

General Terms and Conditions of Sale and Supply for Jakob Hülsen GmbH & Co. KG

1. Supply Contract

1.1 Our deliveries and services are performed exclusively on the basis of the terms and conditions below. These terms and conditions shall be considered stipulated for all future business relations as well.

1.2 The general terms and conditions of the customer are not binding upon us. We hereby expressly refuse their application.

1.3 Unless our order confirmation is refused immediately after receipt by the customer, the order is considered to be issued under the terms and conditions mentioned in the order confirmation. Changes and collateral agreement therefore take effect only upon written confirmation by us.

1.4 The scope of deliveries and services, prices and supply obligations become valid only upon written confirmation from us. All earlier agreements not mentioned in the confirmation letter are invalid. Supplementary agreements require written consent from us for validity.

1.5 If circumstances become known which raise legitimate doubts as to the ability of the customer to pay, we reserve the right to make deliveries based only on payment in advance.

2. Bids

2.1 Initial bids are generally submitted free of charge; further bids and design work are performed free of charge only if the supply contract is concluded in legally valid fashion.

2.2 Documents associated with the bid, such as images, drawings, weight and measurement data, are only approximately binding, unless they are expressly identified as such. The supplier reserves ownership of and copyrights to cost estimates, drawings and other documents; they may not be made available to third parties. Plans which are identified as confidential by the customer may not be made available to third parties by the supplier without the customer's consent.

2.3 The customer is obligated to educate itself about the quality and suitability of the ordered product.

3. Price and Payment

3.1 Prices are considered ex works, including loading in the plant, but not including packaging, plus applicable value-added tax.

3.2 Payments are to be made in cash, without deduction and in euros, ex paying agent of the supplier, unless otherwise stipulated.

3.3 If payment deadlines are exceeded, annual interest accrues at the rate of 1

percent above the relevant base interest rate (§ 247 of the Civil Code), although no less than 5%, without need for another default.

In case of default, the customer owes interest pursuant to § 288 of the Civil Code.

3.4 The customer has a right of retention of set-off right with respect to its services and payments only insofar as its counter-claims are based on the same contractual relation and are either undisputed or established by final and binding judgment.

4. Reservation of Ownership

4.1 All deliveries and services are performed exclusively subject to reservation of ownership. Ownership does not pass to the customer until the latter performs all of its obligations arising from the delivery of goods and assembly.

4.2 Acquisition of ownership by the customer to the reserved goods pursuant to §950 of the Civil Code in the event of modification or processing into a new object is excluded. Any modification or processing by the customer shall be made on behalf of the supplier, although obligations may not be created for us thereby. Modification and processing of the goods serve to protect the supplier. In case of attachment, mixing or combination with other goods not owned by the supplier (§947, 948 of the Civil Code), the supplier shall retain co-ownership of the new object in proportion to the value of the retained goods used for the manufactured objects in relation to the total invoice values of the other goods used in the manufacturing process.

If the customer acquires sole ownership of the new object, the Parties hereby agree that the customer must transfer co-ownership of the new object to the supplier in proportion to the value of the retained

goods which were processed, attached, mixed or combined.

The new object resulting thereby qualifies as "retained goods" in terms hereof.

The customer will keep the retained goods for the supplier free of charge. It must insure them in the typical scope against typical risks, such as fire, theft and flood. The customer hereby assigns its claims for compensation from insurance companies or other persons obligated to render compensation arising from damages of the kind mentioned above to the supplier in the amount of the customer's claims.

The customer's claims arising from resale of the retained goods, along with all ancillary rights, are hereby assigned to the supplier, regardless of whether such goods are sold to one or multiple buyers. The assignment with respect to the transfer of co-ownership is accepted by the supplier.

4.3 If the assigned claim against the third-party debtor is included in a current account, the stipulated settlement relates also to claims arising from the current account. The assigned claims serve to secure all rights and claims pursuant to 4.1 above.

4.4 In the event the retained goods are sold by the customer together with other goods not owned by the supplier, whether with or without attachment, mixture, modification and processing, the purchase price claim, in the amount of the price invoiced by the customer for the retained goods, including value-added tax, shall be assigned to the supplier, who accepts such assignment.

4.5 If the retained goods are used by the customer in performance for a supply contract or a contract for works and services, the claim arising from that contract shall be assigned to the supplier in

advance in the scope stipulated in the above provisions.

4.6 The customer is entitled and authorized to resell or otherwise use the retained goods only if the claims identified above are transferred to the supplier. The customer is not entitled to otherwise dispose over the retained goods.

