



## SEALING SYSTEM

INTELLIGENT PACKAGING SOLUTIONS

### TERMS OF SALE AND DELIVERY FOR SEALING SYSTEM A/S - ver. 1.0

#### 1. General

The below general terms of sale and delivery shall apply to the extent that they have not been deviated from through written agreement between the Parties, and shall apply to all quotations, order confirmations, sales, and deliveries effected by SEALING SYSTEM A/S (henceforth "the Vendor").

#### 2. Quotation, order, and acceptance

An order/request shall be binding on the Vendor only when the Buyer has received either a written order confirmation or the item ordered.

If the Buyer is of the opinion that the information given in a received order confirmation or the conditions stated in the present terms of sale and delivery conflict with the agreement made between the Parties, the Buyer must immediately file a written complaint thereof.

These terms of sale and delivery take precedence over any provisions set out in the Buyer's order/acceptance, including the Buyer's general terms and conditions.

#### 3. Drawings and descriptions

All information on weight, dimensions, capacity, technical and other data as well as prices listed in catalogues, advertisements, quotations, pictures, websites, price lists, etc., are approximate and shall not be construed as warranties or assurances of any kind unless otherwise specified as an absolute precondition for the agreement between the Parties.

#### 4. Prices

The Vendor shall be entitled to alter his prices/price lists at any time. Unless otherwise agreed, any sale shall be based on the price list applicable as at the date of the order confirmation.

All prices are stated subject to reservation for strikes, lockouts and other circumstances beyond the Vendor's control.

Unless otherwise agreed between the Parties, all prices are ex Vendor's location and exclusive of VAT, running-in, testing and fitting, and based on the exchange rates and other pricing aspects related to materials, wages and transport costs applicable at the time of the quotation, and may thus be adjusted to reflect any changes in prices and exchange rates. Consequently, prices may be adjusted as indicated above also for agreements already concluded.

If the type of delivery is changed, or the Vendor's costs otherwise increase as a result of the Buyer's acts or circumstances, the Vendor shall be entitled, but not obliged, to adjust the price accordingly.

For deliveries abroad, prices are stated exclusive of packaging, export and customs duties, consular fees and similar charges applicable in the recipient country.

#### 5. Delivery

Delivery is Ex works (Vendor's location), unless otherwise agreed between the Parties. Shipments are made at the Buyer's expense and risk. Unless specific instruction has been given to the Vendor, the Vendor shall be entitled to choose the mode and route of transportation at the Buyer's expense and risk. The Vendor shall not be liable for transport damage, and it is the Buyer's responsibility to take out separate carrier insurance. If the Buyer receives a damaged product, and the damage has occurred during transportation, the Buyer must immediately contact the carrier. The Vendor assumes no liability whatsoever for damage occurred during transportation. It is the recipient's responsibility to check the goods for defects on arrival.

#### 6. Time of delivery

The time of delivery shall be determined when the agreement is made. The specified time of delivery is indicative only and given subject to reservation for delays due to strikes, lockouts, war, mobilisation, seizure, currency restrictions, transport restrictions, propellant restrictions, fire, absent or defective subcontractor deliveries, or any other cause beyond the Vendor's control, and in such circumstances, the time of delivery may be extended by a number of days corresponding to the duration of the hindrance. Delivery by such extended time of delivery shall in every respect be considered timely.

If the time of delivery is specified as a period of a given number of days or weeks, this period shall run from the time when the Vendor has received all the accurate information from the Buyer required to execute the order. If the Buyer fails to make any due payment, the time of delivery shall be extended by a period corresponding to the delay of the payment in question.



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If a delay occurs for any other than the aforementioned reasons, such delay shall not entitle the Buyer to cancel the order in part or in full or claim other remedy for breach of contract against the Vendor, unless such delay must be considered material, and the Vendor has failed to make delivery within 14 days after receiving the Buyer's written demand for delivery.

In no event may a claim in damages be raised for the Buyer's operating loss, lost profits, payment of penalties or other indirect loss.

### **7. Items on trial**

Items on trial will be shipped only subject to prior written agreement with the Vendor, and provided the Buyer pays the freight both for the delivery from the Vendor and for any return of the goods.

If the Buyer fails to return a product after the end of the trial period, an invoice for the product will automatically be issued after the expiry of the trial period in accordance with the present terms of sale and delivery, and based on the Vendor's applicable price list.

The Buyer is liable for the product and for keeping it properly insured during the trial period.

