

General Conditions of Purchase



§ 1

Generalities – Scope

1. These conditions of purchase are exclusively valid for all conclusions of contracts between the purchaser and the supplier for the delivery of goods, machines and business services. They are also valid for future business contacts, even if not explicitly agreed once again. Divergent conditions of the supplier, the validity of which is not expressly accepted in writing by the purchaser, are not binding for the purchaser. The purchaser's conditions also apply, if the delivery is accepted unconditionally even though the purchaser is in knowledge of conflicting or deviating conditions of the supplier.
2. All agreements made between the purchaser and the supplier for the purpose of executing this contract, have been set down in the agreements, this contract, and the offers made by the purchaser upon conclusion of the contract.
3. The present conditions of purchase only apply to contractors.

§ 2

Offer – Tender Documents – Production Release

1. The supplier is obliged to accept the purchaser's order within the time limit stipulated in the order by returning the signed duplicate thereof.
2. The purchaser reserves the proprietary and copy right for illustrations, drawings, calculations, data for preparation of reproductions and other documents; these must not be disclosed to third parties without the purchaser's prior explicit consent in writing. They are to be used exclusively for the production of an order placed by the purchaser; upon completion of the order, they have to be returned without being asked. They must not be disclosed to third parties.
3. Production release takes place after presentation and release of a relevant production sample or after release of the pilot lot by the purchaser. No, even no partial fulfillment is effected in case of deliveries without prior release; these take place at the supplier's own risk.

§ 3

Prices– Terms of Payment

1. The price mentioned by the purchaser on the order is binding and includes free delivery and all incidental expenses, particularly costs for packaging, product labeling, logistics labels etc., unless otherwise agreed in writing by the parties. The purchaser is obliged to return the packaging only, if this was separately agreed upon. The price includes the statutory value-added tax being in effect at the respective time. All invoices of the supplier have to specify the purchase order number given by the purchaser; the supplier is responsible for all consequences resulting from non-compliance with this obligation, unless he can prove that he is not accountable.
2. Unless an alternative payment period has been agreed upon in writing with the supplier, the purchaser must effect payment within 14 working days following delivery of the goods and the receipt of a proper invoice, which has to be in accordance with the stipulations of No. 1 p. 4 of this clause, with the discount stipulated on the purchase order or within 30 days net after delivery of the goods and receipt of a proper invoice.
3. The purchaser has legal offsetting and retention rights within the statutory scope. He is entitled to transfer all claims of the purchase contract without the supplier's prior approval, as long as this does not result in a change of performance. The

supplier is not entitled to transfer claims of the contractual relationship to third parties without prior written consent of the purchaser.

4. Due to the significance of energy efficiency for Jokey Plastik (the purchaser), it is a criterion for the evaluation of offers and suppliers. If there are energy-efficient alternatives, we basically ask for the optional extension of the offers to include these variants or for the information on such alternatives.

§ 4

Lead times

1. The lead time specified by the purchaser on the purchase order is binding.
2. The supplier is obliged to immediately notify the purchaser in writing, if circumstances occur or become visible which result in non-compliance with the agreed delivery time.
3. If the supplier is in default of delivery, the purchaser is entitled to a contractual penalty of 0,5 % of the total net contract value for each completed business week, however, not more than 5 % of the net contract value; further legal claims shall be reserved. The purchaser can also demand the contractual penalty, if he reserves the right hereto until the final payment. The contractual penalty is counted as part of possible claims for damages. If the purchaser asserts claims for damages, the supplier is entitled to prove that he is not responsible for breach of duty.

§ 5

Passing of Risk – Documents

1. The delivery has to be carriage paid, unless otherwise agreed in writing.
2. The supplier is obliged to mention the purchase order number on all shipping documents and delivery notes; if this is omitted, the purchaser is not responsible for ensuing delays in processing.

§ 6

Inspection of Defects – Liability for Defects – Quality Assurance

1. The purchaser is obliged to inspect the subject matter of the contract for deviations in quality and quantity within a reasonable time and to report any such deviation to the supplier without delay. The notice of defect is regarded to be in time, if received by the supplier within five working days as of the delivery of the goods; in case of hidden defects, if addressed to the supplier within five working days after discovery.
2. The purchaser is entitled to the legal warranty claims vis-à-vis the supplier; the purchaser is in any case entitled to demand optionally correction of faults or delivery of new goods. The right to compensation for damages, particularly the right to compensation for damages instead of performance, shall be expressly reserved. If the supplier does not perform his obligation to effect supplementary delivery – at the purchaser's option removal of defects or additional delivery -, the purchaser is entitled to correct the faults himself and to demand compensation for the expenses incurred or an advance payment thereto.
3. Insofar as there is a quality assurance agreement between the parties, the supplier has to ensure the compliance with the quality requirements of the purchaser and to present the purchaser a quality certificate for the products manufactured for the customer, in which the test criteria laid down by the purchaser are documented on balance by an independent institute. The missing of the quality

certificate shall be deemed to be a defect, so that the purchaser is entitled to the claims of § 6 clause 2.

