

## Terms and Conditions of Sale and Delivery of MEIKO Maschinenbau GmbH & Co. KG and MEIKO Deutschland GmbH, 77652 Offenburg

### Section 1 Scope

(1) These are the Terms and Conditions of Sale and Delivery of MEIKO Maschinenbau GmbH & Co. KG and MEIKO Deutschland GmbH (hereinafter: MEIKO or MEIKO company respectively). The Terms and Conditions apply for all contracts, ancillary services, consultations and information between the respective MEIKO company and its customer (hereinafter: PURCHASER). The above MEIKO companies are therefore only jointly mentioned in these Terms and Conditions to simplify reading. The Terms and Conditions apply only if the PURCHASER is an entrepreneur (Section 14 of the German Civil Code (BGB)), a legal entity under public law or a special fund under public law.

(2) The Terms and Conditions apply in their respective version also for future contracts, ancillary services, consultations and information.

**(3) These Terms and Conditions apply exclusively. Deviating, opposing or supplementary purchasing conditions and/or general terms and conditions of business of the PURCHASER are part of the contract only and insofar as MEIKO has expressly agreed to their applicability in writing.** This approval requirement applies in every case, for example, even if MEIKO, knowing of the PURCHASER's terms and conditions, carries out the delivery without reservation.

### Section 2 Offers and conclusion of contract

The offers of MEIKO are subject to change and non-binding, unless MEIKO has given unrestricted written notice that an offer is binding. A legally binding contract is only concluded once signed by both parties or by MEIKO confirming the order in writing.

### Section 3 Content of the contract, traceability of medical devices, software and IP rights

(1) The contract concluded in writing, including these Terms and Conditions, is solely definitive for the legal relationships between MEIKO and the PURCHASER. The contract completely describes all agreements between the contracting parties on the object of the contract. Verbal commitments by MEIKO prior to the conclusion of a contract are not legally binding and are an integral part of the contract only if included in the contract in writing.

(2) Specifications by MEIKO on the object of the contract (e.g. weights, dimensions, practical value, load capacity, tolerances and technical data) as well as depictions of these (e.g. drawings and figures) are only approximately definitive unless use for the contractually intended purpose requires an exact match. They are not guaranteed quality features, but rather descriptions or markings of the product or service supplied. Deviations that are customary in the trade, result from legal provisions or represent technical improvements are permitted if they do not impair usability for the contractually intended purpose.

(3) MEIKO retains property rights and copyright to cost estimates, drawings and other documentation. The PURCHASER must not make these documents available to third persons without consent from MEIKO.

(4) **Traceability of medical devices:** If the PURCHASER purchases medical devices from MEIKO and sells them on, the PURCHASER must keep records of the purchases and the location of the medical devices and oblige its purchasers to do the same to make it possible to execute a product recall and/or similar measures resulting from the legal provisions for medical devices immediately.

(5) **Software and IP rights:** Copyright, patents, trademarks and all other property rights in the products and software as well as in other items provided to the PURCHASER by MEIKO within the scope of the preparation and performance of the contract are the sole property of MEIKO within the relationship between the contracting partners. If the rights are the property of third parties, MEIKO shall be granted corresponding exploitation rights. MEIKO herewith grants

the PURCHASER the rights required for this use in the form of a simple, unlicensed, indefinite right of use that is restricted to the country of the PURCHASER. Copyright notices, trademark logos and product labelling must not be deleted, modified or withheld. The PURCHASER shall not decompile the interface information of the software programmes

### Section 4 Cancellation; percentage cancellation costs

**If the PURCHASER cancels the order, MEIKO is entitled to demand from the PURCHASER a standard cost percentage to compensate MEIKO for the resulting damages. The standard cost percentage is 15% of the order value. For products produced according to the specification of the PURCHASER, an increased cost compensation of 30% of the order value applies.** In deviation from this, MEIKO reserves the right to prove higher costs in specific cases. The PURCHASER is permitted to prove that MEIKO has incurred no costs or costs lower than the above percentages.

### Section 5 Prices and payment; payment default of the PURCHASER

(1) Prices exclude statutory VAT as well as packaging, freight and installation, unless MEIKO has included them in the content of the contract. The statutory VAT is stated separately on the invoice, at the amount legally applicable on the invoice date. For export deliveries, the price is increased by customs duties, fees and other public levies.

