

Purchasing Conditions

As of: July 2006



General Purchasing Conditions

1. Validity of the terms and conditions of business

1.1 The terms and conditions below only apply in respect to companies.

1.2 We only order on the basis of the following terms and conditions.

Other terms and conditions are not a component of the contract, even if we do not expressly contradict them. Deviations from the above terms and conditions of business only become effective if we expressly confirm them in writing. If we carry out the delivery or service without express contradiction, it can in no case be deduced from this that we have accepted delivery conditions of the supplier. The assumption of our delivery or service is deemed to be recognition of our general terms and conditions of business.

1.3 The present terms and conditions of business apply for all future business relations, even if the terms and conditions of business are not agreed separately again.

2. Ordering, order confirmation

2.1 Orders, agreements and their changes are only binding if they are communicated or confirmed by us in writing, by fax or email. Orders and agreements placed orally or by telephone require our subsequent written confirmation in order to become legally effective. This applies for oral collateral agreements or changes to the contract.

2.2 Additions, restrictions or other deviations from our orders require our subsequent written confirmation in order to become legally effective. In the event that quantities are exceeded or fallen short of our prior consent must be obtained.

2.3 Our orders must be confirmed in writing, by fax or email. If the confirmation does not occur within 2 working days from the date of ordering, we are entitled to revoke the order.

3. Delivery dates, default in delivery

3.1 Agreed delivery dates and schedules are binding. The delivery time commences on the date of the order.

3.2 If the supplier becomes aware that the agreed dates and schedules cannot be adhered to, he must notify us of this in writing with indication of the reasons and the duration of the delay. The acceptance of the delayed delivery or service does not entail a wavering of the right to damage compensation claims.

3.3 If the agreed dates cannot be adhered to owing to a circumstance for which the supplier is responsible, we are entitled, as we see fit and after unsuccessful expiry of an appropriate period of grace set by us, to demand damage compensation instead of the service or to procure a replacement at the expense of the supplier and/or to withdraw from the contract. If our order is designated as a fixed purchase, the requirement for setting a period of grace shall not apply; we are granted the rights pursuant to paragraph 1, irrespective of a fault of the supplier.

3.4 The transportation risks shall be borne by the supplier.

4. Guarantee, warranty

4.1 The supplier shall guarantee and ensure that all objects, materials and substances delivered by him correspond to the relevant applicable legal provisions, regulations and directives, in particular the EU Directives, as well as the agreed specifications. The supplier shall guarantee and ensure, in particular, the adherence to all data and quality standards which may be indicated by us.

Furthermore, the supplier shall guarantee and ensure that the goods are produced and transported with the corresponding care, hygiene and quality control and all identification obligations, in particular in respect to genetically modified organisms, are complied with.

If, in individual cases, deviations from these regulations may be necessary, the supplier must obtain our written approval for this. The warranty and guarantee obligation of the supplier is not affected by this approval. If the supplier has reservations in regard to the type of realisation required by us, he must inform us of this immediately in writing.

4.2 We are entitled to take samples from deliveries and examine these ourselves or have them examined by expert third parties for their suitability. The results of our examination are definitive. If defects are ascertained, the supplier must bear the costs of the test himself.

4.3 We shall notify the supplier concerning unresolved defects of the delivery or service in writing within 14 days after the delivery, as soon as they are established according to the circumstances of a proper business transaction.

Defects ascertained in an examination pursuant to clause 4.2 are deemed to be hidden defects.

4.4 Defects of the delivery or service causing complaint during the warranty/guarantee period must be rectified by the supplier immediately after being requested to do so and without payment for this including all incidental expenses, according to our choice, either by replacement delivery or repair. More extensive legal claims, in particular claims for a withdrawal, reduction or damage compensation, remain unaffected.

4.5 If the supplier culpably fails to meet his warranty/guarantee obligation within an appropriate period

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specified by us, we can thus carry out the requisite measures ourselves or have them performed by a third party at the expense and risk of the supplier – irrespective of his warranty/guarantee obligation; in urgent cases, the requirement for setting a time limit shall not apply.

4.6 The warranty/guarantee period is 2 years, insofar as no longer warranty/guarantee periods are conceded to us by law or contractually. The warranty/guarantee period begins with the passing of risk. In the case of defective titles, the supplier shall also exempt us from possible claims arising from third parties. A statute of limitation of 10 years shall apply in the case of defective titles.

4.7 In the case of subsequent fulfilment, the supplier is liable to the same extent as for the original item delivered. In the case of replacement delivery within the limitation period of our warranty/guarantee claims, the limitation period shall recommence at the time point at which the supplier has completely fulfilled our claims.

4.8 If we accept back products produced and/or sold by us as a result of defectiveness of the contractual item supplied by the supplier or if the purchase price is reduced by this or if claims are directed against us in another manner, we reserve the right to recourse in respect to the supplier, whereby the setting of a time limit is not necessary for the enforcement of our claims.

