Jurisdiction Clause: Agreement on the Place of Jurisdiction in Supply and Procurement Contracts

The Jurisdiction Clause (agreement on the place of jurisdiction) contractually determines which court has territorial and subject-matter jurisdiction over disputes arising from a supply or framework agreement. For technical buyers, it is a central risk management tool, as it significantly influences legal enforcement, costs and the duration of proceedings. It must be distinguished from the choice of law and the arbitration clause, although in practice it is often combined with these.

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Key facts at a glance

01 The Jurisdiction Clause determines the court with jurisdiction over disputes arising from or in connection with a contract.

02 It is part of the standard terms and conditions and is subject to strict review, particularly in cases of unreasonable disadvantage.

03 Typical variants are exclusive jurisdiction, alternative jurisdiction or arbitration clauses as a substitute for state courts.

04 For cross-border supply relationships, the Hague Convention on Choice of Court Agreements (2005) governs the recognition of chosen courts.

05 In practice, buyers should review jurisdiction, choice of law and dispute resolution as an interconnected clause package rather than in isolation.

Definition: Jurisdiction Clause

The Jurisdiction Clause is a contractual agreement that determines the court before which disputes between the contracting parties are heard. It governs territorial and frequently also subject-matter jurisdiction and may name the courts of one or more parties. Under German law, it operates as an agreement on the place of jurisdiction pursuant to the rules of the Code of Civil Procedure.

Distinction from choice of law (Choice of Law)

The Jurisdiction Clause determines the court with jurisdiction, whereas the choice of law determines the applicable substantive law. Both clauses are frequently agreed together in a clause package but cover different levels. An agreement on German courts does not automatically include German law, and vice versa. In practice, the buyer should review both clauses for consistency, because inconsistent combinations can generate disputes over interpretation and unnecessary costs.

Distinction from the arbitration clause (Arbitration Clause)

An arbitration clause shifts disputes from state courts to arbitration proceedings and typically excludes the jurisdiction of state courts. It replaces the Jurisdiction Clause rather than supplementing it, and is common in international supply contracts because arbitral awards are comparatively easy to enforce across borders. Buyers should decide whether arbitration or state courts fit the contract volume and the likelihood of disputes.

Methods and approach for negotiating jurisdiction clauses

The design of the Jurisdiction Clause typically follows the balance of bargaining power, contract value and country risk. A systematic approach in tender management prevents clauses from being adopted unchecked in the final sprint of bidder communication.

Clause variants and their effect

The most important variants at a glance:

- Exclusive jurisdiction: only one named court has jurisdiction, e.g. the buyer's registered office – the most common buyer preference
- Alternative jurisdiction: several courts to choose from, e.g. action at the registered office of one party
- Jurisdiction at the place of performance: practical for supply contracts with a clear place of performance
- Arbitration agreement: exclusion of state courts, often with a defined seat of arbitration and rules of procedure

Process in procurement: from enquiry to contract signature

What has proven effective is an early clause check during the tendering phase: anyone who sends out standardised contract annexes as part of the tender process identifies deviation requests from bidders early and can clarify them in a structured manner in a Clarification Round. For complex contracts with high volume, such as a Delivery Schedule Agreement or an obligation to accept goods, involving the legal department before contract conclusion – not afterwards – is recommended. Standard clauses with an approval list accelerate the sign-off and reduce the case-by-case legal effort.

Key KPIs for assessing dispute resolution clauses

Jurisdiction clauses cannot be directly quantified, but their practical quality is reflected in measurable figures in procurement and contract management. These indicators help to make risks visible and set negotiation priorities.

KPIs in clause management

The following have proven particularly effective in practice:

- Proportion of contracts with documented clause review
- Proportion of supplier contracts with a deviating jurisdiction clause
- Duration of contract negotiations until clause agreement
- Number of pending legal disputes per 100 active supplier relationships

Link to operational procurement KPIs

Legal disputes indirectly burden operational KPIs such as the complaint rate and the results of complaint assessment, because unclear jurisdiction slows down complaint processes. When reviewing volume rebates or freight cost breakdowns, too, clear jurisdiction at the company's own registered office makes it easier to enforce claims. This sustainably strengthens the negotiating position.

Risks and controls in relation to jurisdiction clauses

Faulty or unchecked clauses are a frequent cause of avoidable legal risks. In particular, international supply chains and the integration of 3PL providers create complex jurisdictional constellations.

