

# General Terms and Conditions of JO-BA GmbH, Bremen

## 1. Scope

1.1 JO-BA GmbH sells only on the basis of the following terms and conditions, the content of which is recognised as binding by placing an order or by accepting the order confirmation. The Terms and Conditions also apply to all future business relationships, even if they are not explicitly agreed again. These conditions are deemed to be accepted at the latest with the receipt of the goods or services. Any counter confirmation on the part of the client with reference to his own terms and conditions is hereby contradicted.

1.2 All contractual agreements must be made in writing, otherwise they are not effective.

## 2. Prices, Offers and Order Confirmations

2.1 All offers are subject to change and are non-binding. Orders and agreements which are received by telephone or by a representative of JO-BA GmbH shall only be deemed effective if they have been confirmed in writing by JO-BA GmbH. All prices quoted by JO-BA GmbH are net prices plus VAT at the amount applicable at the time of conclusion of the contract or the delivery date.

2.2 The prices quoted in offers are subject to the proviso that the order data on which the offer is based remain complete and unchanged. Prices are ex-works. Unless separately stated in the offer, the price does not include packaging, freight, postage, insurance and other shipping costs.

2.3 The order confirmation sent must be legally signed and returned to JO-BA GmbH within 48 hours. If no objections are raised against the order confirmation within 5 working days, the contract is deemed to be legally binding and must be fulfilled by JO-BA GmbH within the specified deadline.

2.4 If the order is not executed on the part of JO-BA GmbH, as well as on the part of the client as contractually agreed, a contractual penalty may become due. In this case, JO-BA GmbH reserves the right to claim and make due a contractual penalty amounting to 20% of the net order volume.

2.5 The price basis is based on the current raw material prices. Should these increase overproportionally (more than 10 %), then the company JO-BA GmbH will be entitled to adjust the price accordingly.

## 3. Terms of Payment

3.1 In the absence of any other agreement payment is net cash immediately after submission of invoice.

3.2 Discounts or other deductions may not be made. In the case of an order value of up to EUR 500, as well as for first orders, JO-BA GmbH is entitled to demand cash payment on collection of the goods or pre-payment.

3.3 From the time of default, JO-BA GmbH is entitled to demand from the client, who is a merchant within the meaning of the Commercial Code, default interest of 8% above the respective base rate. The same applies to a client who is not a merchant within the meaning of the Commercial Code. In this case, default interest is 5% above the base rate. Furthermore, JO-BA GmbH reserves the right to assert damage claims exceeding this amount.

3.4 In the case of cheques or bills of exchange accepted for payment, the payment shall only be deemed to have been made upon redemption. All related expenses are to be borne by the client.

3.5 If the client fails to meet his payment obligations, suspends payment, or judicial settlement procedures or insolvency proceedings are initiated on his assets, the entire balance shall become due immediately, even if bills of exchange with a later maturity have been accepted.

3.6 The offsetting of counterclaims is only permissible insofar as these are undisputed or legally established claims.

## 4. Delivery, Transfer of Risk, Packaging and Delivery Dates

4.1 Place of performance of the order is the registered office of JO-BA GmbH. If JO-BA GmbH sends the goods to another location at the request of the client, the risk shall pass to the client when JO-BA GmbH delivers the workpieces to the freight forwarder, carrier or person or institution otherwise specified for delivery of the shipment. The despatch is carried out in any case at the expense of the client.

4.2 Packaging is carried out exclusively at the expense and risk of the client as from our works. The client shall inform JO-BA GmbH in writing if transport-safe packaging is required. The packaging performed by JO-BA GmbH is purely a gesture of goodwill and cannot replace forwarding company-compatible packaging. The liability of JO-BA GmbH excludes transport damage as a result of packaging that is not suitable for transport. Transport charges and incidental transport costs incurred by JO-BA GmbH will be invoiced to the client accordingly.

4.3 Delivery dates apply as from clarification of all information from the client which is required for execution of the order, as well as necessary documentation. In the case of delays in delivery, the client has solely the right to withdraw from the contract. This right applies, however, only in the case that he has set JO-BA GmbH a reasonable grace period for delivery after expiry of the delivery date.

## 5. Warranty

5.1 Obvious defects must be reported immediately after receipt of the goods, hidden defects immediately after their discovery within the warranty period, in writing and with precise details of the alleged defects. If the respective notice of defects is not received in time and in the proper form, the performance of JO-BA shall be deemed to be in conformity with the contract. All warranty claims are excluded in this case.

5.2 In the case that JO-BA GmbH is responsible for the defect that has been properly notified, it has the right to remedy the complained service/performance or to deliver a faultless performance/service. In any case, JO-BA GmbH must be given the opportunity to verify this in advance. Should this not be the case or if changes are made to the objects under complaint without the consent of JO-BA GmbH, the liability shall cease to apply.

5.3 In the event of unsuccessful remedy or subsequent delivery by JO-BA GmbH, the client is entitled to withdraw from the contract or to reduce the invoice amount.

5.4 In the case of products which have been produced by JO-BA GmbH after approval of drawings by the client, a return to JO-BA GmbH is excluded.

5.5 Slight deviations in the colour of the goods, based on the RAL tones specified by the client, are permissible in specific production and do not constitute grounds for withdrawing from the contract.

