

General Terms and Conditions of Josef Mack GmbH & Co. KG Gießener Str. 49, 35305 Grünberg

§ 1 Sphere of Application

1. This English translation of the Terms and Conditions serve for information purposes only. In case of doubt the German version shall prevail.
2. These Terms and Conditions shall be valid for all current and future contractual agreements with Josef Mack GmbH & Co. KG, unless otherwise expressly agreed between the Parties (individual agreements).
3. Unwritten additional agreements shall be considered as binding only if confirmed by Josef Mack GmbH & Co. KG in writing.

§ 2 Conclusion of Contractual Agreements

1. Offers of Josef Mack GmbH & Co. KG can be subject to changes and are valid for immediate decision. The Customer's order shall be considered as binding.
2. The contractual agreement is concluded when an order is submitted by the Customer and a letter of confirmation is sent or the order is completed, generally by consigning the goods by Josef Mack GmbH & Co. KG.

§ 3 Performance Obligation and Delivery

1. In particular in case of customer-specific orders, over-delivery or short delivery amounting to up to 10% may occur. §§ 5 (2), 8 (1) are to be applied.
2. Josef Mack GmbH & Co. KG shall be entitled to make partial deliveries if reasonable for the Customer.
3. Times for delivery shall be regarded as approximate unless the Parties have agreed upon binding times for delivery in writing. Delivery is made in a timely manner if the goods have left the factory or the Customer was informed about readiness for delivery within the agreed timeframe.
4. Times for delivery shall be extended adequately if the delay is due to circumstances outside of Josef Mack GmbH & Co. KG's control, e.g. if delivery of a supplier was delayed. The same shall be applied in cases of force majeure, operational disruptions, particularly shortages of raw materials or energy, machine or tool failure, strikes, lockouts, transport problems or other sets of circumstances for which Josef Mack GmbH & Co. KG is not responsible. In the aforementioned cases, the Customer shall be promptly notified of the delay. The Customer is entitled to withdraw from the agreement if the delay is not reasonable for him.

§ 4 Cooperation Obligations of the Customer

The Customer shall be obliged to provide any information required for the production of the ordered goods. This includes in particular information about the planned use of the product and/or requirements under which the goods are intended to be used.

§ 5 Prices and Payment Conditions

1. All prices are in Euro and exclusive of VAT and any costs for packaging and shipping ex factory. Prices shall not be binding for follow-up orders.
2. If there are over-deliveries or short deliveries, the actually delivered number of units shall be invoiced.
3. Partial deliveries shall be considered as separate transactions and shall therefore be invoiced separately.

4. If the Customer orders a certain maximum quantity of goods (framework order) and calls them off in partial quantities at determined times (call-off orders), Josef Mack GmbH & Co. KG shall be obliged to deliver according to the agreed conditions so long as the call-off orders overall do not extend the scope of the agreed maximum quantity according to the framework order. For the quantity of goods which have been ordered and exceeding this scope, the current daily prices of Josef Mack GmbH & Co. KG shall be valid unless the parties agree otherwise.
5. The amount of invoice shall be due and payable upon delivery of goods and shall be paid within ten days with 2% discount or within 30 days without any discount. Amounts of invoice up to EUR 25 shall be payable immediately without any discount.
6. If the Customer is in default, Josef Mack GmbH & Co. KG reserves the right to invoice default interest amounting to 8% above the ECB base rate, without the necessity of sending a dunning letter. The right of Josef Mack GmbH & Co. KG to assert more extensive damage compensation claims shall remain unaffected.
7. The goods shall remain property of Josef Mack GmbH & Co. KG until full payment is made. Once payment is received the title shall be transferred. The Customer shall not be entitled to dispose of the goods which are subject to title retention. In case title retention expires due to processing of supplied goods, the Customer shall assign joint ownership of the goods created by means of processing to Josef Mack GmbH & Co. KG. Delivery of these new goods shall be replaced by Customer's taking the goods into custody for Josef Mack GmbH & Co. KG on a free-of-charge basis.
8. The Customer shall be permitted to offset claims only against legally established or undisputed claims or, if the Customer is a merchant, to exercise rights of retention in relation to such payment claims.

