

General Terms and Conditions of Sale of Erich Jaeger GmbH + Co KG

General Terms and Conditions of Sale

Applicable in national and international business transactions with companies, legal entities under public law and corporations under public law.

1. Scope

- 1.1 These General Terms and Conditions of Sale (hereinafter referred to as "**Terms of Sale**") apply to all business transactions between Erich Jaeger GmbH + Co. KG (hereinafter referred to as "**ERICH JAEGER**") and the customer relating to the delivery of products (hereinafter referred to as "**Contract Products**"), even if they are not referred to in subsequent contracts.
- 1.2 Customer terms and conditions which conflict with, supplement or deviate from these Terms of Sale shall not become part of the contract unless ERICH JAEGER has expressly agreed to their applicability in writing.
- 1.3 These Terms of Sale shall also apply exclusively even where
 - a) ERICH JAEGER executes a delivery to the customer without reservation, with knowledge of its conflicting or deviating terms or
 - b) the customer requests ERICH JAEGER's consent to its own terms and conditions of purchase in a supplier portal and ERICH JAEGER cannot object to the validity of the terms and conditions of purchase due to technical limitations of the supplier portal.
- 1.4 Case-specific agreements made with the customer in individual cases (including collateral agreements, addenda and amendments) shall in any case take precedence over these Terms of Sale. Subject to proof to the contrary, a written contract or written confirmation from ERICH JAEGER shall be authoritative regarding the content of such agreements.
- 1.5 Rights to which ERICH JAEGER is entitled under provisions of applicable law going beyond the scope of these Terms of Sale shall remain unaffected.
- 1.6 Transmission by fax, e-mail or comparable electronic text forms shall suffice to satisfy the written form requirement within the meaning of these Terms of Sale.

2. Formation of Contract; Requirements Forecast

- 2.1 Offers and cost estimates are subject to change and non-binding, unless they are expressly designated as binding offers.
- 2.2 Illustrations, drawings, weights and dimensions as well as other descriptions of the Contract Products from the documents relating to the offer are only approximately authoritative unless they are expressly designated as binding. They do not constitute an agreement on or warranty of any quality characteristics of the Contract Products.
- 2.3 An order only becomes binding once it has been confirmed by ERICH JAEGER in the form of an order confirmation in text form. Silence on the part of ERICH JAEGER with regard to offers, orders, requests or other declarations by the customer shall only be deemed to constitute consent if this has been expressly agreed in writing. Should an order confirmation contain obvious mistakes, spelling or calculation errors, it shall not be deemed binding on ERICH JAEGER.
- 2.4 ERICH JAEGER does not assume any labelling obligations going beyond the mandatory provisions of applicable law applying to ERICH JAEGER for the respective delivery offered, unless otherwise explicitly agreed. In particular, ERICH JAEGER is not obliged to label the Contract Products in accordance with any further provisions of applicable law applying to the customer and/or its end product.
- 2.5 Assumption of a warranty or a procurement risk shall require an express, separate written agreement to be effective.

- 2.6 If the customer has concluded a framework supply agreement with ERICH JAEGER, on the basis of which the customer orders future deliveries from ERICH JAEGER by means of individual contracts or call-off orders, ERICH JAEGER is not obliged to accept such individual contracts or call-off orders unless the Parties have expressly contracted in writing in their framework supply agreement for a duty of acceptance on the part of ERICH JAEGER.
- 2.7 The customer may send ERICH JAEGER an automatically generated requirements forecast. The requirements forecast provides a non-binding indication of the expected quantity of Contract Products required for a period specified in the requirements forecast.
- 2.8 In the event of a complete or partial cancellation of quantities stated in a requirements forecast, the periods for which the customer is obliged to accept and pay for Contract Products follow from its production release and the period covered by its material release. The production release period governs the call-off quantities for which the customer is obliged to accept Contract Products that have already been produced. The material release period governs the call-off quantities for which the customer is obliged to accept primary materials. Unless otherwise agreed in writing in individual cases, the deadline for production release shall be four (4) weeks prior to the delivery date and the deadline for material release shall be eight (8) weeks prior to the delivery date.

3. Delivery; Delivery Periods; Default

- 3.1 Unless expressly agreed otherwise, deliveries shall be "ex works" (EXW according to Incoterms® 2020) ERICH JAEGER's registered office, i.e. the Contract Products shall be made available to the customer for collection. At the request and expense of the customer, the goods will be shipped to another destination (hereinafter: "**Sales Shipment**"), in which case ERICH JAEGER is entitled to determine the mode of shipment itself. However, at the customer's request and expense ERICH JAEGER will take out transport insurance.
- 3.2 ERICH JAEGER's order confirmation shall be deemed authoritative for the scope of delivery, failing which the agreements made with the customer in the individual case shall govern. Any changes to the scope of delivery shall require confirmation from ERICH JAEGER to be valid.
- 3.3 The right to make changes to the design and shape of the Contract Products is reserved, provided that the changes are not significant and are reasonable for the customer.
- 3.4 If the customer requests changes to the Contract Products after sampling has already been carried out, ERICH JAEGER is only obliged to implement the change request if the parties have agreed on an adjustment of the deadlines and prices.
- 3.5 ERICH JAEGER is authorised to make partial deliveries if this is reasonable for the customer.
- 3.6 Delivery periods must be agreed in text form. Delivery periods shall be non-binding unless they are expressly designated as binding.
- 3.7 A delivery period begins to run upon the dispatch of the order confirmation by ERICH JAEGER, but not before complete provision of any documents, approvals and releases to be procured by the customer, the receipt of any agreed down payment and the timely and proper performance of any other acts of cooperation by the customer.
- 3.8 Agreed delivery periods shall be deemed to have been complied with if, before the delivery periods have elapsed, ERICH JAEGER makes the goods available at the agreed place of delivery or – in the case of a Sales Shipment pursuant to Section 3.1 of this contract – hands them over to the person designated to carry out

