



General Terms and Conditions of TIPPER TIE TECHNOPACK GmbH

General

1. These terms and conditions are the basis for any and all deliveries and performances as well as for any separate contractual agreements. Deviating terms of purchase of the buyer do not become content of the contract, even through acceptance of the order. A contract is concluded – in the absence of special agreements – upon the written confirmation of the order by the supplier.

2. The supplier retains title of ownership and copyrights to samples, cost estimates, drawings or similar information of tangible and intangible nature, including electronic form; they may not be made accessible to third parties. The supplier undertakes to give third parties access to information and documents designated by the buyer as confidential only after the buyer's permission.

II. Price and Payment

1. In the absence of separate agreement, prices are quoted ex works, including loading in the works, but excluding packaging and unloading. Applicable value-added tax will be added to the prices given.

2. The buyer has the right to retain payments or to set off counter-claims only if the counter-claims are undisputed or have been legally determined without the right of appeal.

III. Delivery Time, Delivery Delay

1. The delivery time is derived from the agreements between the parties to the contract. Compliance with the delivery time by the supplier presumes that all commercial and technical questions between the parties to the contract have been clarified and that the buyer has fulfilled all of his obligations, e.g., acquirement of the required certificates or permits from government authorities or the performance of an advance payment. If this is not the case, the delivery time shall be extended by a reasonable period. This provision does not apply to the extent that the supplier is responsible for the delay.

2. Compliance with the delivery time is subject to correct delivery in due time to the supplier himself. If delays are foreseeable, the supplier announces these as soon as possible.

3. The delivery time has been complied with if the object of the delivery has left the supplier's works or if notification of readiness for shipment has been given by the lapse of the delivery time. To the extent that an acceptance is to be performed, the date of acceptance – except in cases of justified refusal of acceptance – alternatively the notification of readiness for acceptance, is decisive.

4. If the shipment or the acceptance of the object of the delivery is delayed due to reasons for which the buyer is responsible, he will be billed for the costs incurred by the delay. If the buyer is to collect the goods ready for delivery himself and does not do so within 2 working days after notification of readiness for acceptance, he will be billed for the goods. Additionally, the supplier reserves the right to ship the goods at the expense of the buyer.

5. If non-compliance with the delivery time is a consequence of force majeure, industrial action or other events beyond the influence of the supplier, the delivery time shall be extended by a reasonable term. The supplier will notify the buyer of the beginning and end of such circumstances as soon as possible.

6. The buyer may withdraw from the contract without setting a term if the complete performance finally becomes impossible before the transfer of risk. Furthermore, the buyer may withdraw from the contract if the performance of a part of the delivery of an order becomes impossible and he has a justified interest in refusing the partial delivery. If this is not the case, the buyer shall pay the contract price applicable to the partial delivery. This provision also applies to the supplier's inability to perform. Section VII.2 is applicable in all other cases. If the impossibility or inability occurs during default of acceptance, or if the buyer is solely or principally responsible for these circumstances, he remains obligated to perform the consideration.

7. If the buyer suffers damage due to the default of the supplier, the former is entitled to demand a lump-sum compensation for default. For each full week of default, the compensation shall amount to 0.5%, but in total to no more than 5% of the value of that part of the complete delivery which cannot be used in due time or in conformity with the contract as a consequence of the default. If the buyer grants the supplier in default – under consideration of the statutory exceptions – a reasonable term for performance and the term lapses in vain, the buyer is entitled to withdraw from the contract in accordance with statutory provisions. He undertakes on demand by the supplier to declare within a reasonable period whether he will make use of his right to withdraw. Further claims resulting from default of delivery may be asserted solely in accordance with Section VII.2 of these terms and conditions.

IV. Transfer of Risk, Acceptance

1. The risk is transferred to the buyer when the object of the delivery has left the works, including cases in which partial deliveries are performed or the supplier has undertaken other performances, e.g., the shipping costs or delivery and installation. To the extent that an acceptance is to be performed, the acceptance is decisive for the transfer of risk. The acceptance must be performed without delay on the acceptance date, alternatively, following notification by the supplier of readiness for acceptance. The buyer may not refuse acceptance if there is a non-essential defect.

