

## **Terms and Conditions of Purchase of Jenaer Antriebstechnik GmbH**

### **1. Scope:**

- (1) These General Terms and Conditions of Purchase shall apply to all contracts between the Supplier and Jenaer Antriebstechnik GmbH, hereinafter referred to as JAT.
- (2) These Terms and Conditions of Purchase shall apply exclusively; all other general terms and conditions of business shall not apply even if they are not expressly contradicted in individual cases.
- (3) Amendments and supplements to these Terms and Conditions of Purchase as well as all other contractual agreements must be made in writing or text form.

### **2. Conclusion of Contract:**

- (1) The Supplier shall immediately confirm the orders in writing or in text form.
- (2) If we do not receive the order confirmation within a period of one week from the order, we shall be entitled to revoke the order without the Supplier being able to derive any claims from this.
- (3) Delivery call-offs shall become binding if the Supplier does not object within one week after receipt at the latest.

### **3. Prices and Terms of Payment:**

- (1) The agreed price is free to destination and includes packaging.
- (2) Price increases must be acknowledged by the Purchaser in writing. Should the market situation permit a price reduction, the agreed price shall be reduced accordingly. The same applies to master agreements. If no agreement is reached on the new price, the Purchaser shall have the right to withdraw from the contract.

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(3) Receivables shall only become due for payment if invoices, delivery notes and all other shipping documents, in accordance with the information in our order, contain the order numbers and article numbers shown therein.

(4) We shall pay the purchase price within 14 days, calculated from delivery and receipt of invoice, with a 3% discount or net within 30 days after receipt of invoice.

(5) In the event of acceptance of early deliveries, the due date shall be based on the agreed delivery date.

(6) In the event of defective delivery, JAT shall be entitled to withhold payment in proportion to the value until proper fulfilment.

#### **4. Delivery, Delivery Time, Packaging and Contractual Penalty:**

(1) The Supplier shall bear the risk of shipment.

(2) The delivery time stated in the order is binding. Their compliance is an essential obligation of the Supplier. The Supplier is obliged to inform JAT immediately in writing or in text form if circumstances occur or become apparent to him which indicate that the stipulated delivery time cannot be met. Any claims arising from delay in delivery shall remain unaffected. Partial deliveries are not permitted unless we have expressly agreed to them.

(3) The Supplier undertakes to use environmentally friendly packaging that permits reuse or cost-effective disposal. The Supplier is obliged to act in accordance with the Packaging Act and to take back all packaging of the delivered products (transport, outer and sales packaging) free of charge in accordance with the statutory provisions. All important instructions for the contents, storage and transport must be visibly displayed on the packaging and there must be labelling to identify the material used. We undertake to handle any reusable packaging used properly and to make it available to the seller free of charge at the place of delivery in the best possible condition. The Supplier must pack materials, components and assemblies in such a way that impact points / damage and contamination / corrosion can be largely excluded. Packagings shall be manufactured and closed in such a way as to prevent, under normal conditions of carriage, damage to and leakage of the contents from the packaging ready for dispatch, in particular as a result of vibration, change of temperature, humidity or pressure.

(4) In the event of delay, JAT may demand 0.5% for each full week of delay, but not more than a total of 5% of the agreed total price of the delivery or partial delivery as a contractual penalty. The contractual penalty is also due if JAT accepts the delayed delivery. The Supplier may prove to JAT that no damage or substantially less damage has been incurred as a result of the delay.

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Further claims for damages remain unaffected. JAT shall be entitled to deduct the contractual penalty from invoices of the Supplier by way of set-off.

(5) Force majeure or industrial disputes may release the Supplier from its fulfilment obligations for the duration of the disruption and to the extent of its effect. The affected contracting party is obliged to notify the other party of the event in writing without delay. JAT shall be released from the obligation to receive/accept the ordered deliveries in whole or in part and shall be entitled to withdraw from the contract to the extent that the deliveries are no longer usable for JAT due to the delay caused by the force majeure or the industrial dispute, taking into account economic aspects. The same applies if the event lasts longer than two weeks.

## **5. Substances in Products, Liability:**

(1) The Supplier undertakes to comply with the relating obligations under the respective current RoHS Directive and the REACH Regulation or their supplementary or superseding versions.

(2) If the delivered products contain substances whose use is restricted under the RoHS Directive or which are subject to registration under the REACH Regulation, the Supplier shall inform us immediately in writing. A separate authorisation by us is required prior to the delivery of such substances.

