

# General Terms and Conditions of Sale of VETROPACK MORAVIA GLASS, akciová společnost ("Vetropack"), Version: 1/2018

## 1. Scope

These General Terms and Conditions of Sale ("GTC") exclusively govern this transaction and all subsequent transactions, unless otherwise agreed in writing. The customer's general terms of contract or other conditions do not apply, unless they have been explicitly accepted in writing by Vetropack. Vetropack reserves the right to amend these GTC in the future.

## 2. Form of Contract

Commercial offers issued by Vetropack are not legally binding on Vetropack. Any contracts or amendments of contracts (incl. any waiver of the written form requirement) must be in writing.

## 3. Prices and Terms of Payment

(1) Vetropack's prices are net prices and do not include the statutory value-added tax, customs duties, recycling fees or any other levies. All prices are subject to change by Vetropack without prior notice. Vetropack shall be entitled to increase the purchase price or to withdraw from the contract if the manufacturing or freight costs rise after conclusion of the contract. If the parties agree that the purchase price shall be paid in a currency other than Czech crowns, the customer shall bear the currency risk from the date of order confirmation until payment of the full purchase price. If no specific purchase price has been agreed upon, Vetropack's price list shall apply, as amended from time to time.

(2) Vetropack shall be free to invoice the customer electronically. Vetropack's seat shall be the place of performance for Vetropack's payment claims. Invoices from Vetropack shall be deemed accepted unless the customer objects within 10 calendar days of receipt of invoice.

(3) Payments received by Vetropack will first be applied against outstanding costs and interest, and then to unsecured claims (the oldest claims first), even if the customer has instructed Vetropack otherwise.

(4) If the customer fails to pay the purchase price within the payment period stated in the invoice or, if none is stated, within 30 days from the date of the invoice, the customer will be deemed to be in default of payment without a request for payment being required and shall have to pay to Vetropack legal (default) interest on the purchase price as well as all costs and expenses associated with the recovery of the outstanding amount. Any rebates and other bonuses agreed with the customer are conditional upon the timely and full settlement of the relevant invoice. This shall not affect, however, Vetropack's statutory rights and remedies, in particular its right to withdraw from the contract.

(5) The customer shall be entitled to set off or suspend payment only if and to the extent its counterclaims are based on the same contractual relationship and are not disputed by Vetropack.

(6) If Vetropack considers that the customer's financial situation has deteriorated, or if the customer has failed to pay previous invoices and/or if insolvency proceedings (or other similar proceedings) have been opened over the customer's assets, Vetropack shall be entitled to make delivery conditional on the prepayment of the entire purchase price and to defer performance of the contract, or to cancel contracts and to claim compensation for the damage suffered as a result of such cancellation (in the case of insolvency or similar proceedings to the extent permitted by law) without regard to the agreed terms of payment and delivery. Vetropack shall not be obliged to inform the customer in advance or grant a grace period to exercise this right.

## 4. Packaging, Delivery

(1) Packaging shall be at Vetropack's discretion.

(2) Delivery shall be Ex Works in accordance with INCOTERMS, as amended. If this is modified by agreement between the parties, delivery of all goods will be at the customer's cost and risk; Vetropack shall only be obliged to assign its rights under the contract of carriage and transport to the customer upon the latter's request, however, without assumption of any further liability and against reimbursement of all costs associated with the assignment.

(3) If nothing to the contrary has been agreed, pallets and polypropylene layers supplied will be sold to the customer at the price stated in Vetropack's price list in force at the time of delivery. If the pallets/layers are returned to Vetropack in a quality suitable for re-use in accordance with Vetropack's quality requirements within 90 days from delivery, they will be re-purchased by Vetropack from the customer at the price on the respective Vetropack price list. The return is at the expense and risk of the customer.

## 5. Deliveries, Delivery Dates and Delivery Periods

(1) Vetropack shall be free to choose the place of production and the place of dispatch/pick-up.

(2) Excess or under-deliveries of up to 10% shall be permissible without any liability of Vetropack therefore. The customer shall pay the actual quantity delivered. Partial deliveries shall be permissible.

(3) Compliance with delivery dates and periods requires that the customer has fulfilled its contractual obligations, in particular that it has made the agreed upfront payments and/or fulfilled other advance payment and cooperation duties.

(4) Delivery dates and periods must be agreed in writing, failing which no delivery obligation will arise. The delivery periods shall run from the date of order confirmation by Vetropack. Vetropack shall not be liable for compliance with a specific delivery period or a specific delivery date in the case of minor negligence.

