

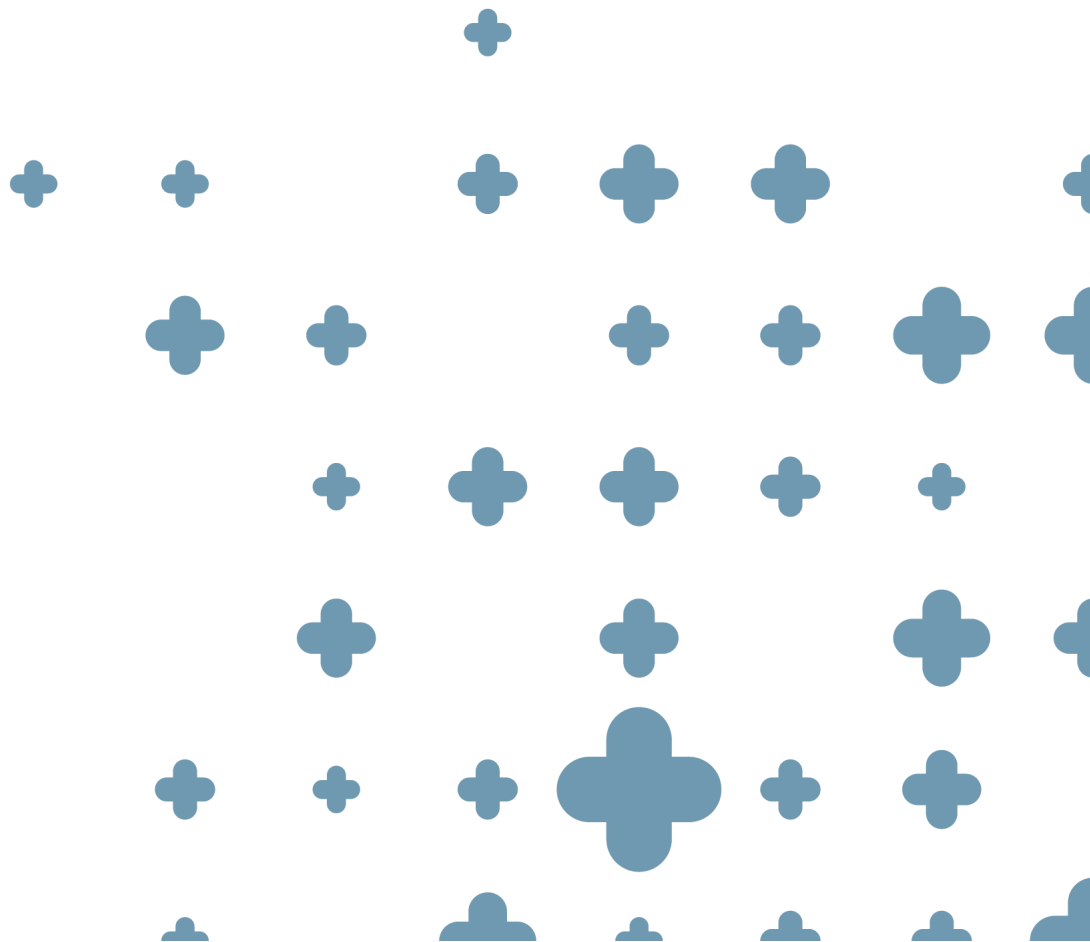


END OF LINE
PACKAGING EXPERTS

GENERAL TERMS AND CONDITIONS OF SALE (GTCS)

A+F AUTOMATION + FÖRDERTECHNIK GMBH

LAST UPDATED: FEBRUARY 2024





General Terms and Conditions of Sale (GTCS)

Table of contents

- 1. Scope of application, general 3
- 2. Offers, Orders..... 3
- 3. Prices, Payment 4
- 4. Dispatch, Delivery period and Delay in delivery 4
- 5. Installation and commissioning 6
- 6. Retention of title..... 6
- 7. Warranty claims of the Buyer 7
- 8. Other liability..... 9
- 9. Statute of limitations 10
- 10. Use of software, Industrial property rights..... 10