(2) Payments are to be made to MEIKO. This does not apply if something else has been agreed in the written acceptance of the order (e.g. order confirmation).

(3) All payments are due in full within 30 days of the invoice date; after this period, the PURCHASER defaults on payment.

(4) MEIKO is entitled to perform deliveries or services which are still outstanding only in return for prepayment or security provisions if after signing of the contract, circumstances emerge that materially impair the creditworthiness of the PURCHASER. If the PURCHASER fails to provide the prepayment or security within an appropriate time set by MEIKO, MEIKO may withdraw from the contract and demand payment for damages due to breach of contract.

(5) The PURCHASER is entitled to assert rights of set-off and retention only to the extent that its claim has been established as legally binding or is uncontested. In case of defects in delivery, Section 8 Paragraph 4 remains unaffected.

### Section 6 Place of performance, delivery, transfer of risk, insurance costs

(1) The place of performance for all obligations from the contractual relationship is Offenburg, Germany, if not determined otherwise. **Goods are delivered FCA from the MEIKO plant in Offenburg, Germany, in accordance with INCOTERMS 2010**, unless otherwise agreed.

(2) The risk of accidental loss or accidental deterioration of the product passes to the PURCHASER no later than with their transfer. The transfer takes place even when the PURCHASER is delayed in receiving the goods. In the case of sale by dispatch, the risk of accidental loss or deterioration of the product and the risk of delay already transfers when MEIKO has informed the PURCHASER in writing of its readiness to ship, but not later than with the delivery of the product to the person charged with the execution of the shipment. The same applies to partial deliveries.

### Section 7 Delivery deadline; delivery delay; contractual penalty for delays caused by the PURCHASER

(1) The deadline shall be individually agreed and/or specified by MEIKO when it accepts the order. It begins when MEIKO sends the order confirmation but not before the PURCHASER has provided any required documents and not before receipt of any agreed deposit. The delivery deadline is met when the product has left MEIKO's factory or MEIKO has announced readiness to ship.

(2) Delay in delivery does not begin until the PURCHASER announces it. MEIKO is not liable for impossibility of delivery or delivery delays if caused by force majeure or other events not foreseeable when the contract was signed (e.g. operational problems of all kinds, difficulties procuring materials or energy, transportation delays, government actions or delay in delivery by suppliers) and which are beyond MEIKO's control.

(3) If MEIKO cannot meet binding delivery deadlines for reasons beyond its control, the PURCHASER shall be informed of this without delay and notified of the expected new delivery date. If the service is still not available before the new delivery date, MEIKO is entitled to withdraw from the contract in whole or in part and MEIKO shall reimburse any consideration already provided by the PURCHASER. Non-availability of the goods or service within this meaning includes, in particular, cases in which suppliers do not deliver on time when MEIKO has concluded a matching cover transaction. A matching cover transaction is to be assumed when the supplier's obligations to deliver under the purchase contract to MEIKO offer at least the same security for delivery as MEIKO itself ensures the PURCHASER in the sales contract. The PURCHASER's rights to withdraw in accordance with Section 8 of these Terms and Conditions remain unaffected.

(4) If the PURCHASER is delayed in receiving shipments, fails to provide required assistance, or MEIKO's delivery is delayed for other reasons under the PURCHASER's control, MEIKO is entitled to request compensation for the resulting damages, including additional expenses, and in particular storage costs. **For this delay, MEIKO charges a standard compensation fee of 0.5% of the invoice amount for**

**each month or part thereof, starting one month after it announces its readiness to ship the product.** Proof of greater damages and MEIKO's legal claims (in particular, compensation for additional expenses, appropriate compensation, termination) remain unaffected. However, the standard compensation fee is offset against any further compensation claims of MEIKO. The PURCHASER is permitted to prove that MEIKO has incurred no costs or lower costs than the above standard compensation fee.

(5) Prerequisite for MEIKO's compliance with the delivery date is that the PURCHASER has fulfilled the contractual obligations incumbent on the PURCHASER.

(6) MEIKO is entitled to make partial deliveries if the PURCHASER can use the partial delivery for the contractually intended purpose, supply of the remaining ordered goods is ensured and the PURCHASER does not suffer significant increased effort or additional costs.

### Section 8 Warranty

(1) The basis for MEIKO's liability for defects is primarily the agreement made on the quality of the product. If the quality was not agreed, evaluation of whether or not a defect exists is based on statutory rules.

