

General terms and conditions of purchase (GTCP)

1. General

(1) These general terms and conditions of purchase (hereafter 'GTCP') apply to all business transactions between MBO Postpress Solutions GmbH, H+H GmbH & Co. KG and MBO Máquinas, S.A. (hereafter 'client') and the suppliers (hereafter 'contractor'), even if they are no longer specifically mentioned in subsequent contracts.

(2) The inclusion of the contractor's general terms and conditions of business, including any standard or association terms and conditions that it employs, is expressly prohibited if this does not accord with the client's general terms and conditions. Any inclusion only applies if the client expressly and in writing recognises the contractor's general terms and conditions as a supplement to its terms and conditions of purchase.

(3) The acceptance of performance by the client is not considered as such recognition. This also applies if the contractor officially states that it only wishes to supply or perform under its own terms and conditions, but nevertheless accepts and/or performs the client's order.

(4) Without the client's written approval, the contractor's general terms and conditions of business shall, even if they are subsequently used by the contractor, only be a component of the contract if they do not contradict the client's GTCP. Conflicting terms and conditions of business do not affect the effectiveness of the contract concluded. Statutory provisions apply in the event of conflicting terms and conditions.

2. Order / Commissioning

(1) Orders require written form. Verbal ancillary orders are only binding if the client confirms them in writing. This also applies to subsequent amendments and additions.

(2) The contractor must confirm the order with a legally valid signature and in writing within 5 working days in full without amendment.

(3) In place of a confirmation of order, the contractor's silence in response to an order that we have issued applies within 14 days from the date of order as binding acceptance of the order subject to the terms and conditions listed therein.

(4) Changes to quantity and quality in comparison to the text and content of our order and subsequent amendments to the contract are only considered to have been agreed if they have been expressly confirmed in writing.

3. Terms and conditions of delivery / Delivery dates

(1) Agreed delivery dates and deadlines are binding.

(2) Definitive for adherence to the delivery date or delivery deadline is the receipt of the goods at the receiving point or place of use or the timeliness of successful acceptance.

(3) Goods can be accepted at the following times: Monday – Thursday, 7.00am – 4.00pm, Friday 7.00am – 3.00 pm.

(4) If the contractor realises that the agreed dates cannot be adhered to, it must immediately notify the client of this in writing, stating the reasons and the anticipated delay. The contractor can only rely on grounds of a delay that are beyond the contractor's control if it has fulfilled its obligation to notify.

(5) If the contractor does not adhere to the agreed dates or deadlines, the legal consequences are determined by the statutory provisions, in particular the liability to provide compensation in the event of delay.

(6) In the event of delay the client is entitled to claim a contractual penalty from the contractor. For each week of delay commenced this is 0.5%, subject to a maximum, however, of 5% of the total value of the order. Agreement on a contractual penalty or its enforcement does not affect the statutory claims that are open to us in the event of delay. Any contractual penalties that may be paid shall be credited to compensation claims. The contractual penalty can be enforced up to payment of the goods subject to late delivery.

(7) If the agreed date is not adhered to, the contractor is in default, without any warning being required, and must pay the agreed contractual penalty when the default arises. The client is not obliged to reserve this right on acceptance but may settle it as part of the final invoice.

(8) The client retains the right to claim the contractual penalty even if, after the claim has arisen, it withdraws from the contract or arranges performance of the due delivery or performance by a third party. A missed deadline does not affect the ordering party's further claims and rights.

(9) The client may, furthermore, and notwithstanding its further rights, on expiry of a subsequent deadline that it has set or if a delivery is no longer of any interest to it as a result of the delay, arrange for the deliveries not yet rendered to be made by a third party at the contractor's cost and risk. If documents are required for this that the contractor has in its possession, it must hand these to the client without delay. If property rights impede delivery by the third party, the contractor must immediately arrange an appropriate exemption from these rights.

(10) The client is entitled, even prior to the due date of delivery of performance, to wholly or partly withdraw from the contract if it is clear that the contractor will not complete it by the due date, even if the ordering party allows it an appropriate, subsequent deadline. The client also has the right to require compensation from the contractor rather than performance if it is clear that it will not complete the delivery or performance within an appropriate subsequent deadline.