- the transport or if the customer gives notice of its refusal to accept the goods.
- 3.9 Delivery is subject to ERICH JAEGER being supplied by its own suppliers in a timely and proper manner.
- 3.10 If upstream suppliers are unable to deliver or if the upstream supplier files for insolvency, ERICH JAEGER shall be entitled to exercise a right of retention against the customer. If this situation persists for a period of more than three (3) months, ERICH JAEGER shall be entitled to terminate the contract concluded with the customer.
- 3.11 The customer is only entitled to rescind the contract due to a delay in delivery if ERICH JAEGER is responsible for the delay.
- 3.12 If the Contract Products have been handed over to the customer on Euro pallets or lattice boxes (load carriers), the customer must return the same number and the same type and quality of load carriers to ERICH JAEGER at the place of the original handover.
- 3.13 Without prejudice to the provision in Section 8.7, the customer is obliged to inspect the Contract Products for visible external damage upon delivery and to report any damage to the forwarding agent carrying out the delivery and to request it to provide appropriate written confirmation. If the customer does not fulfil this obligation, it shall be obliged to compensate ERICH JAEGER for the resulting damages.
- 4. Transfer of Risk**
- 4.1 The risk of accidental loss or accidental deterioration of the Contract Products shall be transferred to the customer as soon as ERICH JAEGER makes the Contract Products available at the place of delivery or - in the case of a Sales Shipment pursuant to Section 3.1 - hands them over to the person designated to carry out the transport. This also applies if partial deliveries are made or if ERICH JAEGER has assumed the transport costs in individual cases in deviation from Section 3.1.
- 4.2 If the customer is in default of acceptance, ERICH JAEGER may demand compensation for the losses caused by the default. The liquidated damages shall amount to 0.5% of the net price of the delivery per day of default, but shall not exceed a total of 5% of the net price of the delivery. The contract parties reserve the right to assert further claims for damages as well as to provide evidence that a lesser amount of loss was incurred. The risk of accidental loss or accidental deterioration of the Contract Products shall be transferred to the customer at the point in time at which it is in default of acceptance.
- 4.3 Section 4.2 applies *mutatis mutandis* if the delivery is delayed at the request of the customer by more than ten (10) calendar days after ERICH JAEGER has given notification of readiness for dispatch.
- 5. Prices**
- 5.1 The agreed price in EUR, which results from the order confirmation, shall apply plus value-added tax. The statutory VAT is not included in the price and is shown separately on the invoice at the statutory rate applicable on the date of invoicing.
- 5.2 If the customer does not receive an order confirmation or if the order confirmation does not contain any price information, the price list valid at the time of delivery shall apply.
- 5.3 Unless otherwise agreed, prices are "ex works" (EXW pursuant to Incoterms® 2020), exclusive of packaging. In the case of a Sales Shipment pursuant to Section 3.1, the customer shall bear the transport costs as well as the costs of any transport insurance requested by the customer.
- 5.4 If the assembly or installation of Contract Products has been agreed with the customer, the customer shall bear the costs of assembly or installation and any ancillary costs incurred (such as travel expenses and transport costs for tools).
- 5.5 ERICH JAEGER is entitled or obliged to increase or reduce prices pursuant to the following provisions:
- ERICH JAEGER is entitled to adjust the prices to be paid by the customer in line with the development of the total costs determining the calculation of the agreed price. The adjustment shall be made in ERICH JAEGER's reasonable discretion in accordance with sec. 315 German Civil Code [BGB].
 - The total costs are made up of the following relevant cost types: Costs for the purchase of raw materials and energy, wage costs, transport costs, customs duties, taxes and public charges as well as costs from upstream suppliers.
 - A price increase may be made, and a price reduction must be made, if the total costs increase or decrease.
 - Increases in one type of cost (e.g. raw material costs) may only be used for a price increase to the extent that there is no reduction in other types of costs (e.g. energy costs).
 - If cost types are reduced, ERICH JAEGER shall reduce its prices insofar as these reductions are not offset by increases in other cost types.
 - In exercising its reasonable discretion, ERICH JAEGER shall select the respective points in time of a price change in such a way that cost reductions are not calculated according to standards that are less favourable to the customer than cost increases, i.e. cost reductions shall have at least the same price effect as cost increases.
 - Unless otherwise contractually agreed, Erich Jäger shall notify the customer in text form of any change of the price at least four weeks before the planned effective date.
 - ERICH JAEGER's right to adjust prices does not apply to deliveries or services that are provided within four months of the conclusion of the contract (e.g. the call-off order).
- 5.6 If the customer disputes a price adjustment by ERICH JAEGER which is justified pursuant to Section 5.5 and such dispute cannot be settled within a period of three (3) months from the date of the request for price adjustment, ERICH JAEGER shall be entitled, upon reasonable notice, to terminate any framework supply agreement the parties may have concluded.
- 5.7 Prices offered by ERICH JAEGER with regard to non-binding quantity forecasts of the customer shall only apply on condition that the forecast quantities are actually called off by the customer over a period of one (1) calendar year. If the forecast quantities are not called off by the customer in whole or in part, ERICH JAEGER shall, at its discretion, be entitled to demand an adjustment of the prices or a compensation payment for the shortfall in quantities not called off, either for the past calendar year or with effect for the future.
- 5.8 Prices for spare parts must be negotiated with ERICH JAEGER at least three (3) months before the end of the supply of series parts. If the customer and ERICH JAEGER cannot agree on prices for spare parts, ERICH JAEGER shall be entitled to discontinue delivery of spare parts after a further period of six (6) months.
- 6. Payment Terms**
- 6.1 Unless otherwise agreed in writing, payment of the gross price plus any freight and insurance costs must be made within 30 days of the invoice date. If the payment deadline is exceeded, the customer shall be in default without the need for a reminder.
- 6.2 A payment shall be deemed to have been made once ERICH JAEGER can dispose over the funds.



