



**HOLZMANN MASCHINEN GmbH**  
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## **General terms and conditions**

### **1. General / scope of application:**

1.1 All offers, order confirmations, deliveries, invoices and agreements of HOLZMANN Maschinen GmbH, Marktplatz 4, A-4170 Haslach, hereinafter referred to as HOLZMANN, shall be subject exclusively to the following General Terms and Conditions (GTC).

1.2 By placing an order, by your acceptance of the service, by your acceptance of the delivery, you as a business partner agree to the validity of the GTC valid at the time of the order.

1.3 Orders shall only be deemed to have been accepted by HOLZMANN when they have been confirmed in writing by HOLZMANN or the service or delivery has taken place. By signing the order confirmations, order forms, offers, delivery notes and other business documents of HOLZMANN, the business partner declares that he has in any case had the opportunity to become aware of the content of these GTC, has read and understood the GTC.

1.4 Agreements with representatives of HOLZMANN, whether verbal or in writing, shall only be binding if they have been signed and confirmed in writing by the management of HOLZMANN.

1.5 Deviating, conflicting or supplementary general terms and conditions of business partners shall not become part of the contract - even if they are known - unless their validity is expressly agreed in writing. Mere acts of performance on our part shall not be deemed to be consent to deviating general terms and conditions of business partners.

1.6 The Business Partner declares to HOLZMANN that he is not a consumer as defined by the Austrian Consumer Protection Act with regard to the concluded transactions. If this does not apply to a business case, the Business Partner shall be obliged to report this before concluding the relevant transaction.

1.7 These GTC are available to the business partners at any time for inspection on our website at [www.holzmann-maschinen.at](http://www.holzmann-maschinen.at) as well as in our business premises.

1.8 All transactions, irrespective of how much time elapses between the individual transactions, shall be deemed to have been concluded in accordance with the respective valid GTC of HOLZMANN. Point 1.7 shall apply.

1.9 The performance or consumption data stated in our printed materials are approximate values and therefore non-binding. We provide these to the best of our knowledge and belief and accept no further liability.

### **2. Conclusion of contract**

2.1 The prices stated in the catalogues and on the HOLZMANN website [www.holzmann-maschinen.at](http://www.holzmann-maschinen.at) for the products presented shall not be deemed to be written offers. Concrete prices shall be announced in the context of a quotation and shall be agreed separately.

2.2 HOLZMANN's offers are subject to change and non-binding. Only the written submission of an offer is legally binding. The oral submission of an offer shall require written confirmation by HOLZMANN to be legally effective.

2.3 A contract shall be concluded by written confirmation ( acceptance ) of the order of a business partner. The content of our contract confirmation shall be deemed agreed if the Business Partner has not objected in writing within 1 week after receipt of the acceptance confirmation.

Consumers within the meaning of §11 of the Consumer Protection Act ( KSchG ) may, if this was notified in accordance with point 1.6 before placing the order, withdraw from the contract within the framework of the statutory provisions or revoke the contract without stating reasons.

2.4 HOLZMANN is entitled to withdraw from the contract if facts arise on the basis of which HOLZMANN must assume that the Business Partner is not creditworthy.

## General terms and conditions

### 3. deliveries and services

3.1 The place of execution shall be HOLZMANN's registered office. Unless otherwise agreed, the terms of delivery are ex warehouse (ex works). Any other terms of delivery requested by the business partner must be in writing and expressly confirmed by HOLZMANN.

3.2 In the event that HOLZMANN is also commissioned with the dispatch of the goods, HOLZMANN shall be free to select the type of dispatch of the goods and the means of transport subject to express written instructions to the contrary.

3.3 HOLZMANN expressly reserves the right to reasonable partial deliveries and their invoicing.

3.4 Unless agreed separately, all deliveries shall be made ex warehouse Haslach or ex warehouse Schlüsslberg-Grieskirchen for the account of the recipient. The risk of accidental loss of the goods or deterioration upon leaving the warehouse shall pass to the business partner upon leaving the warehouse, irrespective of which contracting party bears the freight costs. Point 3.1 applies.

3.5 Technical changes as well as changes in the shape, colour, weight of the products offered are reserved within the scope of what is reasonable.

3.6 The delivery periods stated by HOLZMANN as well as the delivery dates of our suppliers are non-binding and shall only apply subject to unrestricted transport possibilities. No claims for damages or other rights can be derived from exceeding announced delivery dates. Partial deliveries are possible.

