



WEIL MÖGLICH, MÖGLICH IST.

TERMS OF DELIVERY AND PAYMENT OF MKF GMBH

1. General Terms and Conditions

- 1.1 Our deliveries are only made on the basis of the following conditions. The terms of delivery and payment apply to Consumers and Businesses, unless specifically indicated that they exclusively apply to only Businesses or only Consumers. They also apply to Businesses for all future transactions, even if we do not refer to these terms and conditions individually.
- 1.2 A "Consumer" within the meaning of our terms of delivery and payment is a natural person with whom business relations are entered into without the possibility of attributing to him a commercial or independent professional activity. "Business" within the meaning of our terms of delivery and payment is a natural or legal person under private or public law or a special fund under public law or a legal partnership who, when concluding a legal transaction, acts in the exercise of their commercial or independent professional activities. Purchaser within the meaning of our terms of delivery and payment are both Businesses and Consumers.
- 1.3 There are no verbal agreements. Subsidiary agreements and changes shall be made in writing. We are hereby expressly objecting any deviating terms of delivery and payment of the Purchaser; they only apply with our express consent, even if we are aware of them.
- 1.4 The Purchaser's claims may not be assigned without our consent.

2. Offer and Contract Conclusion

- 2.1 Our offers are subject to change and are not binding, unless otherwise expressly agreed.
- 2.2 Orders are only accepted if we have confirmed them in writing. Changes to the order confirmation made by us as well as other agreements and verbal agreements are also confirmed by us in writing.
- 2.3 The information and descriptions provided in our catalogs and brochures are only decisive if no express reference is made to deviations. If there are changes in the dimensions, weights, images or drawings shown in the catalogs and brochures due to production or for other reasons, the Purchaser will be notified of the relevant changes in a binding offer. If he accepts this offer by means of a written statement, only the changed service information is binding. No further

written confirmation according to Clause 2.2 is required. This offer shall be deemed as accepted, if the Purchaser does not refuse the offer within three weeks of receipt of the changed offer, if he was specifically notified of the intended significance of his behavior at the beginning of the period. Minor deviations from the service specifications shall be accepted as being in accordance with the contract, provided they do not impair the contractual use of the item. These deviations do not require a notification. Obvious errors, print, calculation and typing errors are not binding for us and do not constitute any right to their fulfillment, withdrawal, reduction nor compensation.

2.4 The Purchaser shall assume full responsibility for the liability of the documents to be supplied by him, such as drawings, templates, samples or the like. Verbal information pertaining to dimensions, tolerances or the like require written confirmation.

2.5 We reserve the right of ownership and copyright to cost estimates, sketches, drawings and other documents. They may not be made available to third parties neither used for other purposes, in particular, self-production, without our consent. They shall be returned to us immediately upon request.

2.6 Samples are only supplied against payment.

3. Scope of Delivery

3.1 Our written order confirmation or the accepted binding offer pursuant Clause 2.3 shall be decisive for the scope of the delivery.

3.2 Protective equipment is supplied to the extent as expressly agreed. We will point out any residual risks in writing.

3.3 The general standards DIN EN ISO 12100: 2011-03 and DIN EN ISO 13857: 2008-06 apply to electrotechnical accessories (motors etc.) insofar as they relate to design and performance.

3.4 We reserve the right to make construction or design modifications that can be attributed to the improvement of the technology or to legislative requirements during delivery period, as long as the delivery item is not significantly changed and the modification is reasonable for the Purchaser.