General Terms and Conditions of Sale of Erich Jaeger GmbH + Co KG

- 6.3 The deduction of an early payment discount shall require a separate written agreement with ERICH JAEGER.
- 6.4 If the payment deadline is exceeded, ERICH JAEGER is entitled to charge default interest at the statutory rate (currently 9 percentage points above the base rate (secs. 247, 288 (2) BGB)). The right to assert additional claims and rights is reserved.
- 6.5 If the customer is in default of payment, ERICH JAEGER is entitled to demand immediate payment of all claims arising from the business relationship, even if these are not yet due. In addition, ERICH JAEGER is authorised to withhold further deliveries.
- 6.6 The customer is only entitled to offset counterclaims against payments due if the claims have been adjudicated with *res judicata* effect or are undisputed. Furthermore, the customer may only assert a right of retention if its counterclaim is based on the same contractual relationship.
- 6.7 ERICH JAEGER shall be entitled to render supplies of goods or services which are still outstanding solely against advance payment or provision of security if circumstances become known after the contract is concluded which may substantially impair the customer's creditworthiness and may jeopardise its payment of outstanding receivables to ERICH JAEGER under the respective contractual relationship. This applies *mutatis mutandis* if the customer refuses or fails to pay outstanding claims of ERICH JAEGER and there are no undisputed objections or *res judicata* defences to the claims of ERICH JAEGER.
- 7. Intra-Community Supply**
- 7.1 The customer acknowledges that in the event of an intra-Community supply in accordance with sec. 4 (1b) German VAT Act [UStG] where the Contract Product arrives at a destination in another EU member state, it will receive an invoice without VAT. The prerequisite for this is a confirmation by the customer of the arrival of the Contract Product in another EU member state. The customer must thus, within three months of successful delivery, confirm in writing to ERICH JAEGER that the Contract Product has arrived in another EU member state. By that confirmation, the customer is deemed to declare that the Contract Product has actually been delivered to another EU member state (confirmation of arrival). The confirmation of arrival must contain
- the name and address of the customer,
 - the quantity of the Contract Products in the delivery and their customary designation including the vehicle identification number if the subject matter of the contract is a vehicle,
 - the indication of the place and month (not the day) of the end of the transport or dispatch, i.e. the receipt of the goods in the Community territory, including in cases of self-collection and/or self-forwarding by the customer,
 - the date of issue of the confirmation,
 - the signature of the customer or a person authorised by the customer to accept the goods. In the case of electronic transmission of the confirmation of arrival, a signature is not required if it is discernible that the electronic transmission has begun in the customer's or authorised representative's area of control.
- 7.2 Electronic transmission by email of the confirmation of arrival is sufficient, provided that it is discernible that the electronic transmission began in the customer's or the authorised representative's area of control, e.g. from the customer's email account. If this is the case and the customer sends the confirmation of arrival electronically, the signature of the customer or a person authorised to accept the goods can be waived.
- 7.3 If ERICH JAEGER does not receive the confirmation of arrival from the customer within three months of delivery of the goods to the customer, ERICH JAEGER is authorised to make an invoice correction. When undertaking such invoice correction, ERICH JAEGER may include the applicable VAT in the invoice. Value added tax is due immediately.
- 7.4 If the customer does not provide ERICH JAEGER with a confirmation of arrival in good time or in accordance with the legal requirements, ERICH JAEGER shall be entitled to charge VAT on future orders placed by the customer, even in the case of self-collection and arrival of the contractual item in another EU member state. ERICH JAEGER will refund the VAT to the customer if the customer submits a confirmation of arrival.
- 7.5 The customer has the option of using the model provided for download at https://www.erich-jaeger.com/fileadmin/content/03_Service/Downloads/08_GTC/Allgemeine-Geschaeftsbedingungen-EJH-OEM-2024-V1.pdf in German and https://www.erich-jaeger.com/fileadmin/content/03_Service/Downloads/08_GTC/General-Terms-and-Conditions-EJH-OEM-2024-V1.pdf in English as a template for a confirmation of arrival and to change and edit the contents thereof in full. ERICH JAEGER accepts no liability for the legal consequences of the use of these templates, as ERICH JAEGER regards them merely as a service to the customer. The customer is responsible for the full contents of the confirmation(s) of arrival submitted by it.
- 8. Warranty**
- 8.1 The provisions of applicable law shall apply to the rights of the customer in the event of defects, unless otherwise stipulated in these Terms of Sale.
- 8.2 ERICH JAEGER warrants that, as of the time of transfer of the risk, the Contract Products comport with the subjective warranty characteristics (sec. 434 (2) BGB) in accordance with the agreements made with the customer in the individual case.
- 8.3 In addition, the customer shall be entitled to assert the statutory warranty claims in the event of
- assembly errors (sec. 434 (4) BGB) or
 - in the event of delivery of an item other than that which was to be provided (sec. 434 (5) BGB).
- 8.4 ERICH JAEGER's warranty for objective characteristics for the Contract Products (sec. 434 (3) BGB) is limited
- by valid agreements on subjective warranty characteristics within the meaning of Section 8.2, which - subject to any agreement derogating therefrom in individual cases - shall always take precedence over objective warranty characteristics; and
 - by the provisions contained in the following Section 8.5.
- 8.5 The Contract Products are deemed to comply with objective warranty characteristics if they
- are of such quality as the customer can expect, taking into account the public statements made by ERICH JAEGER, in particular in advertising or on the label,
 - correspond to the quality of a sample or specimen provided by ERICH JAEGER to the customer prior to conclusion of the contract, and
 - are handed over with the accessories including packaging, assembly or installation instructions and other instructions which the customer can expect to receive.
 - In all further and other respects, ERICH JAEGER's warranty for objective characteristics of the Contract Products, in particular for normal use and the usual quality, is hereby excluded.
- 8.6 The Contract Products must comply with the provisions of applicable law in force in the European Union. Compliance with the provisions of applicable law of other countries or regions shall require a written agreement with ERICH JAEGER to be effective.



