

## Standard terms and conditions – Josef Blässinger GmbH + Co. KG

September 2022

**I. Scope of application, severability**

- Our General Terms and Conditions apply to all current and future legal relationships between the contracting parties regardless of whether or not mention is made of them in subsequent agreements. They apply mutatis mutandis to the performance of work and the performance of services. In case of work performance, taking of the delivered products shall be replaced by acceptance of work, and in case of services by receipt of the service.
- Agreements in addition to, conflicting with or differing from these General Terms and Conditions shall be valid only if they are confirmed in writing by us. The foregoing also applies to any waiver of this written form requirement.
- Terms and conditions of the counterparty (hereinafter referred to as the „Purchaser“) in addition to, conflicting with or differing from these General Terms and Conditions shall not be binding on us unless we had confirmed their application in writing. These General Terms and Conditions shall apply even if we effect delivery to the Purchaser without reservation, having knowledge of the Purchaser's conflicting, additional or differing terms and conditions.
- Our General Terms and Conditions apply only to entrepreneurs exercising their commercial or independent professional activities and to legal entities under public law.
- Rights to which we are entitled by law or other agreements exceeding these General Terms and Conditions shall remain unaffected.
- Should any provision of our General Terms and Conditions be or become wholly or partially invalid or unenforceable, or should there be a gap in these General Terms and Conditions, this shall not affect the validity of the other provisions. The invalid or unenforceable provision shall instead be replaced by a valid or enforceable provision that most closely reflects the purpose of the invalid or unenforceable provision. In the case of a gap, a provision shall be deemed agreed upon that reflects that which, based on the purpose of these General Terms and Conditions, would have been agreed if the parties had considered the matter at the outset.

**II. Formation of contract, scope of delivery**

- Formation of contract outside the online shop:
  - Our offers are non-binding and subject to change.
  - By placing an order, the Purchaser makes us an offer to enter into a contract. The contract is only concluded upon receipt of our order confirmation or when we carry out the goods to the Purchaser. Where goods are carried out, the contract is concluded as soon as we deliver the goods ordered to the Purchaser.
- Formation of contract via the online shop:
  - The merchandise offered on our website does not constitute any binding offer to enter into a contract; it is merely an invitation to the Purchaser to place an order.
  - When ordering via the online shop, the Purchaser can select the goods and place them in his „shopping cart“. A binding order is initiated on the Purchaser's part if, at the end of the order process, the Purchaser clicks the "order subject to payment" button on the „shopping cart" page. The previously entered data and the contents of the shopping cart can be amended at any time before clicking on the button „order subject to payment“. The order process can be cancelled by exiting the online shop. By placing such an order, the Purchaser makes us an offer to enter into a contract. The contract is only concluded upon receipt of our order confirmation or when we carry out the goods to the Purchaser. Where goods are carried out, the contract is concluded as soon as we deliver the goods ordered to the Purchaser. Confirmation of receipt of an order does not constitute acceptance of the offer by us. It merely serves to notify the Purchaser that we have received its order.
  - The contract text is stored by us after submission of an order. However, this is not accessible to the buyer.
- Our written order confirmation is decisive for the scope of delivery or service. An automated order confirmation generated without any signature or individual name constitutes written confirmation.
- Our sales personnel are not authorised to make any oral ancillary agreements or representations beyond the terms of the written contract.
- Figures, drawings, and data on weight, dimensions, performance and consumption as well as other descriptions of the merchandise from the associated offer documentation are approximate unless expressly specified as binding. They do not constitute any agreement or guarantee as to any corresponding quality or durability of the goods unless they were expressly agreed as such in writing. The same applies to the Purchaser's expectations with respect to the goods or their use.

- We reserve title to, and copyright and other intellectual property rights in, all figures, drawings, calculations and other documents. The Purchaser must obtain our prior written consent before disclosing them to third parties.
- In the case of series production or custom-made items, we reserve the right to make short or excess deliveries of up to 10%. Claims for defects in this regard shall be excluded. The excess or reduced quantity shall be charged accordingly.
- We are authorised to delivery in parts, unless delivery in parts is unreasonable for the Purchaser, taking into account our interests.

