

General Terms and Conditions

of MANTZ airmotions GmbH & Co KG, Hacketäuerstr.4, 42651 Solingen

1. General

(1) The following General Terms and Conditions are applicable in their respectively newest edition for all current and future business relationships with the exception of those with Agents and Suppliers. This also applies if we provide our services without reservation with the knowledge of contradictory conditions. We hereby expressly contradict the opposing parts of the general terms and conditions of the contractual partner. Other provisions only then become a part of the contract if we have agreed to their validity in writing. The General Terms and Conditions are not applicable to consumers in the within the meaning of Section 13 of the German Civil Code (BGB).

(2) All agreements are to be made in writing. All additions, changes, and ancillary agreements to orders that have already been issued or any promises made by our employees only come into effect after we have confirmed them in writing.

2. Conclusion of Contract

(1) Our offers are subject to change insofar as they are not expressly labelled as binding. Information about measurements, weight, and other technical data are approximate values typical of the company and industry insofar as the usability for the contractually agreed purpose does not require weights and measures to match exactly. Changes, e.g. on account of technical developments, remain reserved insofar as they do not compromise the usability for the contractually agreed purpose. The offer documentation provided by us is to be considered a recommendation that we have prepared on the basis of actual circumstances of which we have become aware with consideration of due diligence.

(2) With its order, the Principal declares in a binding manner that it wishes to issue the order. The contract arises with our order confirmation or when we provide our service at the latest. In the event of immediate delivery, our invoice is considered the order confirmation.

(3) Principally, our prices are ex works without packaging, shipping, loading, or assembly costs, other assembly costs or value-added tax.

(4) We retain the right to change our prices in a reasonable manner if, after conclusion of the contract, changes in expenses, in particular on account of collective agreements, changes to material prices, non-foreseeable public charges, fees, or the like arise. If the originally agreed price is increased by more than 10%, the Principal can withdraw from the contract with a notice period of 10 days after receipt of the announcement of the price increase.

(5) We are entitled to use subcontractors for fulfilment of an order.

(6) We retain all ownership and copyrights to all samples, models, offer documents, and contract documents. They may not be made available to third parties without our express authorisation. This applies to all commercial and technical details of which the Principal becomes aware.

Insofar as no contract arises, the Principal is to bear all costs that arise for the creation of samples, models, pressure plates, and tools. The Principal does not obtain a right to delivery and transfer of ownership with its payment.

If the Principal desires the transfer of ownership of tools for the purpose of using them in another manner, a separate price is to be agreed for this. No. 7 of the General Terms and Conditions apply in the corresponding manner in this case.

(7) **Contract Penalty:**

For each case of the culpable infringement of the duties described in 2.6 - even after conclusion of the contract - the Principal is to pay a contract penalty in the amount of 50% of the net value of the offer or the contractual remuneration with reservation of a larger or smaller amount of damages being proved.

3. The Principal's Duty to Assist

(1) The Principal is to assist in the provision of our services without charge and in a timely manner and in particular to provide us with all of the needed data, documents, and information.

(2) The Principal shall inform us without delay about any abnormalities and any damage events in conjunction with our products and services.

(3) For the defence against claims in regards to the duty to product liability, the Principal shall support us in every way reasonable for it.

4. Delivery

(1) Delivery periods and dates of completion will be provided according to our best discretion, but are only binding if they are labelled as binding in written, text, or electronic form.

(2) All delivery periods begin with the date of our order confirmation, but not before complete clarification of all details of the order. This also includes in particular the fulfilment of the duties to assistant named in no. 3.1.

(3) Every delivery period loses validity on account of subsequent non-insignificant changes to the Contract. In such a case we are entitled to define a new, reasonable delivery date.

(4) Even in the case of binding, agreed periods and dates, we are not responsible for delays of delivery and performance on account of a force majeure and on account of circumstances that significantly hinder our delivery or make it impossible - in includes in particular non-timely delivery by suppliers for which we are not culpable, strikes, lock-outs, official orders, etc. They entitle us to delay the delivery or service for the period of the hindrance plus a reasonable start up period. We shall inform the Principal about the hindrance without delay. Additionally, we are entitled to withdraw from the Contract in part or in full against immediate refund of the return performance

(5) We are entitled to make partial deliveries if the partial delivery is useable for the Principal in the scope of the contractual purpose, the delivery of the remainder of the ordered goods is ensured, and this does not result in any unreasonable additional effort or disproportionate expense for the Principal.

5. Shipment, Transfer of Risk

(1) The risk is transferred to the Principal with the handover of the goods to the transport person, but at the latest when they leave our industrial premises. This also applies if we have assumed additional services such as shipment or transport or if the service occurs free place of destination. Freighters, forwarders, etc. are not our assistants.

(2) All goods announced to be ready for shipment must be called up within one week. Otherwise the Principal is to bear arising storage expenses for each day. Should the goods be shipped at its expense, it is to announce this.

