



General Terms and Conditions of Delivery and Service

1 Scope of application

- 1.1 The following General Terms and Conditions of Delivery and Service (hereinafter: "**Terms and Conditions**") apply to all sales and deliveries of products, services and manufacturing of any products (hereinafter: "**Delivery Item**") from JUMO GmbH & Co. KG (hereinafter: "**Supplier**") to a customer, partner, purchaser, or distributor (hereinafter: "**Purchaser**"). Supplier and Purchaser (hereinafter: "**Parties**" or "**Party**") expressly agree that these Terms and Conditions apply exclusively. Supplier does not acknowledge Purchaser's terms and conditions which are in conflict with or, which deviate from these Terms and Conditions, unless Supplier expressly accepts their validity in writing. These Terms and Conditions also apply if Supplier performs the Delivery Item without reservation even though he is aware of conflicting or deviating terms and conditions of Purchaser.
- 1.2 Those employees of Supplier, which do not have signatory powers, are also not authorized to conclude verbal agreements, verbal amendments to these Terms and Conditions or to make other verbal arrangements.
- 1.3 In addition to these Terms and Conditions, the Supplemental clauses "*Licensing of Software Products for Industrial Automation (power supply, measuring, shifting, steering)*", available at <http://EG13-en.jumo.info>, shall apply to the licensing of software from Supplier to the benefit of Purchaser.
- 1.4 In addition to these Terms and Conditions, the Supplemental clauses "*Development of Software Products for Industrial Automation (power supply, measuring, shifting, steering)*", available at <http://EG14-en.jumo.info>, shall apply to the development of software by Supplier to the benefit of Purchaser.
- 1.5 These Terms and Conditions shall only apply to enterprises as defined in Section 14 para. 1 of the German Civil Code (BGB).
- 1.6 These Terms and Conditions shall also apply in their respective version as a framework agreement to future contracts, without Supplier having to refer to them again in each individual case; Supplier shall immediately inform Purchaser of any changes to these Terms and Conditions.
- 1.7 Individual written agreements concluded with Purchaser in individual cases (including side agreements, supplements and amendments) shall have priority over these General Terms and Conditions in any case.
- 1.8 Legally relevant declarations and notifications which have to be submitted by Purchaser to Supplier after conclusion of the Contract must be made in writing in order to be valid.

2 Offer, order confirmation, conclusion of contract and term of contract

- 2.1 The offers issued by Supplier are not binding Angebote sind freibleibend.
- 2.2 The extent of the performance obligation of Supplier is determined solely by Supplier's written order confirmation (hereinafter: "**Contract**").
- 2.3 The Contract is concluded for the duration of the performance. If the Contract provides for continuing obligations, it shall be concluded for a period of twelve (12) months, which shall in each case be tacitly extended for a period of twelve (12) months. Each Party is entitled to terminate a contract providing for continuing obligations in writing at any time without compensation by giving a notice period of one (1) month. In the event of termination, Purchaser must purchase from Supplier all manufactured or purchased customer-specific Delivery Items for the agreed price.

3 Copyright and reservation of ownership to drawings, etc.

- 3.1 Supplier reserves the ownership of drawings, sketches, cost estimates and other documents attached to Supplier's offers and order confirmations without restriction. Purchaser may only use them for the agreed purpose and shall not reproduce them or make them available to third parties without the consent of Supplier. Upon request, the documents themselves and all reproductions thereof shall be returned to Supplier.
- 3.2 Insofar as such documents are protected by copyright, Supplier also reserves his copyright to the documents.

4 Delivery time and default

- 4.1 The binding nature of dates and terms of service and delivery (hereinafter: "**Terms of Delivery**") requires Purchaser to provide Supplier with documents and other required information in a timely manner, and not to delay his cooperation or other material contractual duties, in particular, payment obligations.

- 4.2 In the case of labor disputes and in the event of unforeseen circumstances which are beyond Supplier's control (for instance war, acts of terrorism, riots or similar events), or circumstances for which another manufacturer is responsible, the Terms of Delivery shall be reasonably extended. This shall also apply if the circumstances arise in case of an already existing delay.
- 4.3 Partial deliveries respectively performances are allowed insofar as they can be reasonably accepted by Purchaser.
- 4.4 If Supplier defaults and Purchaser incurs damages as a result, Purchaser is entitled to demand liquidated damages for default. This shall amount to 0.5 % for each full week of delay, but in total not more than 3 % of the net value of the respective part of the delivery that, as a result of the delay, cannot be used on time or according to the Contract. Further claims shall be determined exclusively according to Section 9 of these Terms and Conditions.

