

Last updated: September 2013

Mayser GmbH & Co. KG, Bismarckstrasse 2 • 88161 Lindenberg/Allgäu, Germany

General Terms and Conditions of Sale, Delivery and Payment

General conditions

1. All our offers, deliveries and services are based on these terms and conditions (hereinafter referred to as "GTC") with the exception of offers, deliveries or services which we provide via an online shop set up by us. The following terms and conditions shall only apply to entrepreneurs within the meaning of Section 14 of the BGB (German Civil Code), a legal entity under public law or a special fund under public law (hereinafter referred to as "Customer").
2. Our GTC shall apply exclusively. The applicability of other general terms and conditions is generally excluded unless we have expressly agreed to this application in writing.
3. Our GTC shall also apply if we carry out the delivery to the Customer without reservation in the knowledge that the Customer's terms and conditions conflict with or deviate from our GTC.
4. In the event of continuous business relations, our GTC shall also apply to future offers, deliveries and services to the Customer without having to specifically refer to them again.
5. Our offers are always made free of charge and without obligation, unless otherwise agreed in writing. Any business done or agreements concluded shall only become binding upon our written order confirmation or upon our delivery. The same applies to supplements, amendments or ancillary agreements.
6. The Standard Terms and Conditions of the German Textile Industry, as amended from time to time, shall also apply. In the event of contradictions between the Standard Terms and Conditions of the German Textile Industry and these GTC, these GTC shall prevail.

Place of performance, delivery and acceptance

1. Unless otherwise agreed, the place of performance shall be the registered office of Mayser.
2. Delivery of the goods is "ex works" Mayser Roznava spol. s.r.o., Gemerkska 564, 04951 Brzotin, Slovak Republic, Incoterms 2010.
3. Unless otherwise agreed, our prices for deliveries are "ex works" and are net prices not including applicable sales taxes, even if not expressly stated, and not including costs for special packaging, freight, installation, shipping, insurance expenses, customs clearance, any bank and transaction costs for payments and other costs incurred. The costs for standard packaging are included in our prices.
4. Unless otherwise agreed in writing, we shall be entitled to adjust prices if our costs for wages and salaries, raw materials or supplies, energy costs or other materials increase more than insignificantly. This right also applies to deliveries and services from a continuing obligation.

Terms of payment

1. Invoices are payable:
within 10 days of the invoice date with a 4% discount;
from the 11th to the 30th day of the invoice date with a 2.25% discount;
from the 31st to the 60th day of the invoice date net, i.e. without any discount.
2. Payments are always used to settle the oldest debt items due.
3. From the date of default, the Customer shall owe default interest in the amount of 8 percentage points above the base rate.
4. We shall not be obliged to make any further delivery under any current contract before full payment of due invoice amounts including interest.
5. Cheques and/or bills of exchange will only be accepted on our part after written agreement and on account of performance. All costs incurred by us from such a payment in this case shall be borne by the Customer.

Retention of title

1. We reserve title to all items delivered by us until full payment of all our claims against the Customer arising from the business relationship, including such claims arising from cheques and bills of exchange. In the case of payments from cheques and bills of exchange, we reserve ownership of the delivered items until the risk of recourse has expired.
2. If the Customer processes the goods subject to retention of title, this shall be done for us as manufacturer within the meaning of § 950 BGB (German Civil Code). If the goods delivered by us are processed or inseparably mixed with other objects, we shall acquire co-ownership of the new objects in the ratio of the invoice value of the goods to the invoice value of the other goods used. The Customer may further process the delivery items in the ordinary course of business, provided that the aforementioned security interests are preserved.
3. The Customer may resell the delivery items in the ordinary course of business as long as our retention of title to the items is preserved in accordance with paragraph 4 below. The Customer is not permitted to transfer ownership, transfer by way of security, pledge or similar measures.
4. In the event of resale of the delivery items, the Customer already now assigns to us all claims against third parties arising from the resale. We hereby accept this assignment. If we are only co-owners of the goods sold, the assignment shall only be made up to the amount of our claims against the Customer.
5. We revocably authorise the Customer to collect the claim assigned to us for our account in its own name. Revocation of this authorisation is only permissible if the Customer does not properly fulfil its obligations under this contract, in particular its payment obligations, becomes insolvent or unable to pay, has filed an application for the opening of insolvency proceedings or such an application has been rejected for lack of assets. In the event of revocation of the authorisation to collect our claims, the Customer shall inform the debtor of the assignment of the claim to us. We are also free to disclose the extended retention of title to the third party.
6. The Customer's right to dispose of the reserved goods, to process them or to collect the assigned claims shall expire, even without express revocation, if insolvency proceedings are instituted against the Customer's assets or are rejected for lack of assets, if payments are suspended, if an application for the institution of insolvency proceedings is filed by the Customer or a third party or if the Customer becomes insolvent or over-indebted. In these cases, as well as in the cases of the above paragraph 5, we shall be entitled to withdraw from the contract after the expiry of a reasonable period of time with the consequence that we may take back the reserved goods. The Customer is obliged to hand over the goods subject to retention of title. The proceeds of any realisation of the reserved goods shall be credited to the Customer – less the costs of realisation – against its obligations towards us.
7. In the event of revocation of the authorisation to collect the assigned claims, the Customer shall be obliged to disclose to us immediately in writing against which third parties claims from assigned rights exist and in what amount.

8. If the securities provided to us exceed the claims to be secured by more than 10%, we are obliged to release securities in an appropriate amount at our discretion at the request of the Customer.

9. The Customer must inform us immediately in writing if third parties gain access to the reserved goods, the assigned claims or the other documents and records. All costs of legal defence of our reserved goods, also against third parties, shall be borne by the Customer.

Place of jurisdiction

The exclusive place of jurisdiction for all claims arising from the business relationship, including those arising from cheques and bills of exchange, shall be at the place of performance, provided that the Customer is a merchant, a legal entity under public law or a special fund under public law. However, we are also entitled to take action against the Customer at its general place of jurisdiction.

Applicable law

The law of the Federal Republic of Germany shall apply exclusively to all disputes arising from contracts to which these GTC apply and to all disputes arising from the business relationship between us and the Customer. The application of the UN Convention on Contracts for the International Sale of Goods (CISG) and private international law is excluded.

The GTC exist in a German and an English version. In the event of contradictions, the German version shall prevail.