

SALES TERMS AND CONDITIONS

The following sales terms and conditions (the “Terms”) govern all contractual relationships between Tempack Packaging Solutions, S.L (the “Vendor”) and its customers (the “Vendee”) resulting from the sales of Products by Vendor to Vendee in terms of orders placed by the latter and accepted by the Vendor (the “Order”).

The Vendee hereby accepts the Sales Terms and Conditions when placing the Order of Products with the Vendor, declares to have previously read their content, either in the document provided by the Vendor, or the Terms available on the website www.tempack.com. The Products purchase Orders shall be governed by the Sales Terms and Conditions and shall be completed, when applicable, by the specific terms and conditions, which could be concluded by the Vendor and the Vendee. The aforementioned specific terms and conditions prevail over the Sales Terms and Conditions provided that an explicit written consent of the Vendor has been issued.

1. Product selection and order acceptance

1.1 The Purchaser is solely responsible for the selection of the product under the sale (the “Product”), and of the use or function given thereto. Therefore, the Seller is not responsible and does not guarantee that the Product is suitable for any technical applications intended by the Purchaser, or to achieve, in whole or in part, the objectives set for the Product at the time of purchase thereof.

1.2 The Vendee shall issue a written version of the Purchase orders (hand-written, via fax or email), specifying the type of Products, quantity and requested delivery date; as well as a reference of the Vendor, if applicable.

1.3 The Order shall be accepted by the Vendor for the sales agreement to be deemed concluded and legally binding. In 7 days following the reception of the Order, the Vendor shall inform the Vendee about his acknowledgement.

1.4 Once the order is acknowledged by the Vendor, it shall only be cancelled by the Vendee with a prior written consent of the Vendor, in which case the latter shall deduce of any sum of prepay or deposit paid by the Vendee, all the inherent loss, cost, damage, charge and fees, directly and indirectly, as a result of the aforementioned cancellation (the “Losses”) and shall reimburse the remaining balance (if applicable) to the Vendee. If the losses are greater than the amount of the prepay or of the deposit paid to the Vendor (or if deposit was not paid), the Vendee shall compensate the Vendor for all the Losses, which become due at Vendor's request.

2. Delivery

2.1 The Vendor shall deliver the Products in accordance with the INCOTERM EX WORKS (EXW).

2.2 The title and risk on the Products shall be transferred onto the Vendee upon provision of the Products by the Vendor in the place and according to conditions agreed upon, except for agreed special conditions. If the Products are to be collected by the Vendee, the Vendor shall provide him a notification containing the hour, date and place of the collection and the Vendee shall collect the Products within a deadline of three days following the date specified on the aforementioned notification.

2.3 The Seller may deliver the Products in different instalments. Products to be delivered within a specified instalment may be withheld until any overdue invoices corresponding to previous instalments are fully paid.

2.4 Shall the Vendee refuse the delivery of the Products, being in compliance with the agreed delivery schedule; or if the Vendor cannot deliver the Products due to a lack of sufficient or clear instructions from the Vendee, it is deemed that the risk of products has been transferred onto the Vendee and that the Products have been successfully delivered. In such circumstances, the Seller may store or arrange storage of the Products and charge the Purchaser for any costs and expenses (including insurance) incurred for this reason, the Seller may also proceed to sell the Products after fifteen days from failure of acceptance of delivery, and shall deduct any amounts owed by the Purchaser and repay any excess to the Purchaser.

2.5 Dispatch and delivery times shall be counted from the acceptance of the purchase order and are indicative only. The Purchaser shall not be entitled to any compensation for any delays in delivery. In the case of instalments, if the Purchaser continues to fail collection of the Products, the Seller may terminate the contract by consequently cancelling the pending part of the purchase order. Internal reasons of the Seller involving strokes, suspension or temporary reduction of production shall entitle to extensions for a time equal to their duration, but may not be invoked by the parties as a reason of cancellation of purchase orders, except in cases of force majeure.

3. Force majeure

In cases of force majeure impeding the manufacture or delivery of the goods, the Seller shall be entitled to delay delivery and, if the causes persist for more than a month, to cancel orders without liability for damages in any case. Force majeure cases shall include: strikes, lack of transportation, accidents in factories, fire, and, in general, any cause beyond the Seller's will.

4. Price and payment

4.1 The price of Products being purchased shall be specified in the Order and shall not include VAT or any other applicable tax or surcharge tax, which will be added to the price upon the issue of corresponding invoice. Before placing an order, the Vendee can check the prices or request a list containing current prices for the Products being purchased.

4.2 The Vendee shall pay the purchase price within a 30 day deadline from the Vendor invoice is issued, except if the Order was placed with a different deadline.

4.3 The Seller may invoice the Purchaser for the amount due corresponding to the Products at any time after delivery of the Products. Products delivered in instalments shall be invoiced at the time that each delivery is made. If the delivery of the Products is postponed or delayed for reasons attributable to the Purchaser, the Seller shall be entitled to invoice the Purchaser at any time after the Products are ready for delivery.

4.4 The Purchaser shall make payments in full, in authorized funds, without any deduction, compensation, discount or reduction. All payments shall be made in Euros, unless otherwise agreed by the parties. If the Purchaser is located outside of Spain, the Seller may require that the price be satisfied through special payment methods such as letters of credit or other agreements relating to the collection of payment. The Seller may allocate any payment made by the Purchaser to pay the outstanding bills.

