

## **General Terms and Conditions of Purchase**

### **§ 1 General Terms and Conditions**

1.1 For all orders of the company Tropack Packmittel GmbH - hereinafter referred to as Tropack - the following conditions apply exclusively, unless they are changed by express written agreement.

These agreements shall also apply if Tropack accepts deliveries of goods by the contractor - hereinafter referred to as the Contractor - and conflicting terms of sale of the contractor exist, which, however, do not form the basis of the contract.

1.2 Any agreement entered into between Tropack and the Contractor shall only be legally effective if it has been made in writing.

Further additional conditions or contractual clauses introduced by the Contractor shall be deemed rejected as long as Tropack has not agreed to these additional provisions in writing.

1.3 These terms and conditions shall form the basis of all future individual contracts between Tropack and the Contractor with the simultaneous exclusion of any general terms and conditions to the contrary.

Furthermore, these general terms and conditions of purchase only apply to contracts entered into with merchants.

### **§ 2 Order placement**

2.1 Orders are placed exclusively in writing. Oral agreements require written confirmation in order to become legally effective.

2.2 For changes or additions to an order, Clause 2.1 shall apply mutatis mutandis.

### **§ 3 Order confirmation and business conditions of the Contractor**

3.1 By accepting an order, these Terms and Conditions of Purchase become an integral part of the contract.

3.2 Acceptance of an order (order confirmation) shall be affected by the Contractor confirming an order in writing.

3.3 Tropack may cancel the order if the Contractor has not accepted it within two weeks upon receipt by means of an order confirmation.

Such a cancellation is timely if it was sent before receipt of the order confirmation.

3.4 If the order confirmation deviates from the order, the Contractor must clearly point this out in the order confirmation, describing the respective deviations. Tropack shall only be bound to a deviation if it has been agreed to in writing in the individual case.

The unconditional acceptance of deliveries or services as well as payment shall not constitute consent.

#### **§ 4 Prices, terms of payment, offset, default of payment**

4.1 The price stated in the order is binding. Price adjustment clauses by the Contractor/supplier shall not be recognised.

Price increases require an individual agreement.

In the absence of a written agreement to the contrary, the price shall include "free domicile", including any customs duties, packaging materials and sufficient insurance coverage.

The obligation to return the packaging requires a special agreement.

4.2 Invoices shall be submitted in triplicate and shall bear the order and article numbers.

Value added tax shall be shown separately in the invoice.

4.3 Unless otherwise agreed in writing, Tropack shall pay the purchase price within 14 days, calculated from delivery and receipt of invoice with 3% discount, or within 30 days after receipt of invoice.

4.4 Payment shall not be deemed an acknowledgement of performance in accordance with the contract, in particular the freedom from defects of the delivery/service rendered.

The Contractor is only entitled to offset undisputed or legally established claims.

4.5 The assignment of claims against Tropack shall only be effective with their written consent.

#### **§ 5 Delivery period, consequences of default**

5.1 The delivery or performance period shall commence with the binding order, unless its commencement has been expressly agreed otherwise.

If no deadline has been agreed, performance shall be rendered immediately.

The receipt at Tropack is decisive for the timeliness of deliveries.

In the event of recognisable delays in delivery, the Contractor must notify Tropack immediately and obtain a decision from Tropack in this respect.

In this case, the delivery or performance period shall only be extended if this has been expressly acknowledged by Tropack in writing.

5.2 In the event of a delay in delivery, Tropack is entitled to demand a contractual penalty in the amount of 0.5% of the delivery value per completed week, but not more than 5% of the total order value, irrespective of the fault of the Contractor and irrespective of proof of actual damage.

Further claims and rights such as the assertion of further damages remain reserved. In particular, Tropack is entitled in the case of a delay in delivery to withdraw from the contract after a reasonable grace period or to claim damages instead of performance. Any contractual penalty paid shall be offset against any further claims for damages. If there is a sale to be performed at a fixed point in time, there is no need to set a grace period.

5.3 If a delay in delivery is exclusively due to a lack of cooperation on the part of Tropack despite a written reminder from the Contractor, the delivery dates shall be postponed by a maximum of the period for which Tropack is responsible, whereby the Contractor can only assert any additional costs if the delivery date is postponed by more than 3 months.

5.4 In the event of premature delivery, Tropack reserves the right to charge the Contractor for any resulting additional costs such as storage and insurance costs and to make payment

in accordance with the agreed delivery date. Until the agreed delivery date, the delivery item shall be stored at Tropack at the expense and risk of the Contractor.

## **§ 6 Shipping, transfer of risk, documents**

6.1 Shipping and transfer of risk shall be governed by the Incoterms DAP for domestic transactions and the Incoterms DDP for cross-border transactions.

6.2 The delivery items are to be properly packed and insured particularly by the contractor at his own expense. Unless otherwise agreed, transport packaging shall be taken back by the Contractor free of charge upon request.

6.3 Unless otherwise agreed, the delivery to Tropack shall be made “free domicile”. The Contractor shall bear the transportation and acceptance costs. The risk of accidental loss and accidental deterioration of the delivery item until handover to Tropack shall be borne by the contractor.