(5) If delivery by Vetropack is delayed, the customer shall be entitled to give written notice of withdrawal where a reasonable grace period granted in writing by the customer has expired and

delivery has not been performed at the time of receipt of the notice of withdrawal by Vetropack. The customer may only claim further damages resulting from non-performance or delay in accordance with section 9.

(6) If no call-off is made under call-off contracts within a reasonable period, Vetropack may, upon prior notice, choose performance of or withdrawal from the contract. Any claims for damages remain unaffected thereby.

(7) If the parties agree that goods manufactured for delivery are kept at the customer's disposal at Vetropack's premises, or if the customer fails to timely collect or accept delivery of the goods, Vetropack shall be entitled to immediately invoice and demand payment. The goods shall then be stored at the customer's cost and risk.

## 6. Retention of Title

(1) The goods delivered shall remain Vetropack's property until full payment of the entire purchase price, including interest and costs.

(2) This retention of title shall also apply if the goods are processed by the customer, as long as the goods have not been paid in full. If the retained goods are combined, mixed or blended with other goods, Vetropack shall become co-owner of the new asset at a share equal to the proportion between the price of the retained goods and the value of the other goods. In all cases, the customer will store the new asset for Vetropack at no cost to Vetropack.

(3) The customer is obliged to immediately notify Vetropack of any measures (e.g. enforcement measures) taken by third parties with respect to the retained goods. If the customer is in default of payment, it shall deposit, as security, the goods at its cost at a place specified by Vetropack or send them to an address to be specified by Vetropack. The customer waives its right to lodge an action of trespass if Vetropack picks up the delivered goods which remain subject to the retention of title.

(4) The customer may sell the goods in the ordinary course of its business. The customer herewith assigns to Vetropack all claims arising against third parties from the resale in the amount of its outstanding debt with Vetropack and shall notify the third parties accordingly. Vetropack accepts the assignment as surety for the outstanding payment. Vetropack reserves the right to enforce the claim itself, as soon as the customer fails to duly perform its payment obligations.

## 7. Liability for Defects, Quality Control

(1) The limitation period for customer's rights arising from defective performance, or, if granted, from a quality guarantee is one year, computed from the date on which the right could have been asserted for the first time. Glass breakage can only be claimed if the defect arises from production of the glass container and affects more than 5 % of the goods supplied in the respective delivery.

(2) Vetropack only accepts liability for the suitability of the delivered goods for the specific purposes envisaged by the customer, if these purposes have been specifically agreed upon in writing in the contract. The customer agrees not to use the goods purchased for a specific purpose (e.g. non-returnable bottles) for any other purpose whatsoever. If the quality of the goods delivered does not significantly deviate from the agreed quality or specification or from the quality as defined by Vetropack's factory standards, the goods delivered will not be deemed defective. As to weight, contents, dimensions, print layout and glass colour of the goods, the statutory tolerances and the tolerances customary in the trade shall apply, unless Vetropack's factory standards provide otherwise. Unless explicitly agreed in writing, Vetropack shall not be obliged to ensure that the goods delivered conform to laws and regulations other than the applicable law under section 12 below.

(3) The customer shall inspect the goods delivered immediately upon receipt. Obvious defects must be notified in writing within 8 days of receipt of delivery, at the latest. Hidden defects must be notified by registered letter as soon as they have been identified, however in no event later than within 6 months after delivery, failing which the delivery shall be deemed to have been properly performed. Any further statutory duties of inspection and notification shall not be affected thereby. Each notice of defective delivery must be precise, in particular with regard to the nature and extent of the defect, and include, for traceability purposes, the relevant information on the pallet label. Late or imprecise notices of defective delivery result in the loss of any rights. The passing on of the goods to third parties is considered as unconditional acceptance of the goods.

(4) On request, the customer shall provide Vetropack with samples of the defective goods and shall allow Vetropack to carry out an investigation on the site where the goods have been processed and stored by the customer. If notices of defective delivery are justified and have been submitted in a timely manner, Vetropack shall be free to either replace the defective goods by defect-free goods or to repair them. Vetropack may take back replaced parts. The customer may only withdraw from the contract or demand a price reduction if Vetropack has failed to remedy the defect within a reasonable grace period granted by the customer in writing. Vetropack is obliged to accept returns only upon prior agreement; the customer bears the risk of accidental destruction and deterioration of returns. As long as the customer has not fulfilled its contractual obligations, Vetropack can refuse to fulfil the customer's warranty claims. The customer can claim damages from Vetropack only in accordance with section 9.

(5) The above provisions apply accordingly to defects arising from advice or secondary obligations forming part of the contract.

