

**Terms and Conditions of Sale
of Omni-Pac Ekco GmbH
Date: 02.11.2021**

1. Scope of application

- 1.1 These terms and conditions of sale of Omni-Pac Ekco GmbH Verpackungsmittel ("we", "Omni-Pac") apply exclusively to all present and future business relationships with the customer or orderer.
- 1.2 Terms and conditions of the orderer which contradict or deviate from ours or also additional ones are only recognised by us if we expressly approve their validity in writing. (Counter-)Confirmations of the orderer with references to its terms and conditions of business are hereby contradicted.
- 1.3 Our terms and conditions of sale apply even if we implement the orderer's commission without reservations despite knowledge of its deviating terms and conditions of business. By acceptance of the order confirmation without contradiction by the orderer, the latter declares its agreement with the present terms and conditions of purchase.
- 1.4 Our terms and conditions of sale only apply towards enterprises within the meaning of § 310, subsection 1, German Civil Code.

2. Conclusion of contract

- 2.1 Our quotations are subject to change without notice.
- 2.2 The order is a binding offer. We can accept this offer at our choice within two weeks by dispatch of an order confirmation in textual form.
- 2.3 Oral side-agreements are only binding for us if we confirm them in textual form.
- 2.4 The orderer undertakes to inform us about all acts and ordinances (including guidelines, principles or recommendations, in particular if they are published by associations or lobby groups) of the sales markets outside the Federal Republic of Germany and the EU for which the objects of delivery are intended, with a view to the necessary design, necessary packaging, product description, instructions for use and warnings with a view to the objects of supply.
- 2.5 Omni-Pac reserves all rights to the sales documents (in particular illustrations, drawings, weights and dimensions) and the samples. They may not be made accessible to third parties and shall be returned to Omni-Pac without delay upon request.
- 2.6 In cases of doubt, Omni-Pac shall not be obliged to reserve specific production capacities if this has not been expressly agreed.

3. Delivery periods and deadlines

- 3.1 The start of the delivery time stated by us shall presuppose clarification of all technical and commercial questions. Compliance with the delivery period shall presuppose punctual receipt of all documents and ordered parts by us.
- 3.2 The delivery period shall be complied with if the object of supply has left the works or we have notified readiness for dispatch before the expiry of the period.
- 3.3 In so-called special productions, we reserve the right to an excess or short supply of up to 10%. The quantities shall be calculated accordingly. Part supplies shall be admissible to the extent that this can be reasonably expected for the orderer. For call orders, the calls are to be notified to us in a textual form no later than 6 weeks before the requested delivery date.

3.4

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- 3.4 The delivery period shall be extended - subject to an adaptation of the contract occurring according to Section 10 of these term and conditions of sale ("unforeseen incidents") - suitably in the event of measures within the framework of industrial action, in particular strike and lock-out and if unforeseen incidents outside our will occur to the extent that such obstacles can be proven to be of considerable influence on the production or supply of the object of supply. We shall also not be answerable for the aforementioned circumstances if they originate during arrears already in existence. The start and end of such obstacles shall be notified to the orderer as soon as possible.
- 3.5 If an agreed delivery period is exceeded, arrears in delivery shall only exist following setting of a suitable period of grace.
- 3.6 If the orderer falls onto arrears in acceptance or breaches other cooperation duties, we shall be entitled to demand reimbursement of the damage incurred by us, including all and any extra expenditure. In such a case, the risk of the chance destruction or change deterioration of the object of purchase shall pass to the orderer at the point in time at which the latter falls into arrears in acceptance. Further-reaching claims or rights remain reserved.

4. Dispatch, passage of risk, transport insurance

- 4.1 To the extent that no directives have been given by the orderer, dispatch shall be by a suitable path in the customary packaging. Loading and dispatch shall be uninsured at the orderer's risk and costs as a matter of principle.
We shall endeavour to take the orderer's wishes and interests into account with a view to the nature and path of dispatch. Additional costs caused by this - also in the event of freight-free supply being agreed - shall be charged to the orderer. Disposal costs for the packaging shall not be assumed by us.
- 4.2 Risk shall pass to the orderer (i) with hand-over of the object of supplier to the freight forwarder commissioned by Omni-Pac in the event of sale by dispatch, (ii) with hand-over to the orderer in the event of collection by the orderer and (iii) with hand-over to the third parties commissioned by the orderer in the event of collection by the latter. If the orderer falls into arrears in acceptance, risk shall pass to the orderer with the substantiation of the arrears in acceptance. If the handover in the event of agreed collection of the objects of supply by the orderer or by the third parties commissioned by it is delayed for reasons for which the orderer is answerable, the risk shall pass to the orderer on the day of the notification of the readiness for dispatch of the object of supply.

