

GENERAL SALES TERMS AND CONDITIONS (GTCS)

1 Scope of application

These General Terms and Conditions (GTCS) shall apply to all offers for sale, to sales and deliveries of products which have been self-manufactured or purchased from third parties (Products) of JOMOS Brandschutz AG (we / us) to our clients (you / you).

The General Terms and Conditions shall apply exclusively. Your General Terms and Conditions which are in conflict with or deviate from them shall be applicable only if they have been confirmed by us in writing.

2 Orders and offers

Your orders shall become binding once we confirm the order in writing (contract). This shall also be applicable to orders in our online shop.

Our offers in quotes, brochures, catalogues, price lists and other product descriptions and documents - including in electronic form - shall not be binding until the order has been confirmed in writing.

3 Delivery

The delivery periods and delivery dates indicated in our order confirmations shall be complied with by us to the best of our abilities, but they shall be deemed to be approximative only and, in particular, they shall not be understood to be fixed dates.

If we are in default of delivery, there shall be no liability for any damage caused by the delay or for any damage suffered as a result of non-performance. Your rights shall be limited to demanding subsequent performance.

4 Prices and terms of payment

Unless otherwise agreed in writing, the prices shall be those indicated in our price list in force at the point in time when the order is confirmed.

Except as otherwise agreed in writing, our prices shall be understood to be net prices plus the value added tax applicable from time to time (VAT) ex our warehouse. Any ancillary costs incurred, e.g. in respect of transportation packaging, freight, insurance, customs, taxes, documents, etc. shall be at your expense.

Unless agreed otherwise, the payment term is thirty (30) days net from the invoice date. Payment shall be made in Swiss francs. After expiration of the payment deadline, you owe us default interest in the amount of 5% per year without a reminder.

If we have to send a reminder in respect of an invoice amount due, we shall be authorised to charge a reminder fee of CHF 30.00 per reminder.

No offsetting of your claims against us shall be permissible.

5 Place of performance and transfer of risks

We deliver ex warehouse which is also the place of performance for delivery. If there is a contract with you to this effect, we will dispatch the Products also to a different destination (sale by delivery to a place other than the place of performance). We will determine the type of dispatch, in particular the forwarding company, the dispatch route and the packaging. Taking out transportation or other insurance shall be up to you.

When the Products are handed over to you, the risk of accidental loss or perishing of the Products shall pass to you, in case of the sale by delivery to a place other than the place of performance, the said risk shall pass upon handing over the Products at our warehouse or production site to the forwarder.

6 Assembly

If, pursuant to a contract in writing, we undertake the assembly of the Products at your site, our General Work contract Terms and Conditions (jomos.ch/agb) shall be applicable to all legal issues regarding the assembly duty.

7 Reservation of ownership

Delivered Products shall remain in our ownership up until the full purchase price claim under the contract has been received. You hereby declare that you agree that the reservation of ownership will be entered in the competent register at your place of residence / domicile. If it becomes necessary to assert the reservation of ownership, we shall retain the right to invoice the costs incurred for entering the reservation of ownership to you.

You are obliged to treat the Products with care and keep them separately, in particular, you are obliged to insure them at your own cost. In case of attachments or other interferences of third parties, you shall be required to point out the reservation of ownership and inform us in writing.

You shall be authorised to re-sell the Products prior to the passing of ownership in the course of your usual business activity at market value; however, you shall already assign to us all claims in the amount of the invoice total amount (including VAT) which you will obtain under the re-sale against your clients or third parties (Purchasers).

8 Resale of the Products

You shall be solely responsible for the fact that you are in possession of the permits or licences which may be needed for the resale of the Products.

You are obliged, upon resale of the Products, to hand over to the Purchaser the documentation delivered by us, package inserts and all accessories included in the original packaging.

In addition, you shall make sure that you have a suitable system of tracking our Products with a serial number so that, upon our demand, it can be determined where our Products are.

You shall determine the resale price independently.

9 Warranty

Whether there is a defect (Sachmangel) shall be determined primarily in accordance with the Product's condition which has been agreed with you. Our information upon conclusion of the contract in product descriptions, fact sheets and catalogues, etc. shall become part of the contract, but this information is understood to be approximate and it does not state any warranted characteristics.

Our liability for defects shall be limited to the fact that we, at our discretion, will rectify the defect of the Product, replace the defective Product with a non-defective Product, or reimburse the purchase price of the defective Product. Any additional warranty and liability for defects, in particular for consequential damage caused by a defect (e.g. fire damage, profit loss, etc.) shall be excluded to the extent that this is permissible under the law.

