

# General Terms and Conditions of Purchase

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## 1. Application of the General Terms and Conditions of Purchase

1.1 All deliveries (with the exception of machines and systems with a contract for work and labour) to Alupak AG shall be made exclusively on the basis of these General Terms and Conditions of Purchase. The Supplier is familiar with these Terms and Conditions and, by requesting a quote/placing an order, has expressly and unconditionally recognised them. Any deviations from these Terms and Conditions require the written confirmation of Alupak AG in order to be valid.

1.2 In particular, these General Terms and Conditions of Purchase shall take precedence over any deviating general contractual provisions of the Supplier. Any such deviating provisions shall apply solely if recognised in writing by Alupak AG.

1.3 In particular, the Supplier may not seek to rely on the fact that it has referred to its general terms and conditions in its correspondence (including subsequent correspondence), quotes, order confirmations, delivery notes or invoices, etc. These General Terms and Conditions of Purchase shall take precedence in any case. Only these General Terms and Conditions of Purchase shall apply between the parties.

1.4 Provisions that deviate from these General Terms and Conditions of Purchase and that are made within the framework of a specific contract shall be deemed to take precedence over the present Terms and Conditions.

## 2. Quotes

2.1 Alupak AG may request that the Supplier provide it with a free quote. In providing this quote, the Supplier must adhere precisely to Alupak AG's enquiry in each case, and expressly mention any deviations from it.

2.2 Dimensions, weights, performance or other information provided by the Supplier in its bidding documents are binding.

2.3 If the Supplier does not set a deadline for acceptance in its quote, the quote shall be binding for 90 days.

## 3. Orders and order confirmation

3.1 Orders are only binding if they have been placed in writing (e.g. by e-mail or fax).

3.2 The Supplier shall confirm each order (including delivery date) within three working days; if the Supplier does not respond during this period, the order placed by Alupak AG will be deemed to have been confirmed. Alupak AG shall be entitled to have the order confirmed in writing by the Supplier via an order confirmation.

Each order confirmation must contain the following information, taken from the order from Alupak AG, which is decisive:

- Order number from Alupak AG
- Material number of Alupak AG, including a description of the goods and an indication of whether it is a compulsory stock item
- Delivery quantity, delivery date, delivery location, price per item (excluding VAT)
- Information on partial and remaining deliveries
- Country of origin, including customs tariff number (statistical commodity code)

In the case of call-off orders, an order and delivery date confirmation must be sent to Alupak AG by the next working day.

3.3 Within reasonable limits, Alupak AG shall be entitled to demand changes to the design and execution of the agreed delivery item from the Supplier. Any requests from Alupak AG for changes must be accompanied by a corresponding offer from the Supplier and ordered or accepted by Alupak AG in accordance with section 3.1. Any additional costs arising from this shall be borne by Alupak AG; reduced costs shall be reimbursed to Alupak AG.

## 4. Approval of plans and drawings

4.1 If the Supplier manufactures or has parts manufactured specifically for Alupak AG, it must have the execution plans approved by Alupak AG. If these plans are approved, this shall not discharge the Supplier from its responsibility for correctness and feasibility.

4.2 Even for parts not specifically manufactured for Alupak AG, the definitive execution plans and spare parts lists for proper maintenance of the deliverables must be submitted to Alupak AG by the start of assembly of the delivery item or by the time it is accepted at the latest.

## 5. Goods provided/Contract work/Finishing

5.1 Goods provided by Alupak AG for the purpose of applying a finish to the delivery item shall remain the property of Alupak AG. Orders must be executed by the Supplier exactly in accordance with the specifications, drawings and standards imposed by Alupak AG. The goods provided must be insured by the Supplier against loss and damage.

5.2 The Supplier shall be liable for any improper handling, storage, damage or loss of the goods.

5.3 Under no circumstances shall the Supplier have a right of retention to the goods provided by Alupak AG; any such right of retention is expressly excluded or waived.