General Terms and Conditions of Sale of Erich Jaeger GmbH + Co KG

- 8.7 The customer's rights to assert warranty rights in the case of defective goods are subject to the statutory inspection and notification requirements (secs. 377 and 381 HGB) having been met; in particular, the supplied goods must be inspected upon delivery and written notification of obvious defects and defects revealed by such an inspection must be sent to ERICH JAEGER without delay following receipt of the Contract Products. The customer shall notify ERICH JAEGER in writing of any hidden defects without delay after their discovery. A notification shall be deemed to have been given "without delay" if it is made within eight (8) working days, in the case of obvious defects and defects that were detectable during a proper inspection, after delivery or, in the case of hidden defects, after discovery; for purposes of compliance with this deadline, the receipt of the notification or complaint by ERICH JAEGER shall be deemed determinative. If the customer fails to properly inspect the goods and/or report defects, ERICH JAEGER shall not be liable for the defect in question. The customer must describe the defects in text form when notifying ERICH JAEGER.
- 8.8 If a notice of defects is unjustified, ERICH JAEGER is entitled to demand that the customer reimburse the expenses incurred, unless the customer furnishes proof that it is not at fault with regard to the unjustified notice of defects.
- 8.9 In the event of defects of the Contract Products, ERICH JAEGER shall be entitled, in its own discretion, to effect subsequent performance by remedying the defect or delivering a Contract Product free of defects. ERICH JAEGER is entitled to premise the subsequent performance on the customer paying the purchase price due. However, the customer is entitled to retain a reasonable part of the purchase price in proportion to the defect.
- 8.10 The customer's statutory right of rescission is excluded if the customer is unable to return the goods or services received or if the defect only became apparent during processing or transformation of the Contract Products.
- 8.11 If the subject matter of the contract is not at the place of delivery, the customer shall bear all additional costs incurred by ERICH JAEGER in remedying the defects, unless transfer to another location comports with the product's contractual use.
- 8.12 The customer shall not be entitled to assert any warranty claims for defects or damage which
- are based on wear and tear,
 - arise after the transfer of risk as a result of improper handling, storage, care or excessive demands on or use of the Contract Products;
 - are due to force majeure, special external influences that are not provided for in the contract or due to the use of the Contract Products beyond the use provided for in the contract or beyond normal use;
 - are due to non-compliance with the operating instructions, directions for use or warnings from ERICH JAEGER;
- 8.13 Furthermore, no claims for material defects shall arise
- if modifications are made to the delivered Contract Products by a third party or by installing parts of third-party origin, unless the defect is not causally related to the modification or the third party was expressly engaged by ERICH JAEGER; or
 - if the customer has not had the defect rectified by ERICH JAEGER or a third party authorised by ERICH JAEGER.
- 8.14 ERICH JAEGER is not liable for the quality of the Contract Products with regard to the processing or the choice of materials if the customer has specified a design or a different material that deviates from ERICH JAEGER's range of products and services.
- 9. Intellectual Property Rights of ERICH JAEGER and Rights of Third Parties**
- 9.1 ERICH JAEGER reserves the right of ownership and copyright to illustrations, drawings, calculations and other documents. This applies in particular to written documents that are labelled "confidential". The customer requires our express written consent before passing them on to third parties. Documents labelled as confidential must be returned to ERICH JAEGER at its request or after termination of the business relationship or must be permanently destroyed on ERICH JAEGER's instructions. At the request of ERICH JAEGER, proof of proper destruction must be furnished in a suitable manner.
- 9.2 The customer is authorised to use ERICH JAEGER's documents to the extent necessary to perform the contract or to the extent required in light of the purpose of the contract.
- 9.3 In particular, the customer is prohibited, whether through its own action or that of third parties, from appropriating confidential information, know-how or intellectual property rights contained in the Contract Products by means of reverse engineering.
- 9.4 The customer must inform ERICH JAEGER immediately in writing of any infringements of intellectual property rights or the assertion of claims for infringements of intellectual property rights by ERICH JAEGER's Contract Products that become known and must support ERICH JAEGER in defending against claims of third parties.
- 9.5 ERICH JAEGER warrants that, as of the time the contract is concluded, it has no knowledge that the Contract Products infringe on rights of third parties. The warranty only applies insofar as it relates to intellectual property rights published by the German Trademark and Patent Office ("DPMA") and/or the European Patent Office ("EPO"). If a third party asserts justified claims against the customer for infringement of intellectual property rights by Contract Products supplied by ERICH JAEGER, we shall be liable to the customer as follows:
- ERICH JAEGER shall, in its own discretion and at its own expense, either procure a right of use for the relevant Contract Products it has supplied, modify them in such a way that the intellectual property right is not infringed, or replace the Contract Products. If it is not possible for ERICH JAEGER to do so, or only possible with disproportionate efforts, the customer shall be entitled to the statutory rights of rescission or abatement.
 - The aforementioned obligations shall only apply if the customer informs ERICH JAEGER in writing and without delay of the claims asserted by the third party, does not acknowledge any infringement and leaves all defence measures and settlement negotiations to ERICH JAEGER's discretion. If the customer ceases to use the Contract Products in question from the delivery in order to mitigate losses or for other important reasons, the customer is obliged to point out to the third party that the cessation of use does not constitute any acknowledgement of an infringement of intellectual property rights.
 - Claims of the customer are excluded insofar as it bears sole responsibility for the infringement of intellectual property rights.
 - Claims by the customer are also excluded insofar as the infringement of intellectual property rights is due to special specifications of the customer, due to use which was not foreseeable by ERICH JAEGER or due to the fact that the Contract Products have been modified by the customer, not used in accordance with the contract or used together with Contract Products not supplied by ERICH JAEGER.