1. Scope of application, general

- 1.1. These General Terms and Conditions of Sale (hereinafter: GTCS) shall apply to contracts for the sale and/or delivery of movable goods (hereinafter also: "Goods" or "Items"), irrespective of whether we manufacture the Goods ourselves or purchase them from suppliers, if the customer (hereinafter also: ("Buyer")) is a trader (Section 14 of the German Civil Code (BGB)), a legal entity under public law or a special fund under public law.
- 1.2. These GTCS shall apply exclusively. Deviating, conflicting or supplementary General Terms and Conditions of the Buyer shall only become part of the contract if and insofar as we have expressly agreed to their validity in writing. This requirement of consent shall apply in any case, for example, even if the Buyer refers to its General Terms and Conditions in the context of the order and we do not expressly object to this.
- 1.3. The Buyer may only assign claims arising from legal transactions concluded with us with our express consent.
- 1.4. Individual agreements (e.g. framework supply agreements, quality assurance agreements) and specifications shall take precedence over the GTCS. In case of doubt, trade terms shall be interpreted in accordance with the Incoterms® issued by the International Chamber of Commerce in Paris (ICC) in the version valid at the time of conclusion of the contract.
- 1.5. Legally relevant declarations and notifications by the Buyer with regard to the contract (e.g. setting of deadlines, reminders, withdrawal) must be made in writing. **Written form within the meaning of these GTCS includes written and text form (e.g. letter, e-mail, fax).** Statutory formal requirements and further evidence, in particular in the event of doubts about the legitimacy of the declaring party, remain unaffected.
- 1.6. References to the applicability of statutory provisions are for clarification purposes only. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these GTCS.

2. Offers, Orders

- 2.1. Our offers are subject to change and non-binding. This shall also apply if we have provided the Buyer with catalogues, technical documentation (e.g. drawings, plans, calculations, references to DIN standards), other product descriptions or documents - also in electronic form - to which we reserve intellectual property rights.
- 2.2. The order placed by the Buyer is deemed a binding contractual offer. Unless otherwise stated in the order, we are entitled to accept this contractual offer within 14 days of its receipt by us.

3. Prices, Payment

- 3.1. Our prices are ex works, including the costs for loading at the factory, but excluding packaging and unloading as well as any statutory value added tax (VAT).
- 3.2. Unless otherwise stated in the order confirmation, the purchase price shall be paid without any deduction, namely:
 - 50% down payment after receipt of the order confirmation,
 - 40% upon notification that the main parts are ready for dispatch/acceptance,
 - the remaining amount within one month of the transfer of risk
- 3.3. Installation, commissioning, repairs, training and other services are invoiced at our normal rates.
- 3.4. If the invoice amount is not settled within a maximum of 14 calendar days from the invoice date or on any other due date, we shall be entitled to charge interest on arrears in the proven amount, but at least 9 percentage points above the respective base interest rate of the European Central Bank (ECB), without the need for a special reminder.
- 3.5. If the Buyer's business shall be operated beyond the ordinary course of business which shall include, without limitation, acts of seizure, payments shall be delayed or even discontinued or insolvency proceedings shall have been petitioned in accordance with the German Insolvency Act then we shall have the right to declare all our claims arising from the business relationship as immediately due and payable, even if we shall have accepted promissory notes or cheques. The same shall apply if the Buyer shall be in payment default towards us or other incidents shall surface which give rise to doubts about its creditworthiness. Moreover, we may in such event demand prepayments or a security deposit or rescind the Agreement.
- 3.6. The Buyer shall have no right to set off, retention or reduction unless the underlying counterclaims have been conclusively determined by a court or expressly acknowledged by us.