3.7 HOLZMANN shall be entitled to extend the delivery date accordingly in the event of unforeseeable circumstances and obstacles, irrespective of whether these occur directly at HOLZMANN or at HOLZMANN's suppliers, such as e.g. work stoppages of any kind, strikes, government measures, lack of official permits, sabotage, delay in customs clearance, failure of an essential and/or difficult-to-replace supplier etc.. HOLZMANN shall be released from its obligation for the duration of the impairment, without the Contractual Partner being entitled to any claims as a result.

3.8 Operational and traffic disruptions shall be deemed to be cases of force majeure and shall release HOLZMANN from its obligation to deliver for the duration of the impediment without the Contracting Party being entitled to any claims as a result.

3.9 In the event of delays in delivery, the Business Partner shall only be entitled to withdraw from the contract if he sends a written reminder for delivery after expiry of the agreed delivery period and the delivery is then not made within a further reasonable period of grace, starting from the date of receipt of the written reminder. Any further claims for damages on the part of the business partner are excluded.

3.10. Post-contractual agreements, in particular on technical details, which may influence the delivery period, shall extend the latter to a reasonable extent.

3.11. If the delivery or service becomes impossible or unreasonably difficult for the seller in accordance with 3.8, the seller must inform the business partner of this after becoming aware of it; the seller is then released from the delivery obligation.

3.12. All official authorisations, except for the provision of export documents, are to be obtained by the business partner. In the event that the Business Partner procures the export documents, the costs incurred for this shall be borne by HOLZMANN to a reasonable extent. This does not apply to the import papers. If such approvals are not obtained in good time, the agreed delivery period shall be extended accordingly.

3.13. HOLZMANN is entitled to involve third parties to an unlimited extent without the consent of the business partner.

3.14. HOLZMANN shall ship the goods in average packaging which is usually suitable for shipping. Should the contracting partner insist on a special type of packaging, this must be requested in writing. If agreement is reached on this special type of packaging, the additional costs in this respect shall be borne by the Contracting Party.

3.15 The contracting party expressly agrees to the dispatch of the goods by rail, post, carrier, forwarding agent, other parcel services, etc. The selection of the service provider for the dispatch of the goods shall be made in writing. HOLZMANN reserves the right to select the service provider for the dispatch of the goods.

3.16. If the delivery is made to a third country (recipient country outside the EU), the Contractual Partner shall in any case bear all transport costs and duly declare the goods, pay taxes and insure them if necessary. Furthermore, the contracting party shall obtain at its own expense all permits and confirmations in accordance with the statutory requirements which are necessary for the export of the goods from Austria and the import of the goods into the foreign country, and shall submit the corresponding declarations.

3.17. Whenever a contract is concluded, a place of delivery that is reasonable for the delivery must be agreed. All additional costs resulting from the naming of a place that is unreasonable for the type of delivery shall be borne by the business partner. The business partner must also name an alternative place of delivery. If this is not the case, HOLZMANN shall be entitled to make the delivery at the registered office or at another branch of the Business Partner.

### 4. prices

4.1 All prices announced by HOLZMANN are in euros and include VAT as well as plus costs for transport, shipping and delivery. These shall be invoiced additionally to the Business Partner unless otherwise agreed in writing.

4.2 Instead of prices: are sales prices recommended by us without obligation; current sales prices are generally permanently valid until revoked, unless they are marked as promotional prices by specifying a promotional price period.

4.3 In exceptional cases HOLZMANN shall be entitled to invoice the goods listed also in USD. This shall be deemed to have occurred in the event of unforeseeable and unfavourable exchange rate developments EUR/USD. However, HOLZMANN undertakes to inform the Business Partner of this before fulfilment of the contract.

4.4 The final prices shall be calculated on the basis of the dealer discounts valid on the day of delivery or agreed in writing.

4.5 Should individual cost drivers, such as raw material prices, etc., which are of decisive importance for pricing, develop unfavourably, HOLZMANN shall be entitled to increase the prices quoted. Point 4.4 shall apply in this respect.

## General terms and conditions

### 5. Invoicing, payment, payment in delay

5.1 The purchase price is due for payment before delivery or collection, unless special payment conditions have been expressly agreed. These must be in an official written form. The invoice shall be issued upon delivery.