4.7 The customer is entitled to collect claims arising from the resale despite the assignment. The supplier's power of collection remains unaffected by the customer's power of collection. However, the supplier will not collect the claim itself as long as the customer properly performs its payment obligations. At the supplier's request, the customer must notify the supplier of the amount owed under the assigned claim, provide the necessary information and documents and notify the debtors of the assignment. In the event of default in payment, initiation of insolvency proceedings, issuance of an affidavit pursuant to § 807 of the Civil Procedure Code as to financial difficulties or the announcement of a substantial deterioration in the customer's financial situation, the customer's powers to resell the retained goods and collect the claims assigned to the supplier expire effective immediately.

4.8 The reservation of ownership in accordance with the above provisions remains in effect if individual claims of the supplier are included in a current account and the balance is drawn and acknowledged.

4.9 The reservation of ownership in accordance with the above provisions expires once all claims mentioned under 4.1 above are satisfied. At that time, ownership of the reserved goods passes to the customer and the latter is entitled to the assigned claims.

4.10 If the customer fails to perform its obligations arising from the reservation of ownership, all payment obligations become due immediately.

4.11 If the realizable value of all securities existing for the supplier permanently exceeds the supplier's total claims by over 20%, the supplier is obligated to release securities of the supplier's choice.

5. Delivery Period

5.1 The delivery period begins when the order confirmation is sent, although not before the documents, permits, approvals to be obtained by the customer are furnished, and not before receipt of any stipulated advance payment.

5.2 The delivery period is observed if the delivery object leaves the plant or notification of its readiness for delivery is made prior to expiration of the period.

5.3 The delivery period is extended by a reasonable amount in case of unforeseen obstacles outside of the supplier's control, whether in the supplier's plant or that of its subcontractors, such as disruptions in operation, scrapping of goods, delays in the supply of essential raw materials and building materials, insofar as such obstacles demonstrably have a considerable impact on completion of the work or delivery of the delivery object. The supplier is not responsible for the circumstances mentioned above even if they arise in the course of a pre-existing default. In important cases, the supplier will notify the customer as soon as possible of the beginning and end of such obstacles.

5.4 Compliance with the delivery period is contingent upon performance of the customer's contractual duties.

6. Passage of Risk and Obligation to Accept Performance

6.1 Risk passes to the customer no later than shipping of the delivered parts, i.e. upon delivery of the object to the shipper, carrier or any other person selected to execute the shipment, even if partial deliveries are made or if the supplier assumes other performances, such as shipping costs for delivery and assembly. At the customer's request, the shipment will be insured by the supplier against breakage, shipping, fire and flood damage at the customer's cost.

6.2 If shipping is delayed by circumstances for which the supplier is not responsible, risk passes to the customer on the date of readiness for shipment, but the supplier is obligated to obtain the insurance requested by the customer at the latter's request and cost.

6.3 The customer's default in acceptance is equivalent to delivery.

6.4 Partial deliveries are permitted.

7. Warranty

The supplier is liable as follows for defects in delivery and performance, including the absence of express warranted characteristics, to the exclusion of other claims:

7.1 Unusable parts or parts whose usability is impaired will be repaired by the supplier free of charge or replaced, at our option. Replaced parts are property of the supplier. The supplier's liability for third-party products is limited to the assignment of liability claims against the supplier of the third-party product.

7.2 The customer must inspect the goods immediately after delivery by the supplier,

insofar as such is feasible in the proper course of business, and notify the supplier immediately if a defect is discovered.

If the customer fails to make notification, the goods are considered accepted, except in the case of defects which were not recognizable during the inspection.

If such a defect is discovered later, notification must be made immediately after discovery of the defect; otherwise, the goods are considered accepted with respect to that defect.

Notice of defects must be made in writing. Timely mailing of the notification shall suffice for preservation of the customer's rights.

7.3 The warranty period is one year from delivery.

7.4 We will not render subsequent performance for damages arising for the following reasons:

Unsuitable or improper use, defective assembly or commissioning by the customer or third parties, normal wear and tear, erroneous or negligent handling, particularly overloading, use of unsuitable tools, alternate materials, defective construction work and chemical, electronic or electrical influences, insofar as they are not attributable to the negligence of the supplier.

7.5 After a defect is discovered, the supplier shall be notified in writing thereof immediately and given a reasonable grace period in order to make repairs or a replacement delivery. This period begins at the time the defect and the supplier's duty to compensate damages is recognized or established.

