

# General Terms and Conditions of Sale and Delivery of E. Jacobsen GmbH

## I. Application

(1) The following General Terms and Conditions of Sale and Delivery of E. Jacobsen GmbH (hereinafter the "seller") apply exclusively to all current and future business relationships between the seller and the customer. The version valid at the time of contract conclusion applies.

(2) Differing, contrary or supplementary general terms and conditions of the customer are not recognized by the seller, unless the seller expressly consents to their application. The following General Terms and Conditions of Sale and Delivery of the seller also apply if the seller unconditionally performs an order for the customer in knowledge of the customer's differing terms and conditions.

(3) These General Terms and Conditions of Sale and Delivery only apply to entrepreneurs within the meaning of Section 14 of the German Civil Code [Bürgerliches Gesetzbuch, BGB].

## II. Offer and Contract Conclusion

(1) The quantity, price, packaging content and delivery and loading periods of the seller's offers are non-binding.

(2) The seller's offer includes an offer to conclude a contract in which the customer bindingly states to intend to purchase the ordered goods. An order is considered accepted when the seller confirms the order in writing or delivers the ordered goods.

(3) Contract conclusion is conditional on correct and on-time supply by the seller's suppliers. This only applies where the seller is not responsible for non-delivery. The buyer will be informed about the unavailability without undue delay. Payments will be refunded without undue delay.

(4) The majority of goods traded by the seller come from IFS-certified pre-suppliers. However, because the seller cannot guarantee this for all goods, the buyer must also accept goods from non-IFS-certified pre-suppliers. If requested, the seller may communicate the current certification status to the buyer for all goods.

## III. Prices and Payment

(1) Unless agreed otherwise, prices are stated ex works and plus VAT. Customs and other duties will be charged to the buyer separately for deliveries outside of the territory of the Federal Republic of Germany.

(2) The purchase price is due in its net cash amount without deduction immediately upon receipt of the invoice.

(3) Payments are only completed when the seller may fully dispose of the amount. For checks, payments are only completed when the check is redeemed.

(4) If the seller defaults on payments, default interest of 8% above the base rate will be charged. The enforcement and proof of greater default interest remains reserved to the seller. The enforcement of further damage claims also remains reserved in case of default.

(5) In case of default or other objectively justified doubts about the seller's solvency or creditworthiness, the seller may—without prejudice to the seller's other rights—make all claims of the business relationship due immediately. In this case, the seller may also obtain advance payments or collateral.

(6) The buyer may only offset against claims with counterclaims that have been legally established or are uncontested.

## IV. Place of Performance, Transfer of Risk and Delivery

(1) The place of performance for all obligations under the order is the registered office of the seller.

(2) Risk of random destruction or random deterioration of shipped goods will be transferred to the buyer when the goods are handed over to the carrier, forwarder or other person performing the shipment.

(3) The seller may make partial deliveries that will be considered partial performance to the extent that doing so is reasonable for the buyer.

(4) In case of force majeure or other unforeseeable extraordinary circumstances for which the buyer is not responsible and which the buyer cannot influence and that prevent the seller from delivering the goods by the agreed date or within the agreed period, the delivery date or period will be extended by the length of the performance disruption caused by these circumstances.

(5) If hindrances to performance within the meaning of Subsection 4 delay performance by more than 4 months, both the buyer and the seller may fully or partially withdraw from the contract. Other withdrawal rights of the buyer will remain unaffected.

(6) Unless agreed otherwise, the seller will choose the packaging and shipping method with the diligence of a prudent businessperson.

(7) Transportation and other packaging cannot be returned. Packaging must be disposed of by and at the expense of the buyer.

## V. Guarantee for Defects

(1) The buyer must report obvious defects of perishable goods, at the latest, within 24 hours of receipt and of other goods within 1 week of receipt to the seller in writing; otherwise, the goods will be considered accepted. Defects that cannot be detected initially, but only subsequently, must be reported by the buyer in writing within 24 hours of detection for perishable goods and within 1 week of detection for other goods; otherwise, the goods will be considered accepted. Defect reports will be on time if sent on time.

