

## 1. GENERAL

The following General Terms and Conditions of Purchase (hereinafter referred to as „GTCP“) constitute the basis for the entire business relationship between any of the JAF Group entities that can be retrieved from [www.jaf-group.com](http://www.jaf-group.com) (hereinafter referred to as „JAF“), on the one part, and the relevant supplier of goods (hereinafter referred to as the „Supplier“), on the other part.

JAF Product Management (JAF PM) is composed of International Product Management (IPM), as part of the company JAF International Services GmbH, and Local Product Management (Local PM), as part of the local JAF subsidiaries.

The JAF branches are the local sales representations of JAF.

These Terms and Conditions of Purchase are binding for all current and future business transactions between JAF and the Supplier, even if they are not expressly referred to.

Email messages, fax transmissions or letters shall fulfil the formal requirement of written form of these GTCP.

If a Supplier uses his own general terms and conditions they shall not become part of the contract.

Rights which JAF may have vis-à-vis the Supplier under the present Terms and Conditions of Purchase may be claimed independently by any JAF branch to be supplied under the contract vis-à-vis the Supplier.

## 2. PURCHASE OF GOODS; OFFER AND ACCEPTANCE

Central agreements between the IPM and/or the Local PM and the Supplier shall be complied with in any case. Apart from that, additional special agreements between local JAF subsidiaries or JAF branches and the Supplier shall be permitted, provided that they are for the exclusive advantage of JAF.

Offers of, visits by, advice given by the Supplier and the like shall be free of charge for JAF. The Supplier shall be bound by any of his offers for a period of two (2) months, which period shall commence upon receipt of the written offer by JAF PM.

JAF may accept the Supplier's offers in part, e.g. only for specific goods or types of goods or in smaller quantities without the Supplier being entitled to increase the relevant offer prices in such a case.

Any acceptance of an offer (purchase order) shall be legally binding on JAF only if made in writing.

The Supplier expressly and irrevocably waives his rights under the provisions of the Austrian Business Code [*Unternehmensgesetzbuch/UGB*], Book 4, Part 2 (Regulations on the Purchase of Goods, Sections 373 et seq. UGB, including but not limited to notice of defects (Section 377 UGB)) vis-à-vis JAF to the extent that such rights exceed the scope of the Supplier's rights and powers under the Austrian Civil Code [*Allgemeines Bürgerliches Gesetzbuch/ABGB*].

## 3. PRICE

The relevant offer prices of the Supplier shall be fixed prices that include transportation and packaging and exclude VAT until a new agreement will be concluded with the Supplier. Price changes by the Supplier shall be permitted under no circumstances, not even in the case of changes in the cost of materials, wages, social benefits, taxes and the like.

## 4. DELIVERY; LATE DELIVERY; FIXED-DATE PURCHASE

Shipments shall be delivered with packaging and carriage paid to the destination requested by the JAF branch, at JAF's option also as delivery by instalments out of a single purchase order to separate branches, at delivery dates determined by JAF at the Supplier's risk.

Deliveries shall be deemed effected only after arrival of the goods at the relevant destination, in particular at the relevant JAF branch, and shall be deemed delivered only at the time at which JAF has actually received the shipment, also in the case that JAF has determined or approved the relevant mode of shipping itself.

Agreed delivery dates shall be strictly observed by the Supplier, including vis-à-vis the JAF branches (fixed-date purchases). In the case that delivery is not effected at the agreed date or within the agreed delivery period, JAF shall be entitled to immediately rescind the contract, and the right of rescission shall be deemed exercised also without separate notification or express statement of rescission in a specific case, unless JAF notifies the Supplier that JAF insists on performance of the contract immediately after the agreed delivery date or expiration of the agreed delivery period.

In addition, JAF shall in the case of late delivery be entitled to make covering purchases from a different supplier, which substitute supplier shall be chosen only by JAF. No express warning and granting of a grace period shall be required. The Supplier is obliged to refund JAF any price differences that result from covering purchases and are to be borne by JAF within 10 days of JAF's request.

Cost of transportation resulting from complaints shall be borne by the Supplier.

JAF expressly reserves the right to assert additional claims.

## 5. PRODUCT DETAILS

The Supplier undertakes to offer JAF only items that are in conformity with the law, the regulations and standards of the country of destination and the EU as applicable at the time of delivery. The Supplier shall furnish relevant proof to JAF upon request. If products offered by the Supplier are not in line with those provisions, the Supplier shall point out that fact to JAF in writing and provide details. Otherwise JAF shall be entitled to rescind the contract with immediate effect without having to grant a grace period.

Product specifications, technical information sheets, advertising material, etc. shall be provided by the Supplier free of charge.

Goods which are sent to JAF as a sample and/or for preparation of an advertising campaign shall become the property of JAF for no consideration, unless they are collected by the Supplier from JAF's premises within 21 days of arrival.