4. Prices

- 4.1 Our prices are in euros ex works Lederhose, Germany, excluding packaging and insurance, plus the VAT applicable on the day of invoicing, insofar as such is incurred for deliveries abroad.
- 4.2 If between the placing of the order and the day of delivery there is an increase in material production and/or material and/or product procurement costs, wage and non-wage labor costs, social security contributions as well as energy costs and costs due to environmental regulations, and/or currency regulations and/or customs change, and/or freight rates and/or public charges, if these directly or indirectly influence the production or procurement costs or the costs of our contractually agreed services, we are entitled to unilaterally adjust our prices accordingly if there are more than four months between the conclusion of the contract and delivery. An increase in the aforementioned sense is precluded if the cost increase for some or all of the aforementioned factors is canceled out by a cost reduction for other of the aforementioned factors in relation to the total cost burden for the delivery. If the aforementioned cost factors are reduced without the cost reduction being offset by the increase in other of the aforementioned cost factors, the cost reduction is to be passed on to the customer as part of a price reduction. The Purchaser is only entitled to withdraw from contracts that have not yet been fully fulfilled if the price increase is 20% or more above the original price. However, he can only assert this right immediately after being notified of the increased price.

5. Payment Terms

- 5.1 Unless otherwise agreed, the purchase price is due delivery versus payment upon the handover of the purchase item and payable within 30 days after invoice date without any deductions. We grant a 2% discount for payment made within 14 days from the date of invoice, unless otherwise agreed.
- 5.2 For custom-made products, i.e. productions that deviate from the catalog-based productions, and for orders for standard items whose net value exceeds EUR 10,000, the following payment terms shall apply:
- 30% of the order value when the order is placed
 - 30% of the order value with notification of completion, but before delivery
 - 30 % of the order value when the invoice is issued



10% of the order value 30 days after the invoice date, plus proportional VAT in each case.

5.3 For special machines, a different method of payment will be specified in writing.

5.4 Checks are only accepted on account of payment. Payments by bill of exchange are not accepted.

5.5 Without requiring any further explanations from us, the Purchaser will be in default on the 31st day after the due date. In this case – without the need for a special notice – interest of 5 percentage points above the respective base rate will be charged, while reserving the right to assert further damage. If the Purchaser is a Business, interest of 9 percentage points above the respective base rate and a lump sum of EUR 40 will be charged.

5.6 If the Purchaser is a Business, the retention of payments is only permissible in the case of undisputed, legally established or decision-ready claims as well as counterclaims from the same contractual relationship due to a possible defectiveness of the purchase item or in the case of completion costs, as well as offsetting with such. In the case of costs pertaining to remedying defects or additional completion costs arising from the same contractual relationship, the Purchaser shall not be entitled to a right of retention if the amount retained is not in reasonable proportion to the defects and the expected costs of subsequent performance.

5.7 If there are justified doubts regarding the solvency or creditworthiness of the Purchaser after the contract conclusion, provided the Purchaser is a Business, we shall be entitled, at our discretion, to demand either cash payment of all outstanding claims including bill claims or securities prior to delivery. If this request has not been met, we are not obliged to make any further deliveries from any current contract nor are we entitled to withdraw from the contract without any obligation to pay compensation.

5.8 In the event of suspension of payments or insolvency of the Purchaser, provided he is a Business, the purchase price claim is immediately due in full.

6. Delivery Time

6.1 The delivery time only begins when all requirements for the order execution are met, in particular, all details of the execution have been clarified (including requested plans or samples for the equipment of the ordered machines and devices are available to us) and both parties are in agreement on all conditions of the contract. If a down payment is owed when

the order is placed pursuant to Clause 5.2 or on the basis of an agreement, the delivery time does not begin until the agreed down payment has been received. The delivery date refers to the completion at works.

