

General Terms and Conditions Of Purchase Jäkel GmbH & Co. KG – Edition 06/ 2014 - Companies

1. Contract Award, General Information of Performance

- a. Our contractual relationship with our suppliers is exclusively subject to the following terms. We hereby object to any deviating terms and conditions of the Buyer.
- b. These General Terms and Conditions of Purchase apply to all our current and future businesses with the Supplier even if they are not expressly referred to in future deals.
- c. We are only bound to orders if they are confirmed by the Supplier within 5 calendar days.
- d. The Supplier may not assign an order to a third party without our approval.
- e. The Supplier may not alter his products or manufacturing process without our prior written approval if such alteration changes the specifications or quality standards or influences the industrial safety or the functioning of the Jäkel products in any other way.

2. Delivery

- a. The goods will be delivered to the place mentioned in sec. 4.a. below at the risk of the Supplier.
- b. Delivery is due on the dates mentioned by us in our orders, single calls or delivery schedules. Compliance with the delivery dates is a fundamental contractual obligation of the Supplier because of the serial production.
- c. If a delivery date pursuant to sec. b. above cannot be met because of the Supplier's fault and a reasonable grace period has expired to no avail we are at our choice entitled to damages instead of performance according to the statutory provisions or to obtain performance from a third party and withdraw from the contract. Any other rights of us because of the Supplier's default remain unaffected. Acceptance of a delayed delivery cannot be deemed as a waiver of any rights regarding the late delivery.
- d. We have to be notified about foreseeable delays of delivery in good time. The purchased goods have to be stored for us until shipment at no costs.
- e. We are not obliged to accept deliveries prior to the delivery date pursuant to sec. b. above ("prior delivery"), if that has an adverse effect on our operations compared to acceptance on the delivery date. In such case we are entitled to refuse delivery or, if the adverse effect only shows after acceptance to send back the goods at the Supplier's costs. If additional costs occur because of the prior delivery, esp. with regard to storage, they will be borne by the Supplier. If due to the prior delivery the risk of deterioration or loss of the stored goods increases we only assume liability if there is at least gross negligence on our side. In case of prior delivery we reserve our right to make payment only on the agreed due date.

3. Contractual Penalty

In case of delayed delivery we are entitled – after prior warning – to a contractual penalty of 0.5% per week, maximum 5% on the outstanding invoiced amount of the delayed parts of the delivery; such penalty payments will be credited against potential damages claimed by us.

4. Payment Conditions and Payment Terms

- a. All prices of the Supplier are quoted ex works the place named in our order including package and freight and potential import tax (DDP, Incoterms 2000).
- b. Payment is not due prior to the expiry of 10 calendar days after delivery or after receipt of the invoice by us, whichever is later. Payment within above mentioned period entitles us to a discount of 3%.
- c. We are entitled to set-off our claims against the Supplier's claims in accordance with the statutory provisions.
- d. Assignments to third parties are only permitted with our prior written consent. We will not hold back our consent without good cause.

5. Quality Standards and Quality Control

- a. The Supplier is obliged to observe the respective latest state of technology, the security regulations under public law including the regulations of the worker's compensation associations and the industrial unions (esp. the „Allgemeinen technischen Liefervorschriften CN 05 001“) and other requirements potentially agreed between the parties esp. regarding certain quality control mechanisms and to monitor permanently the quality of the products accordingly. The initial sampling inspection will be carried out according to the recommendations of the VDA-publication „Safeguarding of the quality of deliveries in the automobile industry Frankfurt“.
- b. If legitimate doubts occur that the Supplier does not observe the above mentioned requirements we are entitled to demand inspection of the relevant documents and a sufficient proof showing that such requirements have been met. On demand of the Suppliers our right of inspection can be executed by a neutral third party.
- c. The Supplier has to keep the relevant documents for the period of 10 years.
- d. The Supplier has to impose those obligations according to sec. a. and b. above onto his suppliers as far as legally possible.

6. Warranty

- a. Payment of the purchase price cannot be deemed as acknowledgement of the goods being free of defect.
- b. §§ 434 – 444 BGB, esp. with respect to the limitation period, shall apply with regard to our rights due to defects as to quality or title of the purchased goods. If the provisions about sale of consumer goods apply in relation to our customers we can claim the full rights pursuant to §§ 478, 479 BGB against our Supplier.
- c. In case of faulty wage labour we are also fully entitled to our statutory rights due to defects as to quality or title of the purchased goods including the right to claim damages.
- d. If we provide the material the Supplier is not freed of his legal duties to test the provided material for its fitness for use and its freedom from defects.