§ 6 Shipping, Packaging, Transfer of Risk

1. The goods shall be packaged in line with the industry standards. Cost of packaging shall be invoiced to the Customer.
2. Unless otherwise agreed, mode of dispatch is up to the discretion of Josef Mack GmbH & Co. KG.
3. The risk of destruction of the goods shall be transferred to the Customer as soon as Josef Mack GmbH & Co. KG has delivered the goods to the shipper. This shall also be valid if Josef Mack GmbH & Co. KG pays the cost of the shipping. If the shipment is delayed at request of the Customer, risk of destruction shall be transferred to the Customer on the date of notification of readiness for dispatch.

§ 7 Tools

If tools are custom manufactured for the Customer, Josef Mack GmbH & Co. KG shall be entitled to invoice the corresponding tool cost components separately from the price of the goods. The Customer shall not acquire any rights of ownership or use and/or proprietary rights in regard to the respective tools.

§ 8 Notice of Defects, Defects Liability

1. Customer shall inspect received goods immediately upon receipt and give notice of any existing defects in writing, unless they are not recognizable. Over-delivery or short delivery according to § 3 (1) shall not be regarded as defect.
2. In the event that a defect is discovered, Josef Mack GmbH & Co. KG is entitled to choose either to remedy or to replace goods. Any additional claims of the Customer are excluded.
3. If the rectification or the replacement is not made within an appropriate timeframe, the Customer may demand a corresponding reduction of the purchase price or the rescission of the contractual agreement. The timeframe shall be not less than four weeks.

§ 9 Liability, Damages

Josef Mack GmbH & Co. KG shall be liable without limitation in cases of intention and gross negligence as well as in cases of mandatory liability and/or product liability under the law. Apart from that, any liability for indirect damages or consequential damages as well as for lost profits is excluded. Liability for slight negligence shall be limited per claim to the sales price of the respective contractual object,

insofar a liability limitation is legally possible. Josef Mack GmbH & Co. KG is free to avail itself of the defense of contributory negligence, particularly if the Customer violates its cooperation obligations specified in § 4.

§ 10 Limitation Period of Liability, Damages

The limitation period concerning defect liability is a year, unless longer periods are stipulated by compulsory law or the Customer is a consumer. This is not applied to damages based on injury to body or health or which arise from intention or gross negligence.

§ 11 Intellectual Property, Usage Rights

1. In case the goods are produced and supplied based upon a design specifically prescribed by the Customer (by means of a drawing, sample or other specifications), the Customer warrants that no intellectual property right of any third party is violated (in particular patents, utility patents or other proprietary or copyrights). The Customer shall indemnify Josef Mack GmbH & Co. KG in this context from any third-party claims and grant Josef Mack GmbH & Co. KG all required usage rights.

2. Josef Mack GmbH & Co. KG reserves all rights of ownership and intellectual property rights in regard to drawings, samples, catalogues and other documents created and supplied by Josef Mack GmbH & Co. KG. The Customer is expressly prohibited from making these available to third parties, in particular not to competitors of Josef Mack GmbH & Co. KG.

§ 12 Arbitration

If the Customer is a consumer, Josef Mack GmbH & Co. KG is willing to participate an alternative dispute resolution on an arbitration board. Competent is **Allgemeine Verbraucherschlichtungsstelle des Zentrums für Schlichtung e.V., Straßburger Str. 8, 77694 Kehl am Rhein.**

§ 13 Miscellaneous

1. Individual or all rights and obligations arising out of this contractual agreement may be assigned to third parties with the approval of the other party only.

2. In the event that individual provisions of these General Terms and Conditions should be or become null and void, the rest of the Terms and Conditions shall remain valid.

3. Place of performance is the registered business address of Josef Mack GmbH & Co. KG.

4. These General Terms and Conditions are governed by the law of Germany. Insofar as legally permitted, place of jurisdiction is the local district court Amtsgericht Gießen, Germany.

(V.2/21.06.2018)