

# General Conditions of Purchase of the Mohrbach Group

- consisting of the following companies -

## **MOHRBACH**

Verpackungsmaschinen GmbH  
Gewerbepark 4  
D-66989 Höhrfröschen, Germany

## **HERIPACK**

Verpackungsmaschinen GmbH & Co. KG  
Gewerbegebiet Enste – Linsemecke 6  
D-59872 Meschede, Germany

## **Wilhelm Rasch**

GmbH & Co. KG  
Spezialmaschinenfabrik  
Max-Planck-Strasse 32  
D-50354 Cologne-Hürth, Germany

## 1. General

1.1 These General Conditions of Purchase apply to all contracts for the supply of goods and provision of services by the suppliers of the above-mentioned companies (each separately referred to as the "Mohrbach Group"). These General Conditions of Purchase shall only apply if the supplier is an entrepreneur within the meaning of § 14 German Civil Code [BGB]. They do not apply to consumers within the meaning of § 13 BGB.

1.2 The terms and conditions of suppliers or third parties shall not apply, even if the Mohrbach Group does not separately object to their validity in individual cases. If a delivery is nevertheless made, this shall be deemed to be an acceptance of the Mohrbach Group's Conditions of Purchase. If the Mohrbach Group accepts the goods, this occurs subject exclusively to these Conditions of Purchase.

1.3 These General Conditions of Purchase shall also apply in their currently valid version to future transactions with suppliers.

## 2. Conclusion of contract and contract amendments

2.1 Delivery contracts, orders and delivery call-offs as well as their amendments and supplements must be in writing. Compliance with written form is also ensured by remote data transmission or fax.

2.2 Offers are binding and are not subject to remuneration unless expressly agreed otherwise.

2.3 The Mohrbach Group may cancel the order or the delivery call-off after the expiration of three (3) working days from receipt of the order or the delivery call-off by the supplier, unless the supplier confirms the order or the delivery call-off in writing. No costs are incurred as a result of such a cancellation.

2.4 The Mohrbach Group may request changes to the delivery item, the place of delivery and the type of packaging at any time. The supplier is obliged to make such changes without delay. The supplier may object to our request for changes if it would be unreasonable for it to implement the changes. If, due to a change, it becomes necessary to adjust the delivery contract, in particular with regard to additional or reduced costs, the parties shall mutually address this by means of a reasonable agreement.

2.5 If order acceptances or confirmation letters of the supplier differ from the order placed by the Mohrbach Group, the supplier is obliged to expressly point this out. In this case, a contract will only be concluded between the parties if the Mohrbach Group agrees. The Mohrbach Group's failure to respond to such a divergent acceptance of the order or a divergent letter of confirmation shall be deemed a rejection.

2.6 Third parties, in particular employees of the Mohrbach Group, are not authorised to make either oral collateral contracts or provide verbal assurances that go beyond the content of the written contracts. Corresponding declarations do not create any obligations.

### 3. Delivery

3.1 All agreed dates and deadlines are binding. The timeliness of a delivery is determined by the date of receipt at the destination specified by the Mohrbach Group.

3.2 The Mohrbach Group is entitled to demand a contractual penalty from the supplier of 0.3% per working day from the time of the delay in delivery, however, no more than a maximum of 5% of the total order value of the delivery. The right to claim further damages is expressly reserved. If, on acceptance of delayed performance, the Mohrbach Group does not expressly reserve the right to claim the contractual penalty, the contractual penalty incurred may still be claimed within a cut-off period of ten working days after acceptance. The contractual penalty shall be charged as part of the damages caused by the delay to be compensated by the supplier.

3.3 If a delivery by the Mohrbach Group to one of its customers is delayed due to the supplier's delay and if the Mohrbach Group thus becomes liable for damages, the supplier must indemnify the Mohrbach Group for any damage claims asserted by the customer.

3.4 If it becomes foreseeable that the delivery period agreed or the delivery date agreed will be exceeded, the supplier must inform the Mohrbach Group immediately of the expected duration of the delay, notwithstanding its other obligations.

3.5 Unconditional acceptance of a delayed delivery does not constitute a waiver of any compensation claims to which the Mohrbach Group may be entitled due to the delayed delivery.