### **8. Payment**

Unless otherwise agreed in writing, all payments must be made by the date specified in the invoice, which is usually stated net cash on delivery. If no date has been specified, the terms of payment are cash on delivery.

If the Buyer fails to make payment in due course, the Vendor shall be entitled to charge a penalty interest on the amount due, corresponding to 2% per month of the account balance as from the time of agreed delivery and until payment is made. Failure to make payment by the stipulated due date may cause the debt to be submitted for collection without further notice, and the Vendor shall in such case be entitled to charge collection costs in addition to the charges provided for by Danish executive order no. 601 of 12 July 2002.

The Buyer shall not be entitled to retain any part of the purchase sum as security for the performance of an obligation arising out of the provisions of S. 14, below. Similarly, a delay in the delivery of an insignificant part of a consignment shall not entitle the Buyer to refrain from making full payment in accordance with the agreements made.

If any items which according to a separate agreement or contract are scheduled for delivery at a specific time are not accepted by the Buyer in due course, the Vendor may in its sole discretion and after notifying the Buyer, either let the item(s) be sold at the Buyer's expense, or store the item(s) at the Buyer's expense, in which case the Buyer shall pay the costs of such storage. Regardless of any delays in the delivery, the Buyer shall in any case make the stipulated payment when it falls due. If the Vendor chooses instead to store the items, such storage shall be at the Buyer's risk.

### **9. Retention of property**

The sold items shall remain the property of the Vendor until full and final payment, including payment of any accrued interest, etc., has been made.

If the items have been modified or processed, the retained property rights shall cover the modified or processed items up to an amount corresponding to the value of the items at the time of sale.

### **10. Design changes**

The Vendor reserves the right to make any such changes of the design, execution, etc., as may be considered necessary by the Vendor, prior to delivery and without prior notice.

Such changes will entitle the Buyer to cancel the order only if the Buyer can document that a particular design or execution, etc., was a material precondition for making the order.

Neither such changes, nor any resulting cancellation of the order shall entitle the Buyer to claim any sort of compensation, including a proportional reduction of the purchase price.

### **11. Drawings, etc.**

All drawings, estimates, descriptions or other printed material, whether analogue or digital, provided in the course of submitting quotations or making deliveries, shall remain the property of the Vendor and may not without the Vendor's written consent be reproduced, submitted to other companies or used as a basis for work. All material produced by the Vendor for use in submitting quotations must be returned upon request.



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### 12. Packaging

Returned crates or other packaging material will not be credited to the account and will be accepted only subject to written agreement.

### 13. Defects

For a period of 12 months from the delivery of the sold item, the Vendor shall be liable for any fault in the item's design, manufacture or materials, provided the Buyer can document that such fault is caused by intent or gross negligence on the part of the Vendor.

The Vendor shall not be liable for defects resulting from general wear, misuse, abnormal use, inadequate maintenance, failure to observe the Vendor's instructions or own attempts to repair the item. The Vendor shall also not be liable for defects if the item delivered by the Vendor is used together with any components which are not produced or approved by the Vendor.

If the Vendor is liable for faults and defects as specified above, the Vendor, in its sole discretion, shall be entitled to either replace or repair such components or parts which are found to be defective due to faults in design, manufacture or materials. The Buyer shall pay all costs of disassembly, shipment, reassembly and start-up, etc.

The Buyer may not remedy any defects unless the Vendor has acknowledged the defects and approved the way in which the defects will be remedied.

The Buyer is encouraged to immediately perform any examination required by sound business practice as soon as the sold item is in his possession. If the sold item is found defective, the Buyer must notify the Vendor in writing of such defect within **5** workdays from the time of delivery. After the expiry of this 5-day time-limit, it will no longer be possible to raise any claim with reference to that defect. In no event may a claim in damages be raised in respect of the Buyer's operating loss, lost profits, payment of penalties or other indirect loss.

The Vendor shall not be liable for faults and defects pointed out more than 12 months after delivery by the Vendor.

If no fault or defect can be found, a service charge of DKK 800 per hour or part thereof will be invoiced and charged from the Buyer.

If the sold item is to be repaired or replaced, it must be shipped in the original packaging, and if the item is to be transported at the Vendor's expense, it is up to the Vendor to choose the preferred forwarding agent.

If the Vendor repairs a used component belonging to the Buyer, or if the Buyer acquires a used component which has been repaired or refurbished by the Vendor, the Buyer shall have the same right to hold the Vendor liable for any defects in the sold item as described above; however, the Vendor's liability for defects shall in this case be restricted to a period of 3 months from delivery.

