

**General Terms and Conditions of Delivery and
Payment**
**Weener Brasil Indústria e Comércio de Embalagens
Ltda. and Weener Indústria Plástica Ltda.**

[CPBS Comment: we suggest including all Weener Brazilian industries in these general terms in conditions; such as Weener Products Plásticos in Santa Catarina]

**Clause 1
Applicability and General Provisions.**

1. These general terms and conditions apply to, and form an integral part of, all (future) quotations, offers and agreements, however named, of Weener Brasil Indústria e Comércio de Embalagens Plásticas Ltda. or Weener Indústria Plástica Ltda. (each of them defined as "Weener"). These conditions apply in particular to agreements entered into by Weener to supply goods to its buyers.

2. Where these general terms and conditions refer to "buyer", this means every natural or legal person in a contractual relationship with Weener pursuant to a purchase or other agreement entered into with Weener as well as every natural or legal person wishing to enter into a purchase or other agreement with Weener. The term "buyer" in particular includes those on whose order and for whose account goods are delivered.

3. The provisions in these general terms and conditions may exclusively and only be departed from if and insofar as this has been expressly agreed in writing.

4. The applicability of other general terms and conditions is expressly excluded. Even if the buyer refers to (its) general terms and conditions, the terms and conditions of the buyer do not apply. This is only different if and insofar as the applicability of the conditions of the buyer is expressly accepted by Weener in writing and/or insofar as the conditions of the buyer are not in conflict with the provisions in the current general terms and conditions. Any stipulation to the contrary in the conditions of the buyer does not affect the foregoing.

5. Where these general terms and conditions refer to the "delivery (of goods)", this also includes the rendering of services and work of whatever nature. Where these general terms and conditions refer to "buyer", this also includes "client".

6. If any provision in these general terms and conditions is void, is voided or is declared not applicable in any other way, the remaining provisions of these general terms and conditions shall remain in full force and the parties shall agree a replacement for the void, voided or inapplicable-declared provision whereby the objective and purport of the void, voided or inapplicable-declared provision(s) shall be taken into account as far as possible.

7. Weener is entitled to engage third parties in the performance of agreements with the buyer. The current general terms and conditions also apply in those situations.

**Clause 2
Quotations.**

1. All quotations of Weener are deemed to be invitations to the potential buyer to make an offer and are based on any designs, drawings, models, information etc. provided with the application and/or order. They therefore do not bind Weener in any way, unless the quotation itself expressly and unambiguously determines otherwise (in writing).

2. The following form part of the quotations by Weener - in particular as regards the provisions of the previous paragraph: - designs, drawings, models, samples, descriptions, images, measurements and such like, as well as any annexes and documents relating to these quotations. All this remains the property of Weener and must be returned at Weener's request and may not be copied and/or shown and/or handed to third parties without Weener's explicit written permission. Weener also reserves any existing intellectual and industrial property rights.

3. The buyer guarantees all designs, drawing, models, information and such like provided to Weener by it or on its behalf. Weener is not obliged to verify their accuracy. If goods are produced in accordance with the designs provided by or on behalf of the buyer, the buyer guarantees that by the manufacturing and/or supplying the goods, no right whatsoever of third parties is infringed. The buyer indemnifies Weener against all claims by third parties in this respect.

If a third party claims any right and on this basis and objects to the production and/or the delivery of the goods, Weener is entitled to cease the production and/or delivery and claim any already incurred costs from the client, without prejudice to claim other costs, compensation or specific performance.

Weener is entitled to sell and deliver goods to third parties if these goods have been produced on the basis of designs, drawings, models etc. created or developed by Weener (wholly or in part), irrespective whether or not this took place in collaboration with the buyer. Dies, moulds, auxiliary tools and such like produced by or on instruction of Weener and/or produced wholly or in part on the basis of its instructions, for which the buyer has paid the agreed costs, may have their ownership transferred to the buyer by Weener, as set out below.

These dies, moulds, auxiliary tools and such like shall only be delivered to the buyer by Weener the moment they are no longer in use by Weener for the production for the benefit of the buyer and at least 2 years after delivery of the last order placed with Weener by the buyer produced with these dies, moulds, auxiliary tools etc. have expired and if the buyer has observed all its obligations towards Weener and the buyer requests Weener in writing for the delivery of the goods referred to above.

