



# Mondi Consumer Packaging Technologies GmbH

## GENERAL TERMS AND CONDITIONS OF SALE

### 1. Validity

Our offers, deliveries and other services are solely based on the following conditions. These conditions are accepted on placing the order or acceptance of delivery. They will also apply to all future business relations, even if they have not been expressly agreed upon again.

Our terms and conditions of business apply exclusively; contrary or different conditions derived from the customer do not apply, unless we explicitly agreed upon their validity in written form.

### 2. Formation of Contract

Offers are subject to alteration. Drawings, illustrations, weights, quantities and other measures attached to the offer or included in the offer, are only estimates.

Contracts between the buyer and us as seller are only brought about through our written confirmation of the order. Written confirmation from us of the order is definitive for the content of the contract.

Changes and additions to the contract require our written confirmation to be valid.

All tender documents (including the calculation and cost estimates) entrusted to the buyer remain our property. They shall not be copied or passed on or made accessible to third parties without our consent.

### 3. Deliveries

The given delivery dates shall always be regarded as approximate. An agreed upon delivery date starts with the receipt of the confirmation of the order at the buyer, but not before the permissions, approvals, information as well as the receipt of the agreed upon deposit to be obtained, have been produced by the buyer as per agreement to execute the order.

The delivery date is considered in effect when the buyer is notified of the readiness to forward, or delivery takes place by the end of the agreed upon delivery date.

Delays in delivery due to force majeure, strike, non foreseeable breakdown, delays in supplies due to in-suppliers, transport bottlenecks, shortage of raw material, official measures and other circumstances which are not our responsibility, justify reasonable changes of the delivery dates and delivery times. In the case of any delay in delivery, the buyer is entitled to refuse the acceptance of delayed deliveries, after the lapse of a written granted reasonable extension by the buyer of at least two weeks. Beyond that, the buyer has no claims against us in the mentioned cases.



The approximate claims to which the buyer is entitled, in the case of delay of performance or the impossibility of delivery, are limited in so far as only compensation for the foreseeable damage can be demanded. The forgoing limitation on liability does not apply if the reason for the delay of performance and/or the impossibility of service is based on intention or gross negligence of one of our legal representatives or of one of our vicarious agents.

#### **4. Dispatch and Passing of Risks**

All deliveries, unless explicitly agreed upon differently in the confirmation of the order, are at the risk of the buyer.

The passing of risks on the goods to the buyer takes place with the handing over of the delivery in the plant of the seller to the forwarding agent, carrier or other persons instructed with the execution of dispatch.

We can choose means of packaging and transport as well as the type of dispatch to the exclusion of any liability as long as there is no stipulation from the buyer in due time before the expiry of the delivery date. Insurances of all types, for dispatch, packaging, storage etc. are only taken out on the exclusive wish of the buyer and at his own expense.

#### **5. Terms of Payment**

All prices shown in our offers and letters of confirmation are net prices plus the corresponding valid legal sales tax which might apply under German law. Costs for packaging, insurance, freight and other additional costs which occur when importing or exporting goods, such as export bonus, export taxes, customs duty and other expenses or surcharges shall be born by the buyer.

The invoiced amount shall be paid within 30 days from the date of invoice without discount, unless a different agreement was reached in writing.

Bills of exchange are only accepted on the grounds of special agreements. The acceptance of checks and bills of exchange is only valid after cashing of check or payment of bill, unless it has been agreed upon differently in writing.

The customer is in default if he does not settle the invoiced amount without deduction within the time stipulated. The crediting of the invoiced amount to our accounts is decisive. Upon default we are entitled to charge an interest of 8 % of the corresponding valid basic rate of interest. We reserve the right to claim higher provable interest damage. Furthermore, the costs connected to the collection of demands out of court and/or in court shall be paid by the buyer in the case of delay in payment.

In case a buyer delays in the settlement of an invoice, all our outstanding demands inclusive of possible demands from bills of exchange are immediately due, regardless of the stipulated date of payment. We are furthermore entitled to refuse all outstanding services, withdraw from the contract or demand prepayment and/or the provision of security until all outstanding bills have been settled. The same is the case if we are aware of circumstances which are appropriate to question the creditworthiness of the buyer such as e.g., in the case of non-payment of bills of exchange and checks or other delay in payment.



The buyer can only enforce a lien if it is based on the same contractual relationship. He is only entitled to a set-off if the counterdemand is recognised by us or if it has been established non-appealable.

## 6. Reservation of Title

The objects delivered by us remain our property over the buyer until the complete payment of all demands also demands arising in future. The buyer may sell the conditional commodities in proper course of business against instant payment or under reservation of title. He is not entitled to other dispositions, especially regarding the transfer by way of security and to pledge.

In the case of processing, connection, mixing or amalgamating conditional commodities with other goods that are not ours, we are entitled to the resulting co-owner's share of the new good from that in relation to the value of the conditional commodity to the other processed good at the time of processing, connection, mixing or amalgamating. The buyer already transfers his demands from the sale of the conditional commodity (sales price plus sales tax) including the corresponding demands from bills of exchange with all ancillary rights to us now. We hereby already accept this transfer now. Names and addresses of buyers as well as the amount of the corresponding claims against a buyer shall be given to us after the first request. In the event that the conditional commodity being sold for one total price together with other objects that are not ours, the transfer shall only take place for the amount of which the buyer was charged for the for us sold goods including sales tax.