5.6 JO-BA GmbH is not able to reimburse costs for any spoilage or changes in shape occurring during processing as a result of the burn-in process, cracks or the like, or for any impairment of the dimensional or fitting accuracy of moving parts.

5.7 No guarantee is given for the resistance to light of colour tones. Only the light fastness values of the colour values that can be achieved whilst observing all the necessary conditions can be specified. Minor colour deviations, even in the case if individual shades/tones, are permissible.

5.8 JO-BA GmbH does not assume any guarantee for the adhesion of powder coating on any workpieces made of aluminium, which are not chrome-plated or subjected to a comparable process by JO-BA GmbH.

5.9 No guarantee can be given for the surface appearance of hot-dip galvanised workpieces, as this is dependent on the quality of the hot-dip galvanising. The client is, therefore, responsible for informing the galvanising company that the workpieces must be suitable for powder-coating. In addition, a waiting period of 8-12 days should be allowed between the galvanising and the powder coating. In the case of adhering white rust, no warranty can be given for the adhesion of the powder coating. For reasons of corrosion, hot-dip galvanised workpieces are not reground by JO-BA GmbH unless this is at the specific request of the client. It should be noted, however, that the layer thickness of the galvanising is reduced by such treatment.

5.10 In order to ensure sufficient adhesion of the powder coating, the workpiece must be absolutely free from grease, scale, rust, rolling skin and impurities of any kind. If the client does not agree with the type and extent of pre-treatment recommended by JO-BA GmbH for whatever reason, JO-BA GmbH does not assume any liability for the adhesion of the powder coating.

5.11 The warranty period for commercial transactions under the Commercial Code is one year. The period of limitation begins with the acceptance/approval of the performance of JO-BA GmbH.

## 6. Design changes

6.1 Design changes, in particular with regard to dimensions, materials and outer designs of the JO-BA products, are permissible at any time, provided that they do not prevent the usability of the goods for the contractually stipulated purpose.

6.2 JO-BA GmbH is under no circumstances obliged to carry out changes on already sold goods.

## 7. Liability

JO-BA GmbH is liable for any culpable violation of substantial contractual obligations. Outside of such obligations, liability is in principle limited to intent or gross negligence and the amount of compensation for typical, foreseeable damage. The liability is limited to replacement/partial replacement of the damaged object (at the discretion of JO-BA in goods or money). The liability amount is in any case limited to the respectively agreed order value. Further compensation, regardless of the legal grounds, is excluded. (e.g. indirect damage such as transport, assembly, dismantling and personnel costs incurred, penalties for delay and loss of profit).

## 8. Retention of title & contractor's lien

8.1 The delivered goods shall remain the property of JO-BA GmbH until payment of the purchase price and repayment of all claims arising from the business relationship and in connection with the object of purchase as reserved goods. If, in connection with payment of the purchase price by the client, a mutual liability of JO-BA GmbH is established, the reservation of title shall not expire before the bill of exchange is accepted by the client as drawee.

8.2 The client is entitled to dispose of the goods in the ordinary course of business. Extraordinary disposals, in particular seizures or assignments by way of security, are not permitted. In the case that third parties justify or assert rights to the goods, the client must inform JO-BA GmbH immediately.

8.3 If the products are repainted, the client hereby assigns his ownership and co-ownership rights to the modified products and stores these with due commercial care for JO-BA GmbH.

8.4 If the goods are mixed or combined with other objects, the client hereby assigns his ownership and co-ownership rights to the mixed stock or new object and stores these with due commercial care for JO-BA GmbH.

8.5 In the case of contract coating orders, JO-BA GmbH receives a contractor's lien on the workpieces of the client which are to be coated. This contractual lien expires as soon as the client has completely settled all claims. This also applies to other contractual transactions between the business partners, providing they are undisputed or titled.

8.6 In the case of payment suspension, application or opening of insolvency proceedings, the right of resale of the client expires. In the event of late payment and the other cases listed in the preceding sentence, JO-BA GmbH shall have the right to demand proof of the whereabouts of the goods from the client. If the entire remaining debt due under the above conditions is not paid immediately, JO-BA GmbH is entitled to demand immediate surrender of its goods to the exclusion of any rights of retention.

## 9. Assignment / Maintenance / Retention

9.1 The client is not entitled to assign claims against JO-BA GmbH to third parties without written consent from JO-BA GmbH.

9.2 The client may set off a counterclaim only to the extent that the counterclaim from JO-BA GmbH is undisputed or legally established.

9.3 The client is not entitled to assert any right of retention against JO-BA GmbH due to any counterclaims arising from other legal transactions; the previous paragraph applies accordingly.

## 10. Place of Performance, Jurisdiction and Applicable Law

10.1 Place of payment of the purchase price as well as other performances of the client and the total performances of JO-BA GmbH is 28309 Bremen.

10.2 In business transactions with merchants, the exclusive place of jurisdiction of both parties for any disputes arising directly or indirectly from the contractual relationship, including documents, bills of exchange and cheques, is Bremen. JO-BA GmbH is, however, entitled to assert claims against the client by judicial process at his place of residence or domicile.

## 11. Partial invalidity

Should individual provisions of a contract for deliveries and performances which are part of these conditions be or become ineffective, this shall not affect the validity of the remaining provisions of the contract.