



## General Terms and Conditions of Sale and Delivery of Plastikpack GmbH

### 1.0 General

1.1 The following General Terms and Conditions of Sale and Delivery shall apply exclusively to all our deliveries and services. They shall apply to all contracts with companies. Deviating, conflicting or supplementary general terms and conditions of the Customer shall not become part of the contract - unless their validity is expressly acknowledged in writing.

1.2 In the framework of on-going business relationships, our General Terms and Conditions of Sale and Delivery shall apply to future deliveries and services, even if they are not expressly agreed upon in each case.

### 2.0 Quotation

2.1 Our quotations shall be non-binding and should only be understood as an invitation to submit an order.

2.2 The information provided in printed documents or electronic media concerning dimensions, weights and physical or material properties is only approximate, unless it has been expressly confirmed as binding by us in writing, as an integral part of our quotation. In the case of dangerous goods packaging, the technical data described in the type examination report and UN certificate shall be deemed to be agreed.

2.3 The right to make standard technical and design modifications of the delivery items deviating from quotations and prospectuses is reserved, provided that they do not cause unreasonable inconvenience to the Customer and provided that they do not affect the serviceability of the delivery items.

### 3.0 Conclusion of the contract

3.1 The Customer is bound to its order for fourteen days - calculated from the date of the order being sent. The contract only comes into force through our order confirmation in writing or through its execution, whichever event comes first.

3.2 In the case of make-and-hold orders concerning a specified quantity of goods, this must be requested by the Customer within the agreed period - or, in the absence of such an agreement, within 12 months of the conclusion of the contract. If the total agreed delivery quantity is not requested within the demand period, we shall be released from the obligation of performance in advance and entitled to demand the purchase price for the quantity that has not been requested, gradually in return for performance.

### 4.0 Prices

4.1 Deliveries for which no prices are agreed shall be calculated at the prices valid on the date of the delivery.

4.2 Our prices for deliveries shall be understood ex works/stock, including loading. Packaging, transport costs, customs duties and the costs of a transport insurance policy requested by the Customer shall be calculated separately. The VAT valid on the due date shall be invoiced separately.

4.3 If the agreed delivery date is later than four months after the conclusion of the contract, we shall be entitled to adapt the prices according to an increase in material or labour costs that has occurred in the meantime.

4.4. In the event of part deliveries, to which we are entitled, each delivery may be invoiced separately.

### 5.0 Payment, default of payment, offsetting prohibition

5.1 Means of payment other than cash or transfers shall only be accepted upon prior agreement and even then only on account of performance.

5.2 Rebates or discounts can only be deducted if this has been agreed in

writing. A cash discount requires that all the payments arising from the order are received by us within the discount period.

5.3 In the event that the Customer is in default of payment, we shall be entitled to claim default interest of 9 % above the basic interest rate according to § 247 German Civil Code. Our claims to compensation for actual higher damages remain unaffected.

5.4 Offsetting shall only be possible with counterclaims that are legally established, undisputed or have been acknowledged by us.

5.5 If the Customer remains in default with a payment obligation for longer than four weeks, or in the event of protested cheques or bills of exchange or enforcement measures against the Customer, we shall be entitled only to perform outstanding deliveries to the Customer from other orders or from make-and-hold orders in exchange for payment in advance.

5.6 The Customer shall only be authorised to exercise a right of retention if its counterclaim is based on the same contractual relationship.

### 6.0 Delivery dates, delivery periods, default of delivery

6.1 If the cooperation of the Customer is necessary for the delivery of the goods ordered by the Customer, an agreed delivery period shall not begin to run before the cooperation due is effected by the Customer; the agreed delivery dates shall no longer be binding if the cooperation of the Customer is not effected at the time of the conclusion of the contract, and is also not effected within three working days after a reminder from us; without a reminder by us, the delivery date shall be postponed, in any case, by the period between the conclusion of the contract and the performance of the cooperation.

6.2 The agreed delivery periods shall be extended and the agreed delivery dates shall be postponed by a reasonable amount in the event of industrial disputes, in particular strikes and lockouts, and in the event of the occurrence of force majeure or unforeseen obstacles that are beyond our influence, insofar as such obstacles verifiably influence the completion or the delivery of the delivery items. This shall also apply if the circumstances occur for our suppliers. Even a delayed delivery of raw materials and supplier parts, for which we are not responsible, and transport disruptions shall lead to an appropriate extension of the delivery period. If our business is so affected by the aforementioned circumstances that the execution of the order can no longer be expected of us, we shall be entitled to withdraw from the contract.

6.3 In the event of a default of delivery, the Customer may withdraw from the contract following the fruitless expiry of an appropriate grace period; in the event that delivery proves impossible, the Customer shall be entitled to do this even without setting a grace period. Claims for damages (including any consequential damages) shall be excluded, irrespective of Clauses 6.4 and 10; the same shall apply for claims for reimbursement of expenses in accordance with § 284 German Civil Code.

6.4 The limitations of liability in accordance with Clauses 6.3 and 10 shall not apply, provided that a commercial transaction has been agreed upon for a fixed date, if the Customer can assert, on account of the delay for which we are responsible, that its interest in the fulfilment of the contract has ceased.

### 7.0 Dispatch and transfer of risk

7.1 The selection of the dispatch route, means of dispatch and the carrier shall be at our discretion, insofar as no agreements are expressly made concerning this. We shall provide no guarantee of the least expensive means of shipping.

7.2 The packaging shall be charged at cost. Euro-pallets shall be exchanged; if a quantity corresponding to the number of pallets delivered is not returned to us by the Customer, the missing items shall be charged at € 10.00.



7.3 The risk of accidental loss and accidental deterioration shall be transferred to the Customer, in accordance with the provisions of the sales contract involving the carriage of goods.

