

**TUBAPACK, a.s.****General Sales Terms and Conditions****1. INTRODUCTORY PROVISIONS**

- 1.1 These General Sales Terms and Conditions (hereinafter referred to as the "GSTC" for delivery of goods shall govern the legal relations between TUBAPACK, a.s., based at Priemyselná 12, 965 63 Ziar nad Hronom, Slovakia, ID (ICO) 36629723, registered with Commercial Register kept by District Court in Banská Bystrica under Section: Sa, file no. 800/S (hereinafter referred to as the "TUBAPACK, a.s.") and any natural or legal entity which a Buyer under these GSTC (hereinafter referred to as the "Buyer").
- 1.2 Any legal relationships between the TUBAPACK, a.s. and the Buyer shall be governed by these GSTC and the purchase contract as well as other agreements between the Parties, and if not regulated by these documents, the relationships shall be governed by the laws of the Slovak Republic, especially by the Commercial Code.
- 1.3 The TUBAPACK, a.s. and the Buyer may agree on rights and obligations in a purchase contract or other agreements and documents different from those provided under these GSTC, and such different arrangements shall prevail over these GSTC. Any amendments made to these GSTC during the term of purchase contract shall be without prejudice to any rights regulated otherwise by agreements and contracts, even though the amendments to these GSTC have been made at later time.
- 1.4 If the Buyer has entered into an annual contract with TUBAPACK, a.s., the terms and conditions agreed under such contract shall prevail over terms and conditions provided under any partial sales contract. Any partial sales contract with a Buyer concerned must be based on the terms and conditions set forth in the annual contract concluded between the Buyer and the TUBAPACK, a.s..

**2. DEFINITIONS**

- 2.1 **Goods** – any articles produced by the TUBAPACK, a.s., which must be precisely specified in the purchase contract.
- 2.2 **Seller** – TUBAPACK, a.s., the company with its registered office at Priemyselná 12, 965 63 Ziar nad Hronom, Slovakia, ID number (ICO) 36629723, registered with Commercial Register kept by District Court in Banská Bystrica under Section: Sa, file no. 800/S
- 2.3 **Buyer** – natural person or legal entity, which has entered into a purchase contract, either orally or in writing.
- 2.4 **Parties** – the Seller and the Buyer.
- 2.5 **Written form of documents** – documents executed and sent in the form of a letter, bay fax or electronically, i.e. by e-mail.
- 2.6 **Place of delivery** – the Seller's address appearing on the purchase contract shall be deemed the place of delivery (EXW, FCA according to INCOTERMS) unless otherwise provided in the purchase contract.
- 2.7 **Purchase contract** – a written document titled in this way, as well as any mutually confirmed proposals by the Parties that contain basic particulars: the subject-matter of purchase including its specifications, the date of delivery and the purchase price, such as bids or purchase orders.
- 2.8 **Receivables insurer** - an insurance company with which the Seller has contracted to provide insurance protection against the risk of non-payment of receivables.
- 2.9 **Insurance coverage** - the amount of the credit limit approved by the Receivables Insurer for the Buyer.

**3. METHOD OF GOODS ORDERING**

- 3.1 The Buyer shall order the Goods in compliance with the following provisions stipulated in this Article of GSTC. The Buyer is required to make a purchase order in writing.
- 3.2 The purchase order must contain the following details:
- Buyer's business name,
  - address of Buyer's registered office,
  - precise specification of Goods type being ordered, and also a graphic master must be attached if a new product is ordered. The specification must include:
    - tube diameter,
    - tube length,
    - material (aluminium, laminate),
    - laminate type (ABL, PBL),
    - cap type,
    - nozzle type (thread, diameter of nozzle orifice),
    - membrane,
    - shoulder,
    - graphic master (in case of a new product) should contain in:
      - image file format: PDF or AI (Adobe Illustrator),
      - typeface/fonts used, or converted to curve,
      - resolution: min. 300 dpi,
      - number of colours,
      - printing colours defined according to PANTONE matching system,
      - type of external lacquer (matte or gloss).
  - method of packing,
  - quantity of tubes and required date of delivery,
  - method of Goods collection and plate of delivery,
  - name, surname and phone number of contact person responsible to handle a specific purchase order on behalf of Buyer.
- 3.3 Introduction of an article in production and changes to existing design (cancellation of old design):
- introduction of an article in production and/or modification of design are subject to fees,
  - Buyer undertakes to inform the Seller of changes to existing design before placing a purchase order and to forward a new design along with a written request to make a change to existing design,
  - any new design must be before its production start-up approved by the Buyer in person, or by a written declaration that the new design is approved by the Buyer.
- 3.4 If the purchase order is cancelled by the Buyer, the Buyer shall be obliged to reimburse any costs related to the preparation of production (proof sheets, printing blocks, etc.).
- 3.5 In case the Buyer fails to accept the ordered Goods, the Buyer shall be obliged to pay the Seller a penalty at the rate of 50% of the purchase price if the Goods have not yet been produced or at the rate of 100% of the purchase price if the Goods have been already produced, not later by the date on which the Goods had to be delivered according to the purchase order.
- 3.6 The contractual penalty is payable on the basis of an invoice issued by the Buyer with a maturity of 30 days.