(11) Premature delivery or performance and partial delivery or performance require the client's agreement.

(12) We accept exclusively materials and products that are REACH and RoHS compliant. We expect you to comply with your obligations to notify with regard to substances of very high concern pursuant to Article 33 of the REACH regulations

4. Delivery / Shipment

(1) Our order and item number, details of the receiving office and the recipient of the goods must be stated in full in all shipping documents, delivery notes and on the external packaging. Partial and outstanding deliveries should be specifically noted.

(2) The client is entitled to refuse to accept shipments if the shipment is not accompanied with the due shipping documents. The contractor is liable for any costs arising from the refusal to accept.

(3) Shipment must be made 'carriage-paid' including packaging to the relevant receiving office (DDP in accordance with INCOTERMS 2000). If, contrary to the above, delivery is agreed 'ex works' (EXW in accordance with INCOTERMS 2000), the contractor must observe the shipping provisions provided in the order. If the client does not specify any freight forwarder or mode of transport, shipment must be made using transport secure packaging under the most favourable terms.

(4) Additional costs arising from failure to adhere to a shipping provision or expedited transport to adhere to the agreed date shall be paid by the contractor.

(5) The shipping addresses provided should be noted. Delivery to a receiving office other than that specified by the client shall not result in any transfer of risk for the contractor if this office accepts the delivery. The contractor shall pay the client's additional costs arising from delivery to a receiving office other than that agreed.

(6) If the contractor does not duly fulfil its delivery obligation, the client is entitled to arrange a covering purchase at the contractor's cost.

(7) In the event of premature delivery we reserve the right to refuse to accept the goods, to return the goods to the contractor or to store it until the agreed delivery date at the contractor's risk and cost. The invoice shall be suspended until the agreed delivery date

5. Price / Payment

(1) Agreed prices are fixed prices. Price increases will only apply to the client if the contractor confirms these in writing.

(2) Payment shall be made either within 14 days with a 3% discount or within 90 days net, calculated from the receipt of the invoice.

(3) We reserve the right to withhold the payment in full or pro-rata in the event of defective or incomplete delivery until complete fulfilment.

6. Performance / Amendment

(1) The client is entitled to require amendments to the order with regard to construction, performance, quantity and delivery time within reasonable limits as long as the contractor has not completely fulfilled its obligations. In this case the impacts (e.g., additional or reduced costs, delivery dates, etc) shall be mutually determined.

(2) The contractor must give notice immediately in writing of any concerns that it has about the nature and method of the implementation of performance/delivery required by the client and propose amendments that it considers necessary in order to fulfil the agreed specifications or statutory requirements.

7. Samples, implementation of performance

(1) Sample deliveries must be marked as such. Series deliveries may only be commenced once the client has released the sample in writing. Ongoing deliveries must always comply with this sample. Amendments may only be made with the client's approval. The client's drawings, test specifications and technical delivery specifications are a constituent part of the contract and shall be provided to the contractor on request.

8. Supply

(1) Material or parts supplied by the client given to the contractor for processing and fabrication plus means of production and tools provided remain the property of the client. The contractor is liable for loss or damage. It must keep the material on behalf of the client with the due care and diligence of a prudent businessman and must immediately advise the client if its property is seized from it or is threatened with seizure. Intervention costs shall be paid by the contractor.

(2) Fabrication and restructuring by the contractor of materials provided shall be undertaken on behalf of the client. If the client's reserved goods are processed with other items that do not belong to it, the client shall acquire the joint ownership of the new item in proportion to the value of its item (purchase price plus value added tax) against the other processed items at the date of processing.

(3) If a part provided by the client is culpably damaged or destroyed within the contractor's area of responsibility, the contractor's liability shall also extend to the repair or replacement of the part provided.

9. Replacement parts

(1) The contractor shall ensure that replacement and consumable parts are available for each order for a period of at least 10 years following the end of the guarantee.

(2) The prices for replacement parts may not, therefore, be increased because the supplier has since ceased series production of the supplied item.

