

# General Terms and Conditions (GT&C)

## MAUSER GROUP

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### § 1 General, Application and Scope

1. The following formalised General Terms and Conditions ("GT&C") shall apply exclusively to every company in the MAUSER Group ("MAUSER") located in the Federal Republic of Germany as long as no specific GT&C of the company concerned are valid. MAUSER does not acknowledge conditions of the contractual partner that are contradictory or deviate from these GT&C – unless MAUSER has expressly agreed to the validity of differing conditions in writing. These GT&C shall also apply if MAUSER effects the delivery or service to the contractual partner without reservation despite being aware of conditions of the contractual partner that contradict or differ from these GT&C.
2. All agreements that are concluded between MAUSER and the contractual partner in connection with an offer and/or a contract must be recorded in writing in the contract or offer. Verbal agreements are not binding.
3. These GT&C are only valid for companies in terms of § 14 BGB [German Civil Code] and legal entities under public law.
4. These GT&C shall equally apply to all future business transactions, orders etc. with the contractual partner without necessitating express reference in individual cases. These GT&C replace previous GT&C of MAUSER that may be worded differently.
5. MAUSER retains the right to update or amend the GT&C from time to time. MAUSER will immediately notify the customer of a change to the general terms and conditions. Should such notification be disproportionately difficult to make, MAUSER will indicate the change on the Internet under [www.MAUSERGROUP.com](http://www.MAUSERGROUP.com). Should such notice have been made the change is considered accepted unless the customer objects within six weeks in writing or by way of electronic communication if this method has been agreed for business relationships. The time limited is deemed adhered to if the objection reaches MAUSER within six weeks after the notification of change. Failing this, MAUSER will use the amended version of the GT&C as basis for further business relationships.
6. All documents must be sent by post in the original unless a different method has been stipulated in these GT&C or an electronic communication channel has been specifically agreed upon in writing. "In writing" or "in the written form" means the form described in §126 para. 1 and para. 2 BGB.

### § 2 Quotation / Order / Contract Conclusion

1. Quotations from MAUSER are without obligation and non-binding.
2. Each order must contain sufficient details of the desired properties of the goods. MAUSER shall not be liable for any errors, delays or damages caused by incomplete and inaccurate specifications (e.g. "as supplied before"). Information and recommendations on filler materials for

MAUSER products are given according to the best knowledge of the particular technology without MAUSER warranting the correctness of this information. The contractual partner is exclusively responsible for performing a suitability test – particularly for dangerous goods. The contractual partner is free to commission the accredited MAUSER test station to perform the suitability test.

3. MAUSER is entitled to deliver standard goods or a constructively altered version of the ordered product without having to inform the contractual partner of this separately as long as the alterations do not affect the normal utility value when compared to the standard goods.
4. All specifications on quotes, order confirmations etc. with regard to measurements, volume and weight include the usual tolerances even when this is not separately indicated. The provisions of the Deutsches Institut fuer Normung (DIN) apply to material strength and quality.
5. Acceptance declarations and all orders require the express confirmation of the sales department by way of letter or also fax in order to be legally effective. The same applies to additions, changes or supplementary agreements.

### § 3 Time of Delivery and Service / Delay in Delivery / Default of Acceptance

1. Times or terms of delivery and service are only binding in individual cases after written confirmation from MAUSER. Confirmed delivery times are not considered exceeded within an additional 10 working day period. Should call-off orders have been agreed upon with the contractual partner, the latter must call-off the delivery without delay and with a reasonable delivery period. The deciding factor for adhering to delivery terms is the arrival of the goods at an agreed receiving centre or, in the case of deliveries requiring setup or assembly as well as work performance, the time of acceptance. The assertion of claims for delay or default against MAUSER is excluded unless these were caused by intent or gross negligence.
2. MAUSER is not responsible for delays in deliveries and services due to force majeure or events that make deliveries significantly more difficult or impossible for MAUSER – this includes, in particular, lack of raw or operating materials, strikes, lock-outs, official orders etc., also when they occur at one of MAUSER's suppliers or pre-suppliers – even if fixed terms and times of delivery have been agreed. These circumstances entitle MAUSER, at its own discretion, to postpone delivery by the duration of the hindrance plus a reasonable start-up period or to withdraw from the contract completely or partially for the unfulfilled portion. MAUSER can only invoke the above mentioned circumstances if MAUSER has immediately informed the contractual partner of these circumstances and if MAUSER has not caused the hindrance of service performance either intentionally or due to gross negligence.