**III. Prices/payment terms, set-off and right of retention**

- Unless otherwise indicated in the order confirmation, our prices apply "ex warehouse" or "ex works," exclusive of shipping costs, customs fees, packaging and net of applicable value-added tax. The costs incurred in this respect, specifically the costs for shipping, customs and packaging, will be invoiced separately. Statutory value added tax will be itemised separately in the invoice at the statutory rate applicable on the date of invoicing.
- We reserve the right to adjust our prices accordingly, particularly if costs are reduced or increased after the contract has been formed specifically as a result of collective bargaining agreements, changes in the price of materials or currency fluctuations, or if our suppliers change the prices they charge us, for example, as a result of collective bargaining agreements, changes in the price of materials or currency fluctuations.
- The minimum order requirement is EUR 50.00, not including any taxes, costs for packaging, shipping or customs.
- Unless otherwise indicated in the order confirmation, the purchase price shall be due net without any deductions within 30 days from the date of invoice. Invoices for assembly, repairs and tooling costs are due net immediately. If delivery is made in instalments, partial invoices will be issued. The periods of payment shall run separately for each partial invoice. Payment shall be deemed remitted on the date on which we are able to dispose of the purchase price. Default in payment shall be governed by statutory provisions.
- Discounts for early payment may be deducted subject to prior written agreement. Agreed discounts only apply to the invoice amount not including costs for packaging, shipping or customs charges and are subject to full payment of all outstanding liabilities of the Purchaser at the time of effecting the discount.
- We accept bills of exchange or cheques as conditional performance only, not in lieu of performance, and only subject to prior written agreement. Our claim shall not be deemed satisfied until such time as we are able to dispose of the equivalent value, without having to reckon with chargeback claims. Charges for direct debiting, discounts and bill charges as well as interest shall be borne by the Purchaser and are due and payable immediately.
- The Purchaser may only set off claims that are uncontested or have been declared final and binding by a court of law. The Purchaser may only exercise a right of retention to the extent its counterclaim is based on the same contractual relationship.
- One half of any one-off costs, such as tool and development costs, will be charged directly after the contract is concluded. The remaining half will be due and payable upon delivery of the first series parts.

**IV. Product information / design and form modifications**

- The Purchaser shall provide us with a comprehensive written description of the conditions under which the deliverables are intended to be deployed.
- We reserve the right to make design and form modifications, to the extent this involves industry-standard deviations or to the extent the deviations are within DIN standards or to the extent the modifications are not substantial and are reasonable for the Purchaser. Modifications shall be deemed not substantial and reasonable for the Purchaser when they do not result in any change in functionality.

**V. Delivery and delivery time, release orders and force majeure**

- Delivery shall be ex works [EXW Incoterm 2020 [English version]].
- Information as to delivery periods and delivery dates is not binding unless the delivery period or delivery date has been confirmed in writing as "binding."
- Our delivery obligation is subject to the reservation of due and proper, in particular timely, delivery by our own suppliers, unless we are responsible for the improper, in particular late, delivery by our suppliers. If our sup-

pliers fail to duly and properly deliver, we may rescind the contract. We shall notify the Purchaser without undue delay in the event that we exercise our right of rescission and shall refund any payments already made by the Purchaser.