10. Quality

(1) The contractor must develop and maintain a documented quality assurance system corresponding to the nature and scope and in accordance with the latest state of the art. It must keep records, particularly on its quality control and make these available to the client on request.

11. Guarantee / Standards / Safety

(1) All items, systems, components and individual parts must comply with health and safety conditions in accordance with EU regulations and directives, the accident prevention provisions, the machine safety act (MSA) and be in accordance with the current state of the art with regard to safety and occupational health. The supplier guarantees to maintain the current and most recently valid EU directives on machine safety (machine directive) and RoHS. The supplier must fundamentally undertake EC labelling and issue an EC compliance statement.

(2) If action is taken against us due to the violation of official safety provisions or on the basis of domestic or national product liability regulations due to a fault in the product that can be ascribed to the contractor's goods or performance, the client is entitled to require compensation for this damage from the contractor to the extent that it was caused by the product that it supplied.

12. Impediments to performance / Legal status of sub-contractors / Cancellation

(1) If the contractor is impeded in fulfilment of the contract or if there are grounds to suspect that it will be impeded, it must immediately advise the client in writing of such, giving reasons and the anticipated length of the impediment.

(2) The contractor is liable for deliveries from sub-contractors as for its own deliveries. If a lack of or damage to components from sub-contractors in connection with the performance of the contract is suspected, the contractor must advise us on request of the sub-contractor, distributor or intermediate dealer together with full details and information about these parties required to assert claims.

(3) If an application to instigate insolvency proceedings against the contractor's assets (abroad: similar proceedings) or if there are sufficient grounds to suspect that the circumstances exist to apply for insolvency proceedings, we have the extraordinary right to immediate termination, excluding compensation claims from the contractor.

13. Assignment

(1) The contractor is not entitled to assign its claims to third parties or to have them collected by third parties. Exceptions from this provision require the client's express written approval.

14. Guarantee

(1) The client's guarantee claims are governed by the law.

(2) All the contractor's performances must comply with the conditions of our order at the date of the transfer of risk and be appropriate for the term of use and unrestricted for conventional operational use and the purpose provided for in the contract or, if this is not specified, for the customary intended purpose.

(3) In the event of material defects and defects as to title on the part of the contractor the statutory provisions apply, providing that in purchase, works delivery and work contracts we have the right to choose the type of supplementary performance, repair or replacement. We are entitled to apply an appropriate deadline for supplementary performance unless supplementary performance is not acceptable to us. Such unacceptability can arise in addition to cases governed by statutory law in particular as a result of an imminent unreasonable delay or uncertainty of success in the case of uncertain success for devices, plants and equipment that are relevant to safety or necessary for the conduct of operations or business.

(4) If we are entitled under statutory or contractual provisions to withdraw in the event of failure of performance or inadequate performance, if the failure or partial failure of performance is restricted to a definable part of the performance, withdrawal may be restricted to this part with the remainder of the contract being maintained.

(5) In the event of material defects, notwithstanding statutory claims, we are entitled, including in the case of purchase and works delivery contracts following the expiry without success of a deadline for supplementary performance pursuant to paragraph 637 of the Civil Code to self-remedy and to claim advance payment.

(6) On exercising the entitlement to withdraw in the event of failure of performance or inadequate performance and if claiming compensation in place of performance, we are entitled, if performance or the remainder of the performance must otherwise be assigned elsewhere, notwithstanding the statutory rights, to claim an appropriate advance payment on the ground of the anticipated costs plus a security surcharge of 50%. In this case we are only obliged to obtain several quotes if this does not entail a considerable delay or disruption of the operational, production or commercial process or threaten to do so. In-house services are accounted for at usual third-party market prices.

(7) If we must check performance and notice of defects pursuant to paragraph 377(1) of the Commercial Code, we have two weeks from the date of delivery for timely fulfilment. The notification of a defect that is discovered only at a later date shall be considered in due time pursuant to § 377(3) up to two weeks following its discovery.

(8) If a material defect becomes apparent within six months of the transfer of risk, it is assumed that the item was faulty on the transfer of risk, unless this assumption is inconsistent with the nature of the item or the fault.