**4. PURCHASE CONTRACT CONCLUSION**

- 4.1 The Purchase contract between the Parties shall be deemed concluded when:
- the Seller confirms the acceptance of Buyer's purchase order, or
  - the Buyer confirms in writing that it fully accepts the Seller's offer, or
  - the Seller and Buyer sign a contract to express their mutual agreement.
- 4.2 Materials such as leaflets, catalogues, pictures, drawing and other product data shall be deemed for reference purpose only, unless expressly declared to be binding.
- 4.3 The Seller retains without reservation the proprietary rights and copyrights to technical documentation, catalogues, drawings and other basic documents related to the sale of Goods. The Buyer shall not be entitled to use, translate, reproduce or distribute any materials or documents related to the sale of Goods.
- 4.4 Any amendments to the Purchase contract must be only in written form and confirmed in writing

by both Parties.

**5. DELIVERY CONDITIONS**

- 5.1 The Goods shall be delivered preferably according to INCOTERMS.
- 5.2 The Seller shall deliver Goods to place and at the time specified in the Purchase contract. The delivery shall be confirmed by the delivery not that can be replaced with a Goods acceptance report signed by both Parties. The delivery tote or the Goods acceptance report shall contain at least the following particulars:
- Purchase order number,
  - Buyer's business name, address of registered seat and company ID number if it is a legal entity, or name surname, address of permanent residence and ID card number if it is a natural person, and Seller's business name, address of registered seat and company ID number,
  - Goods designation,
  - person who that accepts the Goods (name, surname, position/title, personal ID data),
  - place of Goods delivery,
  - date of Goods acceptance.
- The Buyer may change the place and/or the time of Goods delivery after signing the Purchase contract only in writing. The change of Goods delivery place and/or the change of Goods delivery time shall be only binding on the Seller if such change is confirmed in writing by the Seller. If such changes are confirmed in writing by the Seller, this shall be deemed an amendment to the Purchase contract. The Seller shall be obliged to compensate the Seller for any increased costs as a result of such changes.
- 5.3 The time of Goods delivery can be given as an exact date or a time of period that begins to run from the date of signing the Purchase contract. If the time of Goods delivery is given as a period of time, the Seller shall be entitled to deliver the Goods throughout the given period of time also in partial shipments. If after signing the Purchase contract the Buyer places an order with the Seller or requests the Seller to make a change in any characteristics of the Goods concerned, such change shall only be binding on the Seller if it confirmed in writing by the Seller, and the Seller may accordingly reschedule the time of delivery in the written confirmation of desired change to the Goods. The confirmation of a change to the Goods shall be deemed an amendment to the Purchase contract.
- 5.4 If the Seller is not able to deliver the Goods within the time specified in the Purchase contract because of a Force Majeure event, the time for delivery of Goods shall be reasonable extended for the duration of Force Majeure circumstances. The Force Majeure event shall be any unforeseen event beyond the control of the Seller, which has an impact on the Seller's performance under the Purchase contract, such as strikes, measures taken by governmental authorities, natural phenomena and disasters. The Seller shall be obliged to notify the Buyer of such circumstances as soon as practically possible, together with at least estimated time for delivery of Goods. If the Seller is not able to deliver the at all because of a Force Majeure event, then the Seller's obligation to deliver the Goods to the Buyer shall lapse. If the Seller's performance under the Purchase contract become possible only with increased costs because of a Force Majeure event, then the Seller may rescind the Purchase contract.
- 5.5 In case the delivery of Goods is not possible due to reasons on the side of Seller, or because a bankruptcy petition is filed against the Seller, the Buyer shall have the right to withdraw from the Purchase contract after the lapse of a reasonable period of time for performance, given in writing to the Seller. This period of time, however, shall not be shorter than the duration of the impediment that caused the delay. The Buyer's right to withdraw from the Purchase contract shall apply only to the supply of Goods that still have not been delivered.
