

## General Purchasing and Delivery Conditions of Julius Koch GmbH

### Section 1 – General Information

- 1.1 These general terms and conditions of Julius Koch GmbH (hereinafter in short: “JK GmbH”) apply exclusively to all purchasing and delivery agreements between JK GmbH and its customers. Conditions that oppose these general terms and conditions or that deviate from them are not recognized unless JK GmbH expressly approves their validity.
- 1.2 These general terms and conditions also apply if JK GmbH unreservedly performs the contractually owed service/delivery even if it is aware of the customer’s conditions that oppose or deviate from these general terms and conditions.
- 1.3 No verbal collateral agreements were made. Agreements that deviate from these general terms and conditions or supplement them must be laid down in writing.

### Section 2 – Contractual Conclusion

- 2.1 The offers of JK GmbH are non-binding.
- 2.2 JK GmbH can accept customer orders that constitute offers according to Section 145 of the German Civil Code (BGB) within four weeks, especially because JK GmbH performs the delivery within this time period.
- 2.3 JK GmbH retains all property and intellectual property rights on offer materials, particularly drawings, models, samples, cost estimates or other documents that the customer receives from JK GmbH. These documents and the information embodied in them must be kept secret and may not be made accessible to third parties without the express written permission of JK GmbH. They must be returned to JK GmbH immediately – without retaining any copies – if a contract is not concluded.

- 2.4 In case of doubt, orders become binding only after JK GmbH has confirmed them. This order confirmation is decisive for the type and scope of the contractual service obligations.
- 2.5 In call orders, JK GmbH is entitled to procure the material for the entire order and manufacture the whole quantity for the order at once. Any change requests on the part of the customer can no longer be considered after the order has been placed unless this was expressly agreed upon.

### **Section 3 – Prices**

- 3.1 If nothing else results from the JK GmbH order confirmation, the net JK GmbH prices plus statutory V.A.T. apply. If the statutory V.A.T. changes between contractual conclusion and delivery, the V.A.T. applicable on the delivery date is calculated and the resulting difference is billed or credited to the customer.
- 3.2 A minimum quantity surcharge of EUR 17,90 is charged for orders under EUR 250,00.
- 3.3 A discount deduction is allowed only in case of a separate written agreement.
- 3.4 Packaging and/or freight costs are billed separately unless otherwise agreed upon. In deliveries abroad, the resulting customs duties and/or import taxes are borne by the customer.
- 3.5 In partial deliveries, every delivery can be billed separately.

### **Section 4 – Payment Conditions**

- 4.1 The payment conditions result specifically from the order confirmation by JK GmbH.
- 4.2 JK GmbH invoices are payable immediately and settled without deduction. In case of late payment by the customer, JK GmbH is entitled to charge 9 percentage points default interest above the current base interest rate for the duration of default. JK GmbH expressly reserves the assertion of a subsequent damage.

- 4.3 If it becomes apparent after contractual conclusion that the entitlement to be paid is at risk due to the customer's lack of solvency, particularly due to a lack of creditworthiness, JK GmbH is entitled – after setting a reasonable deadline – to demand immediate collateral security or cash payment without any discount for all delivered and still unpaid goods and advance payment for all goods still to be delivered. If the customer defaults on his aforementioned obligations on the due date, JK GmbH is entitled to deny the delivery, withdraw from the contract and demand compensation for damages.
- 4.4 The customer can only make an offset with undisputed, legally determined or with counterclaims ready to be decided. The customer is not entitled to a right of retention owing to receivables that do not originate from the same contractual relationship. Payments are always used to settle the oldest outstanding debt position plus the applicable default interest rates.