(9) The contractor herewith assigns as a precautionary measure all claims it may have against its suppliers and sub-contractors, in particular for liability for defects and compensation, and the contractor is jointly and severally liable with its suppliers and sub-contractors. The contractor must, on request, name all suppliers and sub-contractors together with the reason and the amount of the claim and provide all necessary details and documents for the assertion of the assigned claim. The client confirms that it shall not make use of the assignment if the contractor fulfils its obligations.

(10) The statutory limitation period applies to claims for defects. The limitation period starts again with regard to repaired or replaced parts. With regard to faults discovered within the limitation period, the period ends at least six months following the complaint. The contractor waives notice of delayed claims (paragraphs 377, 381(2) of the Commercial Code) other than in the event of obvious defects.

(11) The client is fully entitled to statutory guarantee claims. The contractor shall pay all necessary costs, in particular transport, infrastructure, labour and material costs, of supplementary performance. The contractor must demonstrate that it is not responsible for the fault.

(12) If faults exist, the client is entitled to withhold an appropriate amount of the payment due.

(13) If the goods are acquired for onward sale or use in the manufacture of the client's machines, assemblies or products, the limitation period

commences on the date on which the period of limitation starts for the client's product fitted with the goods, at the latest, however, six months following delivery of the goods to the client.

15. Product liability

(1) If action is taken against the client pursuant to the provisions of domestic or foreign product liability laws or regulations on account of a faulty product related to goods supplied by the contractor, the client is entitled to require exemption from the contractor if the claim against us can be ascribed to the parts supplied by the contractor. This claim to exemption also includes the costs of any precautionary recall campaign or a precautionary service assignment with the client's customers.

(2) To ensure the assumed indemnity obligation the contractor must label the items that it has supplied so that they can be permanently identified as its products.

(3) If the contractor is responsible for a faulty product, it must exempt the client in this respect from third-party compensation claims, including the necessary costs of defending these claims as far as the reason lies within its range of command and organisation and as far as it is liable with regard to third-parties.

(4) In this context the contractor is also liable to reimburse any expenditure pursuant to paragraphs 683, 670 of the Civil Code that arise in connection with any recall campaign or service action undertaken by the client. The client shall, insofar as is possible and time reasonably allows, advise the contractor of the content and scope of the recall campaign or service action and give it the opportunity to comment. Any further claims by the client are hereby unaffected.

(5) The contractor undertakes to take out and maintain a lump-sum product liability insurance with minimum cover of EUR 2.5 million per personal/property damage claim. Any further statutory claims by the client are hereby unaffected.

16. Liability for environmental damage

(1) The contractor is liable for any damage that may arise in connection with its performance as a result of the provisions of environmental law (e.g., emission control laws, used oil and water resources laws, waste disposal laws and/or related regulations). It shall exempt the client in this respect from any third-party compensation claims at the first written request. Furthermore it shall pay for any damage arising to the client.

17. Force majeure

(1) Industrial disputes, unrest, official measures and other unforeseeable and unpreventable events exempt the contractor and the client for the period of the disturbance and to the extent of their effect on the performance obligation. The party affected must fully notify the other contracting party and take all steps insofar as is reasonable to limit the effects of such events. The party concerned must notify the other contracting party without delay of the end of the disturbance.

18. Third party property rights

(1) The contractor assumes full liability on behalf of the client that no third-party property or other rights have been infringed in connection with the fulfilment of its performance, its intended use by the client, its further processing or onward sale of the goods that it has supplied.

(2) If third-parties take action against the client for infringement of such rights, the contractor must exempt the client from all such third-party claims or measures; this also includes defending impending third-party claims or measures against the client.

(3) The contractor's liability also includes all consequential damages incurred by the client, in particular such damages as a result of supply bottlenecks and disruptions to production.

(4) The limitation period for claims on the basis of infringements of rights is 10 years, calculated from the date on which the contract is concluded. Longer statutory limitation periods and subsequent commencement of the statutory limitation period remain unaffected.

19. Retention of title

(1) The client objects to any retention of title regulations that go beyond simple retention of title. In individual cases they require prior written agreement. If, however, suppliers assert property rights, joint ownership rights or liens against the customer or arrange enforcement measures, the customer is entitled to claim indemnification against the contractor for any damage arising as a result.