10. Liability

General Terms and Conditions of Sale of Erich Jaeger GmbH + Co KG

- 10.1 ERICH JAEGER's contractual liability for damages under the warranty presupposes culpable conduct (intentional acts or negligence) in all cases, even if the law (in particular under the CISG in the context of international business transactions) provides for strict liability for damages. Mandatory statutory liability for product defects (in particular under the German Product Liability Act, ProdHaftG) remains unaffected thereby.
- 10.2 Within the scope of fault-based liability, ERICH JAEGER shall be liable for damages - irrespective of the legal basis thereof - in cases of intentional acts and gross negligence. In cases of simple negligence, ERICH JAEGER's liability is subject to statutory limitations of liability (e.g. due care with respect to its own affairs; *de minimis* breach) and shall only apply
- for losses resulting from injury to life, limb or health,
 - for losses arising from a breach of material contractual obligations (obligations which enable the proper performance of the contract in the first place and on the performance of which the counterparty usually relies and is entitled to rely); in this case, however, the liability of ERICH JAEGER is limited to such losses as are foreseeable and typically occur.
- 10.3 The limitations of liability arising from Section 10.2 also apply to third parties and in the event of breaches by persons (including breaches inuring to their benefit) for whose fault ERICH JAEGER is responsible in accordance with provisions of applicable law. They do not apply if a defect has been fraudulently concealed or a warranty has been given for the quality of the Contract Products and for claims of the customer under the German Product Liability Act.
- 10.4 The customer can only rescind or terminate the contract due to a breach that does not consist of a defect if ERICH JAEGER is responsible for the breach. The Parties hereby exclude any free right of termination on the part of the customer (in particular pursuant to secs. 650, 648 BGB). In all further and other respects, the provisions of applicable law and legal consequences apply.
- 10.5 The legal consequences of ERICH JAEGER's liability arise exclusively from the provisions of applicable German law, in particular secs. 249 et seq. BGB. ERICH JAEGER shall not be liable for extra-legal claims and rights, and in particular it shall not be liable for claims and rights which the customer has voluntarily agreed with an OEM. In particular, ERICH JAEGER shall not be liable under provisions covering "Okm cases", "field damage cases", "serial damage clauses" or claims for damages without proof of causality, even if ERICH JAEGER renders deliveries or services to the customer with knowledge of such provisions.
- 10.6 When determining the amount of compensation, the customer is obliged, in addition to the provisions of applicable law, to appropriately take into account - in favour of ERICH JAEGER - the economic circumstances of ERICH JAEGER, the type, scope and duration of the business relationship, any contributions and/or contributory fault of its own and any unfavourable installation situation of the Contract Product.
- 10.7 In the event of product defects, ERICH JAEGER's liability is limited to the statutory scope applicable to recall or service campaigns in the Federal Republic of Germany. ERICH JAEGER shall not be liable for voluntary or disproportionate recall or service campaigns by the customer or the OEM; campaigns shall be deemed voluntary or disproportionate, in particular, if a proper warning (if necessary with a request to refrain from using or to decommission the Contract Products) would have enabled the users of the Contract Products to protect themselves (if necessary with support to carry out measures to eliminate hazards at their own expense).
- 10.8 Sub-suppliers, directed part suppliers (see Section 17) and raw material suppliers are not vicarious agents of ERICH JAEGER.
- 11. Limitations**
- 11.1 Notwithstanding sec. 438 (1) (3) BGB, the general limitations period for claims arising from material defects and defects of title is one year from delivery. If formal acceptance has been agreed, the limitations period shall commence upon formal acceptance.
- 11.2 Subsequent performance by ERICH JAEGER does not lead to an extension of the limitations period.
- 11.3 The above limitations periods under the law of sales shall also apply to contractual and non-contractual claims for damages of the customer based on a defect of the Contract Products, unless the application of the regular statutory limitations period (secs. 195, 199 BGB) would result in a shorter limitations period in individual cases. Time-bars on the customer's claims for damages pursuant to Section 10.2 sentence 1 and Section 10.2 sentence 2 (a) as well as pursuant to the German Product Liability Act (ProdHaftG) shall arise solely in line with the statutory limitation periods.
- 12. Voluntary Return of the Contract Products**
- 12.1 When outside the scope of warranty, returns of the Contract Products will only be accepted with the consent of ERICH JAEGER. In any case, the prerequisite to a return is that the Contract Products are still in their original packaging, unused and that the Contract Products and packaging are undamaged.
- 12.2 If ERICH JAEGER gives its consent, the customer will receive a returns number. This must be clearly visible on the packaging of the return consignment. The goods must be returned to ERICH JAEGER's registered office at the customer's expense.
- 12.3 A processing fee will be charged for each return, the amount of which shall be agreed on a case-by-case basis and which, in the event of any doubt, shall be EUR 25.00. If the Contract Products or packaging are damaged contrary to Section 12.1, ERICH JAEGER is entitled to refuse to accept their return or may invoice the customer for the costs of reconditioning them. Unless otherwise agreed, such costs shall amount to 15% of the agreed net price, but at least EUR 25.00.
- 12.4 If a return is made without the express consent of ERICH JAEGER, ERICH JAEGER is entitled to refuse to accept the return or may store the Contract Products at the expense and risk of the customer. The cost of storage is at least EUR 25.00 per week.
- 13. Retention of Title**
- 13.1 The delivered Contract Products remain the property of ERICH JAEGER until they have been paid for in full.
- 13.2 In addition, ERICH JAEGER remains the owner of the delivered Contract Products until full payment of all claims arising from the business relationship between the customer and ERICH JAEGER.
- 13.3 The customer is obliged to treat the Contract Products subject to retention of title (hereinafter also referred to as "**Retention of Title Goods**") with care for the duration of the retention of title. In particular, it shall be obliged to adequately insure the Retention of Title Goods at replacement value at its own expense for damage by fire, water and theft. The customer hereby assigns to ERICH JAEGER all indemnification claims arising under that insurance. ERICH JAEGER hereby accepts the assignment. If an assignment is not permissible, the customer hereby instructs its insurer to make any payments solely to ERICH JAEGER. The foregoing is without prejudice to further claims on the part of ERICH JAEGER. The customer must provide ERICH JAEGER with proof of insurance cover upon request.