There shall be no warranty obligation, insofar as the defect is attributable to unsuitable or improper use, improper assembly, change or maintenance by you or by third parties, any failure to comply with or delaying the maintenance intervals prescribed in accordance with the fact sheets published on our website, natural wear and usual tear, excessive use, unsuitable components or external influence which affect the function of the plant (e.g. extraordinary change in environmental conditions such as temperature, humidity, dust).

After delivery of the Products you shall be obliged to immediately inspect them with regard to quantity, quality and transportation damage, and to inform us of any defects in writing. Unless otherwise agreed in writing, claims resulting from defects identifiable during a routine inspection shall become extinct, unless you have notified us of them within seven (7) days after handover of the Products at the place of performance.

Unless otherwise agreed in writing, your claims resulting from other defects shall become extinct, unless you notify us of them

in writing within seven (7) days after you discovered them, but no later than within two (2) years, if you act as a consumer, or within one (1) year, if you act in a professional capacity. You shall be liable to furnish evidence of the purchase/delivery date and that notification of a defect has been given in time.

10 Restriction of liability

To the extent permissible under the law, our liability for slight negligence as well as for the conduct of auxiliary persons and sub-agents shall be excluded. Liability for intent and gross negligence and for culpable violation of life, limb or health shall remain unaffected; this shall also apply to the mandatory liability under the Product Liability Act.

You shall be liable for claims raised by a Purchaser directly against us, if the claim is due to your fault, in particular insufficient information from you (item 8). You shall keep any Product which has become the subject of a warranty claim for a period of no less than 6 months from having gained knowledge of the claim, so that we can inspect the Product.

11 Force Majeure

We shall retain the right to delay deliveries, to reduce the delivery quantity or to withdraw from the contract, if a case of force majeure occurs, e.g. directions from authorities, war, terrorism, epidemic, pandemic, strike, disturbance on the part of suppliers, supply blockages, floods, fire and shortage of raw materials.

If, due to a case of force majeure, no dispatch of the Products is possible, we will store the Products at your cost and risk. As a result of this storage, our performance obligation shall be fulfilled.

12 Data protection

You expressly agree that we will process your data collected within the framework of the business relationship, including any personal data, for the purposes of order processing, contract management, handling of warranty cases, comprehensive support and advice, as well as for statistical analyses and for compliance with legal obligations. The data will be processed only for such a period of time as is needed to fulfil the intended purpose. If the intended purpose no longer applies, the data will be erased completely.

We shall be authorised to disclose your data to other companies of the JOMOS group and to order data processors in Switzerland who have been called in.

We will process your data on the basis of Art. 4 and 6 of the Swiss Data Protection Act.

You shall have the right at any time to receive information on your processed personal data free of charge and, if need be, to correct them, to restrict or prohibit any further use of this personal data or to revoke the consent to any further data processing, to file an objection against any further processing and to have the personal data erased, unless there is a legal retention obligation or unless the personal data is absolutely required to fulfil the contract.

In the event that the contact or invoice data change while the contractual relationship is still ongoing, you shall be responsible for the fact that such data is updated with us in time.

For data processing purposes, you may contact us at: info@jomos.ch.

13 Confidentiality

You are obliged to maintain confidentiality in respect of any business secrets and confidential documents which you have received from us, and use them for no purpose other than for that of the fulfilment of the contract. You shall undertake to impose identical confidentiality obligations on your employees and on your vicarious agents. This confidentiality obligation shall survive the termination of the contractual relationship between you and us.

14 Termination

We shall have the right to terminate the contract with you with immediate effect and to stop any further deliveries, if

- a. you are late with payments fourteen (14) days after you have been sent a reminder;
- b. bankruptcy or debt composition proceedings have been initiated against you or if you become insolvent;
- c. you have violated your contractual obligations under the present GTCS or other contracts between us and fail to restore the state in conformity with the contract within fourteen (14) days after our reminder in writing.

15 Modifications to the Contract

Any modifications and additions to the contract (including the present provision) shall require the written form in order to be valid.

16 Notices

All notices given by you to us shall be directed in writing to our post address or email address, as agreed in the respective contract or later indicated.

The written form shall mean notices both by letter and by electronic mail.

17 Applicable law and place of jurisdiction

The present GTCS and all other contracts between you and us concerning the sale or the delivery of Products shall be governed by Swiss law without any regard to the applicable conflict of laws provisions and the United Nations Convention on Contracts for the International Sale of Goods.

The place of jurisdiction for all disputes in connection with the sale or delivery of the Products shall be our place of business which currently is in Balsthal. However, we reserve the right to bring action in the court of your place of residence.