(2) The buyer must bear the entire burden of proof for any claims, especially for defects, the time of defect detection and on-time defect reporting.

(3) The buyer must keep reported goods at the place of inspection for review by the seller and/or the seller's supplier. Otherwise, guarantee claims of the buyer and claims based on complaints about weight are excluded. Goods that have been reported or are otherwise considered defective may not be processed.

(4) If the seller is responsible for a defect, the seller may, at the seller's discretion, remedy the defect or take back and provide a free replacement for the defective goods. The seller may refuse to provide remedies involving unreasonable costs.

(5) If the remedy / replacement delivery fails, the buyer may, at the buyer's discretion, withdraw from the contract or obtain a price reduction. However, the buyer may not withdraw in case of merely minor contract infringements.

(6) If the buyer withdraws from the contract after a failed remedy, the buyer will not be entitled to additional compensation for damages

(7) Defect claims of the customer will expire 1 year after the transfer of risk. However, in case of fraud or a guarantee, such claims will expire based on legal requirements.

(8) The product description of the manufacturer is agreed as the condition of the goods. Public statements or advertisements of the manufacturer or seller do not represent contractual descriptions of the condition of the goods.

(9) Guarantees in the legal sense are not provided to the buyer by the seller. This does not affect guarantees from the manufacturer.

## VI. Liability

(1) The seller will not be liable for breaches of non-essential contractual obligations caused by simple negligence. In case of breaches of essential contractual obligations due to simple negligence, the seller's liability will be limited to foreseeable damage that is typical for the type of goods. Essential contractual obligations are obligations on whose performance proper contract performance depends and on compliance with which the other contract party may regularly rely.

(2) These liability limitations do not apply to product liability claims of the buyer. Furthermore, these liability limitations do not apply to injuries to life, limb or health attributable to or in case of fraudulent concealment of defects by the seller.

(3) Where the seller's liability is excluded or limited, this also applies to liability of the seller's employees and vicarious agents.

## VII. Retention of Title

(1) The seller will retain title to the goods until all claims under the business relationship have been settled.

(2) In case of non-contractual conduct by the buyer, especially by defaulting on payments, the seller may withdraw from the contract and demand that the goods be returned.

(3) The customer must treat the goods diligently. The customer must report to the seller without undue delay any access to the goods by third parties, e.g. through attachment. The same applies in case of damage or destruction to or change of ownership of the goods. Where the buyer fails to perform these obligations, the buyer will be liable for the resulting damage.

(4) Goods for which the seller is entitled to (joint) ownership may be processed and sold by the buyer through the ordinary course of business. Such goods may not be pledged or used as collateral. The buyer already hereby assigns to the accepting seller by way of security any claims established from the sale of such goods for the final invoice amount (including VAT) agreed for the goods. The seller irrevocably authorizes the buyer to collect the claims assigned to the seller for the buyer's account and in the buyer's name. The seller reserves the right to collect these claims as soon as the buyer fails to properly satisfy the buyer's payment obligations.

(5) Goods may only be processed or modified for the seller. If the goods are processed with objects not owned by the seller, the seller will acquire joint ownership of the new object for the ratio of the value of the goods supplied by the seller to the other processed objects. The same applies if goods of the seller are mixed with objects not owned by the seller.

## VIII. Final Provisions

(1) These General Terms and Conditions of Sale and Delivery and the entire legal relationship between the seller and the buyer are governed by the law of the Federal Republic of Germany under exclusion of the United Nations Convention on Contracts for the International Sale of Goods.

(2) Hamburg, Germany, is agreed as the exclusive place of jurisdiction for merchants, legal persons under public law and special funds under public law.

(3) Should a provision of these General Terms and Conditions of Sale and Delivery be or become ineffective, this will not affect the effectiveness of the remaining provisions. In such cases, the parties must replace the ineffective provision with an effective provision that most closely approximates and replaces the economic aims of the ineffective provision.

Valid: 4/2016