7. Manufacturing Equipment / Provision of Material

The following provisions apply to manufacturing equipment such as models, samples, tools, devices, drawings and the like which have been provided by us to the Supplier or which have been produced by the Supplier for us based on our information, as well as material or aids made available to the Supplier for processing in the context of an order at no costs (in summary: „material provided by Jäkel“) and to delivery items which have been developed by us (in the following: „Jäkel-based delivery items“):

- a. Should the material provided by Jäkel contain models for the production by the Supplier and should they deviate from each other (e.g. the sample and the drawings) the Supplier is obliged to notify us about these deviations in sufficient time before the start of the production and to seek clarification.
- b. Material provided by Jäkel remains our property and has to be returned to us immediately after termination of the business relationship. The Supplier has no right of retention regarding such material. The Supplier has to store such material for us with the care of a prudent businessman and is obliged to label it as our property and inform us without delay if a garnishment is ongoing or threatened to happen or if our claim is endangered in any other way. Any kind of transfer to third parties, esp. any disposal or sale, without our prior written consent is not permitted. In case we have validly consented to the disposal the Supplier already now agrees to an extended retention of title for our benefit.
- c. The Supplier may only sell Jäkel-based delivery items to us. Exceptions to this, esp. direct deliveries to third parties, are only permitted after we have provided our written consent.
- d. If the Supplier breaches the obligations pursuant to sec. b. and c. above we are entitled to withdraw from the contract without further ado. Further rights based on the statutory provisions, esp. damage claims or injunctive relief or potential claims for return of what was gained out of the breach of contract, remain unaffected.

8. Confidentiality

a. The Supplier is obliged to keep confidential all our orders and all related technical and commercial information irrespective of whether transmitted orally, in writing or electronically – with the exception of publicly available information – as well as the material provided by Jäkel (in the following summarized as „Confidential Information“). Confidential Information may only be used for execution of our orders, must not be disclosed to third parties and have to be protected against access of third parties by the Supplier. Without our consent the Supplier is not allowed to disclose the fact of our business relations for purposes of marketing or public relations. After execution of orders the Supplier will on our demand immediately return or destroy the Confidential Information.

b. In case of breach of the obligations mentioned in sec. a. above sec. 7. d. will apply accordingly.

c. The obligation of confidentiality according to sec. a. above will remain in force for 3 years after termination of the business relations.

9. Obligation to procure Spare Parts

The Supplier is obliged to execute wearout orders for the minimum of 10 years and other orders for spare parts for the minimum of 7 years after the last delivery. This only applies to supplied machinery and facilities. To spare parts the statutory warranty period applies.

10. Place of Performance, Place of Jurisdiction and Applicable Law

a. Place of performance and place of jurisdiction for both contract parties is Diemelstadt. This also applies to actions for assertion of a claim concerning the payment of a check or a claim arising out of a bill of exchange. However, we reserve the right to file a law suit at every other valid place of jurisdiction, e.g. at the main place of business of the Supplier.

b. These General Terms and Conditions including their interpretation are subject to the laws of the Federal Republic of Germany excluding the Convention of the International Sales of Goods of the United Nations of 11.04.1980. Insofar as these General Terms and Conditions refer to statutory rules, provisions of the worker's compensation associations or the industrial unions and those rules or provisions have changed since the date of issuance of these General Terms and Conditions (04/2014) these rules and provisions apply in their amended version. In case of inconsistencies between the German and the English version of these General Terms and Conditions the German version shall prevail.

11. Amendment of the General Terms and Conditions

a. If necessary according to relevant laws or decrees or orders of national or international courts or authorities we are entitled to amend these General Terms and Conditions with immediate effect provided that the balance of interests between the parties at the time of conclusion of the contract will be retained.

b. We furthermore have the unilateral right to correct apparent incorrectness and spelling mistakes as well as to include amendments which are solely legally beneficial to the Supplier.

c. Any other amendments to the General Terms and Conditions are valid if the Supplier does not object to the amended version of the General Terms and Conditions within 4 weeks after its receipt.