

**1. General**

- a) The present Standard Terms of Supply and Payment (“Present Standard Terms”) shall govern all our current and subsequent Supply contracts and other agreements relating to orders made with the Purchaser.
- b) We hereby object to any Purchaser’s Standard Terms (“Purchaser’s Terms”) even in the event that the Purchaser has transmitted such Terms to us when placing the order. Our Present Standard Terms apply exclusively even in the event that we carry out the supply order without objecting to the Purchaser’s dissenting or diverging Terms. We hereby object explicitly to any Purchaser’s Terms. This also applies as far as such Purchaser’s Terms supplement the Present Standard Terms.
- c) The Present Standard Terms apply exclusively with regard to merchants.
- d) Any modification including supplements to an agreement as well as variations, supplements or the exclusion of the Present Standard Terms, which are concluded in execution of an agreement have to be made in written form or transmitted via fax or e-mail. This shall also apply to any abrogation of this written form requirement.
- e) As far as the parties have negotiated in the German language, the German version of the Present Standard Terms shall be binding and exclusively decisive for its interpretation, even in the event that any translation of the Present Standard Terms has been provided to the Purchaser or signed by the parties.
- f) If any provision of this Agreement is determined to be ineffective, invalid or illegal all other provisions of this Agreement shall remain effective and valid, and the Parties shall negotiate amicably such amendments to this Agreement as may be reasonably required to overcome such an ineffective, invalid or illegal provision but as may be close as possible to the commercial intent of such invalid provision. The same applies accordingly in case of a contractual omission.

**2. Delivery**

- a) Unless otherwise agreed in the contract the Incoterm 2000 EXW (“ex works”) applies. If we are obliged to hand over to a freight carrier, the Incoterm 2000 “FCA” applies. Furthermore, the following special supply-modalities apply:
- b) In absence of any special delivery-agreement, we choose the mode and the way of delivery in the best of our discretion without liability for the cheapest and fastest way of delivery. The Purchaser may not (let) pick up goods by truck without our prior consent hereto.
- c) In case that carriage-paid delivery has been agreed upon and that the delivery is executed although it had not been prepaid or the freight charges have not been deducted from the invoice, the Purchaser shall advance the freight costs. In such cases, the Purchaser has the right to deduct such costs from the invoice. The freight costs are to be calculated according to the corresponding costs as valid on the day of our invoice. The Purchaser shall pay any increase of freight charges caused by subsequent changes of the transportation way, destination point or other circumstances affecting the freight charges which are originated by the Purchaser.
- d) Savings of the freight costs caused by the change of the destination point or other circumstances affecting the freight costs and caused by the Purchaser will not be refunded.
- e) If the Purchaser has reserved the right to appoint the form, the size or similar circumstances of delivery, he shall execute this right three weeks before the acknowledged day of delivery at the latest. If goods are kept ready in our stock for the sole disposal of the Purchaser or sold and manufactured without determined dispatch (so called call lots) the Purchaser shall take possession of said goods within a period of four weeks upon completion has been notified.

**3. Delivery Period**

- a) Unless delivery dates have been determined otherwise, the delivery period begins on the date of sending the order acceptance or confirmation. In case that we define the delivery period, said period will not start until any technical questions have been resolved. Said period ends on the date on which the goods are leaving the delivery plant or the stock or on which the readiness for dispatch is notified to the Purchaser. If the Purchaser demands modification of the order affecting the production period although the order has already been accepted or confirmed, then the delivery period begins on the date of confirmation of such modification.
- b) Delivery periods are extended by such periods during which we are temporarily not capable to perform/supply without being responsible therefore; this rule applies in particular in cases of lock out and industrial action in our factory and in cases of unpredictable technical shut down of our facilities. In these cases we are entitled to fractioned delivery. If the performance of the agreement becomes unreasonable for one of the parties through this, the corresponding party has the right to withdraw from the agreement. If the obstruction lasts more than three months after a reasonable cure period the Purchaser has the right to withdraw from the agreement with respect to such parts, which at that period of time have not

been performed. If the delivery period is extended or if we are released from our obligation without being responsible, then the Purchaser shall have no right to claim damages or indemnity. However, we may only rely on the above mentioned circumstances, if we had informed the Purchaser accordingly in due time without delay.

- c) Compliance with the delivery period is only required in case of the prior performance of Purchaser's duties in proper form and in due time.
- d) In case of delayed delivery due to our fault, the Purchaser may only withdraw from the contract if he has set us a cure period of two weeks, unless a cure period is not required according to the respective legal provisions.
- e) Claims for damages due to delayed delivery are excluded and limited according to the provision No. 5 (Damages/Reimbursement of expenses). Such exclusion/limitation does not apply in cases of delivery to be carried through on a fixed date ("Fixgeschäfte").
- f) If the Purchaser fails to accept delivery when offered by us or if he breaches other obligations to cooperate, we have the right to demand damages including additional expenses. In this case the risk of accidental loss, destruction or deterioration passes to the Purchaser on the date he fails to accept delivery when offered by us.
- g) We have the right to deliver prior to maturity.
- h) Proper delivery shall be subject to timely and orderly receipt of the goods from our own suppliers. If we are not delivered properly or in due time we are not obliged to observe the delivery date and we have the right to withdraw from the agreement.
- i) We have the right to perform fractioned deliveries at any time, unless the fractioned delivery is not of interest for the Purchaser.