(3) Special means of transportation and protection and insurance policies shall be charged to the Principal separately.

(4) Loaned pallets remain our property in any case and must be sent back to us carriage paid within four weeks - calculated from the day of receipt by the Principal. The Principal is liable for damages of all kinds. In the event of loss, we shall charge €12.00 net per pallet. In the event that the return period is exceeded we shall charge €2.00 net per pallet and begun week.

6. Conditions of Payment

(1) All prices are strictly net cash, payable immediately after receipt of the invoice in legal tender. Checks are only considered payment made after they have been credited to our account in a final manner. We only grant trade discounts in individual cases; in this respect the contents of the contract or the text on the invoice are authoritative.

(2) Our prices are without value-added tax unless something else is agreed. The tax will be calculated at the rate applicable at the respective time of delivery.

(3) If we become aware of circumstances after the conclusion of the contract that are suited to significantly reduce the creditworthiness of the Principal (in particular if there is an application for insolvency or statements in lieu of oath), we are entitled to carry our open orders or services against prepayment or security only. If the pre-payments or securities are not made within a time period of 14 days, we are entitled to withdraw from all contracts that have not yet been completely fulfilled. All open claims become due immediately without prejudice to the claiming of other rights. The same applies if judicial enforcement becomes necessary on account of an unpaid invoice. Independent of a withdrawal, in the cases above we are also entitled to forbid the Principal from selling the subject of the contract until payment of the purchase price in the case that retention of title has been agreed. The regulation of Section 325 BGB is applicable so that the right to demand damages is not excluded by withdrawal.

(4) A right of retention on the part of the Principal is excluded unless the claim of the Principal is recognised by us or has been established by court of law. The above applies to set offs in the corresponding manner.

(5) Independent of claiming of additional damages, we are entitled to demand interest on arrears in the amount of 8 points above the base rate. Dunning notices (except for a dunning notice on account of a delay) will be invoiced at a lump sum of €5 each unless we had more or less time and effort.

7. Retention of Ownership

(1) The Retention of Title agreed in the following is intended to secure all existing and future claims of the Seller against the Buyer from the delivery relationship between the contractual partners (including outstanding balance claims from current accounts limited to this delivery relationship).

(2) The goods delivered by the Seller to the Buyer remain property of the Seller until complete payment of all secured claims. The goods and the goods encompassed by the retention of title in their place pursuant to the following provisions will be called "goods subject to retention of title" in the following.

It must insure them at their new value sufficiently at its own expense against fire and water damage and theft.

(3) The Buyer stores the goods subject to retention of title for the Seller at no charge. The Buyer may use the goods subject to retention of title and sell them over the course of ordinary business activities as long as it is not in payment arrears. However, it may not pledge the goods subject to retention of title or transfer ownership as a means of security. The claims of the Buyer against its customers from the further sale of the goods subject to retention of title as well as those claims of the Buyer regarding the goods subject to retention of title that arise for another legal reason against its customers or third parties (in particular receivables from unauthorised actions and claims for payments from insurance) are to be assigned to us, and that including all balances on current accounts.

The Buyer may collect these claims assigned to us on its own account and in its own name for us as long as we do not revoke this authorisation. This is without prejudice to our right to collect these claims ourselves; however we will not make these claims ourselves and will not revoke the authorisation to collect as long as the Buyer complies with its duties to pay in an orderly manner.

However, insofar as the Buyer acts in breach of contract, in particular insofar as it is in arrears with payment of remuneration - we can demand that the Buyer reveal to us the assigned claims and the respective debtors, announce the assignment to the respective debtors, and hand over all documents and information to us that we need to make the claim.

The Buyer also may not assign these claims to be collected by a factoring company unless the Buyer irrevocably obligates the factoring company to bring about counterperformance to us as though our claims against the Buyer still existed.

(4) We may utilize the delivered goods (goods subject to retention of title) that we took back. The proceeds from the use will be set off against those amounts that the Buyer owes us after we have deducted a reasonable amount for the expenses of use.

(5) Processing or reshaping of the goods subject to retention of title by the Buyer is always done for us. If the goods subject to retention of title are processed with other goods that do not belong to us then we acquire co-ownership of the new item in the relationship of the value of the goods subject to retention of title (invoiced amount including value-added tax) to the other processed items at the time of processing. For the rest, the same applies to the product arising from the processing as for the goods subject to retention of title.

If the goods subject to retention of title are combined or blended in an inseparable manner with other goods that do not belong to us then we acquire co-ownership of the new item in the relationship of the value of the goods subject to retention of title (invoiced amount including value-added tax) to the other combined or blended items at the time of combination or blending. If the goods subject to retention of title are combined or mixed in such a manner that the item of the Buyer is to be considered the primarily item, the Buyer and we already agree now that the Buyer shall transfer prorated co-ownership of this item to us. We accept this transfers.

