

# JUNG GUMMITECHNIK GmbH, Einhausen

(in the following in short "the supplier")

NOTICE: In cases of dispute, the original German version is legally binding.

## General Terms and Conditions

### General Conditions

1. The following terms and conditions are an integral contractual part of all of the supplier's contracts. They exclude the ordering party's conditions of purchase. Deviating conditions are only binding if agreed upon in written form. In the case of the purchasing party not agreeing to accept these terms and conditions despite having his own purchasing conditions, then the supplying party must express his disagreement in written form. Remaining silent will be considered as acceptance.
2. Orders only become binding, with regard to type and the scope of delivery, once they have been confirmed by the supplier. Amendments and supplements must be made in written form.
3. On accepting the delivery the purchaser automatically recognises the validity of these conditions as being valid for future contracts. Should certain provisions of this contract be or become ineffective, this shall not affect the validity of the contract as a whole.

### A. Terms of Delivery

1. Our offers are subject to alteration and non binding. Deliveries, performances and calculations take place at our prices and conditions valid on the day of dispatch or collection. Raw material, wages, energy and other non-foreseeable cost alterations permit us to negotiate an appropriate change in costs and, in the case of agreement not being reached, to withdraw from the contract within a reasonable period of time.  
We deliver ex works as long as special conditions have not been agreed upon in written form.
2. Goods are shipped at the purchasing party's own risk irrespective of the location of dispatch. In the case of the goods being ready for dispatch but delayed due to reasons beyond our control, the risk will be transferred to the purchasing party. At this stage the delivery is considered as having been successful.
3. We reserve the right to determine the acceptance of minor orders, the minimum quantity to be purchased or minimum invoice amount. With goods manufactured to the purchasing party's specification, the amount ordered may exceed or fall short of the amount ordered by 10%. When dealing with blanket orders we are authorised to purchase the materials required for the complete order and produce the complete number of ordered products immediately. For this reason it is not possible to take any alterations into consideration subsequent to orders having been placed by the ordering party, unless this has been clearly agreed upon beforehand. Partial consignments are permissible. There is no charge for packaging as long as it is made of paper, jute or foil. Other packaging, especially special packaging and pallets, will be invoiced at cost price and will not be taken back.
4. An obligation to adhere to the agreed delivery and performance periods is only accepted under the prerequisite of uninterrupted operation. In particular, cases of force majeure and other disrupting events to us, our suppliers or the transportation companies, e.g. operational or traffic disruptions, fires, floods, shortage of labour force, shortage of energy or raw materials, strikes, lockouts or official measures, all release us from the obligation of punctual delivery or performance and, furthermore, provide us with the right to discontinue delivery without the obligation to deliver at a later date. Claims for damages are ruled out as long as legally admissible. The ordering party has the right of rescission as long as prerequisites are met.
5. The registration of insolvency proceedings, the submission of an affidavit according to §907 ZPO, the event of financial difficulties occurring or the deterioration of the ordering party's pecuniary circumstances becoming known, all entitle us to cease deliveries immediately and refuse the fulfilment of current contracts.
6. We reserve the right of ownership and copyright for cost estimates, drafts, drawings and other documents; these may only be made available to third parties with our prior written approval. Drawings and other documents are to be handed back to us on request and then definitely if the contract is not awarded. Insofar as we have delivered items on the basis of drawings, models, templates and other documents provided by the ordering party, the ordering party will be responsible for making sure that the protective rights of third parties are not violated. If a third party, referring to proprietary rights, prohibits us in particular the manufacturing and delivery of such items, we are entitled to suspend all relevant activities and to claim damages without being obliged to analyse the legal position. The ordering party is also obliged to exempt us from all claims deriving as a result of this without delay.
7. For the trial of necessary experimental components, apart from any costs arising for this, we will also charge especially for costs arising for moulds and tools. We will charge proportionally as a production percentage for any moulds, tools or other apparatus and facilities we have manufactured or acquired. With regard to our construction services, the aforementioned items will remain our property. Possible amortisation agreements apply for a period of three years. Subsequent to this period outstanding payments for tools and installations must be made in cash.

### B. Reservation of Ownership

1. a) We reserve the right of ownership for all delivered goods, until all claims have been fulfilled (§§362 ff. German Civil Code), including conditional and future arising claims we and associated

companies (§15 AktG) have against the ordering parties from each business relationship.