The above stipulations shall apply also to defects in services provided by the Vendor in connection with a sale of the Vendor's items, including, but not limited to, fitting, replacement, installation or similar services. The same applies to defects in the Vendor's testing or final hand-over testing of the sold item.

### 14. Disclaimer

The Buyer shall have no remedies for breach of contract other than those expressly mentioned in the present terms of sale and delivery.

In no event can the Vendor be held liable for any operating loss, lost profits, payment of penalties, lost time or any similar indirect loss.

In no event can the Vendor's liability exceed the purchase sum stipulated in the agreement.

### 15. Product liability

Any damage or injury which falls clearly within the realms of Danish Act no. 261 of 20 March 2007 on product liability shall be covered by the provisions of said act.

As regards cases of product liability not covered by the provisions of said act, the following restrictions shall apply:

The Vendor shall be liable for personal injury only if it is documented that the injury is caused by errors or negligence attributable to **the Vendor** or to others acting under the Vendor's responsibility.

The Vendor shall not be liable if the Vendor can document that the defect in the item occurred because the item is required to conform to indispensable regulations issued by the authorities, or because the available scientific and technical knowledge at the time of launching the product on the market did not allow the defect to be detected.

Furthermore, the Vendor shall not be liable if it must be assumed that the defect causing the injury did not exist when the Vendor launched the product on the market.



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The Vendor shall not be liable for damage to real property or movables occurring while the material is in the Buyer's possession. Similarly, the Vendor shall not be liable for damage to any products manufactured by the buyers, or to products in which such products are integrated. In other respects, the Vendor shall be liable for damage to real property and movables on the same conditions as for personal injury.

The vendor shall not be liable for operating loss, lost profits or other indirect loss.

If and to the extent that the Vendor is held liable under product liability to any third party, the Buyer shall indemnify and keep the Vendor harmless to the **same extent of liability as restricted by the above three clauses.**

These restrictions of the Vendor's liability shall not apply in case of gross negligence on the part of the Vendor. The Vendor restricts this liability to cover only direct loss resulting from gross negligence on the Vendor's part, and to an amount not exceeding DKK 20,000.00 per complete delivery. A compensation awarded for injury may be reduced or withdrawn altogether if the injured party has contributed, through intent or negligence, to the cause of the injury.

If a third party raises a claim against either of the Parties for compensation under these provisions, the affected Party shall immediately notify the other Party thereof.

The Vendor and Buyer are mutually obliged to accept trial before the court or arbitration tribunal which considers claims for compensation raised against them on the basis of injuries allegedly caused by the material.

### **16. Product information, advisor's liability**

The Vendor is generally liable only for ensuring that the item sold conforms to the specifications provided in connection with the sale – not for ensuring that the item is suited for the Buyer's use.

Any liability beyond that is assumed by the Vendor only if the Vendor has provided separate, written advice to the Buyer in the form of projecting work, performance of actual calculations, or issuance of a separate written opinion about the sold item's suitability for a particular purpose, to a buyer who cannot be assumed to possess the required technical expertise to independently assess the item's suitability. The Vendor shall not be liable for such opinions if it has been specified that the opinions are based on estimations or judgements.

The Vendor assumes liability only if the advice provided must be considered inadequate compared to the knowledge regarding the subject of the advice which the Vendor possessed at the time of giving the advice. The Vendor's advice is given on the basis of data provided by the Vendor's suppliers, and the Vendor will cover loss resulting from faults in this data material only to the extent that the Vendor's suppliers compensate the Vendor for such faults.

If faults are found in the written advice provided by the Vendor in connection with the Vendor's delivery, the Buyer shall notify the Vendor without undue delay, as soon as the Buyer has realised or ought to have realised such faults.

If this provision is disregarded, the Vendor will compensate only loss occurring as a direct consequence of the Vendor's faulty advice at the time when the Buyer should have notified the Vendor.

If a complaint is filed in due course, the Vendor will provide the Buyer with new advice, free of charge.

The Vendor's liability for loss occurring as a consequence of a faulty advice shall be limited as follows:

The Vendor limits its liability to direct losses resulting from the Vendor's faulty advice, and to an amount not exceeding DKK 10,000.00 per complete delivery.

The Vendor never assumes any liability for operating loss, lost profits, payment of penalties or other indirect loss.