### 4. Shipping and transfer of risk

4.1 The supplier is obliged to deliver the goods ordered to the location specified by the Mohrbach Group within the scope of the order. The supplier bears the transport and packaging costs. If the parties agree that the Mohrbach Group should bear the transport or shipping costs, the supplier is obliged to ship the goods at the lowest possible cost. If the Mohrbach Group prescribes a specific mode of transport, the supplier shall ship the goods at the lowest possible cost at which shipment is possible according to the intended mode of transport. The supplier shall bear any additional costs incurred as a result of failure to comply with shipping or packaging regulations. If accelerated transport or a different mode of shipment at higher cost becomes necessary in order to meet the delivery date, due to the supplier's failure to promptly commence transport or shipment, the supplier shall bear the additional costs thus incurred.

4.2 The delivered goods must be delivered packaged. The packaging must be safe for transport and comply with the transport regulations applicable to the chosen mode of transport and the packaging rules specified in the order.

4.3 Unless the parties have agreed otherwise, the supplier shall bear the risk of deterioration and accidental loss of the goods until their delivery at the place of delivery specified in the order.

4.4 If the consignment arrives at the destination in damaged packaging or is delivered in damaged form to the transport company engaged by the Mohrbach Group, the Mohrbach Group has the right to reject the consignment without checking its content. The cost of the returns shall be borne by the supplier.

## 5. Assembly and ancillary obligations

5.1 During assembly work, the supplier is obliged to observe the guidelines and safety rules provided by the Mohrbach Group and to obtain precise information about the content of these guidelines and safety rules.

5.2 All machinery and work equipment must comply with European Union law. The currently valid directives must be observed. If there are special directives for a particular product, they must also be observed. The relevant European Union standards must be named in the declaration of conformity. If there are currently no relevant European regulations, then national regulations must be observed.

## 6. Prices and payment terms

6.1 The prices agreed are fixed prices excluding VAT and are free of other delivery charges to the place of use, including packaging.

6.2 On the day of dispatch, the supplier shall send the Mohrbach Group a separate invoice in duplicate, stating the order number specified by the Mohrbach Group, as well as an exact list of contents and weight and showing VAT and a VAT number. The issuing of an invoice that does not meet the requirements or that deviates from the order placed by the Mohrbach Group does not commence a time limit in which to claim any cash discounts.

6.3 Unless otherwise agreed in writing, payment by the Mohrbach Group shall be made within 30 days less 3% discount or within 60 days net after receipt of goods and invoice. An offset is equivalent to payment.

6.4 Claims arising from the contracts concluded with the Mohrbach Group may only be assigned with its written consent. § Section 354a German Commercial Code [HGB] remains unaffected. The supplier may only offset claims that have been legally established or are undisputed. The supplier may only assert retention rights on the basis of counterclaims arising from the respective contractual relationship.

6.5 The Mohrbach Group only owes the return of packaging if this has been expressly agreed. The Mohrbach Group is permitted to return packaging, which the supplier may charge separately, to the supplier upon receipt. In this case, the supplier must credit the packaging to the Mohrbach Group at the same value.

## 7. Warranty

7.1 The commercial obligation to inspect and give notice of defects shall be limited to defects which become apparent during the incoming goods inspection under external examination, including the delivery documents (e.g., transport damage, wrong and short delivery) or which are recognisable during quality control using a random sampling procedure. Moreover, it depends on the extent to which an inspection is feasible in the

ordinary course of business, taking into account the circumstances of the individual case. The obligation to give notice of any defects subsequently discovered remains unaffected. Payments shall not be deemed to be a waiver of the right to make a claim for defects. Any conflicting inspection and examination periods of the supplier do not apply.

7.2 In the event that the goods delivered are defective, the Mohrbach Group may, at its discretion, demand their rectification or replacement. Under the conditions of § 637 BGB, the Mohrbach Group is entitled – including within the scope of purchase contracts – to remedy the defect itself, to have it remedied by a third party, to obtain cover from a third party at the supplier's expense and to demand a corresponding advance payment. The Mohrbach Group may store defective deliveries for the account, at the risk and on behalf of the supplier. The Mohrbach Group shall inform the supplier of this immediately.