If immediate notification is not made or if the supplier is not given the opportunity to

make repairs or make a replacement delivery immediately after discovery of the defect, the supplier is not liable for defects. Only in urgent cases, where there is a danger to safety of the business and the supplier is in default with respect to remedying the defect, does the customer have the right to remedy the defect itself or to have the defect remedied by third parties and request reasonable compensation for its expenses from the supplier.

7.6 The supplier warrants for the replacement object and the repairs in the same manner as for the delivery object. The term of liability for defects in the delivery object is extended by the duration of any interruption of business caused by repair work.

7.7 If the customer chooses to rescind the contract based on defects in title or material defects after subsequent performance fails, the customer shall not have an additional claim for compensatory damages based on those defects. If the customer chooses compensation of damages after subsequent performance fails, the goods remain with the customer if such is reasonable for the latter. Compensation of damages is limited to the difference between the purchase price/workers' wages and the value of the defective object. This does not apply if we cause the breach of contract maliciously.

7.8 The stipulated quality of the goods is essentially limited to the manufacturer's product specification. Public statements, claims or advertising do not constitute descriptions of the quality of the goods or the delivery object in terms of the contract. The customer will not receive an absolute guarantee from us.

7.9 If the customer receives defective assembly instructions from us, we are only obligated to supply defect-free assembly

instructions, and that only if the defect in the assembly instructions precludes proper assembly.

7.10 If modifications or repairs are performed by the customer or third parties without the prior consent of the supplier, any liability of the latter ends thereby.

7.11 Other claims of the customer, including claims for compensation of damages not arising to the delivery object, are excluded subject to Section X.

8. Customer's Right of Rescission

8.1 The customer may rescind the contract if the supplier is permanently unable to perform all deliveries and services prior to the passage of risk.

8.2 In the event of default in supply and payment in terms of Section V of the Terms and Conditions of Supply and if the customer gives the defaulting supplier a reasonable grace period with the express declaration that performances rendered after expiration of that period will not be accepted and if such grace period is not observed due to the negligence of the supplier, the customer is entitled to rescind the contract.

8.3 If inability to perform all delivers and services originally stipulated is caused by the negligence of the customer, the latter remains obligated to render consideration. The same applies for the duration of default in acceptance.

8.4 The customer may rescind the contract if the supplier fails to render performance despite a reasonable grace period. However, the customer has no right of rescission in case of merely slight breach of contract, particularly in case of merely slight defects.

8.5 All other additional claims of the customer are excluded, particularly claims for transformation, termination or reduction, as well as for compensation of damages of any kind, even damages which do not arise to the delivery object itself, unless otherwise stipulated in Section 10.

9. Supplier's Right of Rescission

In the event of unforeseen events in terms of Section V of the Terms and Conditions of Supply, insofar as such events substantially alter the economic significance or content of the performance or have a considerable impact on the supplier's business, and in the event of inability to perform which becomes apparent after the fact, the supplier has the right to rescind the contract, in whole or in part. The customer shall have no claims for compensatory damages based on such a rescission. If the supplier plans to exercise this right of rescission, it must notify the customer thereof immediately after learning of the scope of the event, even if an extension of the supply deadline is initially stipulated with the customer.

10. Liability

The supplier is only liable for pecuniary damages caused in the course of this contractual relation, regardless of the legal grounds (particularly damages arising from default, inability, breach of duty and torts), if the supplier (including its statutory representatives and/or vicarious agents) cause the damages intentionally or through gross negligence.

In cases of slight negligence, the supplier's liability is excluded. However, this exclusion does not apply if the supplier breaches material contractual duties (cardinal duties). In those cases, the amount of liability is limited to typical damages reasonably foreseeable at the time the contract was concluded. Liability for consequential damages is excluded. The exclusions of liability do not apply for injury of life, limb or health. Liability in accordance with the Product Liability Act is unaffected in each case. If and insofar as the supplier's liability is excluded, this exclusion also applies for any personal liability of the latter's employees, workers, representatives and vicarious agents.

11. Choice of Law, Place of Jurisdiction

German law shall apply.

To the extent permitted by law, Krefeld is the place of performance. Krefeld shall be the place of jurisdiction for all disputes arising from the contractual relation, to the extent permitted by law.

12. Severability

If one or more provisions hereof are invalid, the validity of the remaining provisions is not affected thereby; the Parties hereby agree, however, that the invalid provision shall be replaced by the provision which most closely approximates the economic content of the invalid provision.

Jakob Hülsen GmbH & Co. KG
Maysweg 14
47918 Tönisvorst
GERMANY

Fon +49(0) 21 51-9 93 28-0
Fax +49(0) 21 51-9 93 28-98
info@huelsen.de
www.huelsen.de