4. Dispatch, Delivery period and Delay in delivery

- 4.1. Unless otherwise agreed, delivery shall be EXW (Incoterms 2020) ex works. The risk shall also pass to the Buyer if partial deliveries are made or if we have to provide other services, e.g. payment of shipping costs, delivery and installation. The risk shall also pass to the Buyer if the Buyer is in default of acceptance. If acceptance has been agreed, the statutory provisions for a contract to produce a work shall apply, unless otherwise stipulated in these GTCS.
- 4.2. The delivery period shall be agreed individually or specified by us upon acceptance of the order. The performance times specified by us (delivery, assembly and repair times) are non-binding unless a binding performance time has been expressly agreed in writing.
- 4.3. The delivery period shall not commence before the order confirmation and the clarification of all technical and commercial questions necessary for the

execution of the order, but in no case before the provision of the documents, approvals and releases to be procured by the Buyer and before receipt of an agreed down payment. In particular, the delivery period shall be suspended as long as the Buyer is in arrears with the delivery of material for the installation and for test runs of the ordered machine.

- 4.4. The Buyer is obliged to comply with all statutory regulations and official requirements as well as all other applicable laws, in particular the export regulations and the laws of the country in which the Buyer does business. The Buyer shall obtain in a timely manner all necessary permits and licenses and all other approvals required for the use or export of the goods under the applicable laws. In the event of a breach of the aforementioned obligations, the Buyer shall indemnify us against third-party claims. We may withhold performance to the Buyer if the Buyer would violate such applicable laws or if not all necessary permits are available and this is not due to our fault or responsibility.
- 4.5. If we are unable to meet binding delivery deadlines for reasons for which we are not responsible (non-availability of performance), we shall inform the Buyer of this immediately and at the same time inform the Buyer of the expected new delivery deadline. If the service is also not available within the new delivery period, we shall be entitled to withdraw from the contract in whole or in part; we shall immediately reimburse any payment already made by the Buyer. Non-availability of performance applies, for example, in the event of late delivery by our suppliers, if we have concluded a congruent hedging transaction, in the event of other disruptions in the supply chain, for example due to force majeure or if we are not obliged to procure in individual cases.
- 4.6. The occurrence of our delay in delivery shall be determined in accordance with the statutory provisions. In any case, however, a reminder from the Buyer is required. If we are in default of delivery, the Buyer may demand lump-sum compensation for the damage caused by the delay. The lump-sum compensation shall amount to 0.25% of the net price (delivery value) for each completed calendar week of delay, up to a maximum of 2.5% of the delivery value of the goods delivered late. We reserve the right to prove that the Buyer has not suffered any damage at all or only a significantly lower damage than the above lump sum.
- 4.7. If shipment is delayed at the Buyer's request or if the Buyer is in default of acceptance, the Buyer shall be charged the costs incurred for storage, but in the case of storage at our works at least 1% of the invoice amount for each month of storage or part thereof, unless the Buyer can prove that the damage is lower. After setting and fruitless expiry of a reasonable grace period, we may otherwise dispose of the goods.
- 4.8. The rights of the Buyer according to no.8 of these GTCS and our statutory rights, in particular in the event of an exclusion of the duty to perform (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance), shall remain unaffected.

5. Installation and commissioning

- 5.1. Assembly, installation or commissioning of the goods or the delivery item shall only be carried out by us if this has been agreed separately and only in accordance with our Terms of assembly.
- 5.2. The place and time of commissioning shall be agreed between the parties. Depending on the complexity of the delivery item, commissioning can also take a longer period of time and extend over weeks or months.