- 6.2 If we are prevented from fulfilling a contractual obligation due to unforeseen events lasting more than 14 calendar days, which we or our subcontractors are not able to avert even with due diligence, e.g. operational disruptions through no fault of us due to fire, water and machine damage, or through force majeure due to, for example, strike, lockout, shortage of energy and raw materials, transport bottlenecks through no fault of us, as well as all other hindrances that, from an objective point of view, were not caused by us, rejection of a part that cannot be replaced immediately in our own works or at subcontractor's works, as well as delay of the same or necessary changes due to new findings, the delivery time is extended by the times during which the aforementioned event or its effects continue, even if they occur during a delay in delivery. The same applies if official or other permits or documents of third parties required for the import or export of deliveries are not received in time, this shall also apply to a subsequent change of the order. The Purchaser will be notified of such extensions of the delivery time in writing or in text form. If the delivery date is exceeded by more than four weeks and adherence to the contract is objectively unreasonable for the customer, the customer is entitled to withdraw from the contract due to the unfulfilled part of the contract. If the customer stipulated a binding delivery date, he is entitled to immediately withdraw if the timely performance is essential for him.
- 6.3 Partial deliveries are permissible as long as they are reasonable for the Purchaser. The terms of payment pursuant to Clause 5 apply accordingly.
- 6.4 We are liable in the event of default in performance in cases of intent and negligence on our part or our representative or vicarious agents as well as in the event of culpable injury to life, limb or health in accordance with the statutory provisions. If the delay is caused due to slight negligence, we are not liable for the damage resulting from the delay. Clause 2 does not apply to a Consumer or if a binding delivery date has been stipulated for the service; in this case we are liable according to the legal regulations. In the event of default, our liability is limited to the foreseeable damages typical for the contract and amounts to a maximum of 5% of the net purchase price. This limitation does not apply in the event of injury to life, limb or health and not if the occurrence of the delay was based on intent or gross negligence.
- 6.5 If shipping is delayed at the request of the Purchaser, we are entitled to charge the costs incurred due to the storage starting two weeks after notification of readiness for shipping. We



charge at least 0.5% of the net invoice amount for each month or the actual storage costs for storage at our works. The Purchaser has the option to provide evidence of a minor damage. After this deadline has expired without results, we are entitled to otherwise dispose of the goods and supply the Purchaser at a reasonably extended period.

7. Transfer of Risk

- 7.1 The risk is transferred to the Purchaser when the goods are dispatched ex works if the Purchaser is a Business.
- 7.2 If shipment is delayed as a result of circumstances for which we are not responsible, the risk is transferred to the Purchaser on the day of readiness for shipment, provided that the Purchaser is a Business.
- 7.3 The Purchaser takes out insurance against transport damage, unless there is documented self-insurance and the Purchaser is a Business.

8. Packaging and Shipping

- 8.1 The goods are shipped at our discretion in the customary manner in recyclable packaging.
- 8.2 The packaging is charged at cost. A maximum of 2/3 of the calculated value is credited if the packaging material is returned freight paid and in a reusable condition only with prior written approval.
- 8.3 The choice of the transport route as well as the means of transport is made to the best of our judgment, if there are no special instructions stipulated, without any liability for cheaper shipping or shorter routes.
- 8.4 If the goods ready for shipment cannot be shipped at the scheduled time as a result of circumstances for which we are not responsible, they will be stored by us or by third parties at the Purchaser's expense.



9. Commissioning

9.1 The Purchaser shall bear the expenses incurred during commissioning for fitter and allowance rates, in particular, also for overtime, work on Sundays and public holidays in accordance with German law. Travel and waiting time is considered work time.

9.2 The Purchaser bears the costs for the outward and return trip as well as for the transport of tools and luggage.

10. Defects, Rectification, Replacement Delivery

10.1 If the Purchaser is a Consumer, he is obliged to notify us in writing of obvious material and legal defects within 10 days of goods receipt; it is sufficient if the notice is sent within that period. Defects occurring at a later point must be reported immediately in text form. The Purchaser shall describe the defects as detailed as possible.

10.2 If the Purchaser is a Business, defects must be reported immediately in writing. Any additional costs incurred due to a delayed notification of defects shall be borne by the Purchaser. Section 377 HGB (Handelsgesetzbuch; German Commercial Code) remains unaffected. Other defects and consequential damage must be reported to us no later than two weeks after they were discovered or could have been discovered. Obvious transport damage can only be recognized if it is noted on the delivery receipt.

10.3 The limitation period for claims and rights of the Purchaser due to defects – irrespective of the reason – is two years after delivery of the item, unless a longer period is mandatory by law.