- 5.6 The time of Goods delivery can be also changed in the following cases:
- the Seller is missing any information necessary for manufacture of tubes,
  - the Buyer fails to settle the pro-forma invoice within the agreed maturity period.
- 5.7 If the Parties agreed under the Purchase contract that the transport of Goods is to be provided by the Seller, then the Seller shall be obliged to deliver the Goods to the place specified in the Purchase contract and to provide transport at Seller's expenses included in the costs of Goods, unless otherwise agreed between the Parties.
- 5.8 If the Seller is not able to give the Goods to the Buyer because of Buyer's failure to provide necessary cooperation, the Goods shall be deemed delivered at the moment of arrival of Goods to the agreed place of delivery. The Buyer shall be liable for any costs, damages and loss of incurred by the Seller due to the Buyer's failure to accept the Goods,
- 5.9 If the Buyer fails to collect the Goods even upon the Seller's request, the Seller shall be entitled to charge the Buyer for warehousing at the rate of 20 % of the purchase price for each month or part thereof. The same also applies if the Buyer asks to postpone the delivery of Goods.
- 5.10 If the Parties agreed that the Seller is not obliged to provide the transport of Goods, then the Goods shall be considered delivered at the moment of giving the Goods to the custody of first carrier, where the Seller is obliged under the contract to dispatch the Goods.
- 5.11 Along with the Goods, the Seller shall provide the Buyer with all documents agreed in the Purchase contract /delivery note, waybill CMR, certificates or other documents).
- 5.12 The Goods shall be considered delivered in the agreed quantity if the difference against the ordered is within the allowance of +/- 10% with orders for less than 100,000 pieces and +/- 5% with orders for more than 100,000 pieces.
- 5.13 As soon the Buyer is allowed to dispose of the Goods, the Buyer is required to thoroughly check the Goods for defects, and as to whether the Goods were delivered with all relevant documents. The Buyer shall immediately inform in writing the Seller of any identified defects not later than 48 hour after the moment at which the Buyer was allowed to dispose of the Goods.
- 5.14 If the Buyer fails in breach of Purchase contract or these GSTC to collect the Goods event upon the Seller's written request and after the lapse of a reasonable period of time to collect the Goods, the Seller shall have the right to rescind the Purchase contract. This is without prejudice to any rights the Seller may have to make a claim for indemnification.
- 5.15 If the Seller fails to deliver the Goods at the time and place agreed in the Purchase contract, Buyer shall be entitled to claim a penalty.
- 5.16 If the Seller is still in delay with delivery of Goods upon the Buyer's written notification and after the lapse of a reasonable period of time for delivery, the Buyer shall have the right to withdraw from the Purchase contract. If the Seller's performance becomes impossible and this impossibility to perform is demonstrably caused by the Seller, then the Buyer shall have the right to claim indemnification for damages. In any case, the Buyer's entitlement to indemnification shall be limited to the sum of money representing 5% of value of Goods or part thereof that could not be delivered because of Seller's impossibility to perform. Any Buyer's claims for indemnification exceeding the above sum are excluded. The Seller shall not be obliged to insure the Goods against damage during transportation, unless otherwise provided in the Purchase contract.

**6. PRICE**

- 6.1 The prices quoted by the Seller in the Purchase contract are contractual prices. If an annual contract is concluded with the Buyer, the prices shall be fixed on the basis of this annual contract. In all other cases, the prices shall be fixed individually.
- 6.2 Unless otherwise agreed, the prices of the goods are listed without VAT.
- 6.3 Destruction, damage or loss of Goods occurred at the time when the risk of damage to Goods had passed to the Buyer shall not affect the Buyer's obligation to pay the Seller the purchase price properly and on time.