### Section 5 – Delivery and Delivery Time

- 5.1 The service scope of the delivery by JK GmbH results from the order confirmation.
- 5.2 To execute the delivery, any drawings and layouts provided by the customer, especially with regard to their specific measurement, are binding. Delays and additional costs resulting from the customer's incorrect information in the drawings and layouts are borne by the customer.
- 5.3 Due to production technology reasons, the manufactured quantity can be up to 10% higher or lower. The same applies to the scope of up to 2% of the corresponding order quantity for wrong deliveries unavoidable in production technology.
- 5.4 To a reasonable extent, JK GmbH is entitled to partial deliveries.
- 5.5 In principle, delivery dates or delivery periods are non-binding unless JK GmbH expressly designates them as "binding" as part of the order confirmation.
- 5.5.1 A binding delivery deadline or a binding delivery period is under the proviso that JK GmbH is correctly, fully and timely supplied by its sub-suppliers with which JK GmbH

- has concluded coverage transactions by reason of the contract concluded with the customer.
- 5.5.2 The delivery period is respected when the delivery item has left the JK GmbH factory by the end of the period or when JK GmbH has informed the customer that the item is ready for shipment.
- 5.5.3 The delivery period does not begin as long as the customer has not properly fulfilled the obligations he is incumbent upon such as, for example, submitting the technical data and documents, permissions and has made a down payment or handed over a payment guarantee.
- 5.6 If JK GmbH is hindered from the timely fulfilment of its service obligations by circumstances that became recognizable only after contractual conclusion and for which it was not responsible, especially by force majeure, war including mobilisation measures (such as enlistment of reservists for example), natural catastrophes, pandemics, industrial dispute measures, supply difficulties, traffic disruptions, unusual traffic conditions, unexpected operational breakdowns, unexpected lack of timely delivery by a sub-supplier with regard to an appropriate covering transaction concluded (because of a sub-supplier's insolvency, for example) or due to other similar reasons, the service obligation is suspended as long as the hindrance and the scope of its effect last. In this respect, JK GmbH assumes no procurement risk.
- 5.6.1 JK GmbH must inform the customer immediately that the temporary hindrance or impossibility of the service has occurred and the reasons for it.
- 5.6.2 As far as possible, JK GmbH shall make an immediate effort to procure a replacement. If this occurs and the costs incurred by JK GmbH increase, JK GmbH is entitled to adjust prices to the customer. JK GmbH shall likewise immediately inform the customer in advance about the possibility of procuring a replacement and possible price adjustments.
- 5.6.3 If the suspension of the service obligation or the price adjustment according to Section 5.6.2 is unreasonable for the customer, he is entitled to withdraw from the contract after a deadline to be set by him has expired. Setting a deadline is not required

in the cases mentioned by the law (e.g. Section 323 Paragraphs 2 & 4, Section 326 Paragraph 5 of the BGB and Section 376 of the German Commercial Code, HGB).

- 5.6.4 JK GmbH is not responsible for the non-performance or delayed performance due to the above-mentioned reasons. A claim for damages or reimbursement of expenses is excluded according to Section 9. If a partial service was performed, the customer may withdraw from the entire contract only if he is no longer interested in the partial service.

### **Section 6 – Risk Transfer and Acceptance**

- 6.1 Unless there are other arrangements, delivery “ex domestic works” is agreed upon. The risk of accidental loss and accidental deterioration of the contractual object is transferred to the customer when the contractual object is handed over to the shipping agent, regardless of who bears the freight costs. The same applies when the readiness for shipment is notified if the delivery does not take place for reasons for which the customer is responsible.

If an acceptance must take place, it is decisive for the risk transfer. It must be performed immediately on the acceptance date, alternately after notifying JK GmbH about the readiness for shipment.

- 6.2 If the shipment or acceptance is delayed or does not take place as a result of circumstances for which JK GmbH is not responsible, the risk of accidental loss and accidental deterioration is transferred to the customer on the day of notification or readiness for shipment.

### **Section 7 – Retention of Title**

- 7.1 Until all present and future receivables from the business relationship are paid, namely including all unsettled balances on the current accounts, JK GmbH reserves the title on the delivered goods (goods subject to the retention of title).