If the buyer has not requested delivery of the dies, moulds and/or auxiliary tools within 3 years from the delivery of the last order by Weener in writing, Weener's obligation to deliver lapses and Weener is entitled (but not obligated) to destroy these goods one month after notification to the buyer, without then being obliged to pay any compensation in this respect to the buyer.

If Weener is responsible for the production of the dies, moulds, auxiliary tools etc., Weener is only obliged to proceed to production if and insofar as the buyer has paid the agreed production and other costs to Weener and has complied with any other obligations towards Weener. In addition, Weener is only obliged to implement changes, improvements or repairs to dies, moulds, auxiliary tools etc. if and insofar as the payable (estimated if required) costs in this respect have been paid to Weener by the buyer. If no express price has been agreed for the agreed work, the buyer pays Weener on its first request a reasonable amount for the incurred costs.

Weener is only liable for loss of or damage to dies, moulds, auxiliary tools etc if the loss or damage is the result of an intentional act or gross negligence. In such cases, Weener is entitled to choose between repair or replacement of said goods. Weener is not held to any further obligation or to payment of compensation. The dies, moulds, tools etc in the possession of Weener are insured by Weener against damage.

4. If Weener's quotation, which had been prepared at the request of the buyer, is not accepted within 3 months of the quotation date, Weener is entitled to charge the costs for preparing the quotation to the buyer. In that event the buyer must return the quotation with accompanying designs, drawings, models and such like at the first request of Weener.

**Clause 3
Formation of the Agreement.**

1. An agreement is only formed when Weener has accepted an order from the client in writing (the so-called order confirmation). An agreement is deemed to have been formed the moment Weener has submitted the order confirmation to the buyer.

2. The buyer is bound to its order, given to Weener in whatever form, during a period of 7 days from the date of the order or, if it concerns an order given orally, after giving the order. A statement by the buyer that it wishes to cancel or change its order, issued during this period of 7 days, can therefore not prevent that an agreement on the basis of the (original) order is formed if Weener as yet accepts/confirms this order within this period of 7 days.

3. The order confirmation sent by Weener to the buyer is deemed to fully and accurately reflect the content of the agreement entered into. The buyer is deemed to agree with the content of Weener's order confirmation, unless it notifies Weener in writing that it cannot agree with the content within 7 days from the date of this order confirmation.

4. Any additional agreements and/or undertakings made by Weener employees, or made on behalf of Weener and/or made by other persons acting as representatives, do not bind Weener unless these agreements and/or undertakings have been confirmed in writing by Weener's director(s) authorised to represent it.

Clause 4 Prices.

1. All prices are exclusive of tax and social contributions as applicable over turnover or gross revenue and - unless expressly otherwise agreed in writing - exclusive of packaging and transport costs.

2. The prices set out in the quotations, contracts and order confirmations are based on the cost factors in force at the time of the formation of the agreement, such as exchange rates, manufacturing prices, raw materials and consumable prices, wage and transport costs, insurance premiums, taxes, import duties and other levies imposed by the government.

3. If after the date on which the agreement has been formed but before the day of delivery there are increases in one or more cost factors, Weener reserves the right to charge these increases to the buyer. In such an event Weener is also entitled to terminate the agreement wholly or in part without any legal intervention being required. The buyer is also entitled to extrajudicial termination if and insofar as Weener introduces a cost increase within 3 months of entering into the agreement. If the buyer exercises this right, it must within 5 days from receipt of the relevant notification by Weener notify by registered letter to proceed to termination.

Clause 5 Delivery Periods.

1. The delivery periods stated by Weener commence on the day on which the agreement has been formed or from the moment Weener has all the information required for the performance of the agreement.

The delivery period stated by Weener is never to be viewed as a strict deadline unless expressly agreed otherwise in the individual agreement. In the event of a late delivery, Weener must therefore be issued with a written notice of default.

If, in departure from the foregoing, the individual agreement expressly provides for a penalty for exceeding the period of delivery, this is not payable if exceeding the delivery time is the result of events of force majeure set out in clause 11 of these general terms and conditions.

