asked separately to do this, the customer has to pay for it in an agreed extent, lacking an agreement of payment.
- 3.5. We are entitled as well as obliged, at the request of the customer, to adapt the contractually agreed payments, if there are changes in the extent of at least 2% with regard to
 - a) wage costs by law, order, collective agreement, shop agreements or
 - b) other cost factors that are necessary for service provision, like procurement costs of used materials due to recommendations of the Joint Committee or due to changes of the national and world market prices for raw materials, exchange rates etc. since contract conclusion. The adaptation will be in an extent in which the actual production costs at the time of the contract conclusion are changing compared to the costs at the time of the actual service provision, if we are not behind schedule.
- 3.6. When there is a continuous obligation, the payment is being indexed according to CPI 2005 and takes place by means of an adaptation of payment. Basis is that month when the contract conclusion takes place.
- 3.7. Travelling expenses, daily allowances and overnight allowances will be charged to customer separately.

4. Goods provided

- 4.1. If the customer provides devices or any other materials, we are entitled to charge the customer 15% of the value of those devices or materials as handling surcharge.
- 4.2. Devices or materials provided by the customer are not object of guarantee.

5. Payment

- 5.1. If not otherwise agreed, 50% of the payment is due at contract conclusion, 40% at delivery readiness / before shipping and 10% after completion of service.
- 5.2. The authority for a discount deduction requires an explicit written agreement.
- 5.3. Payment references by the customer on transfer vouchers are not binding for us.
- 5.4. If there is a default in payment of the customer, we are entitled to immediately declare due the total price. If the customer does not fulfill his duty to pay, we are entitled to take back the plants, goods and devices under reservation of title. This does not mean a recession of contract. We are also entitled to demand the legal rate of interest as well as the compensation of interest and expenses of that amount, with which we are encumbered due to loans as far as they are beyond legal interest. There is no reference to demands for further damages.
- 5.5. If the customer defaults within other contractual relationships with us, we are entitled to stop the execution of our duties from this agreement until the customer has fulfilled payment.
- 5.6. Then we are also entitled to declare due all demands for already performed services from the ongoing business connection with the customer.
- 5.7. If the period of payment is exceeded, even if it is only for a partial performance, granted remunerations (discounts, ...) lapse and are charged.
- 5.8. The customer commits himself in case of late payment to make up for all charges and costs (dunning costs, collection charges, lawyer's fees, etc.) to their full extent.
- 5.9. The customer may only offset payment, if his counterclaims are determined judicially or accepted by us.
- 5.10. Bills of exchange are only accepted for payment. Exchange and discount costs are always charged to the customer.
- 5.11. If only one part of the products is delivered or if only one part of the products is in accordance with the regulations or rather if there are only complaints about one part of the products, the detention of payments is improper and impossible, given that the products are delivered in accordance with the regulations or that there have been no complaints by the customer about the products or that their use is not considerably disturbed by a defect that can be rectified.

6. Creditworthiness check

- 6.1. The customer expressly declares to agree that his data, solely for the purpose of protection of creditors, may be communicated to the officially privileged creditor protection associations AKV EUROPA Alpenländischer Kreditorenverband für Kreditschutz und Betriebswirtschaft, Creditreform Wirtschaftsankunftel Kubicki KG und Kreditschutzverband von 1870 (KSV).

7. Buyer's duty to cooperate

- 7.1. Our duty to perform activity starts at the earliest, as soon as
 - a) all technical details are settled,
 - b) the customer managed technical and legal preconditions (on request we will inform you about them),
 - c) we have received agreed deposits or bails,
 - d) the customer fulfills his contractual obligation for advance performance and duty to cooperate, especially those mentioned in the following sub-points.
- 7.2. The customer has the duty to make sure that our mechanics can start right after arrival with the assembly that shall be carried out by us.
- 7.3. The customer is in charge of third party approvals and reports as well as approvals from the appropriate authorities at his own expense. Of course we will inform you about them.
- 7.4. The energy, the media and the water that is needed for the required performance has to be provided by the customer at his own expense. This also includes the test operation.
- 7.5. The customer has to provide lockable rooms that are not accessible for others for the time of performance, where the workers can stay and store tools and materials.
- 7.6. The customer is liable that the necessary structural, technical and legal preconditions for the work that is to be produced or for the object of purchase is given. Those preconditions are to be found in the agreement or in information that was given to the customer before contract conclusion.

On the other hand, it may be that the customer knows about them due to respective professional expertise or experience.

7.7. The customer is also liable that the technical plants, like supply cables, cablings, networks, etc. are in excellent technical condition and are compatible with the works or objects of purchase that are to be produced by us.

7.8. We are entitled but not obliged to examine those plants for money.

7.9. The customer has to provide the necessary details about the location of hidden electric cables, gas pipes and water pipes or similar plants, escape routes, any other structural obstacles, possible sources of danger as well as the necessary statistical data before the beginning of the assembly.