**7. PAYMENT CONDITIONS**

- 7.1 The Seller shall be obliged to pay the purchase price properly and on time in compliance with the terms and conditions set below in this Article of GSTC.
- 7.2 The purchase price of the goods is payable within 30 days from the date of issue of the invoice by the Seller to the Buyer, provided that the Receivables insurer approves sufficient Insurance coverage for the Buyer.
- In the event that sufficient insurance coverage is not provided for the Buyer, the Buyer is obliged to pay a pre-invoice issued by the Seller before the start of production.
- In the event that the volume of unpaid invoices and received orders of the Buyer exceeds the amount

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- of Insurance coverage set for the Buyer, the Buyer is obliged to immediately pay the difference between its liabilities and the amount of Insurance coverage.
- 7.3 In case of non-cash payment, the purchase price shall be deemed to be paid on the day on which it is credited to the Seller's bank account.
- 7.4 In principle, the purchase price is payable in euro currency, unless otherwise agreed between the Parties.
- 7.5 If the Buyer fails to make any payment or to pay the purchase price or part thereof within the maturity period determined under the Purchase contract or these GSTC, the Seller shall have the right to claim late payment interest on overdue sum per each day of delay. This is without prejudice to any rights the Seller may have to make a claim for indemnification.
- 7.6 The Seller shall issue a taxation document - the invoice - in compliance with the applicable laws of the Slovak Republic. The Buyer shall not be entitled to unilaterally reduce the payments, or to impose conditions for payments or to set-off them.
- 8. OWNERSHIP, RISK OF DAMAGE**
- 8.1 The Buyer shall take the title to the Goods at the moment of receiving them from the Seller only if the Buyer has settled the pro-forma invoice and there are no pending obligations against the Seller such as fees, compensation for damages, penalty, etc.
- 8.2 If the Seller has receivables from the Buyer under the Purchase contract at the time of Goods delivery and/or submitting the transport documents, the Buyer shall take the title to the Goods when these receivables are fully satisfied with respect to retention of title as provided in the Article 10 herein.
- 8.3 The risk of damage to the Goods passes to the Buyer at the moment when the Goods are delivered to the Buyer at the agreed place of delivery. If the place of delivery is the Seller's warehouse and the Buyer fails to collect the Goods despite of being notified of possibility to dispose of Goods, the risk of damage to the Goods shall pass to the Buyer at the moment when the Buyer was allowed for the first time to collect the Goods.
- 9. DEFECTS IN THE GOODS, WARRANTY**
- 9.1 The liability for defects in the Goods, the quality guarantee and related rights and obligations shall be governed by the laws applicable in the Slovak Republic.
- 9.2 Unless otherwise agreed, the warranty period for the Goods delivered is 6 months from the date of receipt by the Buyer. The Seller shall be responsible for damages occurred during the warranty period. The Seller, however, shall not be responsible for damages resulting from Buyer's violation of duties, e.g. for damages in the Goods that:
- occurred after the transfer of risk, or during the transport; or as a result of external influences, effects and interventions by persons not authorized by the Seller,
  - occurred due to improper storage. The Goods is required to keep in a dry, well ventilated and dust-free place at temperatures between + 5°C and + 40°C until the moment of use. We do not recommend stacking pallets.
  - were known, or could be known to the Buyer at the time of signing the Purchase contract with regard to circumstances under which the Purchase contract was concluded. The apparent defects shall include in particular mechanical damage to the Goods, the lack of documents related to the Goods, the delivery of nonconforming Goods and any other defects detectable using professional care when conducting inspections in accordance with these GSTC.
- The Buyer is required to immediately inform in writing the Seller of any hidden defects, as well as any defects falling under the Seller's responsibility, but no later than 24 hours after their detection.
- 9.3 The complaint can be assessed on the following grounds:
- compelling evidence provided in form of references (e.g. transport report, CMR, opinion of independent experts, analyses and samples of Goods as required),