## 6. Prices and terms of payment

6.1 The agreed prices are fixed prices and shall remain unchanged during the entire order cycle. Prices are DDP (delivered, duty paid, Incoterms in their current version) at the registered office of Alupak AG or at the place of delivery specified in the order from Alupak AG. Any VAT must be shown separately. Additional or reduced costs due to any changes to the order will be invoiced separately. Additional or reduced costs may be claimed only if the corresponding changes to the order have been agreed in accordance with section 3.3 above.

6.2 Unless otherwise agreed in individual cases, the following terms of payment shall apply: 60 days net after receipt of the invoice, or from delivery or acceptance of the delivery item at the earliest. This shall also apply in the event that several delivery items are delivered in separate deliveries.

6.3 Without the prior written consent of Alupak AG, the Supplier is not authorised to assign its claims against Alupak AG or to have them collected by third parties (pactum de non cedendo).

6.4 The information set out under 3.2 must be shown on the invoices.

6.5 In the case of advance payments, the Supplier must provide appropriate security (e.g. a bank guarantee) on request from the orderer.

## 7. Return of packaging material

7.1 If it is agreed that empties and packaging material are to be returned, the costs of transport and utilisation shall be borne by the Supplier.

## 8. Transfer of benefit and risk

8.1 Benefit and risk shall pass to Alupak AG upon transfer of the property in the delivery. This is the case after

- unloading from the means of transport has taken place at the place of delivery specifically named by Alupak AG in the order and, in the absence of a place of delivery, at the registered office of Alupak AG; and

- the delivery note or a confirmation of receipt has been signed; or

- if a specific acceptance procedure has been agreed on, that procedure has taken place.

8.2 If the required shipping documents for a delivery are not correctly submitted, the delivery shall be stored at the Supplier's expense and risk until they arrive.

## 9. Delivery date and delay in delivery

9.1 Agreed dates and deadlines are binding. With regard to compliance with the delivery date, the date on which the delivery item is received at the registered office of Alupak AG or at the agreed place of delivery shall be decisive.

9.2 Partial deliveries and early deliveries are permitted by agreement only.

9.3 If the Supplier has reason to believe that it will be unable to make the delivery on time in whole or in part, it must inform Alupak AG of this immediately, stating the reasons and the presumed duration of the delay. If the delivery date is not met, the Supplier shall be in default once the deadline has expired (expiry date transaction). Alupak AG is exempt from the obligation to send reminders.

9.4 Compensation for delay: In the event of default, the Supplier shall owe Alupak AG compensation for the delay. This compensation shall amount to 1% of the price of the delayed portion of the delivery for each commenced week of delay after the Supplier falls into default. Alupak AG may claim compensation for delay in addition to compelling specific performance if it does not expressly waive that compensation. Alupak AG reserves the right to claim compensation for damages over and above the compensation for delay.

## 10. Inspection and acceptance of the delivery, Warranty

10.1 The delivery note must contain the information set out under 3.2 (except the price).

10.2 The Supplier warrants that the delivery item corresponds to the state of the art and has no defects liable to impair its value or suitability for the intended use, that it has the warranted characteristics and that it corresponds to the prescribed performance and specifications.

10.3 In the event of obvious defects or the delivery of items that obviously do not comply with the order, Alupak AG shall be entitled to refuse acceptance (in part) without further ado. This also applies to partial or successive deliveries.

10.4 Alupak AG shall inspect the delivery item(s) once the benefit and risk have passed (section 8). Alupak AG has a period of seven working days (Monday to Friday) in which to do so.

10.5 In the case of deliveries of a considerable scope, Alupak AG may subject the delivery items to a random inspection, whereby any subsequent discovery of defects shall not result in a forfeiture of the obligation to inspect.

10.6 Hidden defects may be reported at any time after their discovery.

10.7 Alupak AG shall notify the Supplier in writing (e.g. by e-mail or fax) of any defects in the delivery within 14 days of discovery of the defect.