7.10. Details about the necessary data concerning the offer can be enquired from us.

7.11. The customer alone is responsible for construction and working order of the provided parts. There is no duty of examining the documents, data or instructions provided by the customer (this does not include the drawing up of a technical construction file and the certification of observing the regulations for machines) and we are not liable for that.

7.12. The customer has no right to transfer demands and rights of this agreement without our written consent.

8. Service performance

8.1. Objectively justified small changes of our service performance that can be expected of the customer are beforehand rated as approved.

8.2. If there are changes or additions in the offer after the award of contract, the delivery and service deadlines may be adapted.

8.3. If after contract conclusion the customer wants the service performance to be carried out earlier, it represents a change of contract. This could mean overtime hours or additional costs due to a faster procurement of materials. Therefore, the costs may rise.

8.4. Objectively justified partial deliveries (e.g. size of plants, structural progress, etc.) are permissible and can be charged separately.

8.5. When delivery and purchase are agreed upon, the object of performance/purchase is rated as retrieved until three months after completion at the latest.

8.6. If the customer does not pick up or accept the delivery without our fault, he still has to pay the complete agreed invoice amount as well as the costs for storage.

9. Terms of delivery and service

9.1. Delivery and performance deadlines are only binding for us, if approved in written form. Changes of this approval also have to be made in written form.

9.2. Periods and deadlines may be postponed for the time of the event due to force majeure, strike, delay of our suppliers that is not foreseeable and for what we cannot be blamed.

9.3. If the beginning of service performance or execution is being delayed or interrupted by the customer, especially due to a violation of the buyer's duty to cooperate in item 7 of these terms and conditions, the deadlines for completion are extended.

9.4. We are entitled to charge 5% of the invoice amount for the storage of materials and devices each month.

9.5. In the case of a withdrawal of the agreement due to delay, the customer has to grant an additional respite through a registered letter, where he threatens to withdraw.

10. Risk taking and sending

10.1. The risk is passed to the customer as far as we have the object of purchase/the work ready for collection from the warehouse, or as far as we hand over the material and devices to a carrier or transporter. The customer is always responsible for the dispatch, the loading and unloading and the transport.

10.2. The customer approves any proper dispatch type. We sign up for transport insurance by request of the customer and at his expense.

10.3. We are entitled to charge the customer packing and shipping charges and the payment for cash on delivery, if the customer defaults on payments or passes a credit limit that was agreed with us.

10.4. The customer is responsible for the safety of the materials and devices that are delivered by us and stored. Losses and damages are charged to the customer.

11. Restriction of scope of service

11.1. During assembly and repair there may appear damages

a) at already existing stocks as a consequence of not perceptible facts or material defects.

b) during chiseling works on unbound walls. We are only responsible for such damages, if we caused them culpably.

11.2. Differences in color shades of eloxed and coated materials are possible.

11.3. Protective coatings last for 3 months.

12. Temporary repair

12.1. Temporary repairs only have a limited duration.

13. Default of acceptance

13.1. If the customer gets into default of acceptance for more than 2 weeks (non- acceptance, default with advance concessions, no purchase within the period of on call purchase) and if the customer despite granting an additional respite did not dispose circumstances attributed to him that slow down service performance or make it impossible, we are allowed to have devices or materials necessary for service performance at our disposal, as far as we provide them again in case of continuation of service performance.

13.2. In the case of the customer's default of acceptance, we are entitled to store the products if the customer insists on fulfillment of the contract. According to item 9.4., we may charge a storage charge.

13.3. In the case of a justifiable withdrawal of the agreement, we are allowed to charge compensatory damages of 20% of the gross order value without proof of the actual damages of the customer.

13.4. An enforcement of a higher damage is permissible.

14. Reservation of ownership

14.1. The products delivered by us belong to us until the payment is completed.

14.2. A resale is only permissible, if we get to know name and address of the buyer beforehand on time and if we agree on the resale. If we agree, the purchase-money claim is rated as transferred to us.

14.3. The customer has to note this transferring in his books and on his bills until the payment is completed. He also has to inform his debtors about that. If requested, he has to provide all documents to the contractor.

14.4. The customer agrees that we may enter the location of the goods subject to retention of title for the enforcement of our reservation of title.

14.5. Necessary costs are charged to the customer.

14.6. The enforcement of the reservation of title does only mean a withdrawal of the agreement, if it is explained explicitly.

14.7. We are allowed to use the goods subject to retention of title freehand and best possibly.

14.8. Until the payment is completed, the object of performance/purchase must not be pledged or burdened with rights of third parties. If there takes place an attachment, the customer has to point out our ownership and inform us immediately.

14.9. The customer has to inform us immediately about bankruptcy or attachment of our goods subject to retention of title.

15. Third party property rights

15.1. The customer takes over the guarantee for delivery items, which we produce according to documents of the customers (construction data, graphics, models, etc.), so that third party property rights are not violated.

15.2. If third party property rights are yet asserted, we are entitled to stop the production of delivery items at customer's risk until the third party rights are resolved, except the demands are apparently unjustified.