- 7.2 The Customer is entitled to use the goods subject to the retention of title and to sell them if this corresponds to the proper course of business. However, he may not

pledge or assign them by way of security. The customer's claims for payment against his purchasers from a resale of the goods subject to the retention of title and those customer claims against his purchasers or third parties regarding the goods subject to the retention of title that arise from another legal reason (especially claims from unlawful acts, entitlements to insurance benefits and claims from the ownership, particularly claims for surrender), namely including all unsettled balances on the current accounts, the customer already fully assigns them now – until the full payment of all present and future receivables from the business relationship – by way of security to JK GmbH. This applies regardless of whether the goods subject to the retention of title are resold without or after processing, mixing or combining. JK GmbH accepts the assignment.

- 7.3 The retention of title also extends to the full value of the products created from processing, mixing or combining the goods of JK GmbH, whereby these processes take place for JK GmbH, so that JK GmbH is considered as the manufacturer. If their ownership right remains unchanged in a processing, mixing or combining with third-party goods, then JK GmbH acquires co-ownership in proportion to the objective values of these goods. If the ownership of JK GmbH expires due to combination or mixing, the customer already transfers to JK GmbH right now the ownership or expectancy rights to which he is entitled to the new inventory or item to the extent of the invoice value of the goods delivered by JK GmbH, which accepts this transfer. The customer keeps safe – and without charge for JK GmbH – the sole ownership or co-ownership of the item thus created.
- 7.4 The customer's authorisation to dispose of the goods subject to the retention of title expires when the customer falls or is likely to fall into financial difficulties and JK GmbH revokes its approval over the goods subject to the retention of title or asserts its collection right owing to the customer's behaviour, especially due to default of payment.
- 7.5 If third parties seize the goods subject to the retention of title or there are other third-party interventions that endanger the security interests of JK GmbH, the customer must mention the ownership of JK GmbH and must notify it immediately in writing so JK GmbH can enforce its ownership rights. If the third party cannot reimburse JK GmbH for the incurred court or out-of-court costs in this connection, the customer is liable for them.

- 7.6 If the customer behaves in a way contrary to the contract, especially regarding default of payment, JK GmbH is entitled to take back the contractual object after setting a reasonable deadline. The customer bears the transportation costs incurred when the contractual object is taken back. When JK GmbH takes back the contractual object, a withdrawal from the contract takes place, which also takes place when JK GmbH seizes the contractual object. Once the contractual object is taken back, JK GmbH is authorised to its utilisation. The proceeds from the utilisation must be credited against the customer's liabilities – minus reasonable utilisation costs.

### **Section 8 – Obligations to Notify Defects, Rights Due to Defects**

- 8.1 According to Section 377 of the HGB, the customer's rights due to defects require him to have properly complied with the inspection and notification of defects that he owes. The customer must inspect the delivered goods for contractual conformity immediately after receiving them. Subject to the provisions of Section 5.3, shortfalls and wrong deliveries as well as recognisable defects of the goods must be reported immediately in writing to JK GmbH indicating the specific objection. Defects recognised only later must be immediately notified after they are recognised as described above.
- 8.2 In case of complaints, the customer must immediately give JK GmbH the opportunity to check the rejected goods. In particular, the rejected goods must be provided to JK GmbH upon request and at its expense. In case of unjustified complaints, JK GmbH reserves the right to charge the customer for the incurred transportation and verification costs.
- 8.3 If the delivered goods are defective, especially before production starts (processing or installation by the customer), JK GmbH must first be given the opportunity to sort out and remedy the defect, either through reworking or replacement delivery, at the option of JK GmbH.
- 8.4 If a defect is remedied, JK GmbH commits itself to pay for all expenses necessary to remedy it, especially transportation, road, labour and material costs; an absorption of the preceding costs by JK GmbH is excluded if they were incurred because the goods delivered by JK GmbH were shipped to a location other than the agreed upon place of fulfilment after the risk was transferred. This does not apply if the shipment of the goods corresponds to their intended use and it is known to JK GmbH.