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- Should the hindrance in terms of § 3 fig. 2 last more than 3 months the contractual partner is entitled to withdraw from the unfulfilled portion of the contract after having granted a reasonable additional deadline. Should the time of delivery or service be extended or MAUSER is released from its obligation of delivery and service, the contractual partner can not derive any claims for damages from this.
- MAUSER is at all times entitled to make partial deliveries and provide partial performance.
- Irrespective of the contractual partner's right of withdrawal according § 437 No. 2 BGB [German Civil Code] in the case of delivery, the contractual partner shall only be entitled to withdraw from the contract due to non-performance, delayed or other non-conventional performance by MAUSER, if MAUSER is responsible for the impairment of performance and a reasonable extension of time set by the contractual partner elapsed unsuccessfully.
- Should the contractual partner fall into default of acceptance or violate other cooperation obligations MAUSER can claim compensation of resulting damages including possible additional costs. The risk of accidental destruction as well as of accidental deterioration shall pass to the contractual partner as soon as default of acceptance occurs.

### § 4 Prices / Terms of Payment

- Prices from MAUSER are valid "ex works" (EXW) plus statutory VAT.
- Amounts invoiced by MAUSER are due for payment without deductions within 30 calendar days from the date of invoice and must be paid directly to MAUSER in cash or by bank transfer / direct debit / bank collection.
- The deduction of a discount is only permitted on the basis of express written agreement. The deduction of an agreed discount is only allowed if the invoiced amount (minus discount) is available (credited) to MAUSER within 10 days of invoice date.
- Should the contractual partner fall into arrears with amounts due for payment either in total or part, MAUSER is entitled to charge interest at statutory rates from the due date or default and, at MAUSER's discretion, wholly withdraw from all or part of the contract. MAUSER expressly reserves the right to prove and assert damages beyond this.

### § 5 Passing of Risk

- Unless there are explicit differing agreements in writing the risk of destruction, deterioration and/or decline passes to the contractual partner when a purchase item leaves the store of the manufacturer (EXW) (§ 11 Point 2). The weights and number of units determined by MAUSER on dispatch are decisive.

- On request from the contractual partner MAUSER will take out transport insurance and other suitable insurance to the account of the contractual partner in order to safeguard the contractual goods as much as possible.
- Should MAUSER assume the settlement of transport damages vis-à-vis the forwarder or the insurance company on the basis of a separate agreement, the contractual partner is obligated to immediately send the waybill together with an assessment of damages or statement of facts as well as an assignment of claims to MAUSER. The contractual partner must ensure that damages, deviations in numbers of items or weights are confirmed by the forwarding agent on the waybill.
- Should a differing agreement be made to deliver goods free to destination, the passing of risk and the place of performance remain unaffected by this. In this case MAUSER shall only pay the freight costs for the contractual partner.

### § 6 Guarantee / Consequences of faulty Delivery

- Should the delivery or service be faulty MAUSER is entitled, at its own discretion, to either remove the fault or replace the goods. Should MAUSER be responsible for a delay in the removal of fault or replacement of goods, or should the removal of fault or replacement of goods irreversibly fail for other reasons, the contractual partner is entitled to the usual statutory warranty claims. The contractual partner's entitlement for damages and reimbursement of expenses apply only in accordance with § 7. Warranty claims become statute-barred six months after the day of passing of risk.
- For delivery of several items tolerances do not apply to individual items or partial quantities. For larger orders and special productions MAUSER is permitted to deviate from the number of items ordered to a reasonable extent if the deviation is due to excess or short supply of raw materials or the fact that the production of small amounts as requested by the customer would be uneconomical. Slight deviations in colour and other outer impairments (e.g. surface rust) are not considered to be defects.
- Claims by the contractual partner according to para. 1 exist only when the contractual partner has immediately informed MAUSER of the defect in writing. Defects that are not immediately detectable at delivery or performance even after careful investigation must be declared to MAUSER immediately on discovery but no later than one month after dispatch. The statutory guarantee period applies to deliberate defects. The above ruling applies equally to the assertion of rights by the contractual partner due to incorrect, short or excess delivery.