15.3. We are also allowed to claim our necessary costs from the customer.

15.4. We are entitled to charge advances on costs for possible legal costs.

16. Our intellectual property

- 16.1. Delivery items and documents for their execution, blueprints, drafts, quotes or software that is provided by us remains our intellectual property.
- 16.2. The use of these documents, especially their transfer, duplication, publication and putting at disposal, even if they are just copied in extract, as well as their imitation, adaptation or application needs our explicit consent.
- 16.3. The customer commits himself to secrecy towards third parties, concerning the received knowledge during business connection.

17. Guarantee

- 17.1. The warranty for our services is 1 year from delivery.
- 17.2. Date of delivery is the time of completion, unless otherwise agreed, at the latest when the customer has taken over the works in his control or has refused acceptance without reasons. The day, on which customers are informed about completion, the works are deemed to be taken over into the control of the customer in the absence of justified refusal of acceptance.
- 17.3. Rectifications of a fault claimed by the customer do not mean an acknowledgment of the faults.
- 17.4. The customer always has to prove that the faults have already existed before delivery.
- 17.5. Notice of defects and objections of any kind must be reported immediately (at the latest after 5 working days) at the head office of our company to avoid loss of any justified claim. The defects have to be described precisely in written form with a statement of possible reasons. If possible, the customer shall hand over the goods about which there have been complaints.
- 17.6. If claims by the customer about defects are unjustified, he is committed to reimburse us the costs for the observation or correction of the defects.
- 17.7. We are entitled to carry out any examinations that seem necessary to us, even if the works get useless. In the case that the result of the examination shows no mistakes made by us, the customer will be charged for the examination reasonably.
- 17.8. Costs for work, transport and travelling during the correction of defects are charged to the customer. At our request, the customer has to provide the necessary workers, energy and rooms for free and has to fulfill his duties described in item 7.
- 17.9. A rescission of sale can be averted through an improvement or a price reduction, if it is not a substantial defect or a defect that cannot be repaired.
- 17.10. If objects of performance due to statements, drafts, plans, models or any other specifications are produced by the customer, we only guarantee for execution according to the terms.
- 17.11. The fact that a work is not suitable for the agreed use does not mean that there is a defect, if this is exclusively based on actual facts that differ from the information presented by us at the time of service provision, because the customer does not fulfill his duties as described in item 7.
- 17.12. If the technical plants provided by the customer, like the quality of electrical grid, supply cables, cabling, etc. are not in perfect technical condition or not compatible with the delivered devices, this does not mean that there is a defect.
- 17.13. For the duration of liability of defects, any working parts have to be obtained from Merten Maschinenbau und Vertriebs GmbH. Otherwise, the guarantee will terminate.
- 17.14. Guarantee does not include: shipping charges, customs dues, labor costs and travelling allowances or hotel costs of our engineers.

18. Liability

- 18.1. Due to violation of contractual or pre-contractual duties, especially because of impossibility, delay, etc., we are only liable with property damages in the case of intention or gross negligence.
- 18.2. Liability is limited with the invoice amount.
- 18.3. This limitation is also valid for the damage of an item that we took over for adaptation.
- 18.4. Damages have to be legally claimed within six months. Otherwise, they lapse.
- 18.5. Limitations or rather exclusions of liability also include claims against our employees, sales representatives and accomplices due to damages done to the customer by them without reference to an agreement for their part.
- 18.6. Our liability does not include damages caused through improper treatment or storage, over-stressing, disobedience of operating instructions, incorrect assembly, operation and maintenance by the customer or third

parties that we did not authorize, or natural surface deteriorations, if that was the reason for the damage. Furthermore, liability does not include negligence of necessary maintenance.

18.7. If the customer is able to draw on insurance benefits through a separate non-life insurance (e.g. liability insurance, fully comprehensive insurance, transport insurance, fire insurance, insurance for interruption of business, etc.) for damages we are liable for, the customer is committed to do so. In this case, our liability is limited to the disadvantages that appear for the customer (e.g. a higher insurance premium).

18.8. We are liable for any product features which can be expected regarding inspection provisions, operating instructions and any other instructions to products (especially monitoring and maintenance) provided by us, third party producers or importers from customers. If the customer resells products, he is committed to take out insurance against claims of product liability and indemnify us regarding claims of recourse.

19. Severability clause

- 19.1. If individual parts of these terms and conditions are ineffective, this does not affect the validity of the remaining parts.
- 19.2. The parties are already committed to negotiate a substitute regulation – based on the comprehension of honest contracting parties – which is the closest equivalent to the economic result in consideration of the customs of the sector.

20. General remarks

- 20.1. Austrian law is applicable.
- 20.2. The UN Convention on Contracts for the International Sale of Goods is excluded.
- 20.3. Place of fulfillment is the head office of the company (Vienna).
- 20.4. Place of jurisdiction for all disputes arising from the contractual relationship or future agreements between contractor and customer is the court of Vienna.
- 20.5. The customer is committed to inform us immediately about changes of his name, company, address, legal form or any other relevant information in written form.
- 20.6. In the event of disputes arising from the present translation of the contract, the German text shall prevail.