2. If there is a delay or failure of shipment or acceptance as a consequence of circumstances for which the supplier is not responsible, the risk is transferred to the buyer as of the date of notification of readiness for shipment or acceptance. The supplier obligates himself to conclude insurance coverage requested by the buyer at the latter's expense.

3. Partial deliveries are permissible to the extent that they are reasonable for the buyer.

V. Retention of Title

1. The supplier retains ownership of the object of the delivery until all claims of the supplier against the buyer resulting from the business relationship, including future demands, also from simultaneously or subsequently agreed contracts, have been paid. This also applies if individual or all claims of the supplier were included in a current invoice and if the balance has been struck and recognized.

In contradiction of Section V. 3, sentence 1, the buyer is entitled to resell the object of the delivery in the ordinary course of business. However, he hereby assigns to the supplier all claims against the customer or third party which accrue to the buyer from the resale. The buyer remains authorized to collect this debt even after the assignment. This does not affect the supplier's rights to collect such receivables itself.

This authorization of the buyer to collect expires when

- The buyer defaults on payments to the supplier
- The authorization is withdrawn
- A petition for the initiation of insolvency proceedings is made

In such a case, the supplier can demand that the buyer

- Discloses the assigned claims and the respective debtors
- Provides all the necessary details for collection
- Hands over the necessary documents
- Notifies the debtors of the assignment in as far as the supplier has not already done so

If the object of the delivery is resold together with other goods that do not belong to the supplier, the claim of the buyer against his customer to the amount of the supply price agreed between the supplier and the buyer is considered assigned. The processing or alteration of goods subject to retention of title is always carried out by the buyer for the supplier. If the goods subject to the retention of title are processed or combined with other goods that do not belong to the supplier, the supplier acquires co-ownership in the new item in the ratio of the value of the goods subject to retention of title to the other goods at the time of processing or combining. The buyer preserves the title or joint ownership for the supplier. The same applies to the item created by processing, alteration, or combination as to the goods subject to retention of title.

2. The supplier is entitled to insure the object of the delivery against theft, breakage, fire, water and other damage at the buyer's expense, to the extent that the buyer has not documented his own conclusion of insurance coverage.

3. The buyer may not sell, pledge or assign as security the object of the delivery. He shall inform the supplier without delay of attachments or confiscation or other disposals by third parties.

4. If the buyer acts in violation of the contract, in particular in the event of default of payment, the supplier is entitled to reclaim the object of the delivery, after issuing a warning, and the buyer is obligated to surrender the object.

5. Due to the retention of title, the supplier can only demand the return of the object of the delivery when he has withdrawn from the contract.

6. The petition for the initiation of bankruptcy proceedings entitles the supplier to withdraw from the contract and to request the immediate return of the object of the delivery.

VI. Warranty

The supplier provides the following warranties for material and legal defects of the delivery, excluding further claims, subject to Section VII:

Material defects



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1. All parts which are determined to be defective due to circumstances existing before the transfer of risk shall, at the discretion of the supplier, be remedied or replaced by a new delivery at no charge. The supplier shall be notified without delay if and when such defects are determined. Replaced parts become the property of the supplier.

2. The buyer shall, in agreement with the supplier, allow the supplier the required time and opportunity to perform any remedies and substitute deliveries which appear necessary to the supplier; otherwise, the supplier is released from the liability for the resulting consequences. Only in urgent cases of a threat to operational safety or to prevent the occurrence of unreasonably great damage, whereby the supplier shall be notified immediately, does the buyer have the right to remedy the defect himself or to have the defect remedied by a third party and to request reimbursement for the incurred expenses from the supplier.

3. Of the costs incurred for remedy of the defect or substitute delivery, the supplier shall bear – to the extent that the complaint is determined to be justified – the costs of the replacement part, including shipping costs. Additionally, the supplier shall bear the costs for removal and installation, as well as the costs for any provision of required technicians and support personnel including travel expenses, as long as this does not represent unreasonable costs for the supplier.

4. The buyer has the right to withdraw from the contract, within the scope of statutory provisions, if the supplier – under consideration of the statutory exceptions – allows a reasonable term which has been set for the remedy or substitute delivery due to a material defect to lapse in vain. If there is only an insignificant defect, the buyer has only the right to a reduction of the contract price. The right to reduction of the contract price is excluded in all other cases.

Further claims are determined exclusively according to Section VII. 2 of these Terms and Conditions.