(3) The Supplier undertakes to pass on information if delivered articles contain substances of the SVHC candidate list with more than 0.1% (mass fraction) in order to enable the Purchaser to fulfil his information obligations towards his customers. Furthermore, the Supplier shall provide us with the SCIP number of his notification to the ECHA SCIP database as required under the Waste Framework Directive if the article contains SVHC in a concentration relevant for such notification.

(4) The Supplier assures to submit an up-to-date, complete safety data sheet in accordance with the requirements of the REACH Regulation with each delivery of substances and/or mixtures - irrespective of whether the submission is mandatory according to the REACH Regulation or only has to be made upon request.

(5) If the Supplier delivers products in breach of the above paragraphs (1) to (3), they shall be deemed defective. If claims are asserted against JAT by third parties due to violations of the RoHS Directive and REACH Regulation, the Supplier shall indemnify us against the claims for compensation of third parties upon first request.

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(6) Within the scope of its liability for cases of damage within the meaning of subsection (4), the Supplier shall also be obliged to reimburse any expenses arising from or in connection with a recall campaign carried out by JAT. JAT shall inform the Supplier about the content and scope of the recall measures to be carried out - as far as possible and reasonable - and give him the opportunity to comment. Other statutory claims shall remain unaffected.

## **6. Labelling:**

If necessary, the Supplier shall provide the goods with CE, CCC, EAC and/or UL marking. The CE marking shall be accompanied by an EC declaration of conformity or an EC manufacturer's declaration. Relevant certificates, test certificates and verifications shall be supplied free of charge and hazard analyses shall be handed over upon request. Certificates of origin from the Supplier's upstream suppliers shall be submitted upon request.

## **7. Disposal:**

(1) The Supplier undertakes to comply with the provisions of the Act on the Placing on the Market, the Taking Back and the Environmentally Compatible Disposal of Electrical and Electronic Equipment (ElektroG) and to support JAT in fulfilling the obligations arising therefrom.

In accordance with the Packaging Act, the Supplier undertakes to reuse the returned packaging or to recycle it.

## **8. Proofs of Origin, VAT Proofs and Import and Export Regulations:**

(1) JAT shall be entitled to request proofs of origin; the Supplier shall provide these with all the necessary details and duly signed; JAT shall be notified immediately in writing of any changes.

(2) The same shall apply to VAT evidence for foreign and intra-Community supplies.

(3) The Supplier shall inform JAT without delay if a delivery is subject in whole or in part to export restrictions under German or any other law.

(4) In the case of deliveries and services provided from an EU member state outside Germany, the Contractor shall provide its EU VAT identification number. Provided that the Contractor is domiciled in a member state of the European Union, he shall deliver the deliveries duty paid, subject to other agreements between the parties.

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(5) In any case, the Contractor is obliged to observe the foreign trade regulations (in particular the export control and customs regulations) applicable in the country of delivery or at the Contractor's registered office and - if applicable - the regulations of the United States of America. In all sales documents attached to the deliveries (delivery note, invoice, etc.), the Contractor shall identify services requiring an export licence or subject to US (re-)export regulations with the corresponding classification (export list item, number of the European Dual-Use List or Export Control Classification Number), as well as the applicable statistical goods number (HS code) and the country of origin. The Contractor is obliged to submit all declarations and information required under Regulation (EC) No 1207/2001, to permit inspections by the customs authorities and to obtain any official confirmations required, at his own expense.

(6) If the services owed are technologies in the sense of technical knowledge which are subject to the US export control regulations (EAR, ITAR), the European Dual Use Regulation or the German Export List, the Contractor shall be obliged to notify JAT thereof in writing.

## **9. Defective Delivery, Inspection of defects, Warranty and Liability**

(1) The statutory provisions and, exclusively in our favour, the following supplements and clarifications shall apply to our rights in the event of material defects and defects of title in the goods (including incorrect and short delivery as well as improper assembly/installation or defective instructions) and in the event of other breaches of duty by the Seller.

(2) In accordance with the statutory provisions, the Seller shall be liable in particular for ensuring that the goods have the agreed quality when the risk passes to us. In any case, those product descriptions which - in particular by designation or reference in our order - are the subject matter of the respective contract or have been included in the contract in the same way as these GPC shall be deemed to be an agreement on the quality. It shall make no difference whether the product description comes from us, the Seller or the Manufacturer.