(2) Prerequisite for the rights of the PURCHASER from liability for defects is that the PURCHASER has duly fulfilled its legally required obligations of investigation and complaint (Sections 377 and 381 of the German Commercial Code (HGB)). The delivered items must be carefully examined immediately after delivery to the PURCHASER or to a third party determined by the PURCHASER. They are deemed to have been approved by the PURCHASER with regard to apparent defects or other defects that would have been apparent had they been inspected immediately and diligently if MEIKO does not receive notification of defect within 5 (five) working days from delivery of written notification of defect. For other defects, the delivered items are deemed to have been approved by the PURCHASER if notification of defect MEIKO is not received within 5 (five)

working days from the date on which the defect showed. However, if the defect was already apparent at an earlier date during ordinary use, this earlier date is regarded as the start of the notice period for submitting notification of defect. MEIKO may request for a delivered item reported as defective to be returned to MEIKO free of charge. If the notification of defect is justified, MEIKO reimburses the costs for the most cost-effective transport. This does not apply if the costs increase due to the delivered item being in a location that differs from the location of proper use

(3) If MEIKO is responsible for a defect of the goods that has been reported on time, MEIKO may choose to satisfy the PURCHASER's claim for supplementary performance, either through repair (elimination of defect) or replacement of the defective product. MEIKO is not responsible for defects

caused by the PURCHASER through failure to perform the prescribed maintenance, care and cleaning work. MEIKO accepts no responsibility for suitability of the locally available operating materials that have an influence on the delivered item. This applies even when MEIKO carried out an inspection beforehand.

(4) **MEIKO is entitled to make the required supplementary performance dependent on payment of the sales price due by the PURCHASER.** However, the PURCHASER is entitled to withhold a part of the sales price that is appropriate in relation to the defect.

(5) **if a defect does in fact exist,**

**MEIKO bears the costs required for inspection and supplementary performance, in particular for transportation, travel, labour and materials. However, if the PURCHASER's demand to remedy the defect turns out to be unjustified,**

**MEIKO may demand reimbursement from the PURCHASER for the resulting costs.**

(6) Claims of the PURCHASER for damages or reimbursement of unnecessary expenses can only be asserted in accordance with Section 9 and are otherwise excluded.

(7) **If MEIKO removes and replaces parts from the machines manufactured by MEIKO within the scope of material defects and/or repairs / maintenance, the PURCHASER agrees for the title of the removed / replaced parts to be transferred to MEIKO.**

#### **Section 9 Liability**

(1) MEIKO only pays compensation or reimburses unnecessary expenses to the following extent, regardless of the legal reason (e.g. contractual liabilities and liabilities similar to contractual liabilities, material and legal defects, violations of obligations and impermissible actions):

a) Unlimited liability for acts of malicious intent, fraud and arising from guarantee.

b) In the event of gross negligence, MEIKO assumes liability in the amount of the typical damage that is discernible at the time the contract is concluded.

c) In the event of simple negligence of a material contractual obligation (an obligation whose fulfilment is crucial for the proper fulfilment of the contract, and in whose fulfilment the contracting partner may regularly trust and the violation of whom endangers the fulfilment of the contractual purpose),

MEIKO assumes liability in the amount of the typical damage that is discernible at the time the contract is concluded, but no more than EUR 200,000 per damage event and EUR 500,000 for

all damage events arising from and in connection with the contract overall.

(2) MEIKO may argue comparative negligence.

(3) In the event of injury to life, limb and health and for claims arising under product liability law, the legal provisions apply without limitations.

(4) The above exclusions and limitations of liability apply to the same extent for MEIKO's employees, workers, members of staff, representatives and agents.

#### **Section 10 Statutes of limitation**

(1) **In deviation from Section 438 Paragraph 1 No. 3 of the German Civil Code (BGB), the general statutes of limitation for claims from material and legal defects are one year from**

**delivery, unless otherwise individually agreed.** Special statutory provisions for claims for surrender in rem to third parties (Section 438 Paragraph 1 No. 1

of the German Civil Code (BGB)), for fraud and for supplier recourse claims after final delivery to a consumer (Section 479 of the German Civil Code (BGB)) remain unaffected.

(2) **These statutes of limitation under sale of goods law also apply for contractual and non-contractual damage claims by the**

**PURCHASER resulting from a defect in the product,** unless application of the regular statutory statutes of limitation (Sections 195 and 199 of the German Civil Code (BGB)) would

result in shorter statutes of limitation in individual cases. The statutes of limitation under product liability law remain unaffected in any case. Otherwise, the statutory statutes of limitation for damage claims by the PURCHASER under Section 9 apply exclusively.