- b) Regardless of the ordering party's payment commitments, we are entitled to:  
aa) sell the returned goods on the open market for the best price and then credit the proceeds or:  
bb) credit the returned goods at contract price – minus any discount and subsequent to deducting 10% (base contract price) for a decrease in value.  
In all cases we are also permitted to deduct the costs for taking goods back at an amount of 10% of the credited amount. It is the ordering party's undisputed right to provide proof of a lower actual decrease in value and lower actual deducted costs.
- c) The ordering party is committed to informing us without delay in the case of a seizure of property or other infringement of ownership rights and to provide us and third parties with written confirmation of right of ownership. The pledging or assigning as security of the delivered goods under our reservation of title is prohibited.
- d) The ordering party is committed to sufficiently insuring the goods subject to reservation of title against fire and theft. Claims against the insurance in the case of damage to one of the goods subject to reservation of title are herewith transferred to us at the value of the goods subject to reservation of title. In case of case of damage to the product the ordering party is committed to informing the insurance of the assignment of claims.
- e) With regard to handling and processing, combination or mixture of goods subject to reservation of title, according to §950 German Civil Code, the supplier is regarded as manufacturer without the supplier having commitments through this. Any handling and processing carried out by the ordering party on our behalf is carried out without us having any commitments. The handled and processed goods serve our security. In the case of our goods being combined, commingled or mixed with other goods not belonging to us (§§947, 948 German Civil Code), we are then entitled to joint ownership of the new items, to the proportion of the value of the goods subject to reservation, which have been put to use for the manufactured items, with the sum of all invoice values of the other goods put to use to manufacture the items. If the ordering party acquires sole ownership of new items, then the contractual partners agree that the ordering party acknowledges that we have joint ownership proportional to the value of the processed, or as the case may be, combined or mixed goods subject to reservation. The new items created are now considered to be goods subject to reservation in the sense of these terms and conditions. The ordering party will store them with commercial care and is committed to providing us with the necessary details enabling us to exercise our rights and, in this respect, to provide us with access to his documents.

2. a) The ordering party's claims, including all subsidiary rights from the resale of the goods subject to reservation, are now transferred to us irrespective whether they have been handled, processed, combined, mixed or not and whether they have been resold to a number of purchasers. In the case of the transferred claims against third-party debtors having been incorporated into a current invoice, the agreed upon transfer will also apply to the current account. The transferred claims serve as the security for all rights and demands in accordance with B. 1. a).  
b) In the event of the ordering party's goods subject to reservation being sold together with other goods not belonging to us, either without or subsequent to combining, mixing, handling or processing, then the transfer of the purchase price claims in accordance with B. 2. a) to the extent of the contact price of the goods subject to reservation plus 20%, which will be set against the amount with interest and costs, is considered as having been agreed upon, whereby the surplus amount not used is to be reimbursed.  
c) If the goods subject to reservation are put to use by the ordering party to fulfil a service contract, the claims from the service contract are to be transferred to the same extent in advance such as stated in B. 2. a) and b).  
d) The ordering party is only entitled and authorised to reselling or putting the goods subject to reservation to other use under the condition that the claims stated under B. 2. a) to c) are transferred to us. The ordering party is not authorised to any other disposition of the goods.  
e) The ordering party is authorised to pursue claims from the resale irrespective of rights having been transferred. Our right of pursuit remains unaffected irrespective of the ordering party's right to pursue claims. We ourselves will not pursue claims as long as the ordering party meets its financial obligations. At our request the ordering party must inform us of the debtor of the transferred claims, must hand over all necessary information and documents and inform the debtor of the transfer of claims.  
f) For the cases stated in A. 6., the ordering party's authority to resell the goods subject to reservation and the authority to pursue claims transferred to us cease to exist.
3. a) The reservation of title in accordance with the preceding regulations remains effective even if some of our claims have been included in a current invoice and the account has been balanced and recognised.  
b) The reservation of title in accordance with the preceding conditions ceases to exist when all claims stated under B. 1. a) have been met. With this the ownership of the goods subject to reservation is transferred to the ordering party such as the entitlement to the transferred claims.
4. In the event of the value of all our existing securities effectively exceeding our claims as a whole by more than 20%, on demand of the ordering party we are committed to releasing securities of our choice.

### C. Terms of Payment

1. Our sales prices and all other offers and calculations are stated in Euros plus VAT at the statutory rate applicable at the time.
2. Our invoices must be paid according to agreement with no additional postage or expenses.
3. Discount will only be granted under the condition that all financial obligations for earlier deliveries have been met in full. With non-cash payments – e.g. per cheque – in any event it depends on the time of the credit entry. It is not possible to grant discount for payments or credits with reservations, with a condition or other restrictions.
4. Interest on arrears will be charged subsequent to the due date. This will be calculated on the basis of the statutory rate of interest for arrears.  
The date of the payment entry is the day on which we receive the amount due, or the day on which it is credited to our account. The risk of the channel of payment is at the expense of the ordering party.
5. Cheques are considered to be cash payments in the sense mentioned above, as long as they are sent to us on time. Cheques are booked only under the reservation that the full amount has been credited to our account. We do not guarantee for the correct presentation and arrangement of protests.
6. In any event we reserve the right to accept bills or promissory notes. The handing over of bills or promissory notes will not be considered as being a cash payment. We will charge for any costs that may arise and for discount charges. Likewise, we do not guarantee for the correct presentation and arrangement of protests.
7. There will be no interest charged on prepayments and part payments.
8. The retention of payments is not permissible. The same applies to balancing against claims of the opposing party, unless the balancing is carried out against undisputed claims, accepted claims or claims found to be legally binding. The assignment of claims without our prior permission is ruled out.