#### **4. Defect of the Supply**

- a) The Purchaser shall check before placing the order whether the goods to be delivered are suited for the designated purpose. The Purchaser in particular shall observe our present "Rules & Information for the use of aseptic bags" which describe the technical states and applications. These Rules are available on demand.
- b) Purchaser's claims based on warranty require that the Purchaser has properly fulfilled his duty to examine the goods and to notify any defect immediately upon receipt of the goods. The Purchaser shall examine the goods immediately without undue delay upon receipt and, if he observes a defect, he shall immediately notify such defect. Timeliness of such notifications will be determined according to the date on which we receive such notification on our place of business. In any case the Purchaser shall describe the kind and the extent of the defect. On demand the Purchaser shall provide verifiable documents concerning the kind and the extent of the defect and additionally, at least one defective part. He shall give us the opportunity to check the reclamation on the place of delivery. We have the right to assign a technical expert or a sub-supplier herewith.
- c) A defect is deemed not to exist in case of an insubstantial deviation from the technical conditions according to the "Rules & Information for the use of aseptic bags" and in case of insubstantial derogation of its usability.
- d) If the Purchaser or a third party improperly modifies the goods or if the goods are improperly stored or if the goods are used deviating from our "Rules & Information for the use of aseptic bags" in the current version or if the user makes a handling error or if he does not treat the goods properly, we are not liable for the consequences hereof. The Purchaser assumes the burden of proof of the defect of the goods if he had accepted the goods as fulfilment. In case that the regulations of the German Civil Code ("BGB") apply in addition to the Present Standard Terms sec. 476 and sec. 478 para. 3 BGB remain unaffected.
- e) If the Purchaser demands rectification of defects or subsequent delivery we have the option to choose between rectification of defects and subsequent delivery.
- f) The Purchaser in case of defects may only demand rectification of defects or subsequent delivery. In case of failure of rectification of defects or subsequent delivery, the Purchaser has the right to choose between reduction in price or the withdrawal from the agreement or indemnity in lieu of the performance within the scope of the limitation of liability.
- g) The Purchaser's legal right to withdraw from the agreement only applies as far as the Purchaser has not agreed with his own customer upon warranty rights exceeding the corresponding legal rights.
- h) Moreover, No. 5 (Damages/Reimbursements of expenses) is applicable for damages and reimbursements of expenses. Additional claims of the Purchaser with respect to a material defect against us and/or the persons employed by us are excluded.
- i) The Purchaser has no right to refuse payment of the outstanding purchase price because of a defect, unless his claim with respect to a defect is undisputed or ascertained in a legally binding way.

- j) Warranty claims prescribe within twelve months. The period begins on the date of passing of the risk of accidental loss, destruction or deterioration according to sec. 438 para. 2 BGB. Said regulation does not apply if the law foresees a longer period according to sec. 438 para. 1 No. 2 (goods for a building), sec. 479 para. 1 (right of recourse) and sec. 634 a (construction defect) BGB.
- k) We are not liable for variations of the paste application, the sleekness and clearness of papers, bonded joint, stapling, colours and printing customary in trade. To assess whether the variations are technical inevitable or customary in trade, the technical terms of purchase edited by "Verband der Wellpappenindustrie e.V." and "Fachverband Verpackung und Verpackungsfolien aus Kunststoff" are consulted, which will be made available to the Purchaser on demand.

#### **5. Damages/Reimbursement of Expenses**

- a) Restitution of damages, independent of its legal ground with the exception of damages according to sec. 1 and sec. 4 of the German Product Liability Act ("Produkthaftungsgesetz") are excluded, unless the damages are caused by intent or gross negligence or the damages are based on the fact that the goods do not have the guaranteed characteristics. In case of the breach of essential contractual obligations or in case of damages in respect of death of a person or personal injury we are also liable for slight negligence.
- b) Our liability is limited to foreseeable damages and damages, which are typical for the kind of the respective contract. This limitation does not apply, if our representatives and executive employees have caused the damages by intent or gross negligence. Furthermore, such limitation does not apply, if our representatives or executive employees have breached essential contractual obligations or if we are liable for damages in respect of the death of a person or personal injury or if we are liable because we have guaranteed specific characteristics of the goods.
- c) Claims with respect to reimbursements of expenses are excluded under the requirements of lit. a).
- d) The above mentioned provisions of the present article do not change the burden of proof to the disadvantage of the Purchaser.

