



Glinde, December 2019

## **General Terms and Conditions of Purchase of Tipper Tie technopack GmbH (“Tipper Tie”)**

### **1. Scope**

1.1 The following terms and conditions of purchase of Tipper Tie shall apply to all business relationships with companies (Section 14 German Civil Code (BGB)), legal entities under public law, or public law special funds (hereinafter referred to as **"Supplier"**) and to all present and future orders placed by Tipper Tie and contracts entered into between Tipper Tie and Supplier.

1.2 Deviating or supplementary terms and conditions of the Supplier shall only be deemed an integral part of any contract if Tipper Tie has expressly agreed to their applicability in writing. The unconditional acceptance of deliveries and services or their payment shall not constitute acceptance of any Supplier's general terms and conditions of sale.

1.3 Any legally binding declarations and / or notices that have to be given to Tipper Tie by the Supplier after entering into the contract (e.g. setting of deadlines, notices of defects, a declaration of rescission or reduction in the price) must be in writing in order to be effective.

### **2. Entering into Contracts, Information and Amendments to Product Specifications**

2.1 Orders placed by Tipper Tie are revocable up until receipt of the acknowledgement of the order or - in the absence of any acknowledgement of the order - up until delivery. The Supplier shall confirm Tipper Tie's order within 2 working days by means of an order confirmation by e-mail to the email address: [Auftragsbestaetigung.TipperTie@JBTC.COM](mailto:Auftragsbestaetigung.TipperTie@JBTC.COM). A belated acceptance shall be deemed to be a new offer and is subject to confirmation by Tipper Tie.

2.2 Unless expressly otherwise agreed, the delivery times stated by Tipper Tie are binding.

2.3 The Supplier shall ensure that he receives all information relevant for the performance of his contractual obligations, and to review any documents provided by Tipper Tie for irregularities.

2.4 Tipper Tie is entitled to amend product specifications, provided that said amendments may be implemented in the course of the Supplier's normal production process without any significant additional cost. Tipper Tie shall in each case reimburse the Supplier the evidenced, reasonable extra cost incurred due to the amendment. If such amendments result in such delays in delivery which cannot be avoided by using reasonable efforts within the Supplier's normal production and business activity, the originally agreed delivery date shall be postponed accordingly. The Supplier shall notify Tipper Tie in writing of any additional costs or delays of delivery expected by Supplier in due course before the delivery date, but at least within 5 working days after receipt of Tipper Tie's notification pursuant to sentence 1.

### 3. Prices and Payment Terms

3.1 The agreed prices are fixed prices. Unless otherwise agreed by the Parties, all prices are stated exclusive of value added tax, but inclusive of packaging, insurance, carriage (DDP Incoterms 2020, receiving point according to Sec. 5.2) and other incidental costs.

3.2 Invoices must state the date of delivery, the invoice number, the order number, the quantity, the price and other order or product allocation information provided by Tipper Tie (in particular, the Tipper Tie article number) and must be submitted following delivery to the invoice address stated in Tipper Tie's order. Unless otherwise agreed by the Parties, payments shall be made (i) within 30 calendar days following receipt of the proper invoice and delivery with the deduction of a 2% cash discount or (ii) within 60 calendar days following receipt of the proper invoice and delivery without any deductions whatsoever.

For so-called contracts for work and services (*Werkverträge*), the date of acceptance shall apply instead of the date of delivery.

Payment shall not be deemed to be any acknowledgement of proper performance.

3.3 Downpayments may only be demanded on the basis of a separate agreement. In case the Parties have agreed on a cash discount in accordance with Sec. 3.2, downpayments shall also qualify for the deduction of a cash discount.

3.4 The Supplier may exercise a right of retention and/or rights to offset only insofar as his counterclaim is based on the same contractual relationship or on an undisputed claim or a claim which has become final and binding.

### 4. Delivery Dates, Contract Penalty

4.1 Whether agreed delivery times and dates have been complied with shall depend on the date the subject matter of the contract is received at the receiving point as ordered by Tipper Tie; in case of deliveries involving installation, assembly or other services, the date of acceptance shall apply. Tipper Tie is under no obligation to accept delivery before the agreed delivery date.