5. Prices, payment terms

- 5.1 To the extent that nothing to the contrary results from the order confirmation, our prices shall apply in Euros ex works exclusive of packaging. Value added tax to the statutory amount at the time in question shall be added.
- 5.2 If the parties have not agreed on a certain price, the price shall be determined according to the Omni-Pac price list valid at the time of conclusion of the contract.
- 5.3 Omni-Pac shall be entitled to provide part invoices for part deliveries.
- 5.4 Our invoices shall be due for payment by transfer within fourteen days of the date of invoice. If the orderer falls into arrears in payment, we shall be entitled to demand default interest at the statutory amount. If we can prove higher default damage, we shall be entitled to claim it.
- 5.5 Payment shall only be deemed made when we have received the amount.

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- 5.6 If circumstances questioning the orderer's creditworthiness become known to us, in particular if payments are ceased on the part of the orderer, we shall be entitled to place the entire remaining debt due. Over and above this, we shall be entitled to demand advance payments or collateral.
- 5.7 Rights to offset shall only accrue to the orderer if its counterclaims are legally effective, undisputed or have been acknowledged by us. It shall be authorised to exercise a right of retention to the extent that its counterclaim is based on the same contractual relationship and is undisputed, ready for a decision or legally effective.
- 5.8 Bills and cheques shall only be accepted for processing following specific agreement and free of costs and charges for Omni-Pac.
- 5.9 If the decisive cost factors, in particular for material, energy or human resources, change by more than 5% following submission of the quotation or following order confirmation until delivery, each party shall be entitled to demand an adaptation of the price. This shall be in the same ratio as the change to the overall price by the decisive cost factor.

6. Retention of title

- 6.1 The objects of delivery shall remain property of Omni-Pac until complete payment of all claims of Omni-Pac from the business relationship with the orderer.
- 6.2 In current account, the reserved title shall serve to secure the balance claim accruing to Omni-Pac.
- 6.3 If the orderer falls into arrears with cardinal duties such as payment and if Omni-Pac withdraws from the contract, Omni-Pac can demand return of the conditional commodities, notwithstanding other rights, and exploit them in any other way for the purpose of satisfaction of due claims against the orderer. In such a case, the orderer shall grant Omni-Pac or Omni-Pac's authorised representative access to the conditional commodities immediately and hand them over.
- 6.4 The goods and possibly the claims taking their place may not be pledged or transferred by way of security or assigned to third parties before complete payment of our claims.
- 6.5 As long as ownership has not passed to the purchaser, the latter undertakes to treat the conditional commodities carefully and to insure them adequately against fire, water and theft damage at the new value at its own expense.
- 6.6 If the conditional commodities are seized or are subject to other interventions by third parties and as long as ownership has not passed to the purchaser, the latter shall be obliged to inform the third party of the vendor's ownership rights and to inform the vendor in writing without delay so that the latter can assert its ownership rights. The purchaser shall be liable towards the vendor for judicial or extrajudicial costs incurred in this context to the extent that the third party is not in a position to reimburse these costs to the vendor.
- 6.7 In the event of breaches of duties by the orderer, in particular in arrears in payment, we shall be entitled, even without setting of a period of grace, to demand the return of the object of delivery or the new goods and/or - if necessary, following setting of a period of grace - to withdraw from the contract; the client shall be obligated to hand-over. The demand for hand-over of the object of delivery/the new goods shall only portray a declaration of withdrawal if it is expressly declared.

7. Commercial property rights

- 7.1 To the extent not agreed to the contrary, we shall only be obliged to render delivery merely in the country of the destination free of third parties' commercial property rights and copyrights (hereinafter: property rights). To the extent that a third party makes justified claims against the orderer on account of a breach of property rights due to supplies made by us and used contractually, we shall be liable towards the orderer according to the following subsections.