General Terms and Conditions of Sale of Erich Jaeger GmbH + Co KG

- 13.4 If the Retention of Title Goods are combined with other items that do not belong to ERICH JAEGER to form a single item, ERICH JAEGER shall acquire co-ownership of the single item in the ratio of the value of the Retention of Title Goods (final invoice amount including VAT) to the other items at the time of combination. If the Retention of Title Goods are combined with other items in such a way that the customer's item is to be regarded as the main item, the customer hereby assigns to ERICH JAEGER co-ownership of that item on a *pro rata* basis. ERICH JAEGER accepts this assignment. The provisions of this Section 13.4 shall apply *mutatis mutandis* if the Retention of Title Goods are processed with other items.
- 13.5 The customer is revocably authorised to sell the Retention of Title Goods in the ordinary course of business. The customer is not authorised to pledge the Retention of Title Goods, to assign them as security or to make other dispositions jeopardising the ownership rights of ERICH JAEGER. In the event of attachments or other interventions by third parties, the customer must inform ERICH JAEGER without delay in writing and provide all necessary information, inform the third party of ERICH JAEGER's ownership rights and co-operate in the measures taken by ERICH JAEGER to protect the Retention of Title Goods.
- 13.6 The customer hereby assigns to ERICH JAEGER the claims from the resale of the Retention of Title Goods in the amount of the invoice, including VAT, together with all ancillary rights. ERICH JAEGER hereby accepts the assignment. If the Retention of Title Goods are sold together with other goods not supplied by ERICH JAEGER, the claim arising from the resale shall be assigned *pro rata* at the ratio of the value of the Retention of Title Goods (final invoice amount including VAT) to the other goods sold. If an assignment is not permissible, the customer hereby irrevocably instructs the third-party debtor to make any payments solely to ERICH JAEGER.
- 13.7 The customer is revocably authorised to collect the claims assigned to ERICH JAEGER in its own name, in trust for ERICH JAEGER. The amounts collected must be paid to ERICH JAEGER immediately.
- 13.8 ERICH JAEGER may revoke the customer's right to resell and its authorisation to collect if the customer does not properly meet its payment obligations to ERICH JAEGER, is in default of payment, suspends payments or if an application for insolvency proceedings over the customer's assets is filed.
- 13.9 ERICH JAEGER is obliged at the request of the customer to release existing securities to the extent that the realisable value of the securities exceeds the claims of ERICH JAEGER from its business relationship with the customer by more than 10%, taking into account customary bank valuation discounts. Selection of the securities to be released shall be at ERICH JAEGER's discretion.
- 13.10 In the case of deliveries of goods to other legal systems in which the retention of title provision pursuant to this Section 13 does not have the same security effect as in the Federal Republic of Germany, the customer hereby grants ERICH JAEGER a corresponding security interest. If further measures are required for this purpose, the customer shall do everything necessary to grant ERICH JAEGER such a security interest without delay. The customer shall cooperate in all measures which are necessary and conducive to ensuring the effectiveness and enforceability of such security interests.
- 14. Customer Tools**
- 14.1 If ERICH JAEGER is provided with tools by the customer for the manufacture of Contract Products, these shall remain the property of the customer. ERICH JAEGER shall label the tools accordingly.
- 14.2 The customer shall take out all-risk insurance at replacement value in favour of ERICH JAEGER for its tools and furnish evidence thereof upon request.
- 15. Tools of ERICH JAEGER**
- 15.1 Tools purchased by ERICH JAEGER for the manufacture of the Contract Products shall be invoiced to the customer separately from the Contract Products.
- 15.2 ERICH JAEGER's claim for the full purchase price is due for payment upon presentation of first-off parts, no later than at the start of serial delivery of the Contract Products.
- 15.3 The tools shall remain the property of ERICH JAEGER until full payment has been received.
- 15.4 The customer shall bear the costs of repairing wear and tear or of correcting defects as well as the costs of maintenance and insurance.
- 15.5 After completion of the serial delivery of the Contract Products, but no later than when the obligation to deliver spare parts comes to an end, ERICH JAEGER shall be entitled to request the customer to collect the tool, setting a reasonable deadline. Upon expiry of the deadline, ERICH JAEGER is authorised to scrap the tool at the customer's expense.
- 16. Items to be Provided by the Customer**
- 16.1 "Items to be Provided" are primary products which the customer makes available to ERICH JAEGER for the manufacture of the Contract Products.
- 16.2 Items to be Provided must be handed over to ERICH JAEGER in good time and in sufficient quantities so that ERICH JAEGER is able to deliver the agreed quantities of Contract Products and meet the agreed delivery times.
- 16.3 The customer shall bear sole responsibility for ensuring that the Items to be Provided are free from defects in design and/or material quality. The Items to be Provided must not have any characteristics that are or could be apt to cause defects in the Contract Products or to increase the cost of or delay the manufacture of the toll manufacturing products.
- 16.4 The transport and supply of Items to be Provided shall be free of charge for ERICH JAEGER. The customer bears the risk of accidental loss or accidental deterioration of the Items to be Provided until they are delivered to ERICH JAEGER.
- 16.5 ERICH JAEGER is obliged to carry out an incoming goods inspection with regard to the identity and quantity of the Items to be Provided, but not with regard to the quality of the Items to be Provided.
- 16.6 The customer shall take out all-risk insurance at replacement value in favour of ERICH JAEGER for the Items to be Provided and furnish evidence thereof upon request.
- 16.7 If the Items to be Provided prove to be unusable during the manufacture of the Contract Products, ERICH JAEGER may demand a portion of the remuneration corresponding to the production already carried out.
- 16.8 At the request of the customer, ERICH JAEGER will support the customer free of charge in recording the stocks of Items to be Provided.
- 17. Customer Duties of Cooperation with regard to Directed Parts and Preferred Suppliers**
- 17.1 The term "Directed Parts" refers to the components specified by the customer from another supplier ("Preferred Supplier"), which are integrated as individual components into a Contract Product to be manufactured by ERICH JAEGER.
- 17.2 The customer shall ensure by suitable agreements and measures vis-à-vis the Preferred Supplier that
- a) the Preferred Supplier concludes supply contracts with ERICH JAEGER, the content of which is based on the standard OEM purchasing terms (such as ERICH JAEGER's purchasing terms),