4.2 The Supplier shall immediately inform Tipper Tie in text form of any threatening or existing delay in delivery, the reasons for such delay and the anticipated duration of such delay. The foregoing shall not affect the occurrence of a default in delivery.

4.3 In the event of any delay in delivery for which the Supplier is responsible, Tipper Tie may demand - in addition to further-reaching statutory claims - a contractual penalty as compensation for the damage caused by the delay in performance, which contractual penalty shall be 0.3 % of the contract value per business day of late delivery, however a maximum of 5% of the contract value, each calculated for the amount of delayed products. This shall be without prejudice to Tipper Tie's right to claim any further. The Supplier retains the right to evidence that Tipper Tie did not have any damage whatsoever or only less damages than the amount of the contractual penalty.

## **5. Acceptance, Transfer of Risk, Place of Performance**

5.1 Delivery shall be at the Supplier's risk and cost. If, according to a separate agreement, the freight charges shall be borne by Tipper Tie, the Supplier must choose the mode of delivery that is most favourable for Tipper Tie. Tipper Tie is under no obligation to accept any partial deliveries or excess deliveries, which have not been agreed.

5.2 The place of delivery shall be the receiving point as ordered by Tipper Tie. The risk of accidental loss and of accidental deterioration shall pass to Tipper Tie upon delivery of the subject matter of the contract to the place of delivery. If acceptance is required, said acceptance shall be relevant for the passing of risk. The acceptance must be effected in writing.

5.3 If Tipper Tie is unable to accept delivery as a consequence of circumstances, for which Tipper Tie is not responsible (e.g. stoppages due to illegal internal or third-party industrial disputes, force majeure etc.), the risk shall only pass to Tipper Tie when these circumstances no longer prevent Tipper Tie from accepting delivery and the subject matter of the contract is available to Tipper Tie at the agreed place of delivery. Tipper Tie shall notify the Supplier without undue delay if such circumstances prevent – or are expected to prevent - Tipper Tie from accepting delivery.

5.4 The place of performance for all obligations arising out of the contractual relationship shall be the place of Tipper Tie's registered office (seat).

## **6. Change Management, Audits**

6.1 The Supplier may not alter the products or services in relation to their external concept or function or change any of the suppliers or manufacturing facilities of products or change or discontinue their manufacture or his services without Tipper Tie's prior written consent.

6.2 Where a change is necessary due to statutory requirements, the Supplier shall inform Tipper Tie of the same in writing as quickly as possible, where possible at least 12 months before the planned change takes effect. In this written notification the Supplier must set out why the intended change is necessary and how it will ensure this will have no adverse effects on his products or services owed to Tipper Tie. Should Tipper Tie suspect an adverse effect or should such a change prevent Tipper Tie from using the products or services, Tipper Tie shall be entitled to terminate the supply contract, subject to a two-week notice period, within three months of receipt of the change notification and be entitled to place a last order for reasonable quantities, lead times and conditions for the agreed specifications.

6.3 The Supplier consents to Tipper Tie, and such persons as are authorised to do so by Tipper Tie or the relevant authorities (including the notified body), to conduct audits at the Supplier's and its subcontractors' premises. Such audits need not be announced. The Supplier shall ensure that audits are possible at the premises of its subcontractors (and their subcontractors).

## 7. Warranty Claims

7.1 If the subject matter of the contract does not have the agreed quality or is defective for other reasons, Tipper Tie's warranty claims shall be subject to the statutory provisions unless otherwise agreed below.

7.2 If Supplier fails to comply with his obligation to remedy the defect - at Tipper Tie's option either by removing the defect (rectification) or by providing a defect-free item (subsequent delivery) - within a reasonable period of time set by Tipper Tie, Tipper Tie shall be entitled to remedy the defect itself and demand reimbursement of the expenses incurred or a corresponding advance payment from Supplier. If the supplementary performance by Supplier has failed or is unreasonable for Tipper Tie (e. g. due to special urgency, endangering operational safety or imminent occurrence of disproportionate damage), no deadline shall be required; if possible, Tipper Tie shall inform Supplier of such circumstances without delay in advance.