10.4 We shall not be liable for defects resulting from improper or unsuitable use, faulty or improper assembly or commissioning by the Purchaser or third parties, natural wear and tear, faulty or negligent handling, excessive use (more than an average of 40 hours/week), unsuitable equipment, ingress of foreign bodies, faulty work on deliveries by third parties or external influences.

10.5 The Purchaser must give us the necessary time to carry out repairs and replacement deliveries. We shall bear the expenses required for the purpose of supplementary performance, in particular, transport, travel, labor and material expenses, provided the complaint is justified.



- 10.6 The expenses required for the purpose of a rectification or replacement delivery – even in the case of a justified complaint – shall be borne by the Purchaser in contracts with Businesses, as long as they are increased by the fact that the item is transported to a location other than the Purchaser’s place of business, unless the shipment was agreed with us, provided the Purchaser is a Business. For Consumers, the restrictions of Section 439 Paragraph 3 BGB (Bürgerliches Gesetzbuch; German Civil Code) apply.
- 10.7 The warranty claim expires as soon as the Purchaser or third parties commissioned by him carry out unauthorized changes or repair work – including for commissioning – without our written approval, unless we are in default with the rectification or have unjustifiably refused.
- 10.8 If the Purchaser is a Business, there shall be no claim for compensation for damage that does not affect the delivery item itself, if the damage has not occurred on the basis of an assurance.

11. Withdrawal, Reduction in Price, Compensation for Damages

- 11.1 If there is a defect, the Purchaser shall be entitled to withdraw from the contract in compliance with the legal requirements (withdrawal) or to reduce the remuneration if the legal prerequisites are met (reduction).
- 11.2 If the Purchaser is a Business, a warranty claim for damages on his part instead of performance is excluded. If the Purchaser is a Consumer, he may only claim for damages in lieu of performance if the remedy fails after the second unsuccessful attempt, if the remedy is refused or if the remedy is unreasonable.
- 11.3 The limitation of Clause 11.2 shall not apply if it is a matter of liability for injury to life, limb and health (consequential damage caused by a defect).
- 11.4 The right to claim damages due to a defect is also not excluded if the defective performance also constitutes a breach of an essential contractual obligation (i.e. such a contractual obligation, the fulfillment of which characterizes the contract and on which the Purchaser may rely on) or if we fraudulently concealed the defect or assumed a guarantee for the quality of the delivery item.
- 11.5 Furthermore, we shall only be liable under the Product Liability Act for culpable breach of essential contractual obligations.



11.6 A change in the burden of proof to the detriment of the Purchaser is not associated with the above regulations.

12. Liability for Impossibility

12.1 We are liable in the event of impossibility and other breaches of duty on our part or on the part of our representatives or vicarious agents in accordance with the legal provisions, whereby our liability in the event of negligence shall be limited to the foreseeable damage typical for the contract and this shall amount to a maximum of 10% of the net invoice amount of that part of the delivery, which cannot be used due to the impossibility or other breaches of duty. Further claims by the Purchaser due to the impossibility of delivery are excluded – even after expiry of a performance deadline set by us.

12.2 Liability due to injury to life, limb and health and if the impossibility and other breach of duty was based on intent or gross negligence is excluded from the limitation in Clause 12.1.

12.3 The Purchaser's right to withdraw from the contract remains unaffected.

12.4 A change in the burden of proof to the detriment of the Purchaser is not associated with the above provision.

13. Retention of Title

13.1 We shall retain the title to the delivery item until full payment has been made (hereinafter referred to as reserved goods). If the Purchaser is a Business, we shall also retain title to the delivery item until all claims arising from the business relationship between us and the Purchaser have been settled, irrespective of the legal basis on which they are based.

13.2 Insofar as the validity of this retention of title is linked to special prerequisites or formal regulations in the Purchaser's country, the Purchaser shall be obliged to ensure that these are fulfilled at his own expense.