The buyer shall always insure the conditional commodity against the usual risks and shall prove this upon request. The buyer hereby transfers his possible insurance claims to us, we accept this transfer.

The buyer is entitled to collect the claims transferred to us until revoked. The transfer or pledge of these claims is only permissible with our written approval.

If a buyer delays in payment or if he does not comply with his duties under reservation of ownership, we can set a reasonable date for performance and/or later fulfilment. We are entitled to withdraw from the contract and take back the delivered goods after the unsuccessful expiry of this time limit. To do this, the buyer has to send a precise list of the conditional commodities in his possession, separate these goods and return them to us. After a warning with a reasonable time limit, the goods can be privately sold for the best possible price with crediting of the price invoiced to the buyer. In this case he furthermore has to notify the debtors of the transferred demands of the transfer to us in writing if so requested by us, give us the necessary information for the enforcement of our rights, present documents and send them to us, as well as hand over bills of exchange.

The buyer has to inform us immediately of the access of third parties to conditional commodities or demands transferred to us e.g., through seizures of property and to avert them by suitable means.

We commit ourselves to release our due securities on request of the customer in so far as the realisable value of our securities exceed the demands to be secured by more than 20%; the selection of the securities to be released is incumbent on us.

## 7. Notice of Defects and Warranty

After receipt the buyer shall check the good thoroughly on completeness and faultless condition, all noticeable defects detected as part of this inspection including delivery of wrong goods or reduced quantities shall be instantly reported in writing, but at the latest within 7 days after the arrival of the goods. Defects which cannot be detected instantly shall be immediately reported in writing, but at the latest 3 days after their discovery.

We owe later fulfilment for faulty deliveries and we will decide whether the later fulfilment will be satisfied by repair of defects or new delivery. The buyer is obliged to accept the later fulfilment. If the later fulfilment failed or is not tolerable, the buyer is entitled to withdraw from the contract or to ask for a reasonable reduction of the sales price, depending on his choice. The later fulfilment is considered a failure after the second unsuccessful try for later fulfilment. The later fulfilment is unreasonable for us especially if it is only possible with excessive costs.

Warranty claims are excluded if the buyer has sold the goods or processed them after he has detected the defect or if he should have detected it, unless the sale or processing was necessary to prevent greater damage.

The seller has the right to carry out excess or short deliveries in amounts up to 10%, without it presenting a defect as defined in the present delivery terms. The seller reserves deviation in accordance with the stipulation regarding testing and valuation set by the General Association of Plastic Processing Industry (GKV).

All contractual claims against us become statute-barred one year after the delivery of the good, as long as no other arrangements were entered. The limitation period of one year does not apply to damages which are based on injury of life, body or health due to neglect or gross breach of duty by a legal representative or a vicarious agent. In the case of a merely negligent failure of duty through us or one of our organs and vicarious agents, our warranty is limited to the foreseeable, typically occurring damage.

Identification and description of our goods is carried out as customary in the trade. Processing documents, advice and recommendations are given with our best knowledge and belief. However, we do not assume liability for the appropriateness of the good for the buyer's intended purpose, since the different nature of processing and the stresses of use can not be assessed by us in detail.

## 8. Copyright

All costs for drawings and printing plates are the expense of the buyer. The seller is only liable for infringements of patents, patterns, descriptions and similar rights which results from buyer's order in as far as he is responsible for it.

Proofs shall be checked by the buyer for printer's errors and other mistakes and given back to us declared as ready for printing. Changes given by telephone require written confirmation.

Manuscripts, originals, thrust pieces, plate cylinders, printed matters etc, which are the possessions of somebody else, will be kept at the risk of the buyer. It is the responsibility of the buyer to take out a corresponding insurance.

## **9. Export**

The compliance with and execution of the relevant regulations concerning foreign trade and other laws of the country to which should be delivered, is part of the responsibility of the customer. The customer shall inform us of unusual features, which result from these regulations. The customer is liable for any damage which arises to us because of disregard of the legal regulations. Irrespective of this regulation, the customers shall obtain the required import and export permits on his own, if necessary.

## **10. Data Protection**

We would like to point out that personal data of customers, gained as part of the business relations, will be saved by us in accordance with the regulations of the Federal Data Protection Act (§§ 27 pp. Bundesdatenschutzgesetzes/BDSG).

## **11. Place of Performance, Place of Jurisdiction and Applicable Law**

Place of performance for both contract parties for delivery and payment is Gronau. Place of jurisdiction vis-à-vis companies for any legal disputes that may arise from the contractual relationship as well as its existence and its effect, including actions on bills and checks shall be Gronau. However, we are entitled to sue the buyer also at his place of business.

The contractual relationship is subject to the law of the Federal Republic of Germany. The application of UN Sales Convention is excluded.