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### § 7 Liability

1. Claims for damages by the contractual partner against MAUSER, on whatever legal grounds, are only valid in the case of intent or gross negligence and are limited to foreseeable damages. This limitation of liability in sentence 1 applies equally for the benefit of legal entities, legal representatives, managerial and non-managerial employees and other vicarious agents of MAUSER. The limitation of liability in sentence 1 does not apply to cases of violating essential contractual obligations ("cardinal obligations") that endanger the purpose of the contract as well as injury to life, limb and health of the contractual partner, willful deception and taking on a quality guarantee. The legal liability provisions according to the Product Liability Law remain unaffected.
2. MAUSER is also not liable when goods have been changed by the contractual partner or a third party commissioned by it or if repairs have not been made by MAUSER, unless the damage is not due to the change or repair. MAUSER is not liable for the suitability of its products for specific purposes.
3. Liability for all forms of negligence unless for cases of injury to life, limb and health of the contractual partner or taking on a quality guarantee, is limited to the typical damage that could be anticipated at conclusion of the contract.
4. The above rulings on liability apply equally to the personal liability of employees, workers, co-workers, representative and vicarious agents of MAUSER.
5. The contractual partner releases MAUSER from any claims asserted by third parties in connection with the properties or quality of the goods and services provided by the contractual partner.
6. Except in cases of injury to life and limb, MAUSER's liability is limited in all instances to the maximum compensation of the existing liability insurance, at most, however, to the value of the goods delivered. Liability for indirect damages and consequential damages is excluded as long as this is permissible by law.
7. A legally or officially mandatory statement of the service life is not to be taken as a guaranteed property, an extension of the warranty period or a special guarantee.

### § Retention of Title

1. MAUSER retains title to an object of purchase until all current and future claims due to MAUSER, on whatever legal principle, by the contractual partner and its partners and subsidiaries have been paid in full and without reservation. Should the contractual partner fail to meet its contractual obligations, especially in the case of default on payment, MAUSER has the right to take back the object of purchase. As long as mandatory legislation does not prescribe otherwise, MAUSER taking back the object of purchase does not constitute a withdrawal from

the contract unless MAUSER declares this in writing or MAUSER has pledged the object of purchase as collateral. Even after an object of purchase has been taken back MAUSER is authorised to sell it. The sales proceeds – less reasonable sales costs – shall be credited against the contractual partner's accounts payable to MAUSER.

2. The contractual partner must immediately inform MAUSER in writing if the object of purchase has been pledged as collateral or attached by third parties. Should the third party not be able to repay MAUSER the obligatory fees for a judicial or out-of-court claim according to § 771 ZPO [German Civil Code] or § 805 ZPO, the contractual party shall be liable for the costs thus incurred by MAUSER.
3. The contractual partner is entitled to resell the object of purchase in the normal course of business. However, it assigns to MAUSER now and to the full extent of the respective invoice incl. VAT all claims against its buyer or third party arising from the resale – irrespective if the object of purchase has been resold without or after processing. The contractual partner is authorised to collect claims also after these having been assigned to MAUSER. This does not affect MAUSER's right to collect the claims itself. MAUSER, however, commits itself not to collect the claims as long as the contractual partner fulfills its payment obligations toward MAUSER correctly and, in particular, no insolvency proceedings have been instituted against the contractual partner's assets or payments stopped. Should any of the circumstances mentioned in sentence 4 occur, MAUSER can demand that the contractual partner immediately discloses the assigned claims and their debtors, provides all information necessary for collection, surrenders the relevant documents and informs its debtors of the assignment.
4. The contractual partner always carries out processing and alteration of an object of purchase for MAUSER as manufacturer. Should the object of purchase be processed with items that do not belong to MAUSER, then MAUSER acquires joint ownership in the new object or the new objects at a pro rata value of the object of purchase to the other items used at the time of processing. Conditions in para. 1 to 3 apply accordingly to the object or objects produced through processing.
5. Should the object of purchase be inseparably combined with other items that do not belong to MAUSER, then MAUSER shall acquire joint ownership in the new object or new objects at a pro rata value of the object of purchase to the other items combined at the time of combination. Should combination occur in such a way that the contractual partner's object is regarded as the main object, it is agreed that the contractual partner transfers joint ownership to MAUSER pro rata. The contractual partner shall keep custody of the sole or joint

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property thus produced for MAUSER.