5. There shall be no guarantee for the following cases in particular:

Unsuitable or improper use, defective installation or commissioning by the buyer or third parties, natural wear and tear, incorrect or negligent handling, improper servicing, unsuitable operating materials, faulty construction work, unsuitable substrate, chemical, electrochemical or electrical factors – to the extent the supplier is not responsible.

6. If the buyer or a third party improperly remedies the defect, the supplier is not liable for the resulting consequences. This provision also applies for modifications of the object of the delivery undertaken without the prior approval of the supplier.

Legal defects

7. If the use of the object of the delivery leads to the infringement of industrial property rights or copyrights in Germany, the supplier shall acquire at his expense the right to continued use by the buyer, or shall modify the object of the delivery in a way reasonable for the buyer so that there is no longer an infringement of industrial property rights. If this is not possible under economically reasonable conditions or within a reasonable time period, the buyer is entitled to withdraw from the contract. The supplier also has the right to withdraw from the contract under the conditions described above.

Furthermore, the supplier shall indemnify the buyer from claims which are undisputed or which have been legally determined without recourse to appeal by the relevant holder of the industrial property rights.

8. The obligations of the supplier described in Section VI. 7 are, subject to Section VII. 2, complete with respect to cases of infringement of industrial property rights or copyrights.

Said obligations are effective only if

- The buyer notifies the supplier immediately of any asserted infringements of industrial property rights or copyrights
- The buyer provides reasonable support to the supplier in the defense against the asserted claims or enables the supplier to perform the modification measures in accordance with Section VI. 7
- The supplier retains the right to perform all defense measures against the claim, including out of court settlements
- The legal defect is not the result of instructions of the buyer
- The legal infringement did not result from a modification of the object of the delivery by the buyer on his own authority or from the use of the object in a way which is not in conformity with the contract

VII. Liability of the Supplier, Exclusion of Liability

1. If, because of culpable action of the supplier, the object of the delivery cannot be used in conformity with the contract by the buyer as a result of the failure to perform, or of the incorrect performance of suggestions and advice made before or after conclusion of the contract, or other contractual accessory obligations – in particular instructions for operation and servicing of the object of the delivery – the regulations of Sections VI and VII. 2 shall apply accordingly, excluding all other claims by the buyer.

2. The supplier is liable for damage which does not occur to the object of the delivery itself – for whatever legal reasons – only

a) In cases of intention

b) In cases of gross negligence by the owner/the owner's executive bodies or managing staff, however this is limited to the damage typical for the contract and which could reasonably be foreseen

c) In cases of culpable injury to life, body, health,

d) In cases of defects the supplier has maliciously concealed

e) Within the framework of a warranty

f) In cases of defects in the object of the delivery, to the extent that he is liable for personal injury or material damage to privately used objects according to the Product Liability Act

In the event of culpable violation of essential contractual obligations, the supplier is also liable for gross negligence of nonexecutive employees and for slight negligence, in the latter case limited to the damage typical for the contract and which could reasonably be foreseen.

Further claims are excluded.

VIII. Limitation of Action

All claims of the buyer – for whatever legal reason – are subject to a limitation period of 12 months. The statutory terms of limitation apply to compensation claims according to Section VII. 2 a – d and f. These provisions also apply to defects of a building or for objects of delivery used for a building according to their usual type of use and which have caused the defects of the building.

IX. Use of Software

To the extent that software is included in the scope of the delivery, the buyer is granted a non-exclusive right to use the delivered software, including its documentation. The software is provided for use on the object of the delivery for which it is intended. Use of the software on more than one system is prohibited.

The buyer may reproduce, amend, translate the software or convert the object code into source code only within the legally permissible scope (Secs. 69 a ff UrhG, Copyright Act). The buyer obligates himself not to remove or, without the prior express approval of the supplier, to change producer information, especially copyright notices.

All other rights to the software and its documentation, including the right to copy, remain with the supplier or the software supplier. The granting of sub-licenses is not permitted.

X. Applicable Law, Place of Jurisdiction

1. Proper law for all legal relationships between the supplier and the buyer is exclusively the applicable law of the Federal Republic of Germany regarding legal relationships among domestic parties.

2. The place of jurisdiction is that of the court at the registered place of business of the supplier. However, the supplier is entitled to file suit at the principal place of business of the buyer.

Valid as of: January 2012

