



## JTEKT GENERAL PURCHASE CONDITIONS

Index F of 12/11/2008

### 1. PURPOSE

Unless otherwise expressly agreed, the following General Conditions will govern the relationship between JTEKT and/or the subsidiaries of JTEKT (hereinafter referred to collectively as "JTEKT" when acting in the name and on behalf of these subsidiaries) and the supplier. The fact that JTEKT fails to require the application of one or more of the provisions hereof shall not be deemed a waiver of its right to assert its rights.

### 2. ORDERS

2.1 Depending on the product or service concerned (hereinafter "the Products"), JTEKT shall use:

- Either an **open order / supply program**

JTEKT will issue an open order and will periodically send related supply programs of the Products mentioning the number of days of firm order and the number of weeks of forecast. If the open order or the supply program is not refused by Supplier in writing within eight (8) days following the sending of the open order or within twenty-four (24) working hours following the dispatch of the supply program, it will be deemed to be accepted.

- Or a **firm order**

JTEKT will issue a firm order in case of any study, purchase of machine, purchase of specific or unusual services including the purchase of specific tooling. If the firm order is not refused by the supplier in writing within forty-eight (48) working hours following the sending of the firm order, it will be deemed to be accepted.

2.2 JTEKT may modify any outstanding order or supply program not yet delivered by sending to the supplier an amendment. If no written response is forthcoming to such amendment within twenty-four (24) working hours from the date of its dispatch, it will be deemed to be accepted.

2.3 Quantities communicated by JTEKT to the supplier at consultation or nomination stage as well as forecast quantities periodically communicated by JTEKT to the supplier shall not constitute any firm commitment of JTEKT, notwithstanding any contrary provision written on any document issued by the supplier.

### 3. PACKAGING - DELIVERY - ACCEPTANCE

3.1 The supply of the packaging shall be made in accordance with JTEKT logistic protocol if any, or in accordance with the signed packaging form. In case the supplier supplies the packaging, the supplier shall be responsible for the packaging. The packaging used shall be recyclable and re-usable, appropriate and sufficient to ensure that the products are protected against damage during their transportation and storage and to permit safe and rational handling.

3.2 Orders shall be delivered in accordance with the instructions given in the order to the place of delivery, on the delivery date and in the quantities specified in the order or supply program.

3.3 Transfer of the risks shall take place under the conditions specified by the Incoterm governing the order. Ownership of the product shall be transferred to JTEKT at the time of its final acceptance. The goods shall not be subject to any retention of title clause.

3.4 Unless otherwise agreed in writing in the logistic protocol signed by the parties, each delivery must be accompanied by a delivery note and any documentation specified in the order; such delivery note must contain the JTEKT order number and item number (JTEKT codification and nature of the goods in accordance with the wording of the order); labels must comply with ODETE GALIA standards; in particular, the nature of the goods shall be clearly labelled on each package, crate or batch. The quantities delivered must be explicitly indicated in the unit of account specified in the order or supply program. The supplier must deliver, at JTEKT's request and within requested time limit, any document or information regarding the origin of the products.

3.5 JTEKT's signature of the delivery note shall not constitute final acceptance of the products. Final acceptance for Quality Controlled Products (QCP) shall take place upon assembly by JTEKT and for non-QCP's it shall take place upon verification of the products by JTEKT. With regard to the machines, final acceptance will be carried out in accordance with the JTEKT machine-acceptance procedure. JTEKT may return any non-compliant or defective products at the supplier's expense and risk. Such defective products will give rise immediately to a credit. JTEKT shall have the right to request replacement for defective or non-conforming products on the same invoicing terms as the products replaced, or have the service provided by a third party at the supplier's expense. All costs related to the non-compliance or defectiveness of the products shall be borne by the supplier, including sorting, dismantling/reassembly or retouching operations carried out, production stoppages by JTEKT or third parties; in addition, a lump sum amount shall be invoiced to the supplier for administrative costs, without prejudice to any damages.

3.6 The delivered products shall conform exactly to the initial samples approved, to any specifications, models, plans, agreements or others supplied by JTEKT to implement the order. The supplier shall comply with the latest version of the JTEKT purchase guide, including in particular the JTEKT quality assurance measures. The delivered products shall be in conformity with any regulation in force in the European Union and in any country of manufacture, sale and use and in particular the delivered products shall not contain any restricted or forbidden material or substance (especially as regard to REACH regulation). Furthermore, the supplier shall comply with JTEKT social responsibility principles as well as with social and labour law (lawful employment, no child labour, no forced labour ...).

### 4. DELAYED DELIVERY - PENALTIES FOR DELAYED DELIVERY

4.1 Unless otherwise agreed in writing, the supplier undertakes at its own expense to keep a permanent safety stock equivalent to 5 days deliveries in separate premises from its own and to regularly renew such stock.

