

# Standard Terms and Conditions of Purchase of Jetter AG

## § 1 General – Scope of Application

1. Our standard terms and conditions of purchase apply exclusively; we do not acknowledge any terms and conditions of the supplier which contradict or differ from our purchase conditions unless we have expressly stated that they apply in writing. Our purchase conditions apply even if we accept without reserve products supplied by a supplier in the knowledge that the supplier's terms and conditions differ from or conflict with our own.
2. Any agreements between ourselves and the supplier concerning execution of this contract are set out in writing in this contract.
3. Our purchase conditions are only applicable to entrepreneurs as defined in § 310 (1) of the German Civil Code (*Bürgerliches Gesetzbuch*).
4. Our purchase conditions also apply to any future business with the supplier.

## § 2 Offer – Offer Documents

1. The supplier shall accept our order within one week and confirm it again by way of a confirmation of order.
2. Any drawings which we prescribe, including any tolerances stipulated, shall be binding. By accepting the order the supplier acknowledges that it has informed itself of the manner of execution and the scope of performance by inspecting the plans provided. We do not accept liability for obvious errors, typographical and arithmetical errors in the assembly diagrams, parts lists, drawings, films, repro proofs and other documents which we have provided. The supplier shall notify us of any such errors so that the order can be corrected and updated. This also applies to any missing documents or drawings.
3. We retain title and copyright in illustrations, assembly diagrams, parts lists, films, repro proofs, drawings, calculations and other documents and items; they may not be disclosed to third parties without our express written consent. They may only be used for production based on our order; after the order has been executed they shall be returned to us without a specific request to this effect. They shall be kept secret from third parties; the provision set out in § 9 (4) also applies in this respect.

## § 3 Prices – Terms of Payment

1. The price shown in the order is binding. Unless otherwise agreed in writing the price includes delivery "free buyer's address" including packaging. Packaging may only be returned subject to special agreement.
2. We cannot process invoices unless they quote the order number, article number and supplier number as indicated on our order. Invoices shall also contain the tax data required under § 14 of the Value-Added Tax Law (*Umsatzsteuergesetz*), such as tax number, time of performance, delivery note number, etc. The supplier shall be responsible for any consequences arising from failure to observe this obligation. If the invoice does not contain this data we are entitled to retain part of the price.
3. Unless otherwise agreed in writing we will pay the purchase price less 3% discount within 14 days calculated as of the date of delivery and receipt of the invoice, or net within 30 days. Any delays caused by incorrect or incomplete invoices shall not affect the discount times.
4. Payment does not affect our right to report defects or the supplier's warranty obligation.
5. We are entitled to offset and retain payment to the extent provided for by statute.

## § 4 Delivery Date

1. The delivery date specified in the order is binding.
2. The goods must arrive at the stipulated place of delivery by the date of delivery. If delivery is not "free buyer's address" the supplier shall make the goods available in good time making allowances for the usual loading and transport times. The supplier shall notify us in writing without undue delay if circumstances arise or become apparent that indicate that it will not be possible to meet the agreed delivery time.
3. If there is a delay in delivery our rights shall be as provided for by statute. In particular, once a reasonable additional deadline has been set and passed without success we may demand compensation in lieu of performance and to withdraw from the contract. If we demand compensation the supplier has the right to prove that it is not responsible for the breach of duty. If we have incurred additional costs owing to a delay in delivery as a result of overtime, express delivery services, etc. we are entitled to charge these to the supplier.
4. In the event of a delay in delivery we may demand damages for delay of 0.5 % of the value of the delivery per complete week of delay but no more than 0.5 %; we expressly reserve the right to assert statutory rights over and above this (withdrawal and compensation in lieu of performance). The supplier is entitled to prove to us that the delay did not give rise to any loss or that the loss incurred was substantially lower.
5. We are not obliged to accept the goods before the delivery date.

## § 5 Passage of Risk – Documents

1. Unless otherwise agreed in writing delivery shall be "free buyer's address"; the supplier shall bear the cost of transport insurance. If, however, we agree to bear the costs of freight ourselves the supplier shall select the means of transport which we prescribe; otherwise the means of transport and delivery shall be that which is most favourable to us.
2. Risk shall not pass to us until the goods have been accepted at our place of delivery.
3. The supplier shall indicate our exact order number and article number on all despatch documents and delivery notes, otherwise we will not be responsible for delays in processing.

## § 6 Examination for Defects – Liability for Defects

1. We shall examine the incoming goods at random for quantity, identity, damages in transport and apparent defects and notify of discovered defects in the ordinary course of business. In this respect, the supplier waives the counterclaim of delayed notification of defect. We have no obligations over and above the duties set out above.
2. The supplier shall ensure that the goods, including external appearance and labelling comply with our specifications. It shall execute our order properly and professionally in accordance with the state of the art, applicable statutory provisions, specifications and guidelines of official or government bodies, accident prevention and insurance bodies, and professional associations. All products to be supplied to us shall comply with the applicable safety regulations, e.g. CE guidelines, etc.