7.3 The general limitation period for warranty claims is three (3) years. The period begins upon delivery of the goods or acceptance of the goods/services if acceptance is required. Any statutory provisions providing for longer limitation periods shall remain unaffected.

## 8. Product Liability, Indemnification

8.1 Irrespective of the contractual warranty claims the Supplier shall, upon first demand, indemnify Tipper Tie from and against all claims by third parties, which are attributable to defects in the subject matter of the contract, for which the Supplier is responsible. This particularly applies to claims made on the basis of any intentional or negligent infringement of third-party intellectual property rights at the place of delivery and at the end product's place of destination known to the Supplier.

8.2 The Supplier shall, upon first demand, indemnify Tipper Tie from and against all claims based on product liability ("*Produkthaftungsansprüche*") to the extent that the cause was within Supplier's sphere of control and organization and the Supplier is directly liable towards third parties.

8.3 The Supplier shall maintain appropriate liability insurance with extended product liability coverage, and shall provide Tipper Tie with the insurance certificate upon demand.

## 9. The Provision of Materials by Tipper Tie

9.1 Materials and tools provided by Tipper Tie shall remain its property and must be stored, labelled and managed separately by the Supplier free of charge; tools shall also be appropriately insured by the Supplier. The materials and tools may only be used for fulfilling Tipper Tie's orders. The Supplier shall bear the risk of loss and of deterioration of the materials and tools provided.

9.2 Any processing or transformation of the materials and tools provided shall be performed on Tipper Tie's behalf. The parties agree that Tipper Tie becomes (co-) owner of the new or transformed object. The Supplier must keep the new thing object on Tipper Tie's behalf, free of charge and exercising the care of an ordinary businessman.

## **10. Subcontractors, Product Safety and Quality Management**

10.1 All of the obligations under the contract must be fulfilled by the Supplier himself. A subcontractor may be engaged only with Tipper Tie's prior written consent.

10.2 The Supplier shall manufacture the subject matter of the contract in compliance with the quality, environmental, energy and security provisions applicable to the subject matter of the contract. The Supplier shall comply with the German Product Safety Act (ProdSG), corresponding regulations (ProdSV) and with all ISO, EN, DIN, VDI, DVGW and VDE standards to the extent these are applicable to the subject matter of the contract at the place of manufacture/provision of works and / or services.

10.3 To ensure the quality of its products, the Supplier undertakes to establish, apply, maintain and continuously optimize and enhance an effective quality management system and to adopt only appropriate procedures.

## **11. Compliance, REACH, WEEE, Food Contact**

11.1 The Supplier shall comply with the internationally applicable minimum labor law standards, in particular all conventions of the International Labor Organization ("ILO") with regard to workers' rights, working time and health and safety at work, as well as all applicable legal and official provisions,

11.2 The Supplier shall ensure that he complies, as if he was a supplier located in Germany, in particular with the provisions of Regulation (EC) No. 1907/2006 on the Registration, Evaluation, Authorization and Restriction of Chemicals ("REACH Regulation") and EU directive 2012/19/EU (WEEE), including all notification requirements imposed under said regulations and corresponding German laws. The substances contained in the Supplier's products must be pre-registered or registered by Supplier – even if he is located outside the EU - after the expiry of the transitional periods, as far as required under the provisions of the REACH Regulation, provided that the substance is not excluded from registration.

11.3 If agreed by the Parties that the product delivered by the Supplier may come into contact with food – or if this is obviously intended and not disclaimed by Supplier -, the Supplier shall ensure – even if he is located outside the EU – that the goods supplied by Supplier comply, to the extent applicable for a supplier located in Germany, in particular with the provisions of (i) Regulation (EC) No. 1935/2004 on materials and articles intended to come into contact with food, (ii) Regulation (EC) No. 2023/2006 on good manufacturing practice for materials and articles intended to come into contact with food and (iii) with the provisions of (EU) No. 10/2011 on plastic materials and articles intended to come into contact with food.