20. Confidentiality

(1) The supplier must treat orders from the client and any associated commercial and technical information as a commercial secret. It must ensure

that this obligation, in addition to the following regulations, is also complied with by its suppliers and sub-contractors.

(2) All tools, devices, models, samples, illustrations, drawings, constructions together with resources, documents and information provided to the contractor by the client for the fulfilment of an order must be marked as the property of the client and may not, as also applies to subsequently manufactured items, be either reproduced or disposed of or passed to third-parties without the client's express written permission, or used for purposes other than those agreed in the contract. This also applies if the documents are not marked as confidential. They should be protected from unauthorised inspection or use and passed to the client, together with any copies, at the end of the contract without request. The obligation to maintain confidentiality continues to apply following the ending of the contract; it expires once and to the extent to which the manufacturing knowledge contained in the illustrations, drawings, constructions and other documents provided has become general knowledge.

(3) Information provided by the client, unless it is general knowledge or otherwise generally known, shall not be made available to third-parties. This obligation to maintain confidentiality also applies following the ending of the contract or termination of the commercial relationship.

21. Access to the production facilities

(1) The client has the right, in the case of orders processed individually according to order specifications, to have access to the contractor's production facilities and a contact partner for queries concerning processing following agreement with the contractor. The contractor undertakes to obtain permission from its suppliers to allow the client to also exercise this right there.

22. Origin / Preference

(1) Evidence of origin requested by the client (e.g., supplier declarations, movement certificates under the EEC/EFTA rules of origin) shall be signed by the contractor with all necessary details and provided without delay to the client. The same applies to evidence of value added tax in the case of foreign and intra-Community supplies.

(2) In the case of deliveries from preferential countries the contractor must enclose evidence of preference with each delivery.

23. Export restrictions / Export approval

(1) The contractor must immediately advise the client if a delivery is wholly or partly subject to export restrictions pursuant to German or other law.

(2) Under the Foreign Trade Act, Military Weapons Control Act and similar laws, the contractor shall advise the client as part of the export provisions on tendering, and at the latest prior to the conclusion of the contract whether the goods that it is supplying require export approval.

24. Disclosure

(1) Analysis or notification of the existing commercial relationship with the client in publications or for advertising purposes is only permissible with the client's express prior written approval.

25. Place of jurisdiction and applicable law

(1) Place of jurisdiction and place of performance for registered traders and legal persons under public law is the client's registered office.

(2) The law of the Federal Republic of Germany exclusively applies. The application of the UN agreement of 11 April 1980 on Contracts for the International Sale of Goods, the Hague Convention on the Uniform Law on the International Sale of Goods and the Vienna UNCITRAL agreement on purchasing rights is excluded.

26. Data storage

(1) The client is entitled to process and to store data received from the contractor in connection with the commercial relationship within the meaning of the Federal Data Protection Act, so long as this is appropriate for the performance of the contract.

27. Severability clause

(1) If a provision of this GTCP is or becomes invalid or unenforceable, this does not otherwise affect the operative effect of the GTCP. In such a case the parties moreover undertake to replace the invalid or unenforceable provision with one that is valid and enforceable that corresponds as closely as possible to the spirit and purpose of the provision being replaced. This also applies if there are loopholes in the GTCP.

MBO Postpress Solutions GmbH

Grabenstraße 4 – 6 · D-71570 Oppenweiler

Directors with authority to represent:

Thomas Heininger, Yasuhiro Chiba, Christian Gohlke, Satoshi Mochida,
Masafumi Yokoyama, Eiji Kajita

Company registered office:

District Court of Stuttgart HRB 773855

VAT ID no.: DE329246135

MBO Máquinas, S.A.

Rua Joaquim Alves da Silva, 240 · 4455-473 Perafita · Portugal

Directors with authority to represent:

Fernando Ferreira, Thomas Heininger, Christian Gohlke, Masafumi
Yokoyama, Yasuhiro Chiba, Masanobu Wakatsuki, Eiji Kajita

Company registered office:

District Court: Tribunal de Matosinhos

VAT ID no.: PT 500 172 021

As at: 19 July 2022