10.8 If portions of the delivery item(s) or the delivery as a whole are defective, the Supplier shall be obliged to remedy the defects or have them remedied on site or in its workshops at its own expense (Supplier's right to repair); if the defect or defects are remedied in the Supplier's workshops, the Supplier shall be responsible returning them to the delivery location and shall bear the costs thereof. If a complete repair is not possible within a reasonable period (maximum two weeks), the Supplier must supply and install a replacement (Supplier's right to supply a replacement). The Supplier is also prohibited from exercising its right to repair if the delivery item(s) are goods for which Alupak AG maintains compulsory stocks. In this case too, the Supplier shall only be entitled to make a replacement delivery (excluding the right to repair).

10.9 If the repair or replacement delivery does not take place within a reasonable period of time, Alupak AG shall be entitled at its own discretion:

- to have the defect remedied at the Supplier's expense or to order replacement goods from a third party at the Supplier's expense (substitute performance); or

- to claim a reduction in value (reduction).

If the delivery suffers from such a significant defect that it is unusable for Alupak AG, the latter may refuse acceptance or return the delivery item(s) to the Supplier at the Supplier's expense and demand repayment of the price (cancellation). The statutory claims for damages are expressly reserved.

10.10 The warranty period is 24 months from the date of transfer of benefit and risk in relation to the delivery. For repairs and/or spare parts deliveries, an independent warranty period of 24 months shall commence from the end of the repair or from the date of the replacement delivery. The warranty period shall also be extended by the duration of the interruption to operations caused by the repair work.

## 11. Certification

11.1 If the products to be delivered need to be certified, the Supplier must ensure that this is carried out. The Supplier shall bear the certification costs for any deliveries that are not manufactured exclusively for Alupak AG.

## 12. Spare parts

12.1 The Supplier is obliged to supply spare parts or compatible replacement solutions for all products supplied by it for a reasonable period of 10 years after the last delivery.

## 13. Product liability, Liability insurance

13.1 In so far as the Supplier is responsible for damage to the products, it shall be obliged to indemnify Alupak AG against claims for damages by third parties at Alupak AG's first request if the cause lies within its sphere of control and organisation.

## 14. Infringement of property rights

14.1 The Supplier shall indemnify, defend and hold Alupak AG harmless against any claims based on infringements of third-party industrial property rights in connection with the products delivered.

## **15. Confidentiality, Intellectual property**

15.1 Any information, drawings, etc. that Alupak AG provides to the Supplier for the manufacture of the delivery item may not be used for other purposes, reproduced or made accessible to third parties. Alupak AG holds the copyrights in all such materials. Upon request, all documents (including all copies or duplicates) must be returned to Alupak AG without delay.

15.2 Technical documents of the Supplier or its subcontractors shall be treated confidentially by Alupak AG. They remain the intellectual property of the Supplier or the subcontractor.

## **16. Tools and devices**

16.1 Tools, gauges, devices, models and other items provided by Alupak AG shall remain the property of Alupak AG. They must be stored appropriately and insured against all damage. They may not be changed, destroyed or used for third parties without the written permission of Alupak AG. The tools provided must be insured by the Supplier against loss and damage.

16.2 The Supplier shall under no circumstances have a right of retention to any tools, gauges, devices, models or other items provided by Alupak AG; such any right of retention is expressly excluded or waived.

## **17. Force majeure**

17.1 The contracting parties shall not be liable for the non-fulfilment, poor fulfilment or delayed fulfilment of their contractual obligations due to events of force majeure. Force majeure refers to unforeseeable circumstances occurring after the conclusion of the contract that are beyond the control of the contracting parties. This shall also apply if these circumstances occur to subcontractors.

17.2 If a contractual partner invokes force majeure, they are obliged to inform the other party immediately of its occurrence, expected duration and end. Otherwise, they may not seek to rely on majeure.

## **18. Place of performance, Applicable law, Place of jurisdiction**

18.1 The place of performance for the delivery is the destination agreed in the order. Unless otherwise agreed, the registered office of Alupak AG shall be the place of performance.

18.2 This contractual relationship is subject to Swiss law. The UN Convention on Contracts for the International Sale of Goods is expressly excluded.

18.3 The exclusive place of jurisdiction shall be the registered office of Alupak AG.