(3) In the case of goods with digital elements or other digital content, the Seller shall owe the provision and updating of the digital content in any case to the extent that this results from a quality agreement pursuant to para. 2 or other product descriptions by the Manufacturer or on its behalf, in particular on the Internet, in advertising or on the goods label.

(4) We shall not be obliged to inspect the goods or make special enquiries about any defects upon conclusion of the contract. In partial deviation from Section 442 (1) sentence 2 of the German Civil Code (BGB), we are therefore also entitled without restriction to claims for defects if the defect remained unknown to us at the time of conclusion of the contract due to gross negligence.

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(5) The statutory provisions (§§ 377, 381 HGB) shall apply to the commercial duty to examine and to give notice of defects, subject to the following proviso: Our obligation to inspect is limited to defects which become apparent during our incoming goods inspection by means of external examination including the delivery documents (e.g. transport damage, wrong and short delivery) or which are recognisable during our quality control by means of random sampling. Insofar as acceptance has been agreed, there shall be no obligation to inspect. Moreover, it depends on the extent to which an investigation is feasible in the ordinary course of business, taking into account the circumstances of the individual case. Our obligation to give notice of defects discovered later remains unaffected. Notwithstanding our duty to inspect, our complaint (notice of defect) shall be deemed to have been made without undue delay and in good time if it is sent within 8 (eight) working days (Mon - Fri) from discovery or, in the case of obvious defects, from delivery.

(6) Subsequent performance shall also include the removal of the defective goods and their re-installation, provided that the goods were installed in another item or attached to another item in accordance with their type and intended use before the defect became apparent; our statutory claim to reimbursement of corresponding expenses (removal and installation costs) shall remain unaffected. The expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs and, if applicable, removal and installation costs, shall be borne by the Seller even if it turns out that there was actually no defect. Our liability for damages in the event of an unjustified request to remedy a defect shall remain unaffected; in this respect, however, we shall only be liable if we recognised or were grossly negligent in not recognising that there was no defect.

(7) Without prejudice to our statutory rights and the provisions in para. 5, the following shall apply: If the Seller fails to fulfil its obligation to remedy the defect - at our discretion by remedying the defect (rectification) or by delivering a defect-free item (replacement) - within a reasonable period of time set by us, we may remedy the defect ourselves and demand reimbursement of the expenses required for this purpose or a corresponding advance payment from the Seller. If subsequent performance by the Seller has failed or is unreasonable for us (e.g. due to particular urgency due to particular urgency, risk to operational safety or imminent occurrence of disproportionate damage), no deadline need be set; we shall inform the Seller of such circumstances without delay, if possible in advance.

(8) Otherwise, in the event of a material defect or defect of title, we shall be entitled to reduce the purchase price or to withdraw from the contract in accordance with the statutory provisions. In addition, we are entitled to compensation for damages and expenses in accordance with the statutory provisions.

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## 10. Supplier Recourse

(1) Our legally determined claims for expenses and recourse within a supply chain (supplier recourse pursuant to §§ 478, 445a, 445b or §§ 445c, 327 para. 5, 327u BGB) shall accrue to us without restriction in addition to the claims for defects. In particular, we are entitled to demand exactly the type of subsequent performance (repair or replacement) from the Seller that we owe our customer in the individual case; in the case of goods with digital elements or other digital content, this also applies with regard to the provision of necessary updates. Our statutory right of choice (§ 439 para. 1 BGB) is not restricted by this.

(2) Before we acknowledge or fulfil a claim for defects asserted by our Customer (including reimbursement of expenses pursuant to §§ 445a para. 1, 439 para. 2, 3, 6 p. 2, 475 para. 4 BGB), we shall notify the Seller and ask him in writing for a brief statement of the facts. If a substantiated statement is not made within a reasonable period of time and if no amicable solution is brought about, the claim for defects actually granted by us shall be deemed to be owed to our Customer. In this case, the seller has the burden of proof to the contrary.

(3) Our claims from supplier recourse shall also apply if the defective goods have been combined with another product or processed in any other way by us, our customer or a third party, e.g. by installation, attachment or installation.

## 11. Product Liability/Exemption/Insurance Coverage

(1) Insofar as the Supplier is responsible for damage, they shall be obliged to indemnify JAT against the claims for compensation of third parties upon first request if the cause lies within its sphere of control or organisation and it is itself liable in relation to third parties.