4. The period of limitation for warranty claims is 36 months as of passing of risk.

§ 7

Product Liability – Indemnity – Legal Liability – Insurance Cover

1. The supplier vouches for the fact that no rights of third parties are violated in connection with his delivery and that the materials used contain no substances, which are damaging to health, or that such substances have been otherwise deployed. If a third party makes a claim against the purchaser pertaining to any of these, the supplier is obliged to exempt the purchaser upon first written demand from these claims and to provide all necessary information for a defence against claims asserted by a third party.
2. If the supplier is responsible for a product damage, he is obliged to indemnify the purchaser upon first demand to the extent that the cause is to be found within his sphere of control and organisation and he himself is liable vis-à-vis third parties.
3. The supplier assures that no child labour has been employed for the manufacture of products for the purchaser.
4. Within the scope of his liability for damage in the sense of § 7 No. 1 to 3, the supplier shall also be obliged to reimburse any expenditure arising from or in connection with a recall action carried out by the purchaser. The purchaser shall inform the supplier - as far as possible and reasonable – on content and extent of the recall measures to be carried out and give him the opportunity to comment. Any other statutory claims shall remain unaffected.
5. The supplier is obliged to maintain product liability insurance with a standard coverage sum of at least 10 mio EUR per personal injury or damage to property. Further claims of the purchaser shall remain unaffected.
6. If a claim is lodged against the purchaser by a third party because the seller's delivery constitutes a violation of a industrial property right of the afore-mentioned third party, the seller undertakes, on the purchaser's first summons, to release the purchaser from the claims, including all the expenses incurred by the purchaser in connection with the claim and his refuting it. The period of limitation for all recourse shall be 36 months according to § 7, calculated from the time the purchaser becomes aware of the third party's claim.

§ 8

Retention of Title to Ownership

1. All parts, materials, substances, products (conditional goods) and moulds provided by the purchaser remain the purchaser's property. Any processing or transformation undertaken by the supplier is executed exclusively on behalf of the purchaser. If the purchaser's conditional goods are processed with objects not being the purchaser's property, he shall acquire co-ownership of the newly formed object in proportion to the value of the conditional goods provided by him to the other processed objects at the time of processing. The same applies, if an object provided by the purchaser is inseparably bonded with other objects not being his property. If the object belonging to the seller constitutes the main object after bonding, then the seller undertakes to transfer proportional co-ownership to the purchaser. In either case, the supplier safeguards the property owned commonly and/or jointly for the purchaser.

2. The moulds provided by the purchaser may only be used by the supplier for goods specifically ordered by the purchaser and must be insured by the supplier at his own expense against fire, water and theft damage. The supplier transfers, here and now, the title to the benefits arising from these insurances to the purchaser, who hereby accepts this transfer with this agreement. The supplier undertakes to carry out the necessary service and maintenance work on these moulds in compliance with the respective instruction manuals at his own expense and in due time. The supplier shall inform the purchaser immediately about any and all malfunctions; if and when he culpably fails to do so, damage compensation claims shall not be affected.

3. The supplier shall be obliged to keep all moulds, parts, illustrations, drawings, calculations and other documents and information received by the purchaser strictly confidential. These may only be disclosed to third parties with explicit written consent of the purchaser. The duty of secrecy shall also remain effective after completion of this agreement; it expires if and as soon as the production know-how provided with the illustrations, drawings, calculations and other documents has become generally known, without the supplier's exposure of these. After fulfillment of the contract at the latest, the supplier has to return immediately all moulds, parts and documents received to the purchaser at his own charge. He must not retain transcriptions or copies thereof.

§ 9

Place of Jurisdiction – Place of Performance – Final Provisions

1. Place of performance and exclusive place of jurisdiction for deliveries and payments (including check actions) as well as for all disputes arising between the contractual parties shall be the registered office of the purchaser, as far as the supplier is trader as defined by the Handelsgesetzbuch (HGB) ((German Commercial Code)). The purchaser shall also be entitled to sue the supplier at his local court.
2. The relationships between the contractual parties are – in addition to these general conditions of purchase - dictated exclusively according to the applicable law in the country, the purchaser is located in. The UN Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.
3. Should any provision of these general terms and conditions be or become invalid or unfeasible, this shall in no way affect the validity of the remaining provisions of the general conditions of purchase.