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- 7.2 At our choice and expense, we shall either procure a right of use for the deliveries affected, amend them such that the property right is not breached or replace them. If this is not possible under reasonable conditions, the statutory rights to withdrawal or price reduction shall accrue to the orderer.
- 7.3 Our duty to payment of damages shall be based on Sections 8 and 9 of the present terms and conditions.
- 7.4 The aforementioned obligations only exist to the extent that the orderer notifies us in writing without delay about the claims being made by the third party, does not acknowledge a breach and all defensive measures and composition negotiations remain reserved for us. If the orderer ceases use of the delivery for reasons of reduction of damage or other important reasons, it shall be obliged to inform the third party of the fact that no acknowledgement of a breach of a property right is connected with the cessation of use.
- 7.5 The orderer's claims have been ruled out to the extent that it is answerable for the breach of the property right. The orderer's claims have further been ruled out to the extent that the breach of the property right is caused by specific requirements by the orderer, by use which is not foreseeable by us or by the fact that the delivery is amended by the orderer or is used together with products not supplied by us.
- 7.6 If other defects (in title) exist and also in addition, the directives of Sections 8 and 9 shall apply accordingly.
- 7.7 The orderer may not take any actions or have them taken by third parties which may jeopardise marks or other commercial property rights of Omni-Pac used by the latter in connection with the objects of supply. In particular trademarks and/or other distinguishing features which are either part of the objects of supply, have been printed on them or have been attached in any other way may be neither converted, amended, removed nor supplemented.
- 7.8 If the orderer states how Omni-Pac is to produce or print the products to be supplied by means of certain instructions, information, documents, drafts or diagrams, the orderer guarantees that no third party's rights such as patents, utility models or other property rights and copyrights are breached by the objects of delivery produced or printed in accordance with the orderer's requirements. The orderer shall hold Omni-Pac harmless against all third parties' claims which they may make against Omni-Pac on account of such a breach. The indemnification shall be either through payment to us or to the third party at our choice and at first written request. The indemnification shall also entail the costs of the legal prosecution which we may consider necessary, taking the orderer's interests into due account.

8. Warranty

- 8.1 We warrant for flawless production of the ordered goods in accordance with the agreed technical supply directives. If we have to supply according to data, diagrams, specifications etc. from the orderer, the latter bears the risk of suitability for the planned purpose of use. The time of the passage of risk shall be decisive for the contractual condition of the goods.
- 8.2 If a specific property of the goods has been agreed, a deviation herefrom shall only be an inconsiderable defect if the suitability of the goods for the use presupposed in the contract is not or only inconsiderably impaired. In such a case, claims from defects have been ruled out.
- 8.3 No warranty is assumed for defects caused by unsuitable or improper use, defective assembly or commissioning by the orderer or third parties, customary wear and tear, defective or negligent treatment, also not for the consequences or improper amendments or upkeep work done by the orderer or third parties without our consent.

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- 8.4 The orderer may not install or otherwise use recognisably defective parts about which it has complained. If it breaches this obligation, we shall not be liable for damage based on the installation or other use. In addition, the orderer shall bear or possibly reimburse us for the additional costs incurred in the remedying of the defect as a result of the installation or other use.
- 8.5 The orderer's claims from defects presuppose that it has complied with his examination and notification duties pursuant to § 377, German Commercial Code. If an acceptance of the object of purpose or a first article inspection has been agreed, notification of defects which the orderer could have established in a careful acceptance or first article inspection has been ruled out.
- 8.6 We are to be given the opportunity of establishing the defect causing the complaint. The object of purchase is to be returned to us without delay by our request. We shall assume the costs of transport if the notification of defects is justified. If the orderer fails to comply with these obligations or if it makes amendments to the object of purchase without our consent after making the complaint, it shall lose all and any warranty claims.
- 8.7 In the event of a justified, punctual notification of defects, we shall rework the object of purchase causing the complaint or supply a flawless replacement at our choice.
- 8.8 The orderer shall grant Omni-Pac the time and opportunity necessary for the subsequent performance, in particular granting Omni-Pac the right to resort a defective batch itself or by third parties commissioned by Omni-Pac or to sort out defective objects of supply for the purpose of subsequent performance. Omni-Pac can also demand that the orderer returns the objects of supply causing the complaint to Omni-Pac at the latter's expense.
- 8.9 Parts replaced by Omni-Pac shall be returned to Omni-Pac at its request.
- 8.10 If we do not or not contractually comply with these duties to subsequent performance within a suitable period or if the subsequent performance is unsuccessful, the orderer can set us a final period within which we have to comply with its obligations in textual form. Following a fruitless expiry of this period, the orderer can at its choice demand reduction of the price, withdraw from the contract or do the necessary subsequent performance itself or have it done by a third party at our expense and risk. If the subsequent performance has been done successfully by the orderer or a third party, all the orderer's claims shall be deemed settled with reimbursement of the necessary costs incurred by it.
- 8.11 All the orderer's claims - whatever the legal reasons - shall be barred by limitation in 12 months. This shall not apply to claims to damage from an injury of life, limb and health and not to claims to damages based on a grossly negligent or deliberate breach of duties. Likewise, the statutory regulations on barring by limitation for claims according to the Product Liability Act and also in the event of recourse against the supplier according to §§ 445 a, b, German Civil Code, shall remain unaffected.