Typical risks

The most common sources of error at a glance:

- Adoption of the supplier's standard terms without reflection (silent adoption of clauses)
- Clauses in foreign languages without professional translation and review
- Inconsistencies between jurisdiction, choice of law and the language of the contract version
- No provision for interim measures such as interim legal protection

Control mechanisms in the procurement process

Clause policies with defined limits have proven effective: for example, procurement may itself sign off standard clauses up to a certain contract value, while negotiated deviations below this require legal approval. In the event of a supplier change or re-tendering, adopted contracts should not be continued uncritically; instead, the clauses should be renegotiated. In contracts relevant to the German Supply Chain Due Diligence Act, the review of dispute resolution also forms part of the due diligence review, since jurisdiction affects the enforceability of due diligence requirements. Legal questions in individual cases should always be examined by a qualified professional.

Current developments: international jurisdiction rules and digitalisation

The environment for jurisdiction agreements is evolving: European rules on jurisdiction, international conventions and digital contract tools are changing the handling of Jurisdiction Clauses in industrial procurement.

International framework conditions

Within the EU, the Brussels Ia Regulation harmonises the rules on jurisdiction and enforcement; chosen places of jurisdiction are generally recognised. The Hague Convention on Choice of Court Agreements (2005) improves the enforceability of chosen courts across borders, albeit with reservations by individual states. For DACH companies with suppliers outside the EU, the enforceability of foreign judgments remains a central criterion when choosing between a place of jurisdiction and an arbitration clause.

Digitalisation of contract management

Digital contract and CLM systems make it possible to maintain clause libraries with pre-approved Jurisdiction Clauses and to document deviations systematically. With digital procurement platforms and tender management tools, contract annexes can be integrated into the enquiry at an early stage, so that bidders disclose deviations transparently. This reduces renegotiations and accelerates contract conclusion.

Typical metrics

Metric	Typical value
Proportion of contracts with documented clause review	> 95% *typical target value in contract management for mature procurement organisations*
Deviating jurisdiction clauses	< 10% *proportion of contracts with non-standardised jurisdiction agreements*
Negotiation time until clause agreement	1–2 weeks *common guideline value for standard clauses with an approval process*

Practical example

A mid-sized machinery manufacturer based in Baden-Württemberg procures precision components from a supplier in Eastern Europe. The supplier's adopted contract documents contained an exclusive jurisdiction clause at the supplier's registered office. After a serious quality deviation with a high complaint rate, enforcing damage claims proved practically impossible, as the litigation costs and risks

at the foreign court exceeded the amount in dispute.

- Introduction of a clause policy with mandatory approval of all foreign jurisdiction clauses
- Standard clause with exclusive jurisdiction at the company's own registered office for framework agreements
- Systematic clause review at every supplier change and every contract renewal
- For high volumes above a defined threshold, examination of an arbitration clause with an EU seat of arbitration

Conclusion

The Jurisdiction Clause is an seemingly minor detail at the end of the contract, but in a dispute it determines the costs, duration and prospects of success of legal enforcement. Buyers should never consider it in isolation but together with the choice of law, language and dispute resolution mechanisms. Standardised clause libraries, clear approval processes and early anchoring in tender management reduce the risk of unwanted jurisdictions. Particularly for international supply relationships, comparing state courts and arbitration is worthwhile. Anyone who manages jurisdiction clauses systematically strengthens their negotiating position and significantly reduces preventive legal risks.

Frequently asked questions

? What is a Jurisdiction Clause?

A Jurisdiction Clause is a contractual agreement on the place of jurisdiction that determines which court has jurisdiction over disputes arising from the contract. It thereby governs the venue for legal enforcement and affects the cost and duration of proceedings. In German contracts, it largely corresponds to a Gerichtsstandsvereinbarung (agreement on place of jurisdiction).

? What is the difference between a Jurisdiction Clause and Choice of Law?

The Jurisdiction Clause determines the court with jurisdiction, whereas the Choice-of-Law clause determines the applicable law. The two clauses are independent of each other and may be agreed differently. In practice, they are usually negotiated as a consistent package to avoid conflicts of interpretation.

? Which place of jurisdiction is advantageous for buyers?

Buyers typically prefer exclusive jurisdiction at their own registered office, as this reduces litigation costs, travel expenses and legal risks. With high-performing suppliers or strategic partners, a neutral venue or arbitration may also make sense. The choice depends on contract value, country risk and bargaining power.

? Is an agreement on the place of jurisdiction in standard terms (AGBs) valid?

Agreements on the place of jurisdiction in standard terms and conditions are subject to strict

content review and may be invalid if they unreasonably disadvantage one party. In B2B dealings between experienced merchants, the scope is broader than in consumer business. In individual cases, the validity should always be legally reviewed.

? When is an arbitration clause better than a place of jurisdiction?

Arbitration clauses are particularly suitable for international contracts, because arbitral awards are more easily enforceable across borders on the basis of international conventions. They also offer confidentiality and often faster proceedings. For smaller amounts in dispute, however, state courts may be more economical due to lower costs.

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