4.5 The time of payment shall be essential. If the Purchaser fails to fulfill payment obligations, he/she shall indemnify the Seller for any eventual expenses and legal costs incurred to recover sums due, without prejudice to any other rights or remedies that the Seller may be entitled to under legal provisions.

5. Claims

Only claims received by letter or certified fax with a return receipt shall be admitted. The deadline for claims shall be within: (a) five days (counting from the arrival of the goods to the destination specified by the Purchaser): when there is non-conformity with the delivery and the order in terms of quality or quantity, (b) ten days (counting from the arrival of the goods to the destination specified by the Purchaser), and always before use of the goods: when the defect or irregularity cannot be detected by a simple examination or basic verification; (c) three months (counting from the arrival of the goods at the destination specified by Purchaser): when the defect or irregularity is not detectable (or it may only be detected after deep examination or testing). The finding of a defect that affects only a part of the goods delivered shall not entitle the Purchaser not to fulfill his/her payment obligation of the entirety of goods within the deadline, and shall not motivate complete refusal thereof.

6. Guarantee

6.1 The Vendor guarantees quality and proper functioning of the Products for the specific purposes that they serve, for a period of three (3) months from the delivery date.

This guarantee does not include cases where: (i) the product is damaged due to careless handling, contrary to the safety standards or product techniques, inadequate monitoring or any negligence from the Purchaser; (ii) flaws and/or defects caused by faulty management and/or assembly or installation by the Purchaser or by reason of alterations or repair carried out without following the instructions provided by the Seller, if applicable; (iii) defects caused by materials, fluids, energy or services used by the Purchaser, or caused by a design imposed by the Purchaser, and (iv) failure caused by fortuitous events, force majeure (weather or geological phenomena) and disasters or other natural catastrophes.

6.2 If any Product fails to conform to the provisions of the first paragraph of clause 6.1 above, the Purchaser may opt to have the Seller repair or replace the Product(s) in question, or, reimburse the price of the defective Product(s). Whenever requested by the Seller, the Purchaser, on his behalf, shall return the defective Product(s).

7. Liability

7.1 The Seller shall only be liable to the Purchaser for fraud or gross negligence and only in relation to eventual direct economic damages suffered by the Purchaser.

7.2 The Seller shall not provide any guarantees other than that specified in Clause 6 above, all other guarantees and liabilities provided for under applicable law are totally excluded from the Agreement or to the maximum extent permitted by law.

7.3 In conformity with the conditions set forth in Articles 7.1 and 7.2 hereto, the total responsibility of the Vendor, contractual or extra-contractual (including serious negligence or failure to comply with a legal duty), arising from this Agreement, shall be limited to the quantity corresponding to the relevant price of the Product Order causing the damage (excluding VAT).

7.4 The Seller shall not be liable to the Purchaser for any damage or indirect or consequential damages (whether for loss of profits, loss of business, decreased clientele or otherwise), costs, expenses, third party claims and other claims for indirect damages (regardless of the causes that motivate the claims) arising out of this Agreement or in connection therewith.

8. Risk, property and ownership retention

8.1 Without prejudice to Clause 2.2 above, the risk shall be transferred to the Purchaser upon delivery of the Products. Ownership of the Products shall not be transferred to the Purchaser until the Seller has received full payment of the invoice. Until ownership of the Products is transmitted, the Purchaser shall keep the same in trust, as trustee of the Seller. The Purchaser is not entitled to demand any payment to the Seller for such deposit.

8.2 The Seller is entitled to demand payment of the Products, regardless of whether ownership thereof has been transferred or not.

9. Law and jurisdiction

These Sales Terms and Conditions shall be governed and interpreted according to the Spanish Law, excluding the 1980 Vienne Convention on Contracts for the International Sale of Goods. Any litigious dispute, which fails to be settled amicably within a deadline of 30 days, shall fall into exclusive competence of the Tribunals of Barcelona.

10. Privacy Policy

The Seller will enter the personal data provided by the Purchaser through forms, on-line applications, product orders or services or through any other form into the Client archive, as well as data of the Purchaser obtained through common files of delinquency and creditworthiness or any other legitimate means.

The Seller undertakes to adopt the necessary measures to ensure the confidentiality of such data and avoid their alteration, loss, treatment or unauthorized access in accordance with the provisions of applicable law measures. A Purchaser who has data registered in the Seller's Client archive may exercise at any time the right to access, rectify and, where appropriate, cancel any personal data provided to the Seller, through a written request addressed to Tempack Packaging Solutions, S.L. L' Hospitalet de Llobregat (Barcelona), Av. Pau Casals No. 61. Information collected may be used to communicate via e-mail, any incidents, Purchase Orders or changes to the Purchaser. At any time that the Purchaser provides his/her e-mail address for the first time to the Seller, the Purchaser has the ability to declare not to receive such information. The Seller will also include in its e-mail messages instructions on how to unsubscribe, in case the Purchaser later decides not to receive further e-mails or business contacts.

The Purchaser expressly authorizes the entity to transfer the data included in said archive, to the group's entities for purposes directly related to the functions for which they were requested.

11. Language

These Terms are also available in English, French, and German. In case of discrepancy, the Spanish version shall prevail.