The Vendor's liability for loss occurring as a result of faulty advice shall lapse no later than 1 year after hand-over to the Buyer of the delivery to which the advice related.

### **17. Fitting and running-in**

If the Buyer decides to let the Vendor provide services of fitting and running-in of the purchased item, the Vendor will always keep his fitters insured against accidents, whereas any auxiliary crew and equipment will not be insured by the Vendor, as auxiliary crew members are considered employees of the Buyer, and as auxiliary equipment is borrowed from the Buyer, who also makes all required products, utility supplies, pressurised air, 400V electric power, external installations, truck, lifting gear (crane and possibly crew lift) and packaging available to the Vendor or to the Vendor's partner.

At the start of the fitting process, the area must be clean and dry, and the main utility supplies must be



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available and ready for use on the site. If the Buyer requires that the Vendor or its staff attend specific training/instruction prior to performing fitting work at the Buyer's location, the Buyer shall pay all related costs for the Vendor and its staff.

### **18. Software**

The products sold by the Vendor function by means of software. In addition to the general terms of sale and delivery, this software is subject to the following provisions:

#### A. Right of use only

When products are acquired from the Vendor, all property rights and copyrights in the software, source code, accompanying documentation, and technical specifications, etc., are retained by the Vendor. Thus, the Buyer acquires only a limited, non-exclusive right of use in the software.

The present terms and conditions shall apply also to any updates of the software.

The Buyer acknowledges that according to the Danish Copyrights and Marketing Practices Acts as well as international conventions, all software, pictures, user interfaces, photographs, animations, video, sound, music, text, electronics, manuals and plug-in applications, considered individually as well as collectively, constitute a copyrighted work which is the property of the Vendor or the relevant suppliers.

#### B. Scope of the right of use

The Buyer is not in any circumstances allowed to perform or have others perform any reverse engineering, decompilation or disassembly of the software without the Vendor's prior written consent. If and to the extent that the Buyer wishes to develop software which is interoperable with the Vendor's software, the Buyer shall contact the Vendor in order to obtain the required information. However, the Vendor shall not be required to provide such information but may instead refer the Buyer to take the aforementioned steps.

The copyrighted material mentioned above may in no circumstances be copied. If the Buyer can document that the software has been destroyed, the Buyer may, after contacting the Vendor and making a specific agreement to this effect, be provided replacement software, possibly against a separate charge. The software is licensed as a single product and may be used only together with the specific product with which the right of use has been acquired.

The Buyer acknowledges that the software provided is standardised software and that the Vendor does not warrant that the software will satisfy the Buyer's needs or expectations. The Buyer further acknowledges that the software - like all other software - may contain faults and defects, and that any costs incurred by the Buyer as a result of any required fault correction and updating will not be covered by the Vendor.

#### C. Transfer of the right of use

The right of use in the software may be transferred to a third party only in its entirety (inclusive of all components, media and printed material as well as any updates), provided this is done together with the specific product on which the software is installed.

Such transfer is conditional upon the Buyer's assurance that such third party accepts the present terms of sale and delivery, including the conditions of using the software.

In the event of such transfer, the Buyer shall immediately destroy any copies and updates of the software and any other material belonging to the Vendor, if and to the extent that such material, etc., is not transferred to the third party.

If the software is an upgrade, the transfer shall include all previous versions of the software.

In this context, "transfer" shall mean all types of surrender, including by gift and debt enforcement.

#### D. Sanctions

If the Buyer is found to infringe the above stipulations, the Vendor shall be entitled to demand that all software and any copies thereof be destroyed or returned to the Vendor.

In addition, the Buyer shall specify the scope of the infringement by stating the number of copies transferred, the associated sales figures, as well as the names of the recipients.

Furthermore, the Vendor may seek to terminate such infringement through the issue of an unsecured injunction, just as such infringement may give rise to a claim for compensation as well as a reasonable consideration, and may result in criminal liability and destruction of any unlawful copies made.

### **19. IP rights, etc.**

The Buyer accepts and acknowledges that the Vendor holds all other IP rights in the products made by



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the Vendor.

**20. Governing law and venue**

Any disputes between the Parties shall be governed by Danish Law with the court of Esbjerg as the venue.

However, the Vendor may demand that the dispute be settled by arbitration according to the applicable rules.

The governing law shall not include the international civil law rules of Danish law, such as CISG.

**21. Other**

Any amendments or additions to the present terms of sale and delivery shall apply only when agreed in writing between the Vendor and the Buyer.