7.3 If the Mohrbach Group incurs any costs as a result of the defective delivery of the subject matter of the contract, in particular transport costs, travel costs, labour costs, material costs or costs for an incoming goods inspection exceeding the usual scope, the supplier shall bear these costs

7.4 The period in § 438 (1) No. 3 BGB and § 634a (1) No. 1 BGB shall be changed to three years.

7.5 In all other respects, statutory provisions shall apply to the warranty.

## 8. Product liability

8.1 Insofar as a claim is made against the Mohrbach Group by way of manufacturer's liability or product liability and the damages incurred are due to the defect of a product delivered by the supplier, the supplier shall be obliged to indemnify the Mohrbach Group against such claims. In cases of fault-based liability, however, this shall only apply if the supplier is at fault. If the cause of the damage lies within the supplier's area of responsibility, the supplier shall bear the burden of proof in this regard.

8.2 The claim for indemnification under para. 1 includes all costs and expenses required for initiating legal action, mounting a legal defence and effecting a product recall.

8.3 Unless otherwise agreed, the supplier shall maintain a product liability insurance policy with coverage of at least € 5 million per loss event. This insurance policy must cover both property damage and personal injury or death. On request by the Mohrbach Group, the supplier shall provide proof of the existence of, and the conditions governing, this insurance cover. At the request of the Mohrbach Group, the supplier shall agree on more extensive insurance cover with its insurer and provide proof of this to the Mohrbach Group. The Mohrbach Group bears the additional premiums incurred for this cover.

## 9. Means of production and production samples

9.1 Drawings, models, samples, measuring and testing equipment, delivery and testing specifications, printing templates and the like, as well as tools provided by the Mohrbach Group for the execution of the order or created by the supplier for the Mohrbach Group, are the property of the Mohrbach Group. The supplier is obligated to return these to the Mohrbach Group upon request and at the latest upon termination of the call for business without being requested to do so.

9.2 The above-stated production resources as well as the items produced with their assistance may not be used, reproduced or handed over to third parties for any purposes other than the processing and execution of the order without the written consent of the Mohrbach Group. The production resources shall be secured by the supplier against unauthorised inspection and use. The resources must all be returned by the supplier to the

Mohrbach Group without request being made therefor, if the supplier no longer requires them for further performance of the delivery or service.

## 10. Industrial property rights

The supplier shall be liable for ensuring that the industrial property rights of third parties are not infringed in the execution of the contract and in the delivery and use of the subject matter of the delivery or service. Supplier shall indemnify the Mohrbach Group against claims of third parties arising from any infringements of industrial property rights.

## 11. Advertising

The supplier may only refer to a business connection with the Mohrbach Group with its express consent.

## 12. Termination and withdrawal

12.1 Without prejudice to other rights of termination and withdrawal, the Mohrbach Group shall be entitled to terminate or withdraw from the contract without observing a notice period if insolvency proceedings are opened against the assets of the supplier, are rejected for lack of assets or if the supplier ceases its payments more than merely temporarily.

12.2 Force majeure, industrial disputes, civil unrest, official measures and other unforeseeable, non-culpable, unavoidable and serious events shall release the contracting parties from their contractual performance obligations for the duration of the disruption and to the extent of its effect. This also applies if these events occur at a time when the contractual partner concerned is in default. The contracting parties are obliged to provide the necessary information without delay within the bounds of what is reasonable and to adjust their obligations to the changed circumstances in good faith.

## 13. Retention of title

Retentions of title by the supplier shall only apply insofar as they relate to the payment obligation for the particular goods to which the supplier retains title. In particular, an expanded or prolonged retention of title is not permitted.

## 14. Place of performance, place of jurisdiction and applicable law

14.1 The law of the Federal Republic of Germany applies. Application of the UN Convention on Contracts for the International Sale of Goods (CISG) is hereby excluded.

14.2 The place of performance and jurisdiction is the registered office of the respective company of the Mohrbach Group if the supplier is a merchant or a legal entity under public law or a special fund under public law or if its place of domicile is outside the Federal Republic of Germany. The Mohrbach Group is also entitled, at its discretion, to sue the supplier at another permissible place of jurisdiction.

14.3 Amendments to contracts and to these General Conditions of Purchase are invalid unless made in writing. This shall also apply to the amendment of this requirement for the written form.