6. Retention of title

- 6.1. We shall retain full title of the goods that have been delivered until the Buyer has discharged all claims arising from the business relationship which shall include any account balance and claims from refinancing or reverse promissory notes.
- 6.2. The Buyer shall have the right to dispose of the goods delivered by us within the ordinary course of business. The authority granted hereunder shall cease in the cases referred to in No. 3.5 above. Moreover, we may withdraw the sales authority of the Buyer through written notice if it shall be in breach of any obligation owed to us and shall in particular be in payment default or we shall become aware of other incidents that give rise to doubts about its creditworthiness.
- 6.3. The Buyer's right to process the goods delivered shall also be subject to the limitations set out in No. 6.2 above. The Buyer shall not acquire title to the fully or partly processed goods; the processing shall be free of charge for our benefit as Manufacturer in the sense of § 950 BGB. If we should, for whatever reason, lose our rights under the retention of title, then it is hereby agreed between us and the Buyer that we shall acquire title upon processing of the goods and the Buyer shall remain custodian of the goods which shall be free of charge.
- 6.4. If the goods in which we have retained title shall be inseparably assembled or mixed with goods that are third party property, then we shall acquire co-title in the new goods or the mixed stock. The proportion of title shall follow from the proportion of the invoice value of the goods delivered by us under retention of title and the invoice value of the other goods.
- 6.5. Goods in which we shall acquire sole or co-title in accordance with No. 6.3 and 6.4 shall, the same as with regard to the goods delivered under retention of title according to No. 6.1 above, be regarded as goods delivered under retention of title for the purposes of the following provisions.
- 6.6. The Buyer hereby assigns to us all claims arising from the resale of the goods delivered under retention of title. Such claims shall also include claims against the bank which, within the scope of such sale, shall have issued or confirmed a letter of credit for the benefit of the Buyer (= reseller). We hereby accept such assignment. If the goods delivered under retention of title shall be a processed good or a mixed stock, where, in addition to the goods delivered by us, only such goods exist that are either the Buyer's property or a third party property as a result of a (simple) retention of title, then the Buyer shall assign all of the claim arising from the resale. In the other case, i.e. in the event of a conflict between pre-assignment claims by other suppliers, we shall be entitled to receive any

resale proceeds on a pro rata basis which shall be determined in proportion to the invoice value of our goods and the other processed or mixed goods.

- 6.7. Where our claims shall be undoubtedly be secured through the assignment and retention by more than 125 %, any surplus of receivables and/or good delivered under retention of title shall, upon demand of the Buyer, be released in accordance with our choice.
- 6.8. The Buyer shall be authorised to collect any receivables arising from the resale of goods. Such authority shall cease to exist if an ordinary course of business shall no longer be place as defined in No. 3.5 above. Moreover, we may withdraw the Buyer's authority to collect, if it shall be in breach of any obligation owed to us and shall in particular be in payment default or we shall become aware of other incidents that give rise to doubts about its creditworthiness. If the above authority shall cease to exist or be withdrawn by us, then the Buyer shall upon our demand immediately specify to us its debtors in the claims assigned and provide us with all information and documentation necessary for collection.
- 6.9. In the event of any third party action against our goods delivered under retention of title or any receivables assigned to us, the Buyer shall notify such party of our property/our right and immediately inform us about such action. The Buyer shall bear the costs of any intervention.
- 6.10. If the Buyer shall be in breach of contract, in particular in payment default, then it shall, upon our demand, immediately return to us all goods delivered under retention of title and assign to us any repossession claims against any third party in conjunction with such goods. Any repossession or enforcement proceedings regarding the goods delivered under retention of title shall not be regarded as a rescission of this Agreement.
- 6.11. In the cases referred to in No. 3.5 above, we may require the Buyer, to inform us about the claims arising from the resale that have been assigned to us in accordance with No. 6.6 above including its debtors. Following such information, we shall have the right to disclose the assignment as we consider appropriate.
- 6.12. If retentions of title are not applicable in a foreign country, if its law is decisive, the Buyer shall be obliged to cooperate in all measures, in particular to make all declarations necessary on his part to provide us with securities equivalent to a retention of title.

The Buyer is obliged to treat the goods with care and, at our request, to insure them adequately against damage for the duration of the retention of title. The Buyer hereby assigns to us any claims against the insurance company.

7. Warranty claims of the Buyer

- 7.1. The statutory provisions shall apply to the Buyer's rights in the event of material defects and defects of title (including incorrect and short delivery as well as improper assembly/installation or defective instructions), unless otherwise specified below. In all cases, the statutory provisions on the sale of consumer goods (§§ 474 ff. BGB) and the Buyer's rights arising from separately issued guarantees shall remain unaffected.