- The delivery period shall commence on the date on which the order is confirmed, however not until all the documents, permits or approvals to be procured by the Purchaser have been provided, any agreed payment has been received, any letter of credit to be issued has been opened or proof that any agreed collateral has been furnished. In case a date for delivery has been specified, the delivery date shall be reasonably postponed if the Purchaser fails to provide the documents to be procured or issue permits or approvals in a timely manner, or if any payment is not timely remitted to us or any letter of credit to be issued is not timely opened or proof that any agreed collateral has not been timely furnished.
- The delivery time shall be deemed satisfied if we make the goods available to the Purchaser at the named place within the delivery period or by the delivery date.
- In case of delay in delivery, the Purchaser may rescind the contract after a reasonable grace period set by the Purchaser has expired without success. A reasonable grace period in this regard shall be at least 14 days, or in the case of custom-made items, at least one month.
- If it has been agreed that the Purchaser will call up the goods on the basis of individual call orders and the Purchaser fails to duly and properly call up the goods, in particular fails to do so in a timely fashion, despite us having set a reasonable grace period, we may deliver the goods and invoice them, rescind the contract or claim damages, or reimbursement of expenses. The duty to pay damages or reimburse expenses shall not apply if the Purchaser is not responsible for failing to duly and properly, in particular timely, call up the goods.
- If we or any of our suppliers experience unforeseeable obstacles beyond our control and which, despite having exercised due care under the given circumstances, we are unable to avoid, such as an event of force majeure (e.g., war or natural disasters), delays in the delivery of key raw materials, industrial actions, substantial disruptions in operations, regulatory action, energy shortages, a pandemic or other circumstances for which we are not responsible, and as a result we are unable to perform our contractual obligations, in particular to deliver the goods, we shall be released from our performance obligation for the duration of the event and a reasonable time thereafter for resuming work, without being subject to an obligation to pay damages to the Purchaser. To the extent we are released from our delivery obligation, we shall refund any payments already made by the Purchaser. Upon expiry of a reasonable period, we have the right to rescind the contract in whole or in part if any such event continues for more than three months, and we no longer have an interest in performing the agreement. We shall notify our customers of any such circumstances without undue delay.

**VI. Transfer of risk / insurance / return of packaging**

- Risk of accidental loss or accidental deterioration shall pass to the Purchaser as soon as we make the goods available to the Purchaser at the named place at the agreed delivery time. The foregoing shall also apply if delivery is made in instalments or if we have agreed to provide other services (e.g. transport costs).
- If handing over is delayed due to circumstances for which the Purchaser is responsible or at its instruction, risk shall pass to the Purchaser on the date on which notice is given that the goods are ready for collection or shipping.
- If the Purchaser defaults on acceptance or the Purchaser breaches its duty to cooperate, we may claim compensation for any losses, including any additional expenses that we incur as a result. The foregoing shall not apply in those cases where the Purchaser was not responsible for breaching its duties of cooperation. Risk of accidental loss or accidental deterioration of the goods shall pass to the Purchaser as soon as the Purchaser defaults on acceptance.
- With the exception of pallets, transport and all other packaging under the German Packaging Regulation (Verpackungsverordnung - VerpackV) are not returnable. The Purchaser must dispose of packaging at its own expense. The Purchaser must take delivery of delivered items, even when they have immaterial defects without this affecting the Purchaser's claims for defects.

**VII. Retention of title**

- Until such time as the purchase price is paid in full, including any ancillary claims, and until such time as all other claims arising from the business relationships have been paid, title to the delivered goods shall remain

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with us. Until that time, subject to authorised resale under subsection (3), the Purchaser may not pledge the goods or transfer title to third parties as a security interest or make any other disposals that would endanger our title. The Purchaser holds the retained goods in custody for us free of charge