5 Transfer of risk

- 5.1 The risk is transferred to Purchaser when the Delivery Item is handed over to the freight forwarder, carrier, or collector, or during transport with the means of transport of Supplier, but at the latest upon leaving the warehouse of Supplier respectively the manufacturer. Insofar as an acceptance procedure has been agreed but a fixed acceptance deadline has not been agreed upon, Purchaser shall accept the Delivery Item within a period of fourteen (14) days from the notification of completion. If Purchaser does not confirm the acceptance within the set period and omits to notify at least one defect, the Delivery Item shall be deemed to have been accepted.
- 5.2 If Purchaser has placed an order on-call, he must call up the Delivery Item – when ordering several Delivery Items, all of them – within twelve (12) months from the date of the order, unless the Parties have agreed otherwise. If Purchaser does not call up the Delivery Item(s), Purchaser is in default of acceptance and the risk passes to him.

6 Prices and terms of payment

- 6.1 The prices stated by Supplier are ex works plus sales tax at the legal amount valid at the time of delivery, packaging excluded. The packaging shall be charged separately.
- 6.2 The purchase price must be paid within 30 days of receipt of invoice free of transaction charges.
- 6.3 Supplier reserves the right to request from Purchaser the presentation of an irrevocable and unlimited bank guarantee in the amount of the contractual price upon acceptance of the order.
- 6.4 Prices are valid for four (4) months from receipt of the order confirmation by Supplier. If a cost element changes within the total cost (e.g. personnel costs or hourly rates or verifiable third-party material costs), Supplier reserves the right to adjust the price proportionally, but only in relation to the corresponding cost element and insofar as it is reasonable for Purchaser. The resulting new price shall apply from the first day of the calendar month following receipt of the written notification.
- 6.5 If payment by instalments has been agreed upon, the respective instalment must be paid in advance by the 3rd working day of the respective payment period, unless Parties have agreed on a specific payment date. If Purchaser defaults on payment for more than one instalment, the total outstanding amount shall become due. This shall also apply if payment by instalment has been agreed upon after the due date. Supplier's right to charge default interest shall remain unaffected by an agreement to pay by instalments after the due date.
- 6.6 The retention of payments or the offset against Purchaser's claims, which are disputed by Supplier, not recognized, not legally upheld, or not ready for decision in pending court proceedings, are excluded. A right of retention can only be exercised if the counterclaim is based on the same delivery contract.
- 6.7 In the case of non-compliance with the terms of payment or if Supplier becomes aware, after concluding the Contract, that payment is at risk due to Purchaser's inability to pay, Supplier reserves the right to carry out outstanding deliveries only against payment in advance or provision of security deposits.
- 6.8 In the case of change requests by Purchaser after conclusion of the Contract, Supplier reserves the right to adjust the agreed prices as well as the agreed Terms of Delivery correspondingly.

**7 Retention of title**

- 7.1 Supplier retains ownership of all Delivery Items until full payment of all claims under the Contract respectively Contracts with Purchaser. In the case of a current account, the total reserved property shall serve to secure the outstanding balance claim. If the estimated value of the reserved property, serving as security for Supplier, exceeds the outstanding claims against Purchaser by more than ten percent (10 %), Supplier shall release securities of his choice upon request of Purchaser.
- 7.2 During the existence of the retention of title, Purchaser may neither pledge nor otherwise transfer the Delivery Item as security. In the event of seizure, confiscation, or other disposal by third parties, Purchaser shall immediately inform Supplier.
- 7.3 In the event of conduct by Purchaser that is in breach of Contract, in particular in the event of default of payment, Supplier reserves the right to take back the goods and to rescind the Contract after the unsuccessful expiry of a reasonable deadline set for Purchaser and Purchaser is obliged to surrender the goods.
- 7.4 The enforcement of the retention of title, as well as the seizure of the Delivery Item by Supplier, shall be deemed as withdrawal from the Contract.
- 7.5 Supplier is entitled to insure the Delivery Item at Purchaser's expenses against fire, water and other damage insofar as Purchaser has not demonstrably concluded the insurance himself.
- 7.6 Purchaser is entitled to resell the Delivery Item in the ordinary course of business provided that he receives payment from his customer or makes the reservation that ownership of Purchaser passes to his customers only after he has fulfilled his payment obligations. Purchaser already transfers to Supplier all future claims in the amount of the invoice which accrue to him as a result of the resale to a third party without the need for further explanation. Supplier accepts the transfer. After transfer, Purchaser is authorized to collect the claim. Supplier reserves the right to collect the claim himself as soon as Purchaser does not fulfil its payment obligations and is in default of payment.
- 7.7 The working and processing of the Delivery Item by Purchaser shall always take place in the name and on the behalf of Supplier. If the Delivery Items are processed, Supplier shall acquire joint ownership of the new item in proportion to the value of the Delivery Item delivered by him. This shall also apply if the Delivery Item is connected or mixed with other items belonging to Purchaser. If the connection or mixing takes place in such a manner that Purchaser's item has to be regarded as the main item, it is deemed to have been agreed that Purchaser shall transfer proportional joint ownership to Supplier. Purchaser keeps the resulting sole ownership or joint ownership for Supplier.