Notwithstanding the provision in clause 4.5, the limitation in this case comes into effect at the earliest 2 months after the time point at which we have fulfilled the claims directed against us by the customers, but no later than 5 years after delivery by the supplier.

4.9 If claims are directed against us owing to violation of official safety regulations or statutory provisions or on account of domestic or foreign product liability regulations or laws due to the defectiveness of our product, which can be traced back to a product or activity of the supplier, we are entitled to demand damage compensation from the supplier, or more precisely to the extent caused by the products delivered or activities carried out by the supplier. This damage also comprises the costs of a cautionary recall action. The supplier shall identify the delivery items – if possible – in such a way that they are permanently identifiable as his products. The supplier must implement a quality assurance corresponding to the prior art and suitable to the type and scope and demonstrate this to us upon request. He shall conclude a corresponding quality assurance agreement with us, insofar as we regard this to be necessary. Furthermore, the supplier shall also ensure that he is covered by an insurance policy against all risks arising from product liability to an appropriate extent and provide us with evidence of the insurance upon request.

4.10 The supplier is not entitled to change the delivery object after conclusion of contract or during the delivery period. This also applies for the most minor changes and also if the specifications, dimensions, analyses, recipes, production processes etc. specified by us in individual detail or agreed with the supplier remain unaffected. Such deviations are only permissible after our written declaration of consent. If the supplier culpably fails to meet these obligations, he must then pay all costs for us or third parties, e.g. on account of subsequent examinations, expert reports, additional calculations, reworking, replacement deliveries etc.

5. Prices, dispatch, packaging

5.1 The price agreed in writing is valid. If our order does not contain a price indication, the price indicated in the order confirmation of the supplier is only deemed as agreed after our express written recognition. If the supplier reduces his prices and improves his terms and conditions in the time period between ordering and delivery, the prices and conditions valid on the day of delivery shall then apply.

5.2 The supplier is obliged to accept back or dispose of any packaging material which may be supplied at his own expense.

5.3 A delivery note must be enclosed with each dispatch. Our order number must be indicated in all correspondence concerning our order as well as in the dispatch papers.

Costs arising through failure to comply with our dispatch regulations are incurred at the expense of the supplier.

6. Invoicing and payment

6.1 Invoices must be submitted under consideration of the statutory requirements of invoicing. Payment periods commence after receipt of the invoice. Invoices not properly submitted are only deemed to have been received by us from the time point of correction.

6.2 Payments shall be made, insofar as not otherwise agreed, according to our choice within 14 days after delivery and receipt of invoice with a discount of 3 % for cash from the gross invoice value or within 30 days without discount, whereby we are entitled to offsetting and retention rights, in particular on account of an incomplete or defective delivery, to the extent permitted by law.

6.3 We are entitled to also offset against claims of the supplier with claims to which another company of the Juchem Group is entitled against the supplier.

6.4 The settlement of an invoice is not deemed to be wavering of a complaint in respect to the invoiced goods.

6.5 In the case of invoices according to weight, the weight ascertained by us is definitive.

7. Intellectual property rights

7.1 The supplier guarantees that all deliveries are free from the intellectual property rights of third parties and, in particular, that patents and other intellectual property rights of third parties are not

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violated through the delivery or service and/or use of the item delivered.

7.2 The supplier shall exonerate us and our customers from the claims of third parties arising from any violations of intellectual property rights and shall also bear all costs on first request, which we incur in this context.

7.3 We are entitled to obtain authorisation for the use of the delivered item and services in question at the expense of the supplier.

8. General provisions

8.1 Claims of the supplier to us may only be assigned to third parties with our consent. Payments are only made to the supplier.

8.2 The supplier is obliged to treat all non-manifest commercial or technical details confidentially and not disclose these to third parties. He must also oblige his subcontractors accordingly.

8.3 Documents submitted to the supplier (e.g. drawings, samples and recipes) remain our property. They may not be made accessible to third parties and must be returned to us after completing the order without solicitation.

8.4 Insofar as not expressly agreed otherwise, the place of fulfilment for all rights and duties is our head office.

8.5 The sole place of jurisdiction for all disputes arising from this contract is the court responsible for our head office or, according to our choice, the court responsible for the head office of the supplier.

8.6 The laws of the Netherlands apply.

8.7 Standard clauses must be interpreted according to the currently applicable Incoterms.

8.8 The sole binding language of contract is Dutch or English. This also applies if contracts are also formulated in another language of contract other than Dutch or English.

8.9 Should individual provisions of this contract be or become wholly or partially ineffective, the validity of the remaining provisions shall not be affected hereby. The wholly or partially ineffective provision shall be replaced by a provision whose economic purpose comes as close as possible to that of the ineffective provision. In the event that a provision of these General Sale and Delivery Terms and Conditions becomes ineffective, the statutory regulations shall apply to this extent.