9. Limitation of liability, damages

- 9.1 We shall be liable according to the statutory directives insofar as the orderer makes claims to damages which are based on malice aforethought or gross negligence, including malice aforethought or gross negligence of our employees, workers, representatives and vicarious agents. However, in cases of gross negligence, the liability has been limited to the foreseeable damage typical for the contract insofar as an exceptional case stated in the following subsections does not simultaneously exist.
- 9.2 Liability on account of culpable injury to life, limb or health shall remain unaffected; this shall also apply to cogent liability according to the Product Liability Act. If the orderer sells the object of delivery, be it changed or unchanged, be it following processing, reshaping, amalgamation or combination with other goods, it shall hold Omni-Pac harmless against claims from product liability of third parties in the internal relationship if and insofar as it is also responsible for the error triggering the liability in the parties' internal relationship.

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- 9.3 In addition, liability in the assumption of a guarantee or a procurement risk shall remain unaffected, to the extent that they have the purpose of securing the orderer against damage which has not originated on the supplied goods themselves.
- 9.4 We shall further be liable according to the statutory provisions to the extent that we culpably breach a cardinal contractual duty; cardinal contractual duties are those, fulfilment of which only makes proper performance of the contract possible and in compliance with which the orderer trusts and may also trust. In the event of a negligent breach of a cardinal duty, our liability has been limited to the foreseeable damage typical for the contract.
- 9.5 To the extent that nothing to the contrary has been regulated above, our liability - without regard for the legal nature of the claim being made - has been ruled out. This shall also apply to the extent that the orderer demands reimbursement of vain expenditure instead of a claim to indemnification in lieu of performance.
- 9.6 To the extent that our liability for damages has been ruled out or limited, this shall also apply with a view to the personal liability for damages of our employees, workers, representatives and vicarious agents.

10. Unforeseeable incidents

- 10.1 Force majeure, in particular industrial disputes, unrests, epidemics, official measures and other unforeseeable, unavoidable and severe incidents shall release the contracting parties from the duties to perform for the term of the disturbance to the scope of its effect. This shall also apply if these incidents occur at a point in time at which we are already in arrears. The contracting parties shall adapt their duties to the changed situation in good faith.

11. Intra-community supply

11. For supplies from the Federal Republic of Germany to other member states of the EU, the orderer shall inform us of its turnover tax identification number under which it carries out taxation of acquisitions within the EU, before supply.
- 11.2 In addition, the orderer shall be obliged to issue a confirmation of arrival of the object of an intra-community supply to another EU member state (entry certificate) to us. This entry certificate must contain:
- the customer's name and address,
 - the quantity of the object of supply and the designation customary in the trade,
 - the statement of location and month (not day) of the end of the transportation or dispatch, i.e. of the receipt of the object in the community area, even in the event of self-collection and/or self-transportation by the customer,
 - the date of issue of the confirmation,
 - the signature of the customer or a person authorised by it to acceptance.
- 11.3 If we do not have a valid turnover tax identification number or if the entry certificate does not reach us within three months of successful supply, we shall be entitled to charge the turnover tax subsequently at the amount of the turnover tax rate valid at the time or to correct the invoice.

12. Miscellaneous

- 12.1 The orderer may only assign the rights resulting from the parties' contractual relationship following written consent from Omni-Pac. § 354 a, German Commercial Code, shall remain unaffected.
- 12.2 Amendments and addenda to the contract and/or the present terms and conditions of supply and also side-agreements shall require written form. This shall also apply to an amendment of this requirement of written form.

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- 12.3 If a provision of the contract and/or the present terms and conditions of supply is partly or totally ineffective, the validity of the other provisions shall remain unaffected. The totally or partly ineffective provision shall be replaced by an effective provision coming as close as possible to it commercially.
- 12.4 The exclusive place of jurisdiction for all disputes from or in connection with the parties' contractual relationship shall be Oldenburg (Oldb.). However, Omni-Pac shall be entitled to sue the orderer at any other statutory place of jurisdiction.
- 12.5 The present terms and conditions of supply and the parties' contractual relationship shall be governed by the law of the Federal Republic of Germany, ruling out the United Nations Convention on Contracts for the International Sale of Goods.