- 7.2. The basis of our liability for defects is above all the agreement on the legal and factual nature and the intended use of the goods (including accessories and instructions). All product descriptions and manufacturer's specifications that are the subject of the individual contract or were made public by us at the time the contract was concluded shall be deemed to be an agreement on the legal and factual nature in this sense. If the legal and factual nature has not been agreed, it shall be assessed in accordance with the statutory provisions whether a defect exists or not.
- 7.3. In the case of goods with digital elements or other digital content, we shall only be obliged to provide and, if applicable, update the digital content if this is expressly stated in an agreement on the legal and factual nature in accordance with No. 7.2. In this respect, we assume no liability for public statements made by third parties.
- 7.4. In principle, we shall not be liable for defects of which the Buyer is aware or is grossly negligent in not being aware when the contract is concluded. Furthermore, the Buyer's claims for defects presuppose that he has complied with his statutory inspection and notification obligations (§§ 377, 381 HGB). In the case of goods intended for installation or other further processing, an inspection must always be carried out immediately prior to processing. If a defect is discovered during delivery, inspection or at any later point in time, we must be notified immediately in writing. In any case, obvious defects must be reported in writing within five (5) working days of delivery and defects not recognizable during the inspection within the same period from discovery. If the Buyer fails to carry out the proper inspection and/or report defects, our liability for the defect not reported or not reported on time or not reported properly shall be excluded in accordance with the statutory provisions. In the case of goods intended for assembly, mounting or installation, this shall also apply if the defect only became apparent after the corresponding processing as a result of a breach of one of these obligations; in this case, in particular, the Buyer shall have no claims for reimbursement of corresponding costs ("removal and installation costs"). If acceptance has been agreed, § 640 BGB shall apply. Five working days shall be deemed to be a reasonable period within the meaning of Section 640 para. 2 sentence 1 BGB.
- 7.5. If the delivered item is defective, we may initially choose whether to provide subsequent performance by remedying the defect or by delivering a defect-free item. If the type of subsequent performance chosen by us is unreasonable for the Buyer in the individual case, he may reject it. Our right to refuse subsequent performance under the statutory conditions remains unaffected.
- 7.6. We are entitled to make the subsequent performance owed dependent on the Buyer paying the due purchase price. However, the Buyer is entitled to retain a reasonable part of the purchase price in relation to the defect.
- 7.7. The Buyer shall give us the time and opportunity required for the subsequent performance owed and in particular to hand over the defective goods/items for inspection purposes. In the event of a replacement delivery, the Buyer shall return the defective goods to us at our request in accordance with the statutory provisions; however, the Buyer shall not be entitled to return the goods. Subsequent performance shall not include the dismantling, removal or disassembly of the defective item or the installation, attachment or assembly of a defect-free item if we were not originally obliged to perform these services; the Buyer's claims for

reimbursement of corresponding costs ("dismantling and assembly costs") shall remain unaffected.

- 7.8. We shall bear or reimburse the expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs as well as any dismantling and installation costs, in accordance with the statutory provisions and these GTCS, if a defect actually exists. Otherwise, we may demand compensation from the Buyer for the costs incurred as a result of the unjustified request to remedy the defect if the Buyer knew or could have recognized that there was in fact no defect.
- 7.9. In urgent cases, e.g. if operational safety is jeopardized or to prevent disproportionate damage, the Buyer shall have the right to remedy the defect himself and to demand compensation from us for the expenses objectively necessary for this purpose. We must be notified immediately, if possible in advance, of any such self-remedy. The right of self-remedy does not exist if we would be entitled to refuse a corresponding subsequent performance in accordance with the statutory provisions.
- 7.10. If a reasonable deadline to be set by the Buyer for subsequent performance has expired without success or is dispensable in accordance with the statutory provisions, the Buyer may withdraw from the purchase contract or reduce the purchase price in accordance with the statutory provisions. In the case of an insignificant defect, however, there is no right of withdrawal.
- 7.11. Claims of the Buyer for reimbursement of expenses pursuant to Section 445a para. 1 BGB are excluded, unless the last contract in the supply chain is a purchase of consumer goods (Sections 478, 474 BGB) or a consumer contract for the provision of digital products (Sections 445c sentence 2, 327 para. 5, 327u BGB). The Buyer's claims for damages or reimbursement of futile expenses (Section 284 BGB) shall only exist in accordance with the following No. 8 and No. 9.