The thereby arising sole ownership or co-ownership of the item will be kept safe for us by the Buyer.

(6) In the event that third parties seize the goods subject to retention of title or in the event of other encroachments by third parties, the Buyer must refer to our ownership and inform us without delay in writing so that we can assert our ownership rights.

(7) If the Buyer demands, we are obligated to release securities to which we are entitled to the extent that their realisable value exceeds the value of our open claims against the Buyer by more than 10%. However, in doing so we may select the securities to be released.

8. Claims Arising from Defects

(1) The Principal is to inspect the goods after receipt without delay. Recognizable defects are to be reported to us in writing within a week of receipt of the goods, hidden defects within a week of their discovery. Otherwise, making claims arising from defects is excluded. Punctual dispatch suffices for keeping the deadline. After execution of an acceptance of the goods by the Principal, claims on account of defects that were recognizable during the acceptance are excluded.

(2) Our liability extends to the goods' freedom of defects corresponding to the state of the art.

(3) For defects, we shall warrant by means of supplementary performance according to our choice (rectification of the defect, re-manufacturing, or replacement delivery). Supplementary performance is considered to have failed at the earliest after we have made three unsuccessful attempts at supplementary performance.

(4) Insofar as we without reason seriously refuse supplementary performance in a final manner, refuse to rectify the defect and supplementary performance on account of disproportionate expenses, the supplementary performance fails, or it is unreasonable for the Principal, the Principal can, according to its choice, only demand a reduction in the remuneration (mitigation), or rescission of the contract (withdrawal) and damages in the scope of the limitation of liability (no. 8) instead of the performance.

In the case of only minor breach of contract, in particular in the case of only small defects, the Principal does not, though, have a right to withdrawal.

(5) Insofar as we are not responsible for the breach of duty arising from a defect, the Principal is not entitled to withdrawal from the contract.

(6) If the Principal chooses replacement for damages after the failed supplementary performance, the goods remain with the Principal if that is reasonable for it. The damages are then limited to the difference between the price and the value of the defective item.

(7) If the Principal dictates which goods from third parties we are to use, we are not liable for defects to these goods. Our incoming goods inspection is limited to the visual receiving control; a functional test will not be carried out. The same applies in the corresponding manner to goods that are provided by the Principal.

9. Limitation of Liability

(1) We are liable

- without culpability in the case of claims pursuant to the German Product Liability Law and wilful deceit,
- in the event of wilful intent and gross negligence,
- in the event of simple negligence for damages from bodily injury and injury to health, and
- in the event of simple negligence for breaches of significant contractual duties.

The liability above also applies to our legal representatives and assistants in the event of culpability.

(2) If we are liable on account of the simple negligent breach of duties significant to the contract, the duty to reimbursement is limited to the typically arising damages.

(3) In all other cases our liability is excluded. This also applies for the liability for our employees, representatives, and assistants.

10. Lump Sum Damages

If we can demand damages instead of the (total) payment (Section 281 et. seq. BGB), this amounts to 15% of the return service. The damages are to be greater or smaller if we prove a greater or the Principal proves smaller damages.

11. Time Barring

(1) Claims for defects and damages of the Principal become time barred within the statutory period.

(2) The beginning of the statute of limitations is based on the legal provisions in each case.

12. Industrial Property Rights

If claims are made against the Principal on account of the infringement of German industrial property rights by items delivered or licensed pursuant to these General Terms and Conditions, we will reimburse the Principal for all legally imposed expenses and damages if we are informed of such claims without delay in writing, receive all needed information from the Principal, it satisfies its general duties to assist, we can make the final decision on whether the claim should be disputed or settled, and we are culpable for the infringement of the industrial property rights. If it is determined in a legally binding manner that continued use of the subject of the contract infringes on the industrial property rights of third parties or, in our view, there is the danger of lawsuit on account of copyright infringement, we can, insofar as the liability does not lapse and according to our choice, either obtain the right for the Principal to continue to use the subject of the contract or exchange or change it so that there is no longer an infringement or take back the subject of the contract with reimbursement of the Principal for its worth with deduction of compensation for use for the obtained use up to then. Compensation for use will be calculated on the basis of an assumed period of depreciation of three years, and thus for each month of use 1/36 of the contractual remuneration is to be paid.

13. Applicable Law, Place of Fulfilment, Legal Venue, Severability Clause

(1) The laws of the Federal Republic of Germany to the exclusion of UN Purchasing law are solely applicable for these business relationships and all of the legal relationships between us and the Principal.

(2) Our registered office is the place of performance and legal venue for all obligations from this Contract.

(3) The invalidity of one provision of this Contract shall not affect the validity of the rest. The statutory regulations shall take the place of the invalid clause.

Solingen, July 2014