

General terms and conditions of delivery and payment of Saropack AG, Seebleichstrasse 50, CH-9401 Rorschach

1. Scope of application

1.1 Unless agreed otherwise, the following general terms and conditions of delivery and payment (hereinafter referred to only as "Terms and Conditions") shall apply exclusively to all – including future – deliveries made and services rendered (hereinafter referred to exclusively as "Deliveries") to customers in accordance with Section 1.2.

1.2 These Terms and Conditions shall only apply vis-à-vis entrepreneurs within the meaning of Section 14 of the German Civil Code (BGB), legal entities under public law or special funds under public law (hereinafter referred to as "Customers").

1.3 The terms and conditions of business of our Customers shall not form part of the contract, even if we do not expressly object to them.

2. Conclusion and content of the contract

2.1 Our offers are subject to change. The Customer shall be bound by its order for a period of 14 days from receipt by us, unless otherwise specified in the order. Contracts shall not come into effect until we have issued a written confirmation of the order or made the delivery(ies). Written confirmation shall also include fax and e-mail.

2.2 Verbal supplementary agreements or assurances made by our employees that go beyond the content of the written contract or alter these Terms and Conditions to our detriment shall only become effective after written confirmation.

2.3 Illustrations, drawings and specifications concerning weight, colour and measurements provided by us in conjunction with the conclusion of the contract shall be deemed approximate values only unless they are a) expressly designated as binding or b) essential.

2.4 We shall retain all rights of ownership and copyrights to quotations, drawings and other documents. They may not be made available to third parties without our prior written consent and shall be returned to us immediately upon request if the order is not placed; the costs of return shall be borne by the Customer.

2.5 Our product descriptions shall not constitute guarantees. Information on quality, durability and other particulars shall therefore only constitute a guarantee if it is expressly agreed and designated as such in writing.

2.6 The subject matter of the contract is the sale of goods. Details of the goods, in particular the essential characteristics, can be found in the item description and additional information provided on our website at www.saropack.eu or shop.saropack.eu.

2.7 The contract language is German.

2.8 The Customer can also submit a purchase offer (place an order) via the online shopping basket system. This places the goods intended for purchase into the "shopping basket". The Customer can retrieve the "shopping basket" and make changes to it at any time by clicking the relevant button on the navigation bar. Once the "Checkout" page has been accessed and personal, payment and delivery details have been entered, all the details of the order, including the essential item information, shall be displayed once more in the order overview. This gives the Customer another opportunity to check or amend any details – including via the "Back" browser function – before submitting the order or to cancel the operation altogether. The Customer does not engage in a legally binding contractual offer with us until they have submitted the order by clicking the "Purchase" button at the end of the order process.

2.9 The Customer can download the contract text, i.e. all contractual data, including these GTCs, in a reproducible format from the website and print it out prior to placing an order. We do not store the contract text on our internal systems. Before an order is submitted via the online shopping basket system, the contractual data can be printed out using the browser's print function and stored electronically. Upon completion of the order, the details thereof shall no longer be accessible via the Internet for security reasons. The GTCs can be viewed, printed out or downloaded from our website.

2.10 We confirm our receipt of an online order immediately by e-mailing the Customer (order confirmation). This order confirmation shall not constitute acceptance of the offer, but is rather only intended as a means of informing the Customer that we have received the order.

3. Price and payment

3.1 Our prices are indicated net in EUR, plus the costs of packaging and the applicable VAT, as dispatched from our distribution centre in accordance with FCA Incoterms® 2020, as specified in the order confirmation.

3.2 In the case of delivery times of more than two months or of annual contracts or other framework contracts or pricing agreements with a term of more than two months, we reserve the right to increase the agreed prices accordingly if there have been significant changes in the prices of energy, materials or raw materials, in public charges or in staffing costs since the contract was concluded and if we are not responsible for this change. If a price increase exceeds five per cent, the Customer has the right to withdraw from the contract within two weeks of being notified of the price increase.

3.3 Unless a specific agreement has been reached, payment is to be made free of charge and without deduction to our bank account within 30 days of delivery and the date of invoice. Timeliness of payment shall be determined on the basis of the date on which the payment is credited to our account. We accept cheques solely to facilitate payment and upon prior written agreement only; bank charges shall be borne by the buyer. They shall be payable immediately.

3.4 In the event that the agreed payment is exceeded, we shall charge interest on arrears in the amount of nine percentage points above the base interest rate applicable at the time.

3.5 The Customer can only assert a right of retention vis-à-vis a claim for payment by tabling defences based on the same contractual relationship as said claim for payment. The Customer shall only be entitled to withhold or offset payments if the counterclaim is undisputed or legally binding.

3.6 In the event that payment is ceased or if other circumstances which reduce the Customer's creditworthiness become known, all our claims shall become payable without delay. In such cases, we also reserve the right to render any outstanding services only against advance payment or provision of security or to withdraw from the contract.