Weener is not liable if it is impossible for Weener to perform its delivery obligations because of force majeure (clause 11) or due to other events that were not foreseeable at the time of entering into the agreement and for which Weener cannot be held responsible. If due to these circumstances Weener is temporarily unable to perform its delivery obligations, the delivery period agreed between the parties shall be extended with the duration of the period during which Weener is unable to deliver plus a reasonable start-up period. If and insofar as the aforementioned events mean that Weener is completely unable to deliver, the buyer is entitled to terminate the agreement entered into between the parties.

2. The Incoterms 2010 provisions or the most recent version of Incoterms at the time of entering into the agreement apply to the delivery and transfer of the risk. Weener has complied with its delivery obligations the moment the goods ordered by the buyer have left Weener's factory or when Weener has notified the buyer that the goods ordered by the buyer are ready for dispatch.

3. If in departure from the provisions in paragraph 2 it is agreed that the transport of the goods is carried out by Weener, the goods are sent by and in a manner most beneficial to Weener and by carriers to be selected by Weener.

4. If the buyer requests the delivery of goods in a different manner than is usual, Weener is entitled to charge the associated costs to the buyer.

5. As soon as the goods to be delivered have left Weener's factory, the risk of the goods transfers to the buyer. In the event delivery takes place in accordance with the provisions in paragraph 3, the risk of these goods transfers to the buyer the moment the goods have arrived at their destination.

6. If delivery is in consignments, Weener has the right to view each partial or full delivery as a separate transaction.

7. The buyer is obliged to take receipt of the purchased goods within the agreed time. Failing which, Weener is entitled - such at the discretion of Weener to claim that the competent court shall release Weener from its obligation to deliver the agreed goods, or to claim payment of the purchase price of the non-purchased part without prior notice of default being required. If the buyer does not comply with its payment obligations, Weener is entitled to terminate the agreement without any intervention by the court.

If in accordance with the foregoing the buyer fails to take receipt of the purchased goods within the agreed time and Weener claims payment of the purchase price, the goods are deemed to have been delivered and Weener shall store the goods for the account and at the risk of the buyer on payment of all resulting costs.

If no term for receipt has been agreed, Weener is entitled to take the measures set out in this clause if the buyer has not taken receipt of the goods within one month of an invitation to this end by Weener.

Clause 6 Complaints on the Part of the Buyer.

1. The buyer must allow for the usual margins and minor changes in the goods to be delivered in respect of the quotations provided by Weener as provided for in clause 2(2) of the current general terms and conditions and in the information, measurements, colour fastness, weights etc. provided in its order confirmation. More in particular the foregoing applies to departures from the contracted quantities.

The goods delivered by Weener may therefore deviate from the description in the quotation and order confirmation if and insofar as it concerns small differences in size, quantity differences and minor changes.

2. Complaints from the buyer relating to defects to goods that are visible externally must be notified to Weener by the buyer within 7 days from delivery. This must take place by registered letter setting out a clear and precise description of the complaint, listing the invoice number with which the relevant goods have been invoiced, or at any rate listing the number referred to in the order confirmation if the buyer has not yet received an invoice.

At the time of delivery of goods delivered by Weener, the buyer must carry out a careful and prompt inspection.

3. Defects which are not visible externally at the time of delivery, nor could be apparent during a careful and prompt inspection, must be notified to Weener by the buyer in writing within 7 days of the buyer becoming aware of the defects or needing to have been aware of these defects, in the manner as determined in paragraph 2.

4. Any right of claim of the buyer towards Weener relating to defects in goods delivered by Weener lapses if:

a. the defects have not been notified to Weener within the periods and/or in the manner as prescribed above in paragraphs 2 and 3;

b. the buyer renders Weener insufficient collaboration for being able to carry out an investigation into the alleged complaints; Weener has the right to inspect the rejected goods;

c. the defects have arisen due to the buyer installing, treating, using, storing or maintaining the goods delivered by Weener in an incorrect manner or the buyer has used or treated the goods in a manner, or for purposes, other than anticipated by Weener;

d. the guarantee term stated in the individual agreement has expired or, if no guarantee term has been agreed between parties, after a period of 12 months has passed from the day on which the goods have been delivered to the buyer by Weener;

e. the buyer fails to keep the rejected goods until Weener takes these goods back or has requested the buyer to destroy these goods.

