

General Terms and Conditions of Purchasing and Ordering of Josef Gartner GmbH (AEBB, as at 01.06.2017)

1. General

- 1.1 Apart from the order, only the following Terms and Conditions apply to the relations of Josef Gartner GmbH (hereinafter referred to as "Customer") with entrepreneurs, public legal persons and special funds under public law (hereinafter referred to as "Supplier") in supply contracts. Terms and Conditions of the Supplier or third parties are not an integral part of the contract, even when the Supplier uses them as the basis of its offer or of other declarations and the Customer does not expressly object.
- 1.2 Within the framework of the current business relations, these Terms and Conditions remain in force, even when they are not expressly agreed again.
- 1.3 The content and the scope of the performance obligation are only determined by the written order. Verbal agreements shall only be binding if they have been confirmed by the Customer in writing.

2. Prices

- 2.1 The prices stated in the orders are fixed prices.
- 2.2 All main and supplementary services required to supply the goods by the deadline to the agreed delivery address, particularly packaging and transport, are included in the price.

3. Scope of services

- 3.1 The services of the Supplier also include:
- 3.1.1 comprehensive quality control measures that extend to the entire scope of the services including the monitoring of compliance with the predefined specifications for parts and materials purchased from third parties; these measures also extend to loading and transport;
- 3.1.2 labelling of the individual parts and packaging units according to the guidelines of the Customer;
- 3.1.3 packaging which minimises the risk of damage to the items to be delivered during loading and transport with customary means of conveyance and protects the items to be delivered from deterioration caused by the weather, especially wetness, ice, snow, ultraviolet radiation and the formation of mould during storage outdoors for up to 3 months;
- 3.1.4 packaging that enables secure loading of the packaging units solely by means of tensioning straps on the loading platform of trucks, without the items to be loaded or the packaging being damaged or having to be reinforced in some way;
- 3.1.5 packaging that enables access to the goods in the order specified by the Customer;
- 3.1.6 the autonomous transport to the delivery address, in which the delivery sequence specified by the Customer is to be met;
- 3.1.7 handing over of all required permits, licences, test certificates, confirmations of conformity, operation manuals and maintenance and service instructions;
- 3.1.8 the immediate delivery of the applicable safety data sheet for dangerous goods.
- 3.2 Partial deliveries are only permissible if the Customer has agreed to them in writing. In the case of agreement, the obligation to deliver is, however, only fulfilled with the last partial delivery.
- 3.3 If an "ex works" delivery is agreed, the transport obligation as defined in 3.1.6. does not apply. However, the Supplier must ensure that packaging is safe for transport and that loading is carried out in the packaging and delivery sequence specified. The Supplier shall accept liability for all risks associated with transport.

4. Delivery address

- 4.1 The deliveries are made to the address specified in the order.
- 4.2 If no delivery address is specified, deliveries are to be sent to Josef Gartner GmbH, Gartnerstraße 20, D-89423 Gundelfingen.

5. Delivery dates and periods

- 5.1 All delivery dates and periods are binding regulations of the time of performance as defined in Article 286, paragraph 2, no. 1 BGB (German Civil Code).
- 5.2 If a period, rather than a calendar day is agreed for the delivery, this begins with the receipt of the order by the Supplier. If the order is not based on an offer made by the Supplier or if it differs from the contents of the offer, the delivery period begins with the receipt of the written confirmation by the Customer.
- 5.3 If the Supplier recognises circumstances that could cause a delay to the delivery, it must inform the Customer without delay of the length of the expected delay. The same applies when the Supplier could have recognised the circumstances because of its proximity to the matter in hand and its special knowledge.
- 5.4 The Customer's continued interest in performance is bound by the punctuality of the Supplier's services (time is agreed to be of the essence). If the deliveries and services due are not carried out, or not carried out according to the contract, the Customer is entitled, also without determining a grace period as defined in articles 281, 323 and 440 of the BGB (German Civil Code) and without regard to the relevance of the breach of duty, to withdraw from the contract or to demand compensation on the grounds of non-fulfilment. This provision shall apply without prejudice to Article 325 BGB (German Civil Code).
- 5.5 If the deliveries and services are not carried out or not carried out according to the contract and the Supplier is obliged to pay compensation for damages or expenses as a result, a flat rate of 15% of the price shall be deemed to be agreed. Substantiation of further damages on the part of the Customer is reserved.

6. Defects

- 6.1 The items to be delivered shall be used for buildings. The Supplier is free to prove that a different use is intended.
- 6.2 For their protection, the goods should remain in their packaging, where possible, until they are used. To date, an incoming inspection is only possible for obvious damages in transport and such defects that are identifiable without interfering with the packaging.
- 6.3 The precondition for the existence of the obligation for inspection and reporting of complaints as defined in article 377 HGB (German Commercial Code) is the delivery of all partial deliveries.
- 6.4 In the case of overt defects, especially transport damages, the Customer has to report these according to Article 377 para. of the HGB (German Commercial Code) within two weeks of delivery.
- 6.5 Defects, which are not overt defects, must be reported by the Customer within two weeks of discovery.
- 6.6 The Supplier is responsible for breaches of duty by its agents, all sub-suppliers and the manufacturer.
- 6.7 As the subsequent fulfilment, the Customer can choose between the remedying of the defect or the delivery of a defect-free item.
- 6.7 The Supplier is not entitled to refuse the subsequent fulfilment because it is only possible with disproportionate costs.
- 6.8 A subsequent fulfilment is deemed to have failed after the first unsuccessful attempt.
- 6.9 The expenses to be borne by the Customer for the purposes of the subsequent fulfilment also include the deinstallation and installation costs. If the defective items are already linked to other items or have already been handled in some way and the defectiveness of the items thus produced occurred through this, the expenses include all costs that are necessary in order to establish the freedom from defectiveness of the items that are linked or have been produced in another way as a result of handling.

7. Invoices and payments, assignments

- 7.1 Invoices must not be sent together with the goods. They must be submitted separately in duplicate.
- 7.2 Additional charges are excluded when they are not included in the final invoice and are also not reserved.
- 7.3 Payments are always made subject to the proviso of the correctness of the delivery and invoicing. An error on our part is excepted.
- 7.4 Payments have no effect on the Supplier's performance obligation and on the Customer's right to complain. Payments made do not count as acceptance or renouncement of the complaint due to defectiveness and do not imply any acknowledgement.
- 7.5 The assignment of claims asserted by the Supplier against the Customer is excluded. Exceptions to this are assignments to suppliers of the Supplier, who are entitled to reserve title to the supplied items.

8. Security of the supply chain

Insofar as the Supplier itself is not an Authorized Economic Operator (AEO) as defined in the Community Customs Code and the associated EU regulations, it undertakes to take all measures necessary to guarantee the total security of the supply chain. It shall especially ensure, that (a) goods, that are produced, stored or transported on behalf of the AEO, supplied to it or transferred to it, produced, stored, processed or handled and loaded at secure permanent establishments and at secure transshipment sites and are protected from access by unauthorised persons during production, storage, processing or handling, loading and transporting, that (b) reliable staff is employed for production, storage, processing or handling, loading, transporting or transferring of such goods and that (c) business partners, that act on its behalf, are informed that they must also take measures to secure the supply chain. The Supplier will give the Customer a written security declaration for this purpose, according to the example supplied by the German Federal Ministry of Finance.

9. Final provisions

- 9.1 The place of performance is Gundelfingen.
- 9.2 The place of jurisdiction is agreed to be Gundelfingen.
- 9.3 Only German law applies, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).