## **§ 7 Quality/Condition agreements**

7.1 The Contractor guarantees that the deliveries correspond to the specified technical data, are manufactured from the specified materials or materials specified in the documentation and fulfil the specified function. If no materials have been agreed, the contractual deliveries and services shall be made from the most suitable materials. The deliveries and services shall also comply with the respective statutory and official regulations, accident prevention regulations, recognised quality regulations and the latest state of the art.

7.2 Prior to delivery, compliance with the aforementioned requirements shall be checked by the Contractor by means of suitable, state-of-the-art quality testing and proven to Tropack upon request.

7.3 The supplier must carefully examine any documents (design documents, drawings etc.) sent to him for the execution of the contract. If there are any indications that the agreed quality or condition of the delivery item cannot be achieved in whole or in part or that the recognisable purpose pursued with the order cannot be achieved in whole or in part, the Contractor must notify us of these concerns in writing before commencing his work.

7.4 The Contractor will conclude a corresponding quality assurance agreement with Tropack, as far as this is deemed necessary.

## **§ 8 Acceptance, notice of defects, warranty**

8.1 The mere acceptance of deliveries or services, their temporary use or payments made do not result in an acceptance or a waiver of any rights due to Tropack.

8.2 The acceptance of the goods as well as the inspection for completeness and any visible defects shall take place within a reasonable period of time after receipt of the goods. The Customer shall notify the Contractor in writing and in a comprehensible manner of obvious defects within two weeks of delivery of the goods and hidden defects within two weeks of their discovery. If parts of the scope of delivery do not correspond to the quality and condition agreements made or to the customary commercial condition during random checks, Tropack has the right to reject the entire delivery.

8.3 Tropack shall be entitled to the statutory warranty rights in full; in any case, Tropack shall be entitled to demand from the Contractor, at its own discretion, either rectification of the defect or delivery of a new item.

The right to damages, in particular the right to damages instead of performance, is expressly reserved.

8.4 The warranty period shall be at least 24 months from delivery at the place of performance.

If the statutory warranty period is longer, this shall apply.

8.5 The Contractor shall be liable for replacement deliveries and rectification work to the same extent as for the original delivery item, i.e. also for transport, travel and labour costs etc. The warranty period for replacement deliveries shall commence at the earliest on the day the replacement delivery arrives.

## **§ 9 Product liability, indemnity, liability insurance cover**

9.1 As far as the Contractor is responsible for a product damage, he is obliged to indemnify Tropack from claims for damages of third parties on first request, as far as the cause is within his sphere of control and organisation and he is liable himself in the external relationship.

9.2 The Contractor is obliged to maintain a company and product liability insurance with a sum insured of 5 million Euro as a lump sum for personal injury and property damage. This policy should also cover relevant product pecuniary losses and recall costs resulting from the products to be delivered.

## **§ 10 Third-party property rights**

The Contractor assures that the rights of third parties do not conflict with the intended use of the delivered goods, in particular that the property rights of third parties are not infringed. If a claim should be made on Tropack due to a possible infringement of third-party rights, e.g. copyrights, patent rights and other industrial property rights, the Contractor releases Tropack from this and from any obligation in connection therewith.

## **§ 11 Confidentiality, data privacy**

11.1 The Contractor is obliged to keep strictly confidential all illustrations, drawings, calculations and other documents and information received. They may only be disclosed to third parties with the express consent of Tropack. The obligation to maintain secrecy shall also apply after the completion of this contract. It expires if and insofar as the manufacturing knowledge contained in the illustrations, drawings, calculations and other documents provided has become generally known or was demonstrably already known to the Contractor at the time of notification within the meaning of sentence 1.

11.2 Products manufactured on the basis of the confidential information mentioned above may only be used by the Contractor for the execution of this contract, and in particular may not be offered or supplied to third parties.

11.3 The Contractor entitles us to store and process all data received from him within the scope of the contractual relationship for our own purposes in compliance with the respective provisions of the Data Protection Act. After processing the order, the stored data must be deleted unless they are required for the further business relationship or the assertion of warranty claims. All data must be deleted at the latest upon termination of the business relationship and expiry of any warranty periods.

## **§ 12 Place of jurisdiction, place of performance**

12.1 If the contractor is a merchant, TROPACK's place of business shall be the place of jurisdiction; TROPACK shall, however, also be entitled to sue the Contractor at the court of his place of residence.

Unless otherwise stated in the order confirmation, TROPACK's place of business is place of performance.

## **§ 13 Applicability of German law**

If the Contractor is a merchant and the underlying contract is to be qualified as a purchase contract, German law shall apply to the contractual relationships. In the case of international sales contracts, the UN Convention on Contracts for the International Sale of Goods shall therefore apply in addition, and in the case of contradictions in priority in addition to the UN Purchasing Conditions.

## **§ 14 Severability Clause**

Should one or more of the above provisions be or become invalid, this shall not affect the validity of the remaining provisions. TROPACK and the Contractor undertake to replace the invalid provision with a valid provision that comes as close as possible to this provision.