  - written information from the Buyer with description of the defect (e.g. type of damage, quantity of defective units, proportion of defective Goods in the shipment concerned, date of delivery, quality certificate number, etc.),
  - labels from carton box concerned, provided together with a sample of defective Goods and photos.
- Time limit for investigating complaints is max. 4 weeks
- 9.4 The Buyer's warranty rights shall extinguish if:
- a) The Buyer failed to notify the Seller of defect in accordance with these GSTC;
  - b) The Buyer failed to detect the defects, although they were detectable by using professional care, but the Buyer did not perform inspection in compliance with these GSTC, or did not use professional care when conducting inspections;
  - c) The Buyer has detected the defects later than required under these GSTC, although they were detectable by using professional care;
  - d) The Buyer failed to provide grounds for assessing the complaint in accordance with the above section.
- 9.5 The Seller is required to decide on eligibility of Buyer's complaint within 4 weeks from the date of being notified of defects in the Goods. If it is not possible to decide on eligibility of Buyer's complaint without conducting inspection of Goods, the Seller shall arrange for conducting the inspection within the above mentioned period. The Buyer shall provide full assistance and cooperation to the Seller in conducting the inspection.
- 9.6 If the complaint is found to be justified, the Seller determine the deadline and the method for removal of defects. The period for removal of defects shall be determined depending on the chosen method of eliminating the defect, but may not exceed 60 days from the delivery of the decision on the justifiability of the complaint to the Buyer.
- a) In the case of missing documents or accessories, the Seller is obliged to deliver them to the Buyer immediately to the place of delivery.
  - b) In the case of other defects, it is possible to eliminate the defect either by repair, modification, exchange for new goods, or by providing a reasonable discount on the price of the product, while the choice of the method of elimination of defects is up to the Seller.
- 9.7 In case of rejection of the complaint, the Seller is obliged to state the reasons for rejection.
- 9.8 The Buyer is required to allow the Seller or its representatives to access to the Goods in the course of handling the complaint and to provide them full cooperation so that the Seller can remove the defects in the Goods. The buyer is obliged to store all goods for which he claims a complaint, separately in its original condition. Any use of the goods by the buyer, resp. sale to a third party shall be deemed to be a defect-free supply of goods.
- 9.9 If the complaint is assessed by the Seller as unjustified and the Seller provides any relevant evidence that the subject-matter of the Buyer's complaint regarding the Goods or services is not justified, because the Goods have been manufactured and delivered in compliance with the GSTC, the valid Purchase contract and other arrangements governing contractual relationship between the Parties, the Buyer shall be obliged to complete the performance of its obligations under the Purchase contract and to collect the Goods a to properly pay for them. In case of Buyer's refusal to make payment, the Seller may require, in addition to payment for the Goods, to be also compensated for other expenses (litigation costs, attorney fees, expert opinions, indemnification for losses, etc.)
- 9.10 When taking decision on accepting the subject-matter of the claim on the side of Seller, also quantity of defective tubes shall be crucial in addition to the type of defects. The Buyer's complaint shall be rejected in its entirety if the type of defects and the quantity of defective tubes are not in compliance with the agreed Acceptance Quality Level at the Seller.
- 9.11 The Buyer shall have an opportunity to negotiate conditions for the tube quality control, however the Seller's internal rules for the tube quality control shall apply unless other conditions are agreed in writing and approved by both Parties.
- 9.12 Slight dimensional and color deviations, especially technically conditioned common deviations defined in STN 16 270, STN EN 130 46 and DIN 5059, cannot be considered as a defect of the goods and do not entitle the Buyer to objections and claims from defects.
- 9.13 If the seller, despite a written request from the buyer and the expiration of the period for fulfillment does not fulfill the obligation to decide on the validity of the complaint or does not eliminate the defect on the goods within the period specified after the inspection, the Buyer has the right to withdraw from the purchase contract.