8. Other liability

- 8.1. Unless otherwise stated in these GTCS, including the following provisions, we shall be liable in the event of a breach of contractual and non-contractual obligations in accordance with the statutory provisions.
- 8.2. We shall be liable for damages - irrespective of the legal grounds - within the scope of fault-based liability in cases of intent and gross negligence. In the event of simple negligence, we shall only be liable, subject to statutory limitations of liability (e.g. care in our own affairs; insignificant breach of duty), for
- a) for damages resulting from injury to life, limb or health,
 - b) for damages arising from the breach of an essential contractual obligation (an obligation whose fulfilment is essential for the proper execution of the contract and on whose compliance the contractual partner regularly relies and may rely); in this case, however, our liability is limited to compensation for foreseeable, typically occurring damages.

- 8.3. The obligations arising from no. 8.2 shall also apply to third parties and to breaches of duty by persons (including in their favour) whose fault we are responsible for in accordance with statutory provisions. They shall not apply if a defect has been fraudulently concealed or a guarantee for the nature of the goods has been assumed and for claims of the Buyer under the Product Liability Act.
- 8.4. The Buyer may only withdraw from or terminate the contract due to a breach of duty that does not consist of a defect if we are responsible for the breach of duty. Any free right of cancellation/termination of the Buyer (in particular in accordance with §§ 650, 648 BGB) is excluded. In all other respects, the statutory requirements and legal consequences shall apply.

9. Statute of limitations

- 9.1. The limitation period for claims arising from material defects and defects of title is one year from delivery. If acceptance has been agreed, the limitation period shall commence upon acceptance.
- 9.2. The above limitation periods shall also apply to contractual and non-contractual claims for damages of the Buyer which are based on a defect of the goods, unless the application of the regular statutory limitation period (§§ 195, 199 BGB) would lead to a shorter limitation period in individual cases. Claims for damages of the Buyer according to No. 8.2 sentence 1 and sentence 2 (a) as well as under the Product Liability Act shall become time-barred exclusively in accordance with the statutory limitation periods. The limitation according to No. 9.1 also does not apply to defects in a building or to goods that have been used for a building in accordance with their normal use and have caused its defectiveness.

10. Use of software, Industrial property rights

If software is included in the scope of delivery, the Buyer is granted a non-exclusive right to use the delivered software including its documentation. It is provided for use on the delivery item intended for this purpose. Use of the software on more than one system is prohibited. The Buyer may only reproduce, revise, translate or convert the software from the object code into the source code to the extent permitted by law (§§ 69 a ff. UrhG). The Buyer undertakes not to remove manufacturer's details - in particular copyright notices - or to change them without our prior express consent. All other rights to the software and the documentation, including copies, shall remain with us or, if applicable, with the software supplier. The granting of sublicenses is not permitted.

11. Applicable law and place of jurisdiction

- 11.1. These GTCS and the contractual relationship between us and the Buyer shall be governed by the law of the Federal Republic of Germany to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods (CISG).
- 11.2. If the Buyer is a trader within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive -



also international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be our registered office in Kirchlegern. The same applies if the Buyer is an entrepreneur within the meaning of § 14 BGB. However, in all cases we shall also be entitled to bring an action at the place of performance of the delivery obligation in accordance with these GTCS or an overriding individual agreement or at the Buyer's general place of jurisdiction. Overriding statutory provisions, in particular regarding exclusive jurisdiction, shall remain unaffected.

- February 2024 -

A+F Automation + Fördertechnik GmbH
Industriestraße 11-13
32278 Kirchlegern

Managing Director
Sebastian Jost, Dieter Thewes

Local court Bad Oeynhausen, HRB 7884

af-gmbh.de
eol.group