2. The Purchaser shall treat the retained goods with care for the duration of the retention of title. In particular, the Purchaser must at its own expense insure the goods at their replacement value against damage due to fire, water or theft. At our request, the Purchaser must submit proof that it has obtained such insurance. The Purchaser hereby assigns to us any and all claims for compensation arising under such insurance. We hereby accept the assignment. Insofar as the assignment of claims is not permitted, the Purchaser hereby instructs the insurer to make any payments solely to us. The foregoing does not affect any further claims on our part.
3. If the Purchaser processes, combines or mixes the retained goods with other goods, we shall acquire a co-ownership interest in the new item equivalent to the ratio of the invoice value of the retained goods to the other processed, combined or mixed items when they are processed, combined or mixed. The same applies if the goods are combined or mixed with other items not owned by us such that we lose our full ownership interest therein. The items created by virtue of processing, combining or mixing shall in any other respect be subject to the same provisions as those applicable to the retained goods.
4. The Purchaser may sell the retained goods in the ordinary course of business provided it is not in default of payment with respect to our purchase price claims.
5. The Purchaser hereby assigns to us any and all claims against third parties accruing to it from the resale of the retained goods, regardless of whether those goods are resold without or after having been processed, combined or mixed. We hereby accept the assignment. Insofar as the assignment of claims is not permitted, the Purchaser hereby instructs the third-party debtors to make any payments solely to us.
6. The Purchaser is authorised to recover the claim in trust even after the assignment. We may restrict the collection authorisation based on a legitimate interest and revoke it for good cause, particularly in the event of default in payment. We may require the Purchaser to disclose to us the claims assigned to it and their debtors, provide all information needed for collection, surrender all the associated documentation and disclose the assignment to its debtor. The collected amounts must be remitted to us without undue delay. In the event of a blanket assignment by the Purchaser, the claims assigned to us must be expressly excluded.
7. Upon request by the Purchaser, we shall at our discretion release the collateral to which we are entitled as provided above to the extent the liquidation value thereof exceeds the claim to be secured by 15% or more.
8. If the Purchaser acts in breach of contract, specifically if it defaults on payment, we may, upon expiry of a reasonable grace period to be set by us, rescind the contract without this affecting our other rights. The Purchaser must surrender the retained goods to us without undue delay. The Purchaser hereby agrees to grant our appointed agents entry during normal business hours onto the grounds or building on or in which the retained goods are located for purposes of retrieving the retained goods.
9. Prior to any seizure, mandatory levy of execution or other encroachment on our proprietary rights by third parties, the Purchaser shall inform us and provide us with any and all information necessary to give such third parties notice of our proprietary rights and to cooperate with whatever action we take to protect the retained goods. The Purchaser shall bear the costs of any action to remedy third-party encroachments, in particular any intervention proceedings, unless the Purchaser was not responsible for the breach of duty causing the third-party's encroachments. The foregoing does not affect any further claims on our part.
10. In the event deliveries are made in other jurisdictions where such retention of title provisions do not operate to secure interests to the same extent as they do in the Federal Republic of Germany, the Purchaser hereby grants us a corresponding security interest. Insofar as further action is required, the Purchaser shall make every effort to grant us such security interest without undue delay. The Purchaser shall cooperate in taking any and all action necessary and expedient for ensuring the validity and enforceability of such security interests.

**VIII. Claims for defects**

1. The Purchaser's right to assert claims for defects shall be contingent on it having inspected the delivered goods upon delivery and, where reasonable, conducted a trial processing or trial use, and having reported to us in writing any apparent defects without undue delay, in no event later than seven days from the date of delivery. Hidden defects must be notified to us in writing promptly upon their discovery. The Purchaser must provide a written description of the defects when it sends us its report. The Purchaser also has to comply with the requirements, instructions and terms and conditions contained in the technical instructions, installation, assembly, and operating instructions and other documents for the specific goods during mounting, connection, start-up, operation, and maintenance of the goods, in particular carry out maintenance properly and provide evidence of it and use the recommended components. Claims for defects arising as a result of the breach of this obligation are excluded.
2. If a defect is found, we may, at our own discretion, repair or replace the defect (collectively referred to as "Subsequent Performance"). If we effect Subsequent Performance, we shall bear the costs of transportation, labour and materials incurred to the extent said costs are not increased by virtue of the fact that the delivered goods were transported to a location other than the place of performance. Replaced parts are our property and must be returned to us. Should it be impossible to effect Subsequent Performance by one or the other means or by either means, or if Subsequent Performance could be effected only at unreasonable expense, we may refuse such Subsequent Performance. As long as the Purchaser has not met its payment obligations to us in an amount equivalent to that part of performance which is free of defects, we may refuse to effect Subsequent Performance.
3. If defective goods are not repaired or replaced within a reasonable period, or if the attempt to repair and/or replace them fails, the Purchaser may claim a reduction in the purchase price (reduction in the contract price) or rescind the contract, without prejudice to any claims for damages or reimbursement of expenses it may have.
4. The Purchaser's right of rescission shall be precluded if it is unable to effect restitution of the performance received and this is not due to the fact that restitution is impossible based on the nature of the performance received, or through some fault of our own, or that the defect did not become evident until the goods were processed, combined or mixed. The right of rescission shall also be precluded if we are not responsible for the defect, and the Purchaser must pay compensation in lieu of effecting restitution.
5. No claims shall arise for defects caused by inappropriate or improper use of the goods, defective installation and assembly by the Purchaser or third parties, natural wear and tear, particularly in the case of wear parts, improper or careless handling, improper modifications or maintenance work by the Purchaser or third parties which were not approved by us in writing beforehand.
6. Claims of the Purchaser for reimbursement of expenses instead of damages in lieu of performance are excluded to the extent that the expenses would not have also been incurred by a reasonable third party.
7. Unless otherwise agreed in writing in the individual case, we assume no guarantee, specifically no guarantee of quality or durability.
8. Claims for defects shall become time-barred one year from the date of delivery of the goods. If the defective goods were used in a building or structure in accordance with their customary use and caused the building or structure to be defective, or a building or structural defect exists, the limitation period shall be five years. This limitation period shall also apply to claims arising in tort which are based on a defect in the goods. The limitation period shall commence upon delivery of the goods. The reduced limitation period shall not apply to our unlimited liability for damage caused by any breach of guarantee or injury to life, limb or health, wilful conduct or gross negligence or product defects, or to the extent we have assumed a procurement risk.
9. Claims arising out of any supplier recourse shall remain unaffected by this section.