11.4 Upon request of Tipper Tie, the Supplier shall provide Tipper Tie with verification documents (certificates etc.) to evidence compliance with the requirements specified in Sec. 11.1 - 11.3.

11.5 The Supplier shall ensure that it abides by the requirements of the Supplier Code of Conduct applicable to suppliers of JBT Corporation and its subsidiaries, including Tipper Tie. This Supplier Code of Conduct prohibits unethical practices and requires suppliers to comply with applicable laws and the Conflict Minerals Policy of JBT Corporation. The Supplier Code of Conduct is available at <https://www.jbtc.com/supplier-code-of-conduct>.

11.6 In the event that the Supplier materially or after having received a notice continuously violates one of the aforementioned obligations, Tipper Tie may at any time to cancel the respective order and/or contract. Any claims for indemnity and / or damages shall remain unaffected.

## **12. Customs and Foreign Trade Law, Export Control and Customs**

12.1 Delivery notes, consignment notes and invoices must always state the order numbers and article numbers (including the Tipper Tie article number in accordance with Sec. 3.2) in full. In addition the customs tariff number with the appurtenant country of origin must be stated for each purchase order position.

12.2 The Supplier shall assist Tipper Tie to comply with foreign trade and customs requirements, especially with regard to the import and export of Supplier's products (including changes or as a component of other products). On request, the Supplier shall submit to Tipper Tie longterm supplier declarations, certificates of origin and movement certificates concerning the delivered products.

12.3 The Supplier shall inform Tipper Tie in writing as soon as possible prior to the delivery date about any duties to approve his goods in accordance with the applicable German, European (EU), customs and foreign trade law as well as the export, customs and foreign trade law of the country of origin of his goods. The Supplier shall provide the following information and data:

- the statistical commodity code (HS-/KN-Code);
- the country of origin (free trade / non-preferential origin),
- Supplier certificates of preferential origin (for EU suppliers)
- Certificates of preferences (for non-EU suppliers);
- All other information and data required by Tipper Tie for export and import as well as for resale in the event of re-exportation of the goods. (e. g. packaging dimensions, weight etc.)

The Supplier shall inform Tipper Tie immediately about all changes of the above information and data in written form.

12.4 In the case of continuous deliveries to Tipper Tie, the Supplier shall issue a long-term supplier's certificate and, without being asked to do so, to provide a current long-term supplier's declaration in accordance with the implementing regulation of the European Union (EU 2015/2447) at the latest after two (2) years. However, the Supplier shall not amend such long-time certificate before 12 months after the date of issue unless for good cause.

12.5 As Tipper Tie is part of a United States company, the Supplier shall inform Tipper Tie without undue delay if his products or services, including sub-contractors, may violate US export control laws, in particular regarding the SDN list and OFAC sanctioned countries. The Supplier will ensure that his suppliers and sub-contractors observe this requirement as well.

## **13. Intellectual Property Rights, Confidentiality**

Tipper Tie reserves title to and the copyrights in all pictures, plans, drawings, calculations, instructions for execution, product descriptions and other documents. Documents of this kind must be used solely for the contractual performance and must be returned to Tipper Tie once the contract has been performed or terminated/expired. The documents and any other information obtained from Tipper Tie must be kept secret from third parties, including after termination of the contract, and may only be used for the performance of the contractual obligations. The obligation to maintain confidentiality shall not lapse until and to the extent that the knowledge contained in the documents handed over has become generally known.



#### **14. No Extended Retention of Title**

Unless otherwise agreed by the parties, all forms of extended or prolonged retention of title by Supplier are excluded.

#### **15. Miscellaneous**

15.1 These general terms and conditions of purchase are subject to German law excluding the UN Convention on Contracts for the International Sale of Goods.

15.2 The courts competent for Lübeck, Germany, shall have exclusive jurisdiction. Tipper Tie shall also be entitled to assert its claims in the courts competent for the place of general jurisdiction of the Supplier.