8 Purchaser's right of withdrawal or reduction and other liabilities of Supplier

- 8.1 Purchaser is entitled to withdraw from the Contract if the entire contractual performance becomes definitely impossible for Supplier. This shall also apply in case of Supplier's inability to perform. Purchaser is also entitled to withdraw from the Contract if, upon ordering identical items, performance of part of the delivery becomes impossible because of the quantity and Purchaser has a justified interest in rejecting the partial delivery. If this is not the case, Purchaser can reduce the price on a pro rata basis.
- 8.2 If there is a delay in performance such as defined by Section 4 of these Terms and Conditions and Purchaser grants Supplier an appropriate grace period, Purchaser is entitled to withdraw if this grace period is not observed.
- 8.3 If impossibility of contractual performance arises after the expiry of the agreed acceptance period or due to Purchaser's fault, the latter remains obliged to fulfil its obligations.
- 8.4 Purchaser is also entitled to withdraw if Supplier has let expire unsuccessfully, due to his fault, a reasonable grace period granted to Supplier to repair or improve a defect for which Supplier is responsible as defined in these Terms and Conditions. Purchaser shall also have the right of withdrawal in other cases where Supplier fails to repair a defect or to make a replacement delivery.
- 8.5 Further claims for compensation for damages of any kind, including damages not caused to the Delivery Item, shall only exist in the cases of Sections 9 and 10 of these Terms and Conditions. In other respects, Supplier's liability for compensation is excluded.

9 Liability

- 9.1 Claims for compensation for damage of any kind – irrespective of the material and legal grounds – which are not caused to the Delivery Item, shall only exist:
- in the event of culpable breach of duty by Supplier;
 - in the event of grossly negligent breach of duty by Supplier or in the event of culpable or grossly negligent breach of duty by Supplier's legal representatives or subcontractors;
 - in the event of injury to life, body or health caused by Supplier or one of Supplier's statutory representatives or subcontractors;
 - in the event of culpable breach of essential contractual obligations, insofar as the achievement of the contractual purpose is at risk;
 - in cases where liability is assumed under the Product Liability Act ("*Produkthaftungsgesetz*") for defects on the Delivery Item, for personal injury or for material damage on privately used items;
 - in the event of defects which were fraudulently concealed or the absence of which had been guaranteed by Supplier.
- 9.2 The liability of Supplier is however limited to the foreseeable damage.
- 9.3 Further claims for compensation are excluded.

10 Liability for defects

- 10.1 All demonstrably defective Delivery Items shall, at the choice of Supplier and at his discretion, be repaired, replaced or re-delivered free of charge. Discovery of such defects must be reported to Supplier immediately in writing and in a detailed manner.
- 10.2 No guarantee is assumed by Supplier for damages or defects caused by the following reasons:
- natural wear and tear;
 - inappropriate or incorrect use;
 - incorrect alterations or repairs made without the prior consent of Supplier;
 - defective assembly or commissioning by Purchaser or third parties;
 - defective or negligent treatment of the Delivery Item, in particular with regard to the existing operating instructions;
 - in the event of excessive exposure;
 - when using unsuitable equipment and replacement materials;
 - the combination of the Delivery Item with another item, insofar as this combination has not previously been expressly approved by Supplier and the damage or defect results from this combination.
- 10.3 After concertation with Supplier, Purchaser shall give Supplier the time and opportunity required in order to be able to carry out all improvements and replacements which, at the discretion of Supplier, appear necessary. Purchaser is only entitled to correct the defect himself or through third parties and to demand reasonable compensation from Supplier for its costs in urgent cases of danger to operational safety, of which Supplier must be informed immediately, or if Supplier is in default with the correction of the defect.
- 10.4 Supplier shall bear the direct costs arising from the correction of the replacement to the extent required by law, provided that the complaint is considered to be justified.
- 10.5 If the supplementary performance fails, Purchaser may withdraw from the Contract or reduce the remuneration.
- 10.6 Unless otherwise agreed, Supplier shall ensure that deliveries are performed free from property rights and copyrights of third parties, however solely in the country of the place of delivery. Should a breach of property rights in the country of the place of delivery nevertheless occur, Supplier shall either procure a corresponding right of use from the third party or modify the Delivery Item to such an extent that it no longer breaches the property rights. Insofar as this is not possible for Supplier under appropriate and reasonable conditions, both Purchaser and Supplier reserve the right to withdraw from the Contract.
- 10.7 In case of deficiencies in title, the provisions contained in Sections 9 and 10 of these Terms and Conditions apply correspondingly whereas claims of Purchaser are only valid if (i) Purchaser notifies Supplier immediately in writing of any claims enforced by third parties, (ii) Purchaser neither directly nor indirectly acknowledges an alleged infringement (iii) all possibilities of defense remain preserved without limitation for Supplier, (iv) the infringement is not based on the fact that Purchaser has altered the Delivery Item or used it in a manner not in accordance with the Contract, and (v) the deficiency in title is not attributable to instructions of Purchaser.

