

**GENERAL TERMS OF SALE AND DELIVERY  
OF NEMCO EMBALLAGE A/S**

**PACKAGING**

**1. Application**

The buyer is aware that these terms of sale and delivery are an integral part of the agreement concluded on the purchase of film.

**2. Offers**

All offers made by Nemco are non-binding unless otherwise expressly stated.

**3. Orders**

Any order shall be considered an offer from the buyer and is subject to an order confirmation from Nemco.

The deadline for an order confirmation must allow time to procure a final acknowledgement of the order from foreign suppliers.

**4. Specifications of quantity and weight**

Specifications of weight shall be regarded as approximate and informative for the purpose of calculation of costs and machine foundation work.

Nemco is entitled to deliver a deviating quantity of the products ordered. For sales of film/roll products the following deviations apply:

Up to 20,000 m +/- 20%

Up to 40,000 m +/- 15%

Over 40,000 m +/- 10%

For film/bags the following deviations apply:

Up to 50,000 m/units +/- 20%

Up to 150,000 m/units +/- 15%

Over 150,000 m/units +/- 10%

**5. Prices**

All prices are current prices. The prices quoted by Nemco are based on current prices, exchange rates, VAT and tax rates and any other public charges prevailing at the date of the offer/order confirmation. In the event of any change thereof, Nemco is entitled to adjust its prices according to the conditions prevailing at the date of delivery or the date of payment.

**6. Terms of delivery**

The supply of film shall be considered to be sold "DAP" unless otherwise agreed. Agreed terms of delivery shall be interpreted in accordance with the Incoterms in force at any time.

**7. Time of delivery and deadlines**

The delivery times stated by Nemco are based on the delivery times stated by Nemco's suppliers and run from the time when Nemco has forwarded the order confirmation to the buyer and has acquired all requisite information to execute delivery.

If Nemco fails to deliver the film within the delivery time – except in the case set out in clause 12 – the buyer is entitled to demand delivery by a written notice to Nemco and to fix a final, reasonable deadline for delivery of at least three weeks and thus indicate that the buyer intends to rescind the agreement if delivery is not made within such a deadline. If delivery is not made within the said deadline, the buyer is entitled to rescind the agreement by a written notice to Nemco.

If the buyer rescinds the agreement, he is entitled to claim compensation from Nemco for any additional costs incurred in procuring a corresponding supply from a third party. Other than that, the buyer is not entitled to any compensation on the occasion of the said delay on the part of Nemco, nor in the event that the buyer cannot procure a corresponding supply from a third party. Nemco is not liable for any loss of profits, loss of earnings or any other consequential loss suffered by the buyer. The compensation cannot in any circumstances exceed the price of the delayed part of the supply.

#### **8. Payment**

The terms of payment are: Current month plus 15 days, unless otherwise agreed. Acceptance of a bill of exchange or other payment obligation is not considered payment until it has been honoured in full. Nemco is entitled to charge default interest at 2 percent per month as from the due date in the event of late payment. If the buyer fails to receive the supply on the agreed date, the buyer shall effect payment as if delivery had been made.

#### **9. Set-off**

The buyer is not entitled to set off against the purchase price any claims against Nemco which have not been acknowledged by Nemco, nor to withhold any part of the purchase price due to a counterclaim of any kind whatsoever.

#### **10. Complaints**

The buyer shall examine the supply promptly on receipt.

If the supply does not conform to the agreement, the buyer shall complain to Nemco in writing within seven days of delivery. In respect of defects that cannot be ascertained by careful examination of the products delivered, a complaint must be made in writing within seven days after such defect could have been ascertained by exercising due care.

The deadline for complaints applies to all kinds of defects and is absolute, and Nemco disclaims any liability for defects for which complaints are made after the deadline and in cases where the conditions below concerning remedy of defects have not been fulfilled.

#### **11. Remedy of defects**

In the event that Nemco accepts the buyer's complaint, Nemco is entitled and obliged to replace the products within the national borders of Denmark. The buyer shall bear the costs and risk of dispatch to Nemco. Nemco may choose the method of dispatch of the replaced packaging which is at the buyer's expense and risk.

Nemco disclaims any liability for delay or work stoppage at the buyer's resulting from the execution of the said replacement, including any liability for loss of profits, loss of earnings and any other consequential loss suffered by the buyer.

Latent defects are such defects in the packaging that derive from leakage of the packaging used, curing errors or poor/incomplete welding.

The buyer is not entitled to claim any remedies for breach other than the above and thus cannot cancel the order or claim compensation or a proportionate reduction of the purchase price.

#### **12. Exclusion of liability (force majeure)**

In the event of strike, lockout or other work stoppages at the business premises of Nemco or Nemco's suppliers/subsuppliers on whom the supply depends, and in the event of war, blockade, quarantine, wreckage, traffic disturbances, including ice obstacles, fire or other unforeseen events which prevent or materially hamper the execution of an order or transport of the products sold to the place of delivery, or other matters beyond Nemco's control, including matters at Nemco's suppliers/subsuppliers, the delivery will be postponed without any liability on the part of Nemco for the duration of the obstacle in question.

The execution of any order is subject to the absence of any import and export bans and the grant of the requisite import and export licenses.

If the said obstacles to the execution of an order cannot be removed at all or only at disproportionate costs, Nemco reserves the right to cancel the order.

### **13. Product liability**

Nemco is only liable for personal injury occurring after delivery, if it can be proved that the injury was caused by an error or omission committed by Nemco or others for whom Nemco is liable.

Nemco is not liable for damage to real or movable property occurring while the products are in the buyer's possession. Nor is Nemco liable for damage to products manufactured by the buyer or products comprising such products. Otherwise, Nemco is liable for damage to real and movable property on the same conditions that apply to personal injuries.

Nemco is in no circumstances liable for loss of profits, loss of earnings or any other consequential loss suffered by the buyer or any third party in connection with damage caused by the products. Nemco's total liability for damage to the buyer's commercial property cannot exceed DKK 500,000.

To the extent that Nemco incurs product liability in relation to a third party, the buyer shall indemnify Nemco in accordance with Nemco's restricted liability pursuant to the three preceding paragraphs.

These restrictions to Nemco's liability do not apply in the event of gross negligence on the part of Nemco.

If a third party makes a claim against either party for liability in damages pursuant to this clause, such party shall promptly notify the other party of the claim.

Nemco and the buyer are mutually obliged to defend the claim before the court or arbitration tribunal hearing any claim for damages raised against either party on the basis of damage allegedly caused by the products.

### **14. Applicable law and venue**

Any dispute between Nemco and the buyer shall be settled according to Danish law, and the Maritime and Commercial Court of Copenhagen shall be the proper venue.

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