4.2 The delivery times shown in the order are imperative and are understood as delivered to the place of delivery shown on the order. In the same way, the intermediary and final delivery dates for the order are imperative.

4.3 Any delivery made after the determined date shall give rise, after a prior summons, to penalties for delay in favour of JTEKT the amount of which is equal per day of delay to one per cent (1 %) of the excluding tax value of the order. A lump sum shall be invoiced to the supplier for administrative costs, without prejudice to any other damages including in particular the cost of exceptional transportation borne by JTEKT because of such delays and assembly line stoppages.

4.4 JTEKT reserves the right to return any order surplus or any product not ordered or dispatched without an order from JTEKT or in advance. Carriage costs to be borne by the supplier.

### 5. GUARANTEE - SPARE PARTS

5.1 In connection with the implementation of an order, the supplier commits to supply what is ordered. The supplier shall hold JTEKT harmless against any liability action. Apart from the legal guarantees, the supplier shall grant a contractual guarantee for the same period as that to which JTEKT is bound with regard to its clients for the products in which the products are included and of which the supplier acknowledges having been informed. For products which are not integrated (in particular, equipment, machines, etc.), the supplier will grant a minimum contractual guarantee of two (2) years as from the final acceptance of the products.

The aforementioned guarantees shall also apply in the event a defect incurring the supplier's liability obliges JTEKT or JTEKT's end client to carry out an examination and exchange of the defective products through verification or a recall campaign. In the framework of these guarantees, the supplier undertakes to bear all the costs related to the defective products in particular by being responsible for dismantling, repatriation, administrative works, labour costs, assembly line stoppages, withdrawal campaign, damage to its reputation, etc... and to compensate fully the loss suffered by JTEKT or by third parties.

5.2 The supplier undertakes to provide spare parts and/or components at any time, without delay, further to an order from JTEKT, until the end of a period of fifteen (15) years after the end of mass production of the products into which the supplier's products are incorporated and for a period of ten (10) years as from the final acceptance of the products which are not incorporated; these periods shall be extended in order to reach the same period as that to which JTEKT is bound with regard to its clients. For this purpose, the supplier shall keep the Equipment, together with the corresponding manufacturing plans and ranges until the date of effective termination by JTEKT of the order for spare parts of the product concerned.

## **6. INSURANCE**

**6.1** The supplier undertakes to insure itself against any and all civil liabilities as supplier of the products and covering any and all monetary consequences for damages of any nature whatsoever caused to JTEKT or to third parties, resulting from the implementation of the order and/or the delivered products, whatever the basis of its liability.

**6.2** At the conclusion of the order and/or the agreement and at each anniversary date, the supplier shall produce evidence of such insurance, stating covered damage and amounts, exemptions and the duration of the guarantees. This insurance policy shall cover damages which may be caused in the context of implementing the order or the agreement on the one hand, and those possibly caused by products delivered to third parties. The insurance contract shall in no way limit the supplier's liability for incidents arising as a result of the order, and in particular shall not limit liability in respect of sub-contractors. The supplier shall notify JTEKT immediately of any modifications, suspension or termination of its insurance policies.

## **7. ASSIGNMENT AND SUB-CONTRACTING**

**7.1** The supplier undertakes not to assign all or part of the order or to sub-contract its implementation or contribute it without the prior written consent of JTEKT.

**7.2** The supplier shall be entirely and solely responsible for the satisfactory implementation of the order including any contract sub-contracted in whole or in part with JTEKT's prior consent.

## **8. FINANCIAL CONDITIONS - PRICE - INVOICING - CREDIT NOTES**

**8.1** Unless otherwise stipulated in the order, prices (excluding tax) shall include, in particular, the supply and packaging of the products, the product warranty, the assignment of studies and other elements of intellectual property performed by the supplier in the context of the implementation of the order, if necessary the cost of the separate storage premises and the transport of the products to the place indicated in the order. Prices are fixed and shall not be varied without the written agreement of JTEKT which should take the form of an amendment to the order or a new order or contract, which alone shall authorize the establishment of invoices at prices different from the original prices.

**8.2** There shall be two copies of each invoice per delivery and per order number. This shall also be the case for any credit.

**8.3** JTEKT shall return any invoice not prepared in accordance with the above terms and/or not complying with the provisions of law. JTEKT will refuse to pay for or to receive any unordered products.

**8.4** Invoices shall be addressed to JTEKT at the earliest on the delivery date. Unless otherwise expressly agreed by the parties, the agreed term of payment shall be the maximum payment term as allowed by applicable law and inter-branch agreements. JTEKT shall offset any payment due to the supplier against any amounts due by the supplier in particular in respect of the penalties referred to in Articles 3, 4, 9 and 10 of these General Purchase Conditions or in respect of any direct action brought by the sub-supplier or the carrier against JTEKT.

