

General Terms and Conditions (GTC)

of Schwartmanns Maschinenbau GmbH, Hans-Sachs-Straße 28, 50389 Wesseling,

§ 1 Scope

(1) These General Terms and Conditions apply to all contracts between Schwartmanns Maschinenbau GmbH (hereinafter referred to as "Schwartmanns") and its customers for the delivery of machines, spare and wear parts and accessories, the provision of services (in particular assembly, maintenance, remote maintenance, training), rental and leasing contracts for machines and equipment, and the provision of software, licences and other rights of use.

(2) Unless expressly agreed otherwise, all deliveries shall be made ex works (EXW Wesseling, Incoterms 2020). Packaging, loading, transport, insurance and all export, import and customs duties shall be borne by the customer. This shall also apply if Schwartmanns organises the shipment or, in exceptional cases, advances the costs.

(3) Schwartmanns concludes contracts exclusively with entrepreneurs within the meaning of Section 14 of the German Civil Code (BGB), legal entities under public law or special funds under public law. Contracts with consumers within the meaning of Section 13 BGB are not concluded.

(4) Conflicting or deviating general terms and conditions of the customer shall not become part of the contract unless Schwartmanns expressly agrees to their validity in writing.

§ 2 Proof of entrepreneurial status

(1) Schwartmanns directs its entire range of services exclusively at entrepreneurs.

(2) Schwartmanns is entitled to request suitable proof of entrepreneurial status (e.g. VAT ID number or proof of business registration) before concluding a contract. The customer is obliged to provide the necessary information completely and truthfully.

§ 3 Registration in the online shop; processing of personal data

(1) Orders via the online shop can be placed both as a guest and after registration. As a registered customer, the ordering process can be simplified by creating a customer account; registration does not constitute an obligation to purchase.

(2) During registration, the customer chooses a personal user name and password. They are obliged to treat the access data confidentially and not to disclose it to third parties – in particular persons outside the company or employees who are not authorised to represent the company.

(3) Changes to personal data must be made by the customer themselves in their customer account. The customer can delete their account at any time via the "My Account" menu item.

(4) For information on the processing of personal data, Schwartmanns refers to the separately accessible data protection declaration

[<https://www.schwartmanns.de/en/privacy-policy/>].

§ 4 Conclusion of contract

(1) The presentation of goods, machines, software or services – in particular in the online shop – does not constitute a binding offer, but rather an invitation to place an order (invitatio ad offerendum).



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Mike Zartmann
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(2) By placing an order (e.g. via the online shop, by email or in writing), the customer makes a binding offer. The contract is only concluded upon written order confirmation or upon execution of the delivery/service.

(3) The contract language is exclusively German.

§ 5 Prices and terms of payment

(1) The agreed prices plus statutory value added tax apply. Packaging, shipping and insurance costs as well as any customs and import fees will be charged separately.

(2) Payments are due within 14 days of the invoice date without deduction. Discounts are only granted if expressly agreed.

(3) In the event of late payment, the customer shall owe default interest at the statutory rate (§ 288 (2) BGB). Further claims remain unaffected.

(4) Schwartmanns is entitled to demand reasonable advance payments or security deposits if doubts arise about the customer's creditworthiness after conclusion of the contract.

§ 6 Delivery, transfer of risk, international deliveries

(1) Delivery dates and deadlines are only binding if they have been confirmed in writing by Schwartmanns.

(2) Partial deliveries are permissible insofar as they are reasonable for the customer.

(3) Unless expressly agreed otherwise, delivery shall be ex works (EXW Wesseling, Incoterms 2020). The place of performance is the registered office of Schwartmanns. Upon handover of the goods to the forwarding agent, carrier or other third party designated to carry out the shipment, the risk of accidental destruction, deterioration or loss shall pass to the customer. This shall also apply if Schwartmanns bears the shipping costs or organises the transport.

(4) For deliveries abroad, the customer shall bear all costs in connection with transport, insurance, export, import, customs duties, taxes and other charges.

(5) If shipment is delayed for reasons for which the customer is responsible, the risk shall pass to the customer upon notification that the goods are ready for shipment. Any additional costs incurred (e.g. storage costs) shall be borne by the customer.