5.2 Payment shall be made by bank transfer to one of the accounts indicated on the invoice. A payment shall be deemed to have been made on the day on which we can freely dispose of it. Other payment modalities (deadlines and method of payment) must be expressly agreed in writing before the order is placed.

5.3 The principle of concurrent payment shall apply, taking into account point 5.1. The contractual partner shall therefore not be entitled to withhold payments due to incomplete overall delivery, guarantee or warranty claims or complaints. Offsetting of alleged counterclaims of the Contracting Party against claims of HOLZMANN shall be excluded, unless mandatory statutory provisions oppose this agreement.

5.4 If the Business Partner does not accept the goods in due time without expressly stating reasons in writing ( default of acceptance ) and also refuses acceptance expressly or tacitly after a reasonable period of grace set for him, HOLZMANN shall be entitled to either store the goods, for which a storage fee of 0.1% of the gross invoice amount shall be invoiced per calendar day or part thereof, or to store the goods at an authorised company at the expense and risk of the Business Partner. At the same time HOLZMANN shall be entitled either to insist on fulfilment of the contract or to withdraw from the contract after setting a reasonable period of grace of at least 8 days and to use the goods for other purposes.

5.5 In the event of default HOLZMANN shall be entitled to charge default interest at a rate of 8% above the respective base interest rate, unless higher interest rates are permitted by law. If costs and interest have already arisen due to default, HOLZMANN is entitled to offset the payment first against the costs, then against the interest and finally against the main service.

5.6 Furthermore, HOLZMANN shall be entitled to offset incoming payments also against older, unpaid deliveries of the Contracting Party, even if these are received with a different dedication.

5.7 In the event of default, the Contracting Party shall be obliged to reimburse the dunning and collection expenses or pre-litigation costs incurred for the pursuit of HOLZMANN's claims through the involvement of a lawyer or a collection agency, insofar as they are necessary for the appropriate legal pursuit.

5.8 If the Business Partner is in arrears with a due payment or if there is a significant deterioration in his financial circumstances, HOLZMANN shall be entitled to demand advance payment or sufficient security even after conclusion of the contract and to make further advance payments on his part dependent on this. If the Business Partner does not comply with the request for advance payment or provision of security after setting a reasonable deadline, HOLZMANN shall be entitled to withdraw from the contract and claim damages. .

### 6.Reservation of ownership

6.1 The delivered goods shall remain the unrestricted property of HOLZMANN until payment in full (including interest and costs).

6.2 Should the goods be pawned or confiscated, the contracting party undertakes to notify HOLZMANN within 3 days and to provide HOLZMANN with all information necessary to enforce the right of ownership.

6.3 HOLZMANN shall be entitled to withdraw from the contract, setting a reasonable deadline, if the Business Partner behaves in breach of the contract, in particular in the event of default in payment or in the event of behaviour by the Business Partner which is detrimental to HOLZMANN.

6.4 If the Business Partner does not meet his payment obligations or does not do so in good time, if he suspends his payments or if insolvency proceedings are opened against his assets, all claims of HOLZMANN shall become due for payment immediately. If the entire remaining debt is not paid immediately, HOLZMANN shall be entitled to demand the immediate surrender of his/ her goods to the exclusion of any right of retention. All costs incurred as a result shall be borne by the Business Partner.

## General terms and conditions

### 7. Warranty, liability and limitation

7.1 HOLZMANN grants a warranty period of 2 years for electrical and mechanical components for non-commercial use; for commercial use there is a warranty of 1 year, starting from the date of purchase by the end user/buyer. HOLZMANN expressly points out that not all items in the range are intended for commercial use. If defects occur within the above-mentioned periods (depending on commercial or non-commercial use), which are not based on the exclusion details listed under „Provisions“, HOLZMANN shall repair or replace the device at its own discretion. In order for the justification of the warranty claim to be verified, the Purchaser must contact his dealer and register a possible warranty claim. The dealer - as a direct business partner of HOLZMANN - shall notify HOLZMANN in writing of the defect that has occurred in the device. If the warranty claim is justified, the device will be collected from the dealer by HOLZMANN or sent to HOLZMANN by the dealer. Return shipments without prior agreement with HOLZMANN will not be accepted and cannot be accepted. Each return shipment must be provided with an RMA number (Return Merchandise Authorization or Return Material Authorization) transmitted by HOLZMANN, as otherwise acceptance of the goods and processing of complaints and returns by HOLZMANN is not possible.