- 8.5 The customer is only entitled to a contractual rescission or purchasing price reduction if JK GmbH is unable to remedy the defect by a reasonable deadline to be set by the customer or if the subsequent performance would entail disproportionately high costs to JK GmbH, is unreasonable or considered failed due to other reasons. However, if the defects are minor, the customer is not entitled to the right of withdrawal. The customer's right to self-remedy is excluded.
- 8.6 JK GmbH liability for damages is limited according to Section 9. The same applies to the claim for reimbursement of expenses.
- 8.7 In case of fraudulent concealment of defects or the assumption of a quality guarantee, the customer's further claims remain untouched.
- 8.8 JK GmbH is not liable for defects
- caused by materials provided by the customer or a construction prescribed or closely determined by the customer;
  - attributed to an unsuitable or inappropriate use or processing of the contractual object;
  - caused by the customer's poor servicing or defective repair or by changes done without the written approval of JK GmbH;
  - attributed to normal wear and tear;
  - for which repair measures were taken for their remediation and that took place only temporarily upon the customer's request.
- 8.9 The customer's warranty claims and congruent competing claims from extra-contractual liability lapse in one year from the passing of risk according to Section 6. Regarding damage compensation claims in the cases of the local Section 9.1 Clause 1 and Section 9.2 Clause 2, the statutory limitation period remains applicable.



## Section 9 – Liability for Damage Compensation

- 9.1 JK GmbH is liable for damage compensation regardless of the legal basis only in case of intent or gross negligence of its bodies or assistants. The preceding liability exclusion for simple negligence does not apply to the violation of important contractual obligations. If important contractual obligations are violated, the liability is limited to typical, foreseeable damages.
- 9.2 A liability for damage compensation due to a guarantee assumed by JK GmbH and due to a liability under the German Product Liability Act or other mandatory standards remains untouched by the preceding provisions. The same applies when damage is caused resulting from damage to life, limb or health.
- 9.3 JK GmbH liability is excluded,
- for damages caused because the contractual object was not used in accordance with the specifications of JK GmbH;
  - for damages caused because the contractual object was not or insufficiently serviced and the customer did not commission JK GmbH to perform the service;
  - for damages caused by parts of the contractual object on which third parties performed maintenance work, repairs or other changes and that they cannot be verifiably attributed to a breach of duty by JK GmbH.

## Section 10 – Obligation to Maintain Secrecy

- 10.1 The customer must keep all knowledge and information received from JK GmbH as part of the delivery relationship as well as technical and business information secret (hereinafter in short: “secret information”) towards third parties, also beyond the duration of the delivery relationship, as long and insofar as he cannot furnish proof that this secret information, at the time it was acquired, was already known to the customer or was public or became public through no fault of his own or was verifiably developed by the customer in a fully independent way or was acquired by a third party without violating the obligation to maintain secrecy.

- 10.2 The documents disclosed by JK GmbH pertaining to secret information, especially drawings, that were exchanged in the course of the collaboration are and remain the property of JK GmbH and must be handed over to JK GmbH upon request, no later than when the delivery relationship ends. Any type of license to secret information needs a written agreement.
- 10.3 The customer is not entitled to a right of retention with respect to secret information or the corresponding documents and materials.

### **Section 11 – Place of Jurisdiction, Applicable Law, other Agreements**

- 11.1 For all present and future claims arising from the business relationship, the sole place of jurisdiction is the head office of JK GmbH located in D-23714 Kreuzfeld/Malente. This place of jurisdiction also applies in case of disputes about the formation and effectiveness of the contractual relationship. JK GmbH is free to file a suit in the customer's head office.
- 11.2 The law of the Federal Republic of Germany applies to the contractual relationship.
- 11.3 If parts of the preceding business conditions become invalid or are waived, their validity is otherwise unaffected. The contractual parties commit themselves to replace the invalid provisions with those that are legally effective and equivalent as much as possible to the invalid provisions with regard to the sense and purpose as well as economic result.