Payments are only legally effective if paid to us. Payments made to employees or representatives belonging to our company are only legally effective if these possess the authority to collect.

### D. Warranty, Liabilities

1. For our deliveries and services we will only provide a warranty under the following conditions:
  - a) The existence of a fault is based only on the explicit specifics of the delivery item. The customer is committed to providing us with detailed specifications for use. The contractual item is solely the sold item with its properties, features and its designated use according to the product description of the supplier, or as the case may be, the agreed upon details of use provided by the purchasing party. Other or further properties and/or features or additional designated use, are only considered as having been agreed upon if we have explicitly confirmed this in written form. Insofar as the supplier has not received or stipulated or has received or stipulated only insufficient specifics concerning the delivery item, then the following specifics listed are considered as having been agreed upon, as long as the field of application is not other than the one that is apparent: unproblematic fluids e.g. water, fluid temperature e.g. between 5°C and 50°C, no excess or negative pressure or static use. We will be held responsible for significant defects and will either make improvements or provide a substitute delivery. Rescission of sale or a price reduction claim is only possible if according to our decision it is not possible to make improvements, supply a substitute or the time limit for this has not been kept. In the event of failures to improvement or substitute delivery, the ordering party may demand a reduction of the remuneration or, if desired, he may demand that the contract be cancelled. Further claims, especially all forms of compensation, are ruled out as far as this is legally possible.
  - b) Our details concerning the designated use of our delivery items and services etc. (e.g. measurements, weight, hardness, value in use) are to be considered as being only approximate. They are descriptions or characteristics and not a guarantee for the properties and condition of the purchased goods. Deviations customary for the branch remain subject to reservation as long as no other agreement has been reached. Deviations in samples or from earlier deliveries will be avoided as far as this is technically feasible. Only considerable deviations provide reason for warranty claims according to D. 1. a).  
We cannot guarantee that specific weights and measurements are observed. Insofar as no other agreement has been reached, for each item we reserve the right to deviate by up to 10% above or below. Insofar as statutory warranty rights exist with a longer period of warranty and insofar legally permitted, the parties will reduce the period of warranty to one year as from the date of delivery.
  - c) Defects especially due to wear and tear are not defects falling under our responsibility. Furthermore, we will not be held responsible for damage caused due to improper handling not caused by ourselves, especially improper storage or damage caused to our products during special use that we were not informed of in written form during the conclusion of contract.
  - d) Any complaints will only be taken into account if they are reported in written form within ten days of receipt, in the case of concealed defects, within 10 days of their discovery and, if the ordering party returns (on our demand) the defective goods to us freight paid; the expenses for the cheapest form of sales return will be carried by us if the notification of defect proves to be legitimate.
  - e) There is no warranty obligation for goods that are not new.

2. The sales partner is committed to carrying out only adequate advertising for the products under contract. The sales partner is aware that false characteristic-related advertising may lead to warranty claims. The sales partner is committed to exempting us from the results of such advertising and to compensate for any financial damage caused due to breach of this commitment. All claims for compensation – irrelevant of the legal grounds and as long as legally permissible – against us, our legal representatives, subcontractors and employees, on account of consultation in speech and in written form or through experiments or consultation in any other way, are ruled out. Especially the ordering party has to test the suitability for the intended use himself.

### E. Place of Fulfilment, Place of Jurisdiction, Other Arrangements

1. The place of fulfilment for deliveries is Einhausen, Germany.
2. Disputes arising from the contractual relationship shall be subject to the jurisdiction of the court at the location of the supplying party. The supplying party is also permitted to take legal action at the location of the headquarters of the ordering party.
3. All contracts closed shall be governed by and construed in accordance with the laws of the Federal Republic of Germany excluding the Private International Law to the German Civil Code and the United Nations Convention on Contracts for the International Sale of Goods.
4. Should one of the previously mentioned conditions not become an integral part of the contract or be ineffective, then the effectiveness of the remaining clauses or remaining parts of such clauses will remain unaffected. An effective regulation closest to the commercial purpose of the ineffective regulation is regarded as having replaced this regulation.
5. To become legally binding, agreements reached verbally or per telephone must be confirmed in written form.

We will store personal data arising from our business relationship. The supplier's contractual partner provides herewith consent for both the present and the future.