5. The guarantee term is 1 year from the moment of delivery or, if and insofar as acceptance has been agreed, from the moment of acceptance.

6. If the rejected goods have been processed, the goods are deemed to have been accepted.

7. Information on the suitability of the use of the goods delivered by Weener is not binding and does not release the buyer from carrying out its own tests and investigations into their suitability.

8. The buyer is not entitled to terminate the agreement if there is an insignificant shortcoming by Weener in the performance of its obligations. There is an insignificant shortcoming if 0.3% of the total delivered goods is defective in the case of the caps and 0.5% in the case of other plastic parts. If there are visually observable defects, the buyer is entitled to terminate the agreement if the defective products constitute more than 4% of the total.

9. Defects in a non-significant partial delivery do not entitle the buyer to terminate the agreement for the remaining part.

10. Weener endeavours to achieve the specific colours. If reasonably possible, Weener shall comply with the requested wall thickness and weight, but for technical reasons Weener cannot guarantee complete performance.

Clause 7 Liability.

1. Only if the guarantee obligations in respect of the goods delivered by Weener are not provided by third parties (such as manufacturers) can the buyer rely on its (guarantee) claims towards Weener. Weener's liability is in that event limited to defects that are the result of manufacturing and material defects.

2. If and insofar as there are defects as a result of manufacturing and material defects, Weener is exclusively obliged to:

a. (free) repair of the defects;

b. deliver replacement goods or parts, after return of the defective goods or parts;

c. refund the received purchase price/credit the invoice sent to the buyer;

d. pay compensation to be paid in consultation with the buyer in a different form than referred to above.

Weener determines which form of compensation as referred to above under *a* to *d* is applied.

3. Weener cannot be held liable if the buyer has carried out repairs and/or made changes to the goods or had this done without the prior express and written permission of Weener.

4. In addition to all specific restrictions of liability referred to in these general terms and conditions, it applies in general that Weener can never be held liable for any loss suffered by the buyer or a third party, except in the case of an intentional act or gross negligence.

Weener is therefore never liable for consequential or trading loss, direct or indirect loss, however named - loss of profit and loss owing to stoppage included - suffered by the client, its subordinates or third parties engaged by it due to the whole or partial delivery or redelivery of goods, delayed or defective delivery or the non-delivery of goods or by the goods themselves.

Liability for any loss is limited to the amount of the invoice sent to the buyer for the delivery of the defective goods.

5. The buyer is not entitled to return the goods delivered by Weener if there is no liability on the part of Weener. If this nevertheless takes place without valid reasons, all costs associated with the return are for the account of the buyer. In that case, Weener is free to store the goods at third parties for the account and at the risk of the buyer.

6. The buyer indemnifies Weener against all claims third parties may bring against it in respect of the performance of the agreement.

Clause 8 Retention of Title and Security.

1. The goods delivered by Weener remain its property until payment has been made in full of all the buyer owes Weener pursuant to the agreement or otherwise. If Weener deems such necessary, it is entitled to demand security from the buyer in respect of the performance of its obligations.

2. The buyer is not entitled to pledge the unpaid goods, to establish a non-possessory pledge on them or any other real or personal right in favour of a third party.

3. Without prejudice to the foregoing provisions in this clause, the buyer is permitted to sell the goods to third parties, but exclusively in the context of its normal business operations. The buyer is then obliged to pay the received money to Weener immediately or, if not sold for cash, transfer the acquired claims to Weener immediately.

4. If as a result of treatment or processing by the buyer the ownership right of Weener vested in the goods it has delivered is lost, the buyer is obliged to immediately establish a non-possessory right of pledge on the goods in favour of Weener.

5. Weener is at all times entitled to take the goods that are in the possession of the buyer (or third parties) but are the property of Weener back into its possession as soon as it can reasonably assume that there is a realistic chance that the buyer shall not comply with its obligations. The foregoing does not affect the rights for Weener arising from the law, and Weener in particular reserves the right to claim compensation from the buyer.

6. The buyer is obliged to insure the risk of fire and theft in respect of unpaid goods and demonstrate this insurance at the request of Weener.

Clause 9 Trademark

Weener is entitled to furnish the delivered goods with a trademark and/or code. The client is obliged to maintain this trademark and/or this code in any event until all that owed by the buyer to Weener pursuant to the agreement for delivery of these goods has been paid in full.