6. The contractual partner shall also assign to MAUSER in way of security the claims against third parties that may arise to its benefit from combining the object of purchase with fixed property.
7. MAUSER commits itself to release the securities due to MAUSER on request from the contractual partner to the extent that the liquidable value of the securities exceeds the claims to be secured by 20%. The choice of securities to be released is at the discretion of MAUSER.

## § 9 Right to refuse Performance / Retention / Set-off

The contractual partner is not entitled in the case of possible counterclaims to refuse delivery or performance, withhold delivery or performance or declare a set-off, unless MAUSER has expressly acknowledged these counterclaims or they are legally recognised.

## § 10 Group Settlement Clause

1. The contractual partner agrees that all companies of the MAUSER Group (see point 5) as joint creditors are entitled to claims acquired against it by MAUSER and other companies of the MAUSER Group. These claims can thus be settled against amounts owed to any company of the MAUSER Group by the contractual partner.
2. Beyond Point 1 all of the contractual partner's claims against companies of the MAUSER Group can be set-off against claims that companies of the MAUSER Group hold against other companies of the group to which the contractual partner belongs.
3. The above conditions also apply if either cash payments or bank drafts have been agreed upon and if the claims are due at different times whereby the value date shall be settled each time.
4. The contractual partner waives the right to contradict our determination of the claims to be settled in the event of several co-existing claims (§ 396 para. 1 sentence 2 BGB [German Civil Code]).
5. Companies of the MAUSER Group are MAUSER Industrieverpackungen GmbH and the national and international companies connected to the MAUSER Holding GmbH according to §§ 271 HGB [German Commercial Code] 15 AktG [Company Law], which we shall communicate to you on request.

## § 11 Data Protection

The contractual partner agrees that MAUSER electronically stores and processes all data attributable to the business relationship – including but not limited to personnel and accounting related data – in terms of the German Data Protection Act (Bundesdatenschutzgesetz). Furthermore the contractual partner agrees that these data are transferred for a compilation of information on customer's creditworthiness to reputable credit agencies like D&B Deutschland GmbH, Darmstadt / Germany and its affiliated companies.

## § 12 Place of Jurisdiction / Place of Fulfilment / applicable Law / Language

1. Place of jurisdiction for all justified rights and obligations arising from and/or in connection with this contract as well as any possible future legal disputes between the contractual parties is Cologne. This also applies to disputes regarding summary proceedings based on documents and bills of exchange. Irrespective of the conditions in sentences 1 and 2 MAUSER is also entitled to assert claims against the contractual partner in the courts of the contractual partner's place of general and special jurisdictions.
2. Place of fulfilment is the registered office of the supplier as noted on the delivery note. The suppliers are listed on the Internet homepage [www.mausergroup.com](http://www.mausergroup.com) for information. In addition we shall give information about the respective supplier, on request.
3. The law of the Federal Republic of Germany shall apply exclusively. Where usual delivery conditions (e.g. EXW) apply or have been agreed upon, the interpretations of Incoterms 2000 are valid. The conditions of the UN Convention of Contracts for the International Sale of Goods (CSIG) are excluded.
4. The language of contracts and business is German.

## § 13 Salvatory Clause

Should one or more provisions of these GT&C or individual contractual conditions of agreements be or become void or invalid or infeasible the validity of the remaining GT&C remains unaffected. The parties commit themselves to replace the invalid or infeasible conditions of this GT&C immediately with valid ones that come closest to the economic purpose intended with these GT&C. The provisions in sentence 1 and 2 apply to possible loopholes in these GT&C and possible loopholes in contracts that these GT&C refer to.