## **9. INTELLECTUAL PROPERTY - CONFIDENTIALITY - OWNERSHIP OF CERTAIN RAW MATERIALS PARTS AND COMPONENTS**

**9.1** For the supply of any products involving the use of patented appliances in full or in part, or of registered designs or models, and generally any element likely to be protected under industrial property law, the supplier shall guarantee JTEKT against any claim from the possible holders of such patents, designs, models, etc, included in its products. In the event of infringement or unfair competition proceedings, the supplier shall immediately substitute itself for JTEKT and defend in its name and on its behalf at all instance, whether founded or un-founded, which may be initiated, it being agreed that any amounts whatsoever which may be disbursed by JTEKT or its clients for costs and fees or even for damages paid as a result of a condemnation shall be fully and immediately repaid to it by the supplier together with any damages which may result from JTEKT's obligation to destroy and/or cease the use of the supplier's products including the patents, designs, models infringing the rights of third parties.

**9.2** The supplier shall keep confidential the specifications, formulas, designs and technical, economic and financial information, details or manufacturing secrets related to JTEKT's orders including the orders themselves, as well as any element obtained during a visit on JTEKT's premises or on JTEKT customers' premises. All the elements submitted to the supplier in view and in the framework of the implementation of the order or carried out by the supplier in the framework of the implementation of the order shall be returned to JTEKT at the end of the relationship.

**9.3** When an order indicates that certain raw materials, parts and components, in JTEKT's ownership, have been sent by it to the supplier for the implementation of the order, the supplier undertakes to use them only for the need of the said order. Besides, the supplier is prohibited from pledging such raw materials, parts or components and undertakes to ensure not only the safekeeping and maintenance but also to individualize them in such a way that no confusion may arise with its own goods and in such a way that in the event of insolvency or bankruptcy procedure of the supplier, JTEKT may exercise its right to establish title.

## **10. EQUIPMENT FOR MANUFACTURING PRODUCTS (hereinafter referred to as "Equipment")**

**10.1** Studies and plans implemented by the supplier as well all equipment made specially for the performance of JTEKT's order, in particular all moulds, shells moulding dies and tooling masters shall be the exclusive property of JTEKT. JTEKT reserves the right to transfer them to any third party, it being understood that this shall not modify the obligations of supplier under this article 10. The supplier undertakes to return these elements at JTEKT's first demand. Regarding Equipment which is paid by JTEKT as a part integrated in the piece price, JTEKT may, at its own discretion, pay the outstanding amount to the supplier in order to obtain the exclusive property of Equipment.

**10.2** The Equipment shall be used exclusively for the execution of JTEKT's orders; the supplier shall not use the Equipment for any third party orders. Any breach of this condition shall give rise to a penalty payment by the supplier to JTEKT of an amount of 50% of the excluding tax value of the order. Such penalty shall be in addition to any other rights of JTEKT to damages.

**10.3** The supplier shall at its expenses maintain the Equipment in good working order; maintenance and repair costs as well as taxes relating to the Equipment shall be born by the supplier. The supplier shall inform JTEKT in writing within a reasonable period that the Equipment is in need of replacement. Unless otherwise specified by JTEKT, the supplier shall immediately identify the Equipment via a plate or engraving bearing the words "property of JTEKT". The supplier shall have no right of retention over the Equipment. The supplier shall immediately inform JTEKT in case of any threat hanging over the Equipment or over any other good owned by JTEKT and stored in the supplier's premises.

**10.4** The supplier shall underwrite an insurance policy covering (i) direct damages for value as new caused to the Equipment during the period of their use in respect of the implementation of the order, as well as (ii) indirect damages (including JTEKT's loss of operation) which occur as a consequence of damage or destruction of the Equipment.

## **11. TERMINATION**

In case of breach of its contractual obligations by the supplier or in case the supplier is unable or likely to be unable to carry out the order, JTEKT shall have the right to cancel the order without prior notice and without any other formal condition and to engage a third party to carry out the order at the expense of the supplier. This right shall be in addition to any other right of JTEKT to damages.

## **12. APPLICABLE LAW - JURISDICTION**

The relations between JTEKT and the supplier and in particular any dispute relating to the interpretation of the present General Conditions, the execution or inexecution or unsatisfactory performance of the product orders shall be governed by French law, outside the Vienna Convention. Any dispute shall be subject to the exclusive jurisdiction of the Tribunal de Commerce of Lyon, in case JTEKT and the supplier does not reach any amicable settlement.