7.4 If the Customer is in default of acceptance, this shall be deemed equivalent to the transfer. Delivered items must be accepted by the Customer, irrespective of its rights in accordance with Clauses 8 to 10, even if they have slight defects. If the Customer is in default of acceptance of the performance or if it does not request the ordered goods, in spite of notice that they are ready for dispatch and a grace period being set, the risk of accidental loss and accidental damage shall be transferred to the Customer, and he must reimburse us for all the costs and damages arising from the delay. Subject to greater expense or damages, we shall at least be entitled to charge a fee of 1 % of the net value of the stored goods for every month commenced. The Customer retains the right to provide evidence of smaller damages. In the event of a default of acceptance and in other cases in which we are induced to store the delivery because of the Customer's conduct, our claim for the goods shall be due within 14 days of the occurrence of the default.

#### **8.0 Claims for defects, limitation period, notification of defects**

8.1 We guarantee a freedom from defects in design and materials, corresponding with the state-of-the-art, and production according to the technical standards applicable in the Federal Republic of Germany.

8.2 We shall be entitled to produce excess or reduced quantities of up to 10% of the order quantity, without this qualifying as a defect. In the case of declassified goods, special items, waste materials and goods that are not new, there shall be no entitlement to a warranty.

8.3 The warranty claims (supplementary performance, compensation for damages and substitution) shall become statute-barred 12 years after the delivery of the goods. The claims for a reduction and the exercise of a right of withdrawal shall be excluded, insofar as the claim to supplementary performance is statute-barred.

8.4 The Customer must examine the goods delivered by us immediately after receipt and report any obvious defects to us within eight working days. Defects that are not obvious must be reported immediately after their discovery. In the event of the failure to report the defects in writing in good time, the goods shall be deemed to be approved. The Customer shall bear the burden of proof for all the prerequisites for claims, especially the defect itself, for the time of the detection of the defect and for the punctuality of the notification of the defects.

#### **9.0 Warranty rights**

9.1 In the case of defects, we are entitled to remove the defect or to deliver a defect-free item, at our discretion (supplementary performance). We may refuse to provide the supplementary performance, as long as the Customer fails to meet its payment obligations to us to the extent corresponding to the defect-free part of the goods.

9.2 If repairs are impossible, attempted repairs have failed for the second time or the repairs or replacement delivery are not performed or are only performed with undue delay, the Customer may, at its own discretion, demand a reduction or withdraw from the contract. In the event of a slight breach of contract, the Customer shall not be entitled to withdraw from the contract.

9.3 Unless specified otherwise below, further claims of the Customer - irrespective of their legal basis - shall be excluded; this shall also apply for claims for reimbursement of expenses in accordance with § 284 German Civil Code. Therefore, we shall not be liable for damages which have not occurred on the delivery item itself; we shall, in particular, not be liable for loss of profit or other financial losses of the Customer.

9.4 The above provisions shall also apply in the case of the delivery of

another item and - irrespective of Clause 8.2 - a smaller quantity.

#### **10.0 Total liability, exceptions from the exclusion of liability, guarantees**

10.1 The exclusion of liability in accordance with Clauses 6.3 and 9.3 shall not apply if the exclusion or the limitation affects liability for damages arising from injury to life, physical injury or damage to health, which are due to an intentional or grossly negligent violation of obligations on the part of one of our employees, representatives or vicarious agents; it shall also not apply if the exclusion or the limitation of liability is agreed for other damages which are due to an intentional or grossly negligent violation of obligations on the part of one of our employees, representatives or vicarious agents. If an essential contractual obligation or a „cardinal obligation“ is violated by us, liability shall not be excluded in accordance with Clauses 6.2 and 9.3, but shall be limited to the typical, foreseeable damages.

10.2 No exclusion of liability shall apply if, in accordance with the German Product Liability Act, liability exists for personal injury or material damage in cases of defects in the delivery item.

10.3 Furthermore, the exclusion of liability shall not apply to the extent to which we have assumed a guarantee.

10.4 Claims arising from recourse against manufacturers (§ 478 German Civil Code) shall remain unaffected by this.

10.5 Insofar as our liability is excluded or limited, this shall also apply for the personal liability of our employees, representatives and vicarious agents.

10.6 The Customer shall not receive any guarantees in the legal sense from us. A reference to DIN standards or other works of acknowledged rules of technology only serve to describe the goods and do not constitute a guarantee.

#### **11.0 Retention of title**

11.1 The delivered goods shall remain our property until the complete payment of all claims arising from the business relationship between ourselves and the Customer. The addition of individual claims to an open account, and the striking of a balance and the acknowledgement thereof shall not affect the retention of title.

#### **12.0 Place of performance, place of jurisdiction and choice of law**

12.1 The place of performance for the payment shall be Neckartailfingen, for the delivery, it shall be the place at which the goods are located for the purpose of dispatch or handover to the buyer. The place of jurisdiction for disputes of any kind, including any suits pertaining to cheques or bills of exchange, shall be Neckartailfingen for both parties.

12.2 Legal disputes must be handled at the court responsible for us, insofar as the Customer is a merchant or a legal entity under public law.

12.3 The law of the Federal Republic of Germany shall apply exclusively to the legal relationship between the parties. The standard UN Convention on Contracts for the International Sale of Goods shall not apply.

#### **13.0 Infringements of property rights**

If the goods are manufactured on the basis of drawings or other information from the Customer (e.g. its instructions with respect to shapes, dimensions, colours or other specifications), the Customer is solely responsible for ensuring that no property rights of third parties are infringed in this respect. The Customer shall exempt us from all claims of third parties on account of the infringement of industrial property rights (including legal costs), and shall support us, to the best of its ability, in any legal dispute, at our request.

As at: March 2018