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10.8 Further claims to compensation for damages of any kind, including such damages not caused to the Delivery Item, only exist in accordance with Section 9 of these Terms and Conditions.

11 Statute of limitation

11.1 Claims for defects – on any legal ground whatsoever – shall become time-barred twelve (12) months from beginning of the legal prescription. This shall not apply if it concerns defects of a building or items for a building, which have caused the defect, as well as in the case of entrepreneurial recourse in accordance with Sections 478, 479 BGB. Notwithstanding sentence 1, the statutory terms for claims shall also apply in the event of claims under Section 9 of these Terms and Conditions.

11.2 Used Delivery Items are sold under the exclusion of any liability for material defects. This exclusion shall not apply in cases under Section 9.1 of these Terms and Conditions.

12 Installation and services

12.1 Unless agreed otherwise in writing, assembly work and services (repairs and maintenance) shall be remunerated. The remuneration includes, in particular, travel expenses, daily allowances as well as the usual rates for working hours, and surcharges for overtime, night work, Sunday work, and work on public holidays, for work under difficult circumstances and for planning and monitoring.

12.2 The costs of preparation, waiting and travel time shall be charged separately to Purchaser by Supplier. If the assembly or commissioning is delayed without the fault of Supplier, Purchaser shall bear, to an appropriate extent, all costs for the waiting time and for further necessary travel.

12.3 Purchaser shall provide at his own expense the necessary support staff with the required tools in the required number. Furthermore, Purchaser shall provide sufficiently large, suitable, dry and lockable rooms for the storage of machine parts, equipment, materials, tools, etc. In order to protect the property of Supplier, as well as the assembly and service staff, Purchaser shall take the same measures which he would take to protect his own property. If the nature of Purchaser's business requires special protective clothing and equipment for the assembly and service staff, it shall be provided by Purchaser.

12.4 The assembly staff of Supplier and his subcontractors are not authorized to carry out any work which is not part of Supplier's obligation to deliver and install or assemble the Delivery Item or which is initiated by Purchaser or a third party without consultation of Supplier.

12.5 If assembly is carried out by Purchaser or by a third party commissioned by him, the appropriate operating and assembly instructions of Supplier must be observed.

12.6 When performing (repair and maintenance) services, Supplier can decide at his discretion, based on his experience and technical assessment, whether Supplier performs the services at Purchaser's premises or at his own premises. If the service is carried out at Supplier's premises, Purchaser shall submit the item to Supplier. After the service has been performed, Supplier shall return the Delivery Item to Purchaser.

12.7 Insofar as Purchaser does not report alterations he made, the devices shall be reset to the standard configuration after the service. If Purchaser informs Supplier of altered settings and programs, Supplier shall configure and program the Delivery Item accordingly when performing the service. However, Purchaser is required to check these settings. Supplier does not assume any guarantee for this. Furthermore, Supplier does not assume any responsibility for the functionalities after incorporation of the Delivery Item into the system of Purchaser.

12.8 Supplier's service technician is merely authorized to carry out services on parts other than those supplied by Supplier if a quick and easy solution is to be expected, and if Purchaser expressly places a corresponding additional order.

12.9 Supplier's technician can cancel the service if it turns out that he is not able to provide repair in the expected short timeframe. In this case, Purchaser shall pay the time-based remuneration as well as the material used in carrying out the additional order. If, based on a professional judgment, the technician could have completed the service work in the expected short timeframe and did not realize this due to gross negligence or if he acted with willful misconduct, Purchaser owes no payment for the canceled service.

12.10 It is Purchaser's responsibility to verify whether claims arising from delivery and maintenance contracts with third parties are affected or lost as a result of the granting and execution of an additional order. Supplier does not assume any liability for this.