3.7 Claims asserted by the Customer against us can only be assigned or pledged to third parties with our prior written consent.

4. Delivery, transfer of risk, part deliveries, reservation of self-delivery

4.1 Deliveries are made from our distribution centre in accordance with FCA Incoterms® 2020, as specified in the order confirmation.

4.2 The risk is transferred from our distribution centre in accordance with FCA Incoterms® 2020, as specified in the order confirmation, to the Customer. If dispatch is delayed through no fault of our own, the risk shall transferred as soon as we have notified the Customer that the goods are ready for dispatch, even if we also assume responsibility for other services, such as forwarding costs and assembly and installation activities, including those performed by our own transport or installation staff. The consignment can be insured against damages in transit at the Customer's request and expense.

4.3 Part deliveries are permitted to a reasonable extent.

4.4 Our delivery obligation is subject to timely and correct self-delivery by our supplier, unless the incorrect or delayed self-delivery is our fault. In such cases, we can withdraw from the contract.

4.5 Assembly, installation, installation supervision and maintenance are not included in the scope of delivery as a basic principle. If we render such services upon special request, they shall be subject to additional charges.

5. Delivery deadline

5.1 Delivery deadlines are merely approximations.

5.2 The delivery deadline shall begin upon receipt of the order confirmation, but not prior to clarification of all details of the order execution and any technical matters or receipt of the goods to be treated and payment of an agreed deposit or security.

5.3 The delivery deadline shall be deemed to have been met if the goods have been loaded onto the means of transport provided by the Customer before the deadline has expired. If dispatch is delayed through no fault of our own, the delivery deadline shall be deemed to have been met if we have provided notification that the goods are ready for dispatch.

5.4 If delivery is delayed due to circumstances for which we are responsible and the Customer incurs damages as a result of this, our liability shall, in cases of simple negligence, be limited to 0.5 per cent for each full week of delay, but to a maximum of five per cent of the net invoice amount of the part of the delivery affected by the delay. The payment of compensation in lieu of performance in accordance with Section 9 shall not be affected by this. The Customer shall inform us of contractual penalties applicable to their buyer upon conclusion of the contract and no later. Section 9 shall also apply to our liability due to delay.

5.5 If dispatch is delayed due to circumstances for which we are not responsible, we shall charge at least 0.5 per cent of the net invoice value of the stored delivery for each month or part thereof of storage at our facility.

5.6 Requests for changes submitted by the Customer extend the delivery deadline to such time that we have assessed their feasibility and for the period of time required for us to implement the new requirements in the production process. If ongoing production is interrupted as a result of change requests, we have the right to prioritise and finalise other orders. We are not obliged to reserve production capacity during the delay.

6. Force majeure

6.1 Force majeure and other unforeseen and unavoidable occurrences for which we are not responsible (e.g. legal strike actions or lockouts, disruptions to operations, pandemics, difficulties procuring materials or energy, transport delays, shortage of workers, energy or raw materials, measures taken by authorities, or difficulties obtaining permits, particularly import or export licences) shall extend the delivery deadline for the duration of the disruption and its impacts. This shall also apply if the obstacles affect our suppliers or arise during an existing delay.

6.2 If the obstacle is not merely temporary in nature, both contracting parties shall have the right to withdraw. Claims for damages are excluded in the cases specified in Section 6.1.

7. Reservation of ownership

7.1 We shall retain ownership of the goods until payment of all of our claims against the Customer under the business relationship, including those arising in the future and those under contracts concluded simultaneously or subsequently. This shall also apply if some or all of our claims have been included in a current account and the account balance has been settled and acknowledged.

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7.2 The Customer is obliged to handle the purchased item with care and maintain it in good condition; they are particularly obliged to insure the item against any damage or destruction at its replacement value and at their own expense. The insurance policy and proof of payment of premiums are to be presented to us on request. The Customer hereby assigns to us any claims arising from the insurance contract, subject to the resolute condition that ownership is also transferred. We shall accept the assignment.

7.3 The Customer reserves the right to resell or reuse the reserved goods in the ordinary course of business; they shall, however, assign to us in advance and in full all claims arising from the resale or reuse. We shall accept the assignment. The Customer shall still be entitled to collect these claims, provided they have fulfilled their obligations towards us. If the reserved goods are subject to third-party rights, the Customer's claim shall be transferred to us in proportion of the value of our joint ownership to the overall value of the item. The Customer must transfer any amounts recovered to us without delay, insofar as our claims are due.

7.4 If our reserved goods are mixed, connected, worked or processed with other items, this shall be done at no cost to us. In the case of working and processing, we shall acquire joint ownership of the new item in proportion of the invoice value of our reserved goods to the value of the other items at the time the activity is carried out. If an item is regarded as the main item, we shall acquire joint ownership of the main item in proportion of the value of our reserved goods to their overall value at the time the activity is carried out. The Customer shall store all items at no cost to us.