Clause 10 Payment.

1. Payment must be in Brazilian currency, without any deduction or discount, in cash at the place where Weener is based or by means of transfer into a bank or giro account as indicated by Weener, in both cases immediately after delivery of the relevant goods, or at the latest within 30 days from the invoice date, all this unless expressly otherwise agreed in writing. In the event of payment by bank or giro, the day the bank or giro account of Weener is credited is deemed to be the day of payment.

2. If the buyer fails to make (full) payment on time, it is in default without any further notice of default being required. Weener is then entitled to suspend the performance of its obligations towards the buyer, without prejudice to the right of Weener to commence other claims against the buyer. Weener is also entitled to demand cash payment for deliveries still to be made before delivery or a guarantee for prompt payment. In addition, Weener is then entitled to terminate the agreement without judicial intervention, without prejudice to Weener's right to claim compensation.

3. In the event of late payment, the buyer owes default interest of [1% (one percent)] per month, calculated "pro rata temporis", plus monetary adjustment by the positive variation of the Broad Consumer Price Index (Índice de Preço ao Consumidor Amplo – IPCA), calculated by the Brazilian Institute of Geography and Statistics (Instituto Brasileiro de Geografia e Estatística – IBGE) calculated on the overdue amount. The extrajudicial costs are estimated at 10% of the principal sum (including VAT), without prejudice to the right to claim higher extrajudicial costs.

In addition, all other consequences due to the failure to pay on time, such as currency exchange loss, are for the account of the buyer.

4. In accordance with Article 354 Brazilian Civil Code, payments first serve to reduce the costs referred to in paragraph 3, subsequently to reduce the interest and finally to reduce the principal sum and the accrued interest.

5. If after the formation of the agreement but before delivery of the goods there is a substantial deterioration in the financial position of the buyer, Weener is entitled to cease the further performance of the agreement, wholly or in part, or to demand a change of the payment conditions.

6. The buyer is not permitted to suspend its payment obligations, unless there is an undisputed counterclaim or a claim has been awarded at law.

Clause 11
Force Majeure.

Force majeure includes any circumstance outside Weener's control, which is of such a nature that the performance of the agreement cannot in all reasonableness be demanded from Weener (non-attributable failure in the performance). Force majeure includes: war, riots and hostilities of whatever nature, blockade, boycott, natural disasters, epidemics, lack of raw materials, impediments and interruptions of transport options, interruptions in the business of Weener, import and export restrictions or prohibitions, obstructions caused by measures, legislation or decisions of international, national or regional government or other bodies. If Weener is not able to comply with its delivery obligations completely, promptly and properly due to force majeure, it is entitled to terminate the agreement (partially) or suspend it for a definite or indefinite period of time, such at the discretion of Weener. In the event of force majeure, no right of compensation arises for the buyer towards Weener.

Clause 12
Intellectual Property Rights.

1. Respecting the intellectual property rights of third parties, markings or similar rights of third parties - including the design models that are produced by Weener on the basis of information and specifications of the buyer - is the exclusive responsibility of the buyer. The buyer is liable for the consequences of an infringement of such rights and indemnifies Weener against any claim from third parties.

2. Each party shall immediately notify the other party if third parties hold one of the parties liable for an infringement of intellectual property rights.

3. All documents provided by Weener to the buyer in respect of the performance of the agreement, such as calculations, designs, drawings, models etc., remain (the intellectual) property of Weener. The buyer is not permitted to provide these documents to third parties without the prior express written consent of Weener.

Clause 13.
Termination

Weener is entitled to terminate the agreement with the buyer with immediate effect in the event of a (provisional) moratorium of the buyer or the bankruptcy of the buyer. After termination on this basis, all claims of Weener on the buyer become immediately due and payable.

Clause 14
Applicable Law.

All quotations, offers and agreements to which these general terms and conditions apply are exclusively subject to Brazilian law, such with the express exclusion of the Vienna Sales Convention.

Clause 15
Dispute Resolution.

All disputes, of whatever nature, relating to/arising from the quotations, offers or agreements submitted by Weener or from deliveries made by Weener are resolved by the competent court of the City of São Paulo, State of São Paulo, Brazil.