General Terms and Conditions of Sale of Erich Jaeger GmbH + Co KG

- b) the Preferred Supplier can only exercise a right of set-off or retention against ERICH JAEGER if the counterclaim of the Preferred Supplier is undisputed or has been adjudicated with *res judicata* effect, and
- c) that the Directed Parts are designed and manufactured by the Preferred Supplier in such a way that (i.) the Directed Parts fulfil all legal and regulatory requirements, (ii.) the Directed Parts are marketable and (iii.) after installation of the Directed Parts in the Contract Products, the Contract Products are free from defects, product faults and third-party rights.
- 17.3 The customer shall take all measures vis-à-vis the Preferred Supplier that are necessary to enable ERICH JAEGER to meet delivery deadlines. These measures include, in particular, timely (i.) planning of production capacities, (ii.) sampling and production release of Directed Parts and (iii.) control of the deadlines for the delivery of the Directed Parts to ERICH JAEGER.
- 17.4 Any costs for tools incurred by the Preferred Supplier shall be borne either by the customer or by the Preferred Supplier, but not by ERICH JAEGER.
- 17.5 In relation to ERICH JAEGER, the customer alone is responsible for exercising oversight over the Preferred Supplier.
- 17.6 In the event that the Preferred Supplier delivers parts to ERICH JAEGER with defects or product faults or is in default of delivery, the customer shall indemnify ERICH JAEGER and hold it harmless against all associated costs and damages (e.g. sorting costs or costs for extra rides) and third-party claims (e.g. claims by the OEM). Excluded herefrom are costs and losses for which ERICH JAEGER itself is responsible (e.g. due to faulty installation of the Directed Parts in the Contract Products).
- 17.7 ERICH JAEGER is solely required to inspect Directed Parts upon delivery with regard to externally detectable transport damage, quantity and identity.
- 18. Rescission / Cancellation of contract**
- 18.1 In the event of breach of contract by the customer, in particular in the event of payment default, ERICH JAEGER is entitled, without prejudice to its other contractual and statutory rights, to rescind the contract after the expiry of a reasonable grace period.
- 18.2 The customer must grant ERICH JAEGER or its authorised representative access to the goods subject to retention of title without delay following a declaration of rescission and must surrender them to ERICH JAEGER. After giving timely notice, ERICH JAEGER may otherwise dispose of the goods subject to retention of title to satisfy the outstanding claims for receivables against the customer. The proceeds from the sale shall be set off against the customer's liabilities minus reasonable costs of resale.
- 18.3 Statutory rights and claims shall not be deemed restricted by the provisions of the present Section 18.
- 19. Confidentiality**
- 19.1 The customer shall be obliged, for an indefinite period, to keep confidential all information to which it gains access via ERICH JAEGER, and which is designated as confidential or which, in light of other circumstances, discernibly constitutes business or trade secrets, and shall neither record nor transmit or exploit it. The customer shall protect ERICH JAEGER's data and documents against loss and access by third parties, in accordance with the state of the art.
- 19.2 Through suitable contractual agreements with the employees and authorised persons working for the customer, the customer shall ensure that such persons also refrain, for an indefinite period, from exploiting, transmitting or recording without authorisation such business or trade secrets.
- 20. Force Majeure**
- 20.1 "Force majeure" means the occurrence of an event or circumstance (hereinafter "**Force Majeure Event**") that prevents ERICH JAEGER from fulfilling one or more obligations under the contract despite reasonable efforts.
- 20.2 Force majeure includes all circumstances for which ERICH JAEGER is not responsible, in particular fire, natural disasters, weather, floods, war (whether declared or undeclared), epidemics and pandemics.
- 20.3 The following shall be deemed the equivalent of force majeure:
- a) Industrial action such as strikes and/or lockouts;
 - b) political unrest;
 - c) unforeseen circumstances, e.g. operational disruptions;
 - d) import and export restrictions, other official/sovereign measures or prohibitions (e.g. sanctions, embargoes or other export control regulations), including those affecting our suppliers;
 - e) delays in the granting of any necessary official permits;
 - f) transport bottlenecks for which we are not responsible;
 - g) unforeseen increase in procurement risk;