(6) Before and during each processing and filling operation, it shall be the customer's sole responsibility to perform proper inspections of the goods. The customer shall withdraw damaged glass packaging (and damaged caps) from the market and inform Vetropack

accordingly. The customer shall ensure that the state-of-the-art safety measures applicable to the filling and handling are duly observed and that glass containers are cleaned (washed, rinsed, blown completely dry and turned upside down). Glass containers supplied shall not be considered sterile.

## 8. Moulds, Tools, Preliminary Studies, Projects

The cost of Vetropack's manufacturing, purchasing and modifying of customer specific moulds and tools shall be borne by the customer. Ownership of such moulds and tools and all related intellectual property shall remain with Vetropack also after payment; the customer shall be bound by a duty of confidentiality towards third parties. The same shall apply to, including but not limited to, preliminary studies, plans and projects.

## 9. Damages

(1) To the extent permitted by law, Vetropack shall not be liable for (i) damage not caused to the delivered goods themselves, but by their use or further processing, (ii) consequential damage (caused by a defect), atypical damage, indirect damage, financial loss, lost profit and/or damage/losses incurred by the customer or third parties due to a combination of container, filling and cap, or (iii) third-party claims, such as penalties, against the customer, no matter on what legal ground they are based.

(2) To the extent permitted by law, Vetropack's entire liability under the contract, no matter on which title it is based, shall not exceed the EXW total net price of the respective order. The limitation period for customer claims is one year, computed from the date on which the claim could have been asserted for the first time.

(3) To the extent permitted by law, Vetropack is not liable to provide compensation for damage to or loss of designs, drawings or models received by Vetropack from the customer.

(4) The limitations of liability referred to in this section 9 shall likewise apply in respect of (i) vicarious agents of Vetropack, (ii) contracts with Vetropack for the provision of any kind of services and (iii) secondary obligations forming part of the contract.

## 10. Infringement of Intellectual Property Rights

The customer is responsible for ensuring that instructions, information or templates regarding moulds, designs and patterns provided by it to Vetropack do not infringe copyright or other intellectual property rights of third parties and shall fully indemnify and hold Vetropack harmless in this regard.

## 11. Export Prohibitions and Acts of God

(1) Unforeseeable business disruptions or other hindrances, for which Vetropack is not responsible, such as embargos, sanctions, other national or international export or import barriers (e.g. foreign trade regulations) as well as acts of God (e.g. interference by public authorities, acts of war, fire, natural disasters, delays in the supply of energy and raw materials, labour disputes, in particular strike and lockout) shall release Vetropack from any delivery obligations as long as these circumstances exist, without reversing the transaction entered into. Vetropack shall be entitled to withdraw from the contract to the extent it has not yet been fulfilled in the event such circumstances continue to exist, without Vetropack being obliged to pay damages. Vetropack shall also not be responsible for the circumstances referred to above if they occur during Vetropack's default.

(2) The customer undertakes to refrain from the following transactions: (i) Transactions with persons, organisations or bodies included in a sanctions list in accordance with EU regulations or US export regulations, (ii) prohibited transactions with UN/EU embargo countries, and (iii) transactions for which the required authorisation has not been obtained. The customer is liable for a penalty of 30% of the purchase price and any exceeding costs and damage incurred by Vetropack as a result of a violation of the above provisions.

## 12. Data Collection, Jurisdiction, Governing Law, Miscellaneous

(1) Information received is considered as confidential by Vetropack only if agreed in writing and marked respectively. Vetropack stores the customer's personal and business data using electronic data processing systems. The customer authorises Vetropack to process and pass on such data to Vetropack's affiliates in countries of EU and EFTA and in the Ukraine for purposes of its or their actual or potential business relationship with the customer, until Vetropack is notified in writing that the business purpose has ceased or erasure has been requested by the respective person. For these purposes the customer accepts the application of the EU General Data Protection Regulation (also to the benefit of data subjects protected thereunder and the enforceability of their rights) and undertakes to fully comply with it in respect of Vetropack's data and, if not done, shall hold Vetropack harmless from any claims, damage and cost.

(2) If individual provisions of the contract, including these terms and conditions, are or become void as a whole or in part, the validity of its remaining provisions shall not be affected thereby. The entirely or partly void provision shall be replaced by a provision whose economic purpose comes closest to that of the void provision.

(3) **The court having subject matter jurisdiction for the seat of VETROPACK MORAVIA GLASS, akciová společnost shall have exclusive jurisdiction over all disputes arising from this contract with the exception that Vetropack shall also in addition have the right to bring any matter before the ordinary courts at the customer's seat. This contract shall be governed by the laws of the Czech Republic with the exclusion of its conflict of law rules and the UN Convention on Contracts for the International Sale of Goods.**