The following provisions apply to the warranty:

- a) Warranty claims can only be accepted if a copy of the original invoice or cash receipt from the HOLZMANN trading partner is enclosed with the device. The warranty claim expires if the device is not reported complete with all accessories for collection by HOLZMANN or is sent to HOLZMANN for shipment.
- b) The warranty excludes a free check or maintenance, a free inspection or the free performance of service work on the device. Defects due to improper use by the end user or his dealer are also not accepted as a warranty claim.
- c) Excluded are defects on wear parts such as carbon brushes, catch bags, knives, rollers, cutting plates, cutting devices, guides, couplings, seals, impellers, blades, hydraulic oils, oil filters, sliding jaws, switches, belts, etc.
- d) Excluded are damages to the equipment caused by improper use, by misuse of the equipment (not in accordance with its normal purpose of use) or by non-observance of the operating and maintenance instructions, or force majeure, by improper repairs or technical modifications by unauthorised workshops or the business partner himself, by the use of non-original HOLZMANN spare parts or accessories.
- e) Costs incurred (freight costs) and expenses (inspection costs) in the event of unjustified warranty claims shall be invoiced to the business partner or dealer after inspection by our specialist personnel.
- f) Devices outside the warranty period: Repair shall only be carried out after advance payment or dealer invoice in accordance with the cost estimate (including freight costs) of HOLZMANN.
- g) Warranty claims shall only be granted for the business partner of a HOLZMANN dealer who has purchased the device directly from HOLZMANN. These claims are not transferable in the event of multiple sale of the device.

Claims for damages and other liabilities:

HOLZMANN's liability shall in all cases be limited to the value of the goods. Claims for damages due to poor performance, defects, as well as consequential damage or loss of earnings due to a defect during the warranty period shall not be recognised. HOLZMANN insists on the legal right to rectify a defect in a device.

7.2 The goods shall be inspected by the Contracting Party immediately after handover. Any defects shall be reported immediately. Section 377 of the German Commercial Code (HGB) or Section 377 of the Austrian Commercial Code (UGB) shall apply, whereby the period for notification of general defects shall be reduced to 8 working days. The type and extent of the defect as well as the invoice number shall be notified to HOLZMANN in writing. Hidden defects shall be notified in writing without delay, at the latest within 2 working days after their discovery. A delayed notification of defects shall lead to the loss of all claims - for whatever legal reason - but in particular of warranty claims under the title of warranty and/or compensation for damages. .

7.3 In the event that HOLZMANN is also commissioned with the dispatch of the goods, the Contracting Party shall submit complaints arising from transport damage immediately after receipt of the goods to the transport company and to HOLZMANN in writing within 3 days. Furthermore, the transport damage must be noted on the delivery documents immediately after receipt of the delivery. In the event of invoicing to the Contracting Party and direct dispatch of the goods to the first end user (usually business partner of the Contracting Party), the Contracting Party shall ensure that the goods are checked on receipt and any transport damage is noted on the shipping documents. The risk of deterioration of the goods due to transport damage in the case of direct shipment shall be borne by the contracting party in accordance with 3.1 and 3.4. 7.4.

7.4 If a complaint is not made or not made in time, the goods shall be deemed to have been approved. In such cases, the assertion of warranty claims or claims for damages, as well as the right to contest errors due to defects, shall be excluded.

7.5 Apart from those cases in which the right to rescission is granted by law, HOLZMANN reserves the right to fulfil the warranty claim at its own discretion by improvement, replacement or price reduction.

7.6 The return of rejected goods or spare parts shall require the express prior written consent of HOLZMANN and shall be at the expense and risk of the Contracting Party. Defective goods or parts must be sent to HOLZMANN with the original delivery note or a copy thereof or used as instructed by HOLZMANN. Furthermore, the return must be made in the original packaging or in packaging safe for transport. If a manufacturing or material defect is detected on the basis of the inspection, either replacement in the form of exchange of the defective part shall be provided or a credit note shall be issued at the discretion of HOLZMANN.

## General terms and conditions

7.7 An inspection of the rejected and returned goods for defects can only take place if a detailed defect report is enclosed with the return delivery.