All deliveries to JAF shall be free of any reservations of title. Any such reservations regarding the Supplier's documents shall be ineffective even without an express

separate objection of JAF. Acceptance of JAF's purchase order by the Supplier shall be considered a representation to the effect that the Supplier holds unrestricted title to goods to be delivered.

## 6. LATE PAYMENT INTEREST

If JAF has monetary claims vis-à-vis the Supplier under the business relationship with the Supplier, such claims shall be settled within 14 days of a written request. After expiration of the period JAF shall be entitled to demand late payment interest of 13% p.a. and reimbursement of all collection costs.

The Supplier expressly and irrevocably waives his rights under the provisions of the Austrian Business Code, Book 4, Part 8 (Late Payment, Sections 455 et seq. UGB) vis-à-vis JAF to the extent that they exceed the Supplier's rights and powers under the Austrian Civil Code.

## 7. WARRANTY

Warranty claims may be asserted both by JAF and the relevant JAF branch directly vis-à-vis the Supplier. Defective goods shall be primarily replaced by the Supplier free of charge and delivery paid to the place of destination (replacement). If the Supplier fails to do so immediately upon request, JAF may obtain substitute goods at the Supplier's cost notwithstanding any other rights, or rescind the contract.

If JAF has agreed to improvement rather than replacement, defects shall be remedied at the place where the goods are at the time the defect is notified.

Travel costs and cost of transportation shall exclusively be borne by the Supplier without any entitlement to refund.

The Supplier shall indemnify and hold harmless JAF upon first demand from and against any and all obligations on the ground of warranty or consequential damage caused by defects for which JAF is not responsible.

## 8. PRODUCT LIABILITY

Concurrently with the offer or upon first demand the Supplier shall advise JAF with regard to all products offered as to who is the manufacturer of those products and who has placed the same on the market and, in the case of foreign products, advise the name of the entrepreneur in Austria who has imported the product into Austria for distribution and who has placed the same on the market in Austria (importer).

The Supplier undertakes to indemnify JAF against all product liability claims and indemnify and hold harmless JAF from and against all such claims.

If JAF is held liable on the ground of product liability, JAF shall notify the relevant Supplier thereof. If a product liability claim is served on JAF, the Supplier shall be notified in writing within 8 days of service of the claim.

If a claim is brought against JAF, the Supplier shall be obliged to provide comprehensive procedural support, including joining the action as an intervening party to the extent that this is expedient. The Supplier shall have no right to influence the choice of the lawyer. The Supplier shall accept court decisions or court settlements in connection with product liability proceedings that have resulted from deliveries of the Supplier also vis-à-vis himself without restrictions. They shall also be binding for the legal relationship between JAF and the Supplier insofar as the Supplier shall fulfil his obligation to indemnify JAF in accordance with the decision or settlement.

In connection with the indemnification the Supplier undertakes, in particular, to reimburse JAF, immediately upon request, all costs of legal counsel in connection with the defence against product liability claims, as they result from the Lawyer's Fees Schedule [*Rechtsanwaltstarifgesetz/RATG*] and the Autonomous Fee Guidelines. Upon JAF's request the Supplier shall make reasonable payments on account to cover any costs incurred.

## 9. BILLING; E-BILLING

Billing shall be effected in such a way that bills shall be issued to the JAF branch that received the goods; in the case that delivery is made to several branches separate bills shall be issued.

Bills to Austrian entities shall primarily be sent electronically via e-billing or email to [rechnung@frischeis.at](mailto:rechnung@frischeis.at) and shall include JAF's purchase order number and the date of the purchase order. In special cases one copy of the bill may also be sent to the address 2000 Stockerau, Gerbergasse 2 by post, which bill shall include the VAT no. ATU18322205 for J u A Frischeis GmbH or the VAT no. ATU18334183 for JAF ZENGERER GmbH.

Only the JAF branch to which the goods have been delivered shall be liable for payment to the Supplier.

Payment shall be made as stated in our JAF Supplier Agreement.

Payment may also be effected by setting off the claim against claims JAF may have vis-à-vis the Supplier.

The Supplier shall expressly be prohibited from assigning claims vis-à-vis JAF to third parties.

## 10. CONTRACTUAL PENALTY

In the case that the Supplier fails to strictly observe the agreed delivery date, the agreed delivery period or the agreed place of delivery (cf. Clause 4) he undertakes to pay JAF a contractual penalty in the amount of 1% of the value of the goods of the relevant purchase order for every day of the delay in delivery.

## 11. FINAL PROVISIONS

The entire business relationship between JAF, on the one part, and the relevant Supplier, on the other part, shall exclusively be governed by Austrian law; UN Sales Law shall be excluded.

The exclusive place of jurisdiction for both parties shall be the court having jurisdiction over the subject matter and over the registered office of JAF in 2000 Stockerau, Gerbergasse 2.