#### **6. Conditions of Payment**

- a) Unless otherwise stipulated in the confirmation of order, the purchase price is payable net (without deduction) immediately upon receipt of the invoice. Upon maturity date of the payment interests accrue in the legally stipulated amount.
- b) Other means of payment than cash and bank transfer, in particular cheques, are only accepted under reserve. Bills of exchange are only permitted if previously agreed. Credits are issued with the amount resulting after deduction of all costs. Date of payment is deemed to be the day on which we are able to dispose of the payment. The Purchaser bears all costs for the transfer of the invoiced amount. The Purchaser shall transfer the payment only to the banking accounts mentioned in the invoice. The risk for transferring the invoiced amount lies with the Purchaser. Our travellers and representatives are not entitled to accept payments unless they present a written power for collection.
- c) The Purchaser shall pay note charges and discount charges immediately in cash. If the parties have agreed payment by promissory notes, said notes have to reach us within a period of 30 days upon invoice date. In case of bills of exchange the maturity must not exceed the period of three months upon invoice date.
- d) We have the right to terminate a credit on goods within a delay of 30 days with effect to the end of each month and, for good cause, also without notice. If the parties have agreed payment by bill of exchange, the period of the credit of goods coincides with the date of the maturity of the bill of exchange.
- e) Rebates, bonuses and discounts do only refer to supplies for which we receive full payment in due time.
- f) If we are entitled to demand from Purchaser several payments, we have the right to compensate payments of the Purchaser according to the maturity date. The right of the Purchaser to decide according to sec. 366 para. 1 BGB is excluded.
- g) The Purchaser only has the right to set off his counter-claims if they are ascertained in a legal binding way, undisputed or accepted by us. The Purchaser only has the right of retention if his counter-claims are based on the same contractual relationship and are undisputed or ascertained in a legal binding way.

#### **7. Retention of Title**

- a) We shall retain full title on the goods object of purchase until all payments of the business relationship or the current account balance have been made; the retention refers to the acknowledged account balance and, in case of insolvency of the Purchaser, to the then existing "causal" account balance. As far as we have agreed to payment of the purchase price via cheque procedure, the retention extends to the encashment of the accepted bill of exchange of Purchaser and does not expire by the credit advice of the received cheque.
- b) The Purchaser is obliged to handle the goods carefully; in particular he is obliged to insure the goods at his own expense to the value at new against fire loss, damage by water and theft and, upon our request, to provide us evidence of the existence of the insurance coverage within a period of 14 days. If the Purchaser culpably has not provided for a sufficient insurance

or does not provide evidence of the insurance coverage he shall pay, after the expiration of this 14 days, a penalty of 0,5 % of the order value for each further week he culpably does not provide evidence for the insurance coverage, but not more than 5 % of the order value. In case of various penalties the total sum of penalties is limited to 5 % of the order value.

- c) If the Purchaser does not fulfil his contractual obligations, in particular in case of delay of payments, we have the right to take the goods back.
- d) The Purchaser has the right to sell goods in our property within his ordinary course of business, but not to pledge or transfer property as security. The Purchaser hereby assigns the credits against his customers arising from the disposal of the goods to us. Such advanced assignment also refers to the acknowledged account balance and, in case of insolvency of the Purchaser, to the then existing "causal" account balance. The Purchaser is authorized to collect the debts assigned to us, without prejudice to our right to collect the debts ourselves. However, we oblige ourselves not to collect the debts as long as the Purchaser fulfils his payment obligation, does not fall in delay of payment and in particular if and whenever no opening of insolvency proceedings has been requested or stop of payments has occurred. Otherwise we have the right to demand that the Purchaser discloses the debts assigned to us as well as his debtors, gives us full information necessary for the collection, hands over all appropriate documents and discloses the assignment to his debtors.
- e) If the value of our securities exceeds our account to be secured for more than 10 %, we are obliged on demand of the Purchaser to release securities to the according extent and according to our own choice.

#### **8. Securing**

If we get acquainted with circumstances, which challenge the credit rating of the Purchaser, in particular if a cheque can not be cashed or the Purchaser stops payment or he is in arrears with his payment for at least two consecutive payment rates, we have the right to demand full payment, even if we have accepted cheques. In this case we have also the right to demand advanced payment or securities. If the Purchaser at that time had received goods, he is obliged to release such goods upon our demand. In case of stoppage of payment, the goods shall be singled out and kept available for us without further demand. We are not obliged to any further performance of any contract whatsoever until all payable invoice amounts including interest for delay have been paid.

#### **9. Special Conditions**

- a) Offers: Our offers shall not be binding.
- b) Dimension data: Unless otherwise agreed, the inside dimension shall apply. The inside measure shall be determined in mm.
- c) Quantity variance: We have the right of over-delivery and short-delivery of up to + / - 10 % of the agreed amount. The delivered quantity is charged.

#### **10. Place of delivery, Jurisdiction**

- a) Place of delivery and payment shall be the place of the delivery plant.
- b) The law of the Federal Republic of Germany including the regulations of the United Nations Convention on Contracts for the International Sale of Goods ("CISG") shall apply.
- c) Exclusive jurisdiction for both parties is Mannheim.