#### **Section 11 Transferability of the contract**

The PURCHASER may transfer its contractual rights under the contract to third parties only with prior consent from the MEIKO company.

#### **Section 12 Retention of title**

(1) **The delivered goods (goods subject to retention of title) remain the property of the MEIKO company until fulfillment of all claims that the latter has against the PURCHASER,**

**now or in future.** If the PURCHASER acts in breach of contract – in particular, if it has defaulted on the payment of an invoice – MEIKO has the right to take back the goods subject to retention of title after setting an appropriate deadline for payment.

The PURCHASER bears the transportation costs for the return. If MEIKO takes back the goods subject to retention of title or seizes them, this represents a withdrawal from the contract. MEIKO may sell the goods subject to retention of title that MEIKO takes back. The proceeds of the sale are offset against the amounts that the PURCHASER owes to MEIKO after MEIKO deducts an appropriate amount for the costs of the sale.

(2) The PURCHASER must insure the goods subject to retention of title at the PURCHASER's expense for their value as new goods against fire and water damage as well as theft.

(3) The PURCHASER may use the goods subject to retention of title and sell them in the normal course of business as long as it has not defaulted on payment. However, the PURCHASER

must not pledge the goods subject to retention of title or transfer them to third parties as security. The PURCHASER shall herewith already assign its receivables from its customers that arise from

selling on the goods subject to retention of title and its receivables regarding the goods subject to retention of title arising from any other

legal reason against its customers or third parties (particularly receivables from impermissible actions and insurance

claims), including all debit balance receivables from current accounts, in full to MEIKO

by way of security. MEIKO accepts this assignment. The PURCHASER may collect these assigned receivables at its own cost and in its

own name for MEIKO as long as MEIKO does not revoke this authorisation. This does not impair MEIKO's right to collect these receivables itself,

but MEIKO shall not assert the receivables itself and does not revoke the collection authorisation as long as

the PURCHASER properly meets its payment obligations. However, if the PURCHASER acts in breach of contract – in particular,

if it has defaulted on payment – MEIKO may demand from the PURCHASER that it reveals the assigned receivables and the respective debtors, informs the respective debtors of the receivables assignment, gives MEIKO all documents and provides all information that MEIKO requires to assert the claim.

(4) **Processing or transformation of the goods subject to retention of title by the PURCHASER is always performed for MEIKO. If the goods subject to retention of title**

**are processed together with other items not belonging to MEIKO, MEIKO acquires co-ownership of the new goods in the ratio of the value of the goods subject to retention of title (final invoice amount, including VAT) to the value of the other processed items at the time of processing.** Otherwise, the same applies to the

new goods created from the processing as for the goods subject to retention of title. If the goods subject to retention of title are joined inseparably or mixed together with other items not belonging to MEIKO,

MEIKO acquires co-ownership of the new goods in the ratio of the value

of the goods subject to retention of title (final invoice amount, including VAT) to the value of the other joined or mixed items at the time of joining

or mixing. If the goods subject to retention of title are joined or mixed in such a way that the PURCHASER's item is the main item, the

PURCHASER and MEIKO agree already now that the PURCHASER transfers co-ownership of this item to MEIKO proportionately. MEIKO accepts this transfer.

The Purchaser safely maintains for MEIKO the resulting sole ownership or co-ownership of the item.

(5) In case of seizure of the goods subject to retention of title by a third party or other interventions by third parties, the PURCHASER must announce the ownership of MEIKO without delay

and notify MEIKO immediately and in writing so that MEIKO can enforce its property rights. If the third party is unable to reimburse MEIKO for the court or out-of-court costs arising in this context, the PURCHASER is liable for these costs.

(6) Upon the PURCHASER's request, MEIKO shall release the securities to which MEIKO is entitled to the extent that their realisable value exceeds the value of outstanding receivables by MEIKO against the PURCHASER by more than 10%. However, MEIKO may select the securities to be released.

**Section 13 Final provisions**

(1) Applicable law for these Terms and Conditions and all legal relationships between MEIKO and the PURCHASER is the law of the Federal Republic of Germany under exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

(2) The exclusive jurisdiction lies with the court responsible for Offenburg, Germany.

Revision: December 2021