**IX. Liability**

1. Our liability is unlimited for damage caused by any breach of guarantee or by injury to life, limb or health. The same applies to damage caused by wilful conduct or gross negligence, or to the extent that we assumed a procurement risk. We shall be liable for slight negli-

gence only if we breach material obligations ensuing from the nature of the contract which are crucial for achieving the contractual purpose. If such obligations are breached, or in the event of default or impossibility, our liability shall be limited to such damages that must be expected to typically occur within the context of the contract. Statutory liability for product defects remains unaffected.

2. Where our liability is excluded or limited, the exclusion or limitation shall also apply to personal liability on the part of our employees, workers, representatives and vicarious agents.

**X. Product liability**

1. The Purchaser shall not alter the goods, specifically it shall not alter or remove any existing warnings against hazards associated with improper use of the goods. If the Purchaser breaches said duty, it shall, as between the parties inter se, indemnify us against third-party product liability claims, unless the Purchaser is not responsible for the defect triggering such liability.
2. If as a result of the goods having a product defect we are required to recall the product or issue a product warning, the Purchaser shall give its best efforts to cooperate with whatever action we deem necessary and expedient and assist us, particularly with collecting the necessary customer data. The Purchaser shall bear the costs of the product recall or warning, unless it is not responsible for the product defect or the ensuing damage under product liability law principles. The foregoing does not affect any further claims on our part.
3. The Purchaser shall notify us in writing without undue delay about any risks associated with the use of the goods and any potential product defects that become known to it.

**XI. Confidentiality**

1. The parties are required to maintain strict confidentiality with respect to all business secrets to which they have access for a period of five years from delivery and, unless required in the course of the business relationship, must not record, pass on, use or exploit such information. This obligation also extends to items that constitute business secrets. In particular, the recipient of the information is prohibited from obtaining the trade secrets embodied therein by means of reverse engineering a product or item. Business secrets means all information which is designated as confidential or secret or which can be identified as a business secret based on other circumstances, in particular technical information (e.g. drawings, product and development descriptions, methods, procedures, formulas, techniques as well as inventions) and commercial information (e.g. prices as well as sources of supply).
2. The above duty of confidentiality shall not apply if the information is proven to have been known to the receiving party or was in the public domain or generally available prior to the commencement of the parties' contractual relationship, or becomes generally known or available through no fault on the part of the receiving party. The receiving party bears the burden of proof.
3. The parties will ensure by means of appropriate contractual arrangements with their employees and agents, particularly their freelancers and the contractors and service providers who perform work for them, that such parties are also obliged to the same confidentiality for a period of five years after delivery.

**XII. Language, place of performance and jurisdiction**

1. The contract language is English.
2. Unless otherwise agreed in writing, place of performance for the obligations of the contracting parties arising out of any and all legal relationships shall be our registered office.
3. The legal relationship between the Purchaser and us shall be governed by the laws of the Federal Republic of Germany. The provisions of the UN Convention on Contracts for the International Sale of Goods (CISG) are expressly excluded.
4. If the Purchaser is a merchant as defined in the German Commercial Code, a legal entity under public law or a public special asset, the exclusive place of jurisdiction for any and all disputes arising out of the contractual relationship shall be our registered office. We are also authorised to file suit at the registered office of the Purchaser or with any other courts of competent jurisdiction.

Josef Blässinger GmbH + Co. KG, Ostfildern – Germany