13.3 The Purchaser may only dispose of the delivery item in the ordinary course of business; other disposals, in particular, pledging or granting ownership by way of security, are not permitted. In the event of seizure, confiscation or other dispositions by third parties, the Purchaser must notify us immediately and provide us with all information and documents that are necessary to safeguard our rights. Enforcement officers or a third party must be notified of our ownership.



- 13.4 Processing of the delivered goods shall be carried out for us without any obligations arising for us.
- 13.5 If the Purchaser processes, mixes and combines our goods with other goods that do not belong to us, we shall be entitled to co-ownership of the new item in the ratio of the value of the reserved goods to the other goods at the time of processing, combination or mixing. If the Purchaser acquires sole ownership of the new item, we agree with him that he shall grant us the last co-ownership in the ratio of the value of the processed, combined or mixed reserved goods to the value of the new item and shall keep them for us free of charge.
- 13.6 The Purchaser hereby assigns to us the claim arising from the resale of the reserved goods, irrespective of whether the sale takes place without or after processing, combining or mixing. We accept the assignment. If the reserved goods are sold after processing, combining or mixing with other goods not belonging to us, the assignment of the claim shall apply in the amount of the value of our reserved goods. As long as the Purchaser fulfills his obligation under the contract, he is entitled to collect claims from the resale. We must be immediately notified of measures or circumstances that jeopardize our security interests, by providing all details. The Purchaser may not enter into an agreement with his customers, which excludes or impacts our rights in any way, or nullifies the advance assignment of the claim.
- 13.7 We are entitled to insure the delivery item against fire, water and other damage at the Purchaser's expense, unless the Purchaser is able to shown to have taken out this insurance himself. If the Purchaser has taken out insurance himself, claims against the insurance company arising from a claim in regards to the goods subject to retention of title are hereby assigned to us in the amount of the value of the goods subject to retention of title.
- 13.8 The Purchaser is obliged to notify us immediately of any access by third parties to the goods delivered under retention of title and to the rights assigned to us. If we take back the goods delivered by us subject to retention of title, the return shall only be deemed a withdrawal from the contract if we expressly notify the Purchaser of this in writing.
- 13.9 If the value of the securities to which we are entitled according to above mentioned regulation exceeds the secured claims by more than 10% in total, we shall be obliged to release securities of our choice at the request of the Purchaser.



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14. Data Privacy

Our “data privacy information” on our homepage www.mkf-automation.de informs the Purchaser about the following:

The type and scope, duration and purpose of the collection, processing and use of personal data required for the execution of orders and billing; his right to object to the creation and use of his anonymized user profile for advertising purposes, market research and the needs-based design of our offer;

The transfer of data to companies commissioned by us and obliged to observe the statutory data protection regulations for the purpose and for the duration of the credit check and the shipment of goods;

The right to free information about his personal data stored by us;

The right to authorization, deletion and blocking of his personal data stored by us.

15. Place of Performance, Place of Jurisdiction and Choice of Law

15.1 The place of performance for delivery and payment, provided the Purchaser is a Business, is our works in Lederhose, Germany.

15.2 In the event of disputes arising from the contractual relationship, if the Purchaser is a Business, the action shall be brought before the court that has jurisdiction over our Headquarters. We are also entitled to take legal action at the Purchaser’s Headquarters.

15.3 German law shall apply exclusively to the exclusion of the laws on the international purchase of movables, even if the Purchaser’s registered office is abroad.

16. Cancellation Costs

If the Purchaser unjustifiably withdraws from an order placed, we shall credit the Purchaser the invoice amount minus 10% for inspection and handling costs and lost profit. The Purchaser retains the right to provide evidence of a minor damage.



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17. Miscellaneous

17.1 Transfer of rights and obligations of the Purchaser from the contract concluded with us requires our written consent to be effective.

17.2 A certificate of exemption according to Section 48 EStG (Einkommensteuergesetz; German Income Tax Act) is available – security number 00-11-0068 –

17.3 Should a provision be or become void, the validity of the other provisions remains unaffected.

As of: January 2018