 - h) shortage of energy and raw materials;
 - i) late deliveries of raw materials or vendor parts for which EJ is not responsible.
- 20.4 In the event of force majeure, ERICH JAEGER shall be released from its obligation to perform the contract for the duration of the event and a reasonable start-up period thereafter. Delivery periods shall be automatically extended by the duration of the event plus a reasonable start-up period thereafter. The parties shall provide each other with the necessary information without delay and adjust their contractual obligations in good faith in light of the changed circumstances.
- 20.5 ERICH JAEGER shall notify the customer as soon as the Force Majeure Event no longer prevents ERICH JAEGER from fulfilling its contractual obligations.
- 20.6 If the Force Majeure Event lasts longer than 45 days, both parties are entitled to rescind the affected contract.
- 20.7 ERICH JAEGER accepts no liability in connection with Force Majeure Events.
- 21. (Re)Sale and (Re)Export**
- 21.1 If the sale, delivery, transfer or export by ERICH JAEGER takes place to a third country outside the European Union (except the countries listed in Annex VIII to Regulation (EU) No. 833/2014), any (re)sale and/or any (re)export and/or any other kind of delivery of the goods and technologies supplied by ERICH JAEGER, directly or indirectly, unchanged or integrated into other products, to Russia and/or via third parties for use in Russia are prohibited.
- 21.2 In the event of a breach of the prohibition pursuant to section 21.1 above, ERICH JAEGER shall be entitled to demand a contractual penalty from the customer in the amount of 25% of the purchase price for the goods and technologies concerned as well as compensation for all damages incurred by ERICH JAEGER, including the imposition of fines. The contractual penalty shall be offset against the compensation to be paid.
- 21.3 In the event of a breach of the prohibition pursuant to section 21.1 above, ERICH JAEGER shall be also entitled to withdraw from unfulfilled contracts or to terminate such contracts with immediate effect and/or to terminate the business relationship with the customer.



ERICH JAEGER

General Terms and Conditions of Sale of Erich Jaeger GmbH + Co KG

21.4 In the event of a breach of the prohibition pursuant to section 21.1 above, ERICH JAEGER reserves the right to inform the responsible authorities in the European Union of any breach of this prohibition.

22. Governing Law, Jurisdiction

22.1 The legal relationship between the customer and ERICH JAEGER is governed by the law of the Federal Republic of Germany; application of the UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.

22.2 Exclusive jurisdiction for all claims arising from the parties' business relationship is vested in the courts at the registered office of ERICH JAEGER. ERICH JAEGER is also entitled to bring an action in the courts at the registered office of the customer as well as at any other permissible jurisdictional venue.

22.3 In international business transactions, the parties may choose between recourse to the ordinary courts or to arbitration for all legal disputes arising from or in connection with this contract and its performance.

22.4 If the Parties seek redress in the ordinary courts, section 21.2 shall apply *mutatis mutandis*.

22.5 If the parties refer a dispute to arbitration, all disputes arising from or in connection with the present contract shall be finally settled pursuant to the Arbitration Rules of the German Institution of Arbitration (DIS). The arbitral panel shall consist of three arbitrators. Unless the parties have agreed otherwise, at least one of the arbitrators must be a German lawyer. The arbitrators must be fluent in the language of the arbitration. The language of arbitration shall be German, unless the parties have agreed on another language of arbitration. The seat of the arbitral tribunal is Stuttgart, Germany.

23. Final Provisions

23.1 The assignment of rights and obligations of the customer to third parties is only permitted with the written consent of ERICH JAEGER.

23.2 ERICH JAEGER may involve third parties or vicarious agents in any and all aspects of performance of the contract.

23.3 The place of performance for all obligations arising from the contractual relationship is the registered office of ERICH JAEGER.

23.4 Should individual provisions of these Terms of Sale be or become invalid, this shall not affect the validity of the remaining Terms of Sale. The invalid provision shall be replaced by such valid provision as comes the closest to the economic content of the invalid provision. The same applies in the event of an unintended gap.

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