7.8 Warranty claims must be asserted within 12 months of delivery of the goods if material defects are involved. The period begins with the delivery of the goods, the delivery receipt of the forwarding agent is decisive, in case of self-collection the invoice receipt. In the case of defects of title, the period begins on the day on which the business partner becomes aware of the defect of title. The presumption of § 924 ABGB is reduced to 14 working days. Otherwise § 924 ABGB applies without restriction (here the proper handling of the object is covered). After the expiry of the 12-month period, the warranty becomes statute-barred unless expressly agreed otherwise in writing. By making a claim under the warranty, the period shall not start to run again from the beginning and shall not be suspended, either for the goods as a whole or for specific parts.

7.9 Spare parts shall be sent after consultation and clarification of the required parts with a HOLZMANN employee as well as the exact marking of the required parts by the Contracting Party on the exploded view of the machine.

7.10. Warranty claims shall be excluded if the goods have been modified by third parties or by installing parts of foreign origin and this modification is causal for the defect that has arisen in the goods, unless this has been agreed with HOLZMANN in writing.

7.11. Claims for damages are excluded in cases of slight negligence, except for personal injury. The injured party must prove the existence of gross negligence. Claims for compensation shall become statute-barred 12 months after knowledge of the damage and the damaging party. Liability for consequential damages is excluded.

7.12. Any claim for compensation must be made within 1 month of knowledge of the damage, but at the latest within 6 months of conclusion of the contract. HOLZMANN's obligation to pay compensation is limited to 100% of the purchase price. Compensation for damages in excess of this is excluded.

7.13. HOLZMANN is a dealer and not the manufacturer of the products.

7.14. A cost estimate is free of charge if an order for repair or new purchase follows, otherwise the inspection costs incurred will be charged. The transport costs to HOLZMANN shall be borne by the Business Partner. If the return transport of goods for which repair proves to be unprofitable is not desired, the Business Partner agrees to hand over the goods to HOLZMANN for recycling free of charge. However, if return transport is desired, this is only possible in dismantled condition. In addition to the inspection costs, packaging and shipping costs shall then also be charged.

7.15. HOLZMANN does not guarantee for so-called second choice goods, so-called B goods, flea market goods that the goods sold are free from material and manufacturing defects, nor that the goods have the usually assumed or specifically guaranteed properties.

The business partner must thoroughly examine the goods offered of this type for defects before purchase and give notice of any defects before concluding the purchase contract. Otherwise, the warranty for defects in so-called second choice goods, so-called B goods, flea market goods shall not apply. The defectiveness of the goods is sufficiently taken into account in the lower price, the purchase was made with knowledge of these defects.

### 8. Contract withdrawal

8.1 In the event of default in acceptance (point 5.4.) or other important reasons, such as in particular bankruptcy of the business partner or rejection of bankruptcy for lack of assets, as well as in the event of default in payment by the business partner, we are entitled to withdraw from the contract, insofar as it has not yet been completely fulfilled by both parties. In the event of withdrawal, in the event of the business partner being at fault, we shall have the option of claiming a flat-rate compensation of 15% of the gross invoice amount or compensation for the actual damage incurred. In the event of default in payment on the part of the business partner, we shall be released from all further obligations to perform and deliver and shall be entitled to withhold outstanding deliveries and to demand advance payments or securities or to withdraw from the contract after setting a reasonable period of grace. If the business partner - without being entitled to do so - withdraws from the contract or requests its cancellation, we have the choice of insisting on the fulfilment of the contract or agreeing to the cancellation of the contract; in the latter case, the business partner is obliged to pay, at our discretion, liquidated damages amounting to 15% of the gross invoice amount or the actual damage incurred.

### 9. Consent pursuant to the TKG

9.1 The Business Partner declares his consent to receive advertising and non-promotional information from HOLZMANN by e-mail to a reasonable extent. Data of the Business Partner shall remain with HOLZMANN and shall not be passed on to third parties. The Business Partner may revoke this consent in writing at any time.

### 10. Salvatory clause

10.1 Should individual provisions of these GTC be or become void, ineffective or contestable, the remaining provisions shall remain unaffected. These shall then be interpreted and/or supplemented in such a way that the intended economic purpose is achieved as accurately as possible in a legally permissible manner. This shall also apply in the event of any loopholes in the contract.

### 11. Legal choice and place of jurisdiction

11.1 Austrian law shall apply to the exclusion of its conflict of law provisions and to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

11.2 The place of jurisdiction for all disputes relating to these GTC and the contracts based on them shall be 4020 LINZ, Austria.