**10. RETENTION OF TITLE**

- 10.1 The provision of this Article shall regulate certain rights and obligations between the Parties in cases where the Buyer makes use of Goods before taking title to them.
- 10.2 If the Buyer pays the purchase price for Goods after their acceptance, the title to the Goods remains vested in the Seller until the full purchase price is paid to the Seller by the Buyer (retention of title).
- 10.3 The risk of damage shall pass in accordance with provision of the Article 8 herein. In the given case, the Goods shall be just in the possession of the Buyer. If the Goods, which are subject to the retention of title clause under these GSTC, are exploited, the title to these Goods remains vested in the Seller. If the Goods, which are subject to the retention of title clause under these GSTC, are exploited together with other goods owned by the Buyer, the Seller shall acquire the co-ownership right to a new item in proportion of book value of the Goods being subject to the retention title clause under these GSTC to the book value of other goods exploited. The Buyer shall be obliged to store the Goods at own expenses in suitable premises and storage conditions until such time as the Buyer becomes the owner of the Goods. The Buyer is required to immediately inform the Seller of any damage to the Goods or defects in the Goods. The Buyer shall handle and treat the Goods carefully, to comply with applicable safety regulations and principles of proper storage of Goods as set forth in the section 9.2 herein.
- 10.4 The Buyer must not sell, or lease, or pledge, or use as collateral, or allow any third party to use the Goods until they are owned by the Buyer.
- 10.5 The Buyer shall be obliged to compensate the Seller for any expenses associated with exercising and enforcing ownership rights related to the Goods.

**11. RESPONSIBILITY FOR DAMAGES**

- 11.1 Either Party shall be responsible for damages incurred by the other party as a result of breach of own duties. The Seller shall be obliged to compensate the Buyer for damages incurred to the limit of indemnification payment under the product liability insurance. If the Seller has not underwritten such insurance, the Seller shall be obliged to only compensate the Buyer for expenses incurred to repair the damaged product or to return the damaged product to its original condition.

**12. TERMINATION OF THE PURCHASE CONTRACT**

- 12.1 The Purchase contract can be rescinded upon mutual agreement by both Parties or by giving a notice of termination according to this Article of GSTC and the applicable laws of the Slovak Republic.
- 12.2 The Seller shall be entitled to withdraw from contract if:
- the Buyer is in delay with payment of purchase price in spite of being notified in writing and given a reasonable additional period of time to make payment,
  - the Buyer faces any demonstrable facts after signing the Purchase contract, which suggest reasonable doubts about ability of the Buyer to discharge its obligations early and in full, especially with regard to pay the purchase price, and Seller shall be also entitled to require the Buyer to immediately pay the purchase price regardless of other details indicated in the relevant invoice,
  - in any other cases where these GSTC, the Purchase contract and the applicable legislation so allow.
- 12.3 The Purchase contract shall be rescinded upon termination. The validity of the Purchase contract shall be ended upon serving the Seller's notice of termination to the Buyer, or on later date indicated in the notice of termination. Any rights and obligations arising from the breach of the Purchase contract, in particular any claim for indemnification, penalty or other sanctions and the loss of profit, etc., shall survive the termination of the Purchase contract.

**13. COPYRIGHT**

- 13.1 The Seller shall be hold harmless from any claims for infringement of third party copyrights if source information for manufacture of the Goods has been provided by the Buyer.

**14. SPECIAL TOOLS, PROOF SHEETS, PRINTING PLATES,**

- 14.1 The costs of special tools, proof sheets and printing plates shall be calculated for individual business deals and separately from the value of the Goods.
- 14.2 Reimbursement of costs for special tools, proof sheets and printing block shall not constitute any Buyer's entitlement to acquire them and they remain the Seller's property.
- 14.3 The Seller undertakes to keep the special tools, proof sheets and printing block for a period of one year from the date of Goods delivery.

**15. FINAL PROVISIONS**

- 15.1 These general terms and conditions shall be binding from the 1<sup>st</sup> January 2017. The Seller shall be entitled to amend the content of GSTC, but the Buyer shall be bound by the GSTC version valid at the time of entering into the Purchase contract. The new version of the GSTC is valid from the date of publication on <http://www.tubapack.eu/>
- 15.2 The Buyer shall be obliged to promptly inform the Seller of any change in Buyer's business name, registered office, permanent address, ID number, banking details and other data entered in the Purchase contract. The Buyer shall be obliged to promptly inform the Seller if a bankruptcy petition is filed against the Buyer, or execution proceedings have been initiated, or the Buyer has decided to wind up its company

**16. GOVERNING LAW**

- 16.1 Legal relations between the seller and the buyer Contractual relations are governed in their entirety by the law of the Slovak Republic, regardless of other principles of its conflict of laws. The modification of the UN Convention on Contracts for the International Sale of Goods shall not apply. The courts of the Slovak Republic have exclusive jurisdiction to resolve all disputes.