7.5 The Customer reserves the right to collect the claims assigned to us. This right shall expire if the Customer does not comply with their payment obligations from the collected proceeds. In such a case, we are entitled to revoke the Customer's entitlement to resale and reuse and request that they inform us of the assigned claims and their debtors, including all details necessary for collection, hand over all relevant documentation and inform debtors about the assignment of the amounts due from them. The Customer shall also present a list of any remaining reserved goods.

7.6 The repossession of the reserved goods shall not constitute withdrawal from the contract. If we do, however, declare our withdrawal from the contract, we shall have the right to dispose of the goods at our own discretion.

7.7 As long as the reservation of ownership remains in place, the Customer may only assign the goods as security, pledge them or assign claims with our written consent. We are to be notified of third-party access to the reserved goods immediately. The Customer shall bear any costs arising from defending such an action, unless they can be recovered from the third party.

7.8 If the value of the securities exceeds our claims by more than 10 per cent, we shall, at the Customer's request, release our securities to this extent at our own discretion.

8. Liability for defects

8.1 The Customer's claims for defects require that the Customer has duly examined the goods and provided notification of defects in accordance with Section 377 of the German Commercial Code (HGB).

8.2 We shall not be liable for defects in title arising from the fact that we have been guided by technical drawings, drafts or other information provided to us by the Customer.

8.3 We shall only be liable for the use of goods free from defects in title outside Germany if such use was agreed or was to be expected upon conclusion of the contract. In the case of existing liability for freedom from defects in title outside Germany, we shall be responsible for ensuring that use of the goods at the time the contract is concluded does not conflict with any existing rights in place abroad which we knew of or were grossly negligent in not knowing of at the time.

8.4 If the goods prove defective, we reserve the right to remedy the defect or provide replacement goods at our discretion. We are obliged to bear the necessary expenses for this, including transport, infrastructure, labour and material costs, insofar as these are not increased by the fact that the goods have been taken to a location other than the Customer's commercial premises after delivery.

8.5 If we are not prepared or in a position to remedy the defect/replace the goods, if this is delayed beyond a reasonable period of time for reasons for which we are responsible or if the defect cannot otherwise be remedied/the goods cannot otherwise be replaced, the Customer shall be entitled – in the case of significant defects – to withdraw from the contract or to reduce compensation and claim damages in lieu of performance in accordance with Section 9.

9. General liability, statutory limitation

9.1 Regardless of the legal basis and in accordance with the statutory provisions, we shall be liable in the event of intent or gross negligence, fraudulent concealment of defects, injury to life, limb or health or in accordance with the provisions of the Product Liability Act.

9.2 In the case of simple negligence, we shall only be liable in the event of a breach of an essential contractual obligation, the fulfilment of which is a prerequisite for the proper performance of the contract and on whose compliance the Customer regularly relies and may rely, and – unless otherwise provided for in Section 5.4 as regards damage caused by delay – this shall be limited to compensation for foreseeable damages typical for this type of contract. Our liability arising from injury to life, limb or health in accordance with the Product Liability Act and from guarantees shall remain unaffected. Our liability shall be excluded in all other cases.

9.3 Customer claims on account of defects shall be subject to a limitation period of 12 months from the transfer of the risk; this shall be 12 months from the commencement of the statutory limitation period for all other claims. However, if the delivered goods have been used for construction purposes in accordance with their customary use and if the goods have caused a building's defectiveness, the limitation period shall be set at five years, unless the delivered goods have been used for the building on the basis of a contract in which part B of the German Construction Contract Procedure (VOB/B) has been included in its entirety. In this case, the shorter limitation periods of the VOB/B shall apply. Notwithstanding paragraph 1 of Section 9.3, in the event of our liability due to the assumption of a guarantee, the provisions of the guarantee shall apply; in the event of the fraudulent concealment of a defect or claims for damages in accordance with the Product Liability Act arising from injury to life, limb or health and the intentional or grossly negligent breach of obligations, the statutory limitation provisions shall apply.

10. Packaging

10.1 Our packaging accumulating at private end consumers in Germany within the meaning of the German Packaging Ordinance (VerpackV) shall be recovered and disposed of free of charge on account of our participation in a disposal system in accordance with Section 7 of the German Packaging Act (VerpackG).

10.2 Packaging which accumulates in Germany but not at a private end consumer within the meaning of VerpackG shall be accepted at our registered office within the usual business hours; the Customer shall bear the costs of recovery and proper disposal. The packaging must be returned clean, free of foreign matter and sorted by type.

11. Place of performance, place of jurisdiction, choice of law

11.1 Unless otherwise agreed, the place of performance for all services arising from the contractual relationship with the Customer shall be our registered office.

11.2 The place of jurisdiction for all disputes arising from the contractual relationship with the Customer shall be our registered office. We also reserve the right to file claims at the registered office of the Customer.

11.3 German law shall apply. The UN Convention on Contracts for the International Sale of Goods of 11 April 1980 is excluded.

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