(6) Deliveries abroad are generally VAT-free, provided that the legal requirements for tax exemption are met and the whereabouts of the goods abroad can be proven. The customer is obliged to provide all necessary evidence in good time. If the evidence is not provided or if the goods are returned to the country contrary to the customer's information, Schwartmanns is entitled to charge the statutory value added tax retrospectively.

§ 7 Retention of title

(1) The delivered goods remain the property of Schwartmanns until all claims have been paid in full.

(2) The customer is entitled to resell the goods subject to retention of title in the ordinary course of business; pledging or transfer by way of security is not permitted. The customer hereby assigns to Schwartmanns all claims arising from resale in the amount of the invoice value. Schwartmanns accepts this assignment.

(3) If the value of the securities exceeds the secured claims by more than 10%, Schwartmanns shall release securities of its own choice upon request.



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§ 8 Prohibition of assignment

- (1) The customer is not entitled to assign or transfer claims or rights arising from the contractual relationship to third parties without the prior written consent of Schwartmanns.
- (2) Section 354a of the German Commercial Code (HGB) remains unaffected.

§ 9 Customer's obligations to cooperate

- (1) The customer shall create all conditions necessary for the proper execution of deliveries, assembly, commissioning and maintenance work in good time and at its own expense (including power connections, access, IT requirements).
- (2) If necessary cooperation is not provided, deadlines shall be extended appropriately; Schwartmanns shall be entitled to invoice any additional costs incurred as a result separately.

§ 10 Warranty

- (1) Unless otherwise specified below, the statutory warranty rights apply to material defects and defects of title.
- (2) Obvious defects must be reported in writing immediately, at the latest within seven (7) calendar days of delivery (§ 377 HGB).
- (3) Schwartmanns shall, at its own discretion, either repair or replace the goods. If two attempts at repair fail, the customer shall be entitled to reduce the price or withdraw from the contract.
- (4) Warranty claims shall become time-barred twelve (12) months after the transfer of risk, unless they are claims based on intent, gross negligence or injury to life, limb or health.

§ 11 Liability

- (1) Schwartmanns shall be liable without limitation for intent and gross negligence as well as for damages resulting from injury to life, limb or health.
- (2) In the event of a slightly negligent breach of essential contractual obligations, liability shall be limited to the foreseeable damage typical for this type of contract.
- (3) Any further liability, in particular for loss of profit, loss of production or indirect damage, is excluded.
- (4) Mandatory liability under the Product Liability Act remains unaffected.

§ 12 Software and rights of use

- (1) Insofar as the subject matter of the contract is software, the customer shall receive a simple, non-exclusive and non-transferable right of use to the extent agreed in the contract.
- (2) Duplication, decompilation or disclosure to third parties is only permitted within the scope of mandatory statutory provisions.
- (3) Supplementary conditions for maintenance and service contracts remain unaffected.

§ 13 Rental and leasing agreements

- (1) If a machine or device is rented or leased, it shall remain the property of Schwartmanns.
- (2) The customer is obliged to treat the rented item with care and to maintain it properly. Changes or modifications may only be made with the consent of Schwartmanns.
- (3) The customer shall be liable for damage exceeding normal wear and tear.
- (4) At the end of the contract period, the rented item must be returned in the condition specified in the contract.



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§ 14 Force majeure

Events of force majeure that make it significantly more difficult or impossible for Schwartmanns to perform its services entitle Schwartmanns to postpone performance for the duration of the hindrance or – in the case of longer-term hindrances – to withdraw from the contract in whole or in part.

§ 15 Final provisions

(1) Amendments and additions to these General Terms and Conditions must be made in writing. This also applies to the waiver of the written form requirement.

(2) German law shall apply, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).

(3) The place of performance and exclusive place of jurisdiction for all disputes is Cologne, insofar as this is legally permissible.

(4) Should individual provisions of these General Terms and Conditions be invalid, the validity of the remaining provisions shall remain unaffected. The parties undertake to agree on a valid provision that comes closest to the economic purpose of the invalid provision.

(5) The application of the German Construction Contract Procedures (VOB/B) is excluded.



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