3. We are entitled to full statutory rights in the event of defects; in any event we are entitled to demand, at our discretion, that the supplier remedy the defect or replace the goods. We expressly reserve the right to compensation including but not limited to compensation in lieu of performance.
4. We are entitled to remedy the defect ourselves at the cost of the supplier if there is danger in delay or if the circumstances demand urgent action.
5. The limitation period is 36 months from the passage of risk.

## § 7 Product Liability – Indemnification – Liability Insurance Protection

1. If the supplier is responsible for damage to a product it shall indemnify us at first call from third-party claims for compensation in as far as the cause lies in the supplier's sphere of control and organisation and the supplier is itself liable in its external relations with third parties.
2. In the context of its liability for losses within the meaning of (1) the supplier is also obliged to reimburse any expenses pursuant to §§ 683, 670 of the German Civil Code or §§ 830, 840, 426 of the German Civil Code which arise from or in connection with recall measures which we carry out. As far as possible and reasonable we shall inform the supplier of the content and extent of the recall measures to be carried out and allow it an opportunity to comment. This shall have no effect on other statutory claims.
3. The Supplier agrees to maintain a global product liability insurance of EUR 10 million per personal injury/property damage for the duration of this agreement, i.e. until the respective limitation period for defects has expired; this shall have no effect on any claims for compensation which we may have over and above this.

## § 8 Property Rights

1. The supplier warrants that no third-party rights are infringed in the Federal Republic of Germany in connection with the products which it supplies.
2. If third-party claims are filed against us the supplier shall indemnify us from these claims at first written request.
3. The supplier's indemnification duty covers all expenditure which may necessarily arise from or in connection with the claim(s) filed against us by a third-party.
4. The limitation period is ten years as of conclusion of the respective contract.

## § 9 Reservation of Title – Provision of Materials – Tooling – Confidentiality

1. We reserve title in any materials which we provide to the supplier. Any processing or modification work carried out by the supplier is done on our behalf. If our reserved goods are processed with other items which are not our property we acquire co-ownership rights in the new item pro rata relative to the value of our item (purchase price plus VAT) to the other items processed at the time of processing.
2. If the item provided by us is incorporated irreversibly with other items which are not our property we acquire co-ownership rights in the new item pro rata relative to the value of the reserved item (purchase price plus VAT) to the other items incorporated at the time of incorporation. If the goods are incorporated with others such that the item of the supplier must be regarded as the main item, the supplier shall be deemed to have granted us pro rata co-ownership rights; the supplier shall preserve our sole title or co-ownership rights therein on our behalf.
3. We reserve title in tools; the supplier shall use the tooling solely to produce the goods ordered by us. The supplier shall insure the tools belonging to us against fire, water and theft at replacement value at its own cost. At the same time the supplier shall hereby assign all claims for compensation under this insurance policy to us; we hereby accept such assignment. The supplier shall carry out any necessary servicing and inspection work and all repair and maintenance work in good time at its own cost. It shall report any faults to us immediately; culpable failure to do so shall have no effect on claims for compensation.
4. The supplier shall keep all illustrations, drawings, calculations and other documents and information strictly confidential. They may only be disclosed to third parties with our express consent. The confidentiality obligation shall continue to apply even after this contract has been executed; it shall lapse if and in so far as the production knowledge contained in the illustrations, drawings, calculations and other documents has become generally known.
5. If the security rights to which we are entitled under (1) and/or (2) exceed the purchase price of all our reserved goods which have not yet been paid for by more than 10% we shall – at the request of the supplier – be obliged to release security rights at our discretion.

## §10 Export Control

1. Supplier represents that it is knowledgeable with, and is and will remain in full compliance with all applicable trade and customs laws, regulations, instructions, and policies (collectively "Trade Control Laws"), including, but not limited to, securing all necessary clearance requirements, proofs of origin, export and import licenses and exemptions from, and making all proper filings with appropriate governmental bodies and/or disclosures relating to the release or transfer of goods and its components, Embedded Software and technology. Supplier is obligated to inform Jetter AG immediately when the supply of any goods or services under any order is or becomes subject to Trade Control Laws.

## § 11 Applicable Law – Place of Jurisdiction – Place of Performance

1. Even if the supplier is registered outside Germany all legal relationships between us and the supplier shall be subject to German law except CISG, which the parties expressly agree shall not apply.
2. In as far as the supplier is a businessman the place of jurisdiction shall be the place at which we are registered; however we may also file legal action against the supplier at the place at which it is registered.
3. Unless otherwise stated in the order the place of performance shall be the place at which we are registered.
4. Should any provision of the contract or these conditions be invalid this shall have no effect on the validity of the other provisions.

The German version of these standard terms and conditions of purchase is authoritative.  
The English version is for information purposes only.