(2) Within the scope of its liability for cases of damage within the meaning of subsection 1, the Supplier shall also be obliged to reimburse any expenses arising from or in connection with a recall campaign carried out by JAT. JAT shall inform the Supplier about the content and scope of the recall measures to be carried out - as far as possible and reasonable - and give him the opportunity to comment. Other statutory claims shall remain unaffected.

(3) The Supplier undertakes to maintain a product liability insurance with an insured sum of € 10 million per personal injury/property damage - lump sum.

(4) Further claims for damages remain unaffected.

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## **12. Limitation of Liability:**

Claims for damages by the Supplier against JAT, irrespective of the legal grounds, in particular due to breach of obligations arising from the contractual obligation and from tort, shall be excluded unless JAT is compulsorily liable, e.g. in the event of intent or gross negligence or due to injury to life, limb, health or material contractual obligations. However, the claim for damages for breach of material contractual obligations shall be limited to the foreseeable damage typical for the contract, unless there is intent or gross negligence or liability for injury to life, limb or health.

## **13. Property Rights:**

- (1) The Supplier warrants that no rights of third parties are infringed in connection with their delivery.
- (2) If a claim is made against JAT by a third party in this respect, the Supplier shall be obliged to indemnify JAT against such claims.
- (3) The exemption shall be granted upon first written request.
- (4) The Supplier's indemnification obligation relates to all expenses necessarily incurred by JAT from or in connection with the claim by a third party.

## **14.Provision/Retention of Title:**

- (1) If JAT provides parts to the Supplier, we reserve title thereto. Processing or transformation by the Supplier shall be carried out for us.
- (2) If the goods subject to retention of title are processed or inseparably mixed with other items not belonging to JAT, JAT shall acquire co-ownership of the new item in proportion to its value.
- (3) The Supplier shall carefully store the provided, processed, transformed or mixed items.
- (4) Tools, moulds, models and other means of production, as well as confidential illustrations, calculations and drawings, which are provided or paid for by JAT to the Supplier, shall remain the property of JAT or shall become the property of JAT and shall be used exclusively for the production of JAT's orders. The Supplier shall surrender these items upon request.

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## **15. Non-Disclosure:**

(1) The Supplier is obliged to treat all commercial and technical details related to the contract, in particular illustrations, drawings, calculations, as business secrets, unless these are generally known. The Supplier must oblige his suppliers accordingly.

(2) In the event of a demonstrable at least negligent breach of this confidentiality obligation, the breaching party shall be liable for compensation for the damage incurred by the other party. In addition, it is stipulated for each provable case of violation of this confidentiality agreement that the violating party shall pay a contractual penalty of Euro 10,000 to the other party.

## **16. Social Responsibility - Environmental Protection:**

(1) The Supplier undertakes to comply with the respective statutory regulations on the treatment of employees, environmental protection and occupational safety and to work to reduce adverse effects on people and the environment in their activities. The supplier should assess the risks along its supply chain to identify vulnerabilities and take measures to enable compliance with applicable regulations. The supplier shall ensure that the goods supplied do not contain [conflict minerals](#) from high-risk areas.

(2) If the Supplier has its registered office or production facility in the territory of the Federal Republic of Germany, it guarantees compliance with the applicable labour law regulations as well as the statutory requirements regarding the minimum wage in accordance with the MiLoG (Minimum Wage Act). The same shall apply to any sub-suppliers used. The Supplier undertakes to indemnify us against liability for the minimum wage insofar as the claim is based on a breach of duties incumbent on him or on subcontractors commissioned by him on the basis of the MiLoG. This also includes related costs, in particular for legal defence.

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**17. Authoritative Version/Choice of Law:**

(1) All delivery contracts shall always be governed by German law - to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods - even if the Supplier is domiciled abroad or the contract is not drafted in German.

(2) In case of doubt, the German version of these Terms and Conditions of Purchase shall be the authoritative version.

**18. Jurisdiction/Place of Performance/Salvatory Clause:**

(1) Place of jurisdiction and place of performance is Jena.

(2) Should individual provisions of these Terms and Conditions of Delivery be invalid or unenforceable or lose their validity due to a circumstance occurring at a later date, this shall not affect the validity of the remaining provisions.

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