12.11 This affects among other things the following obligations on the part of Purchaser:

- When delivering equipment to be maintained and in the event of return deliveries, Purchaser shall always strictly comply with the valid version of the Ordinance on Hazardous Substances;
- In particular, Purchaser shall package and label devices which have been filled with hazardous substances, or which otherwise have come into contact with them, in accordance with the corresponding legal provisions;
- In addition, Purchaser must expressly refer in the service order to the devices' connection with hazardous materials as defined in the Ordinance on Hazardous Substances and, if necessary, enclose a safety data sheet in accordance with EU Regulation (EC) N° 1907/2006 (REACH);
- If no devices such as the ones manufactured by Supplier are involved, for which the latter continues to be liable for defects, Supplier can refuse at any time to accept a service order for devices which refers to the connection to hazardous substances;
- In case of failure to comply with the Ordinance on Hazardous Substances, Supplier reserves the right to assert possible claims for compensation; this shall not apply if Purchaser or his agent are not responsible for the breach of duty.

13 Export control regulation

13.1 The contractual performance is provided under the condition that the performance does not conflict with national or international regulations, in particular export control conditions, embargos, or other restrictions. Purchaser undertakes to provide all information and documents required for the export or shipment. Delays due to export inspections or approval procedures shall suspend the Terms of Delivery. If the required approvals are not issued or if the contractual performance cannot be approved, the Contract shall be deemed not to have been concluded with regard to the affected parts.

13.2 Supplier is entitled to terminate the Contract without notice if termination is required for Supplier to comply with national or international legal provisions. In the case of such termination, the enforcement of damages or other rights by Purchaser due to the termination or its consequences is excluded.

14 Confidentiality

14.1 The Parties are obliged to keep all confidential information, business transactions and documents of the other Party, of which he or his employees become aware of, secret from third parties and to make them inaccessible to third parties in any way.

14.2 The confidentiality obligation shall not apply if the information is publicly known, the information was already known by the Party upon receipt, the information was made available to the Party by third parties without obligation to maintain confidentiality, the information must be made available to third parties for the performance of the contractual obligation (e.g. subcontractors) and those third parties have been committed to secrecy.

15 Place of performance, place of jurisdiction, and concluding provisions

15.1 The headquarters of Supplier are the place of performance and the sole place of jurisdiction for all disputes directly or indirectly arising out of the contractual relationship with undertakings, legal entities under public law or special-funds under public law.

15.2 The law of the Federal Republic of Germany shall apply to these Terms and Conditions and to the entire legal relationship between Supplier and Purchaser with the exclusion of the UN Convention on the International Sale of Goods (CISG).

16 Final provisions

16.1 If a Party has to process personal data under the Contract, it will comply with the Federal Data Protection Act ("*Bundesdatenschutzgesetz*") and other data protection provisions, including the General Data Protection Regulation (Regulation (EU) No. 2016/679 of the European Parliament and of the Council of 27 April 2016). The Party has to coordinate required data protection measures with the other Party, and enable it to verify compliance with the reached agreements.

16.2 If one or more provisions of these Terms and Conditions or the Contract are deemed, in whole or in part, to be invalid, unenforceable or illegal, this shall not affect the validity, enforceability and legality of the remaining provisions of the Contract. In this case, the Parties undertake to

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replace the wholly or partially invalid, unenforceable or illegal provision with retroactive effect by a new provision, which, in a legally admissible manner, comes as close as possible from an economic and financial point of view to the content of the invalid, unenforceable or illegal provision.

- 16.3 Purchaser allows Supplier to have the contractual obligations partially or completely carried out by subcontractors.
- 16.4 All obligations provided in the Contract or in the Terms and Conditions, which naturally continue beyond the termination of the Contract, shall remain in force after the termination of Contract, in particular all financial obligations that one Party must fulfill in accordance with the Contract in favor of the other Party.
- 16.5 If Supplier has made no objection to a document, communication or act of Purchaser, this shall never constitute a waiver of the application of the provision.
- 16.6 No Party can be held liable if it breaches its contractual obligations or fails to perform a delivery or service in time for reasons of force majeure beyond its control. This includes, in particular, natural disasters, acts and omissions of Purchaser, interruptions of business activity, technology-related disasters, epidemics, material shortages, strikes, blockades, traffic congestion, public interventions, delivery delays of suppliers, as well as the impossibility to acquire manpower and raw materials from common networks. If the contractual performance for one of these reasons is delayed by more than one (1) month, each Party has the right - without any right to compensation from the other Party - to terminate the contract in writing for the quantities affected by the interruption of the contractual performance.