

## **General Terms of Business**

**N.B.:** Our range of products and services is directed exclusively at trade and commerce, small traders, industry, authorities and the self-employed

### **1. Scope of the General Terms of Business**

- 1.1. These General Terms of Business apply to all business relationships between the company Storopack (hereinafter “the Company”) and its customers. Customers for the purposes of these Terms of Business shall exclusively be traders for the purposes of § 14(1) BGB [*German Civil Code*], i.e. natural persons and legal entities or partnerships with legal capacity, who establish a business relationship with the Company during the exercise of their commercial activity or self-employment.
- 1.2. The version of these Terms of Delivery that is valid at the time of conclusion of the contract shall be authoritative. In the case of ongoing business relationships, these terms and conditions shall also apply to future transactions during which no explicit reference is made to them, provided the customer has received them during an earlier order confirmed by the Company and the customers have immediately been informed of any new version of these General Terms of Business.
- 1.3. Varying or supplementary General Terms of Business of the customer shall quite explicitly not be part of the contractual content, even if the Company has not explicitly opposed them. In the event that the customer does not wish the General Terms of Business set out below to apply, it must make this fact known to the Company in advance.

### **2. Contract conclusion and online quotations**

- 2.1. All quotations given by the Company shall represent a non-binding request to the customer and shall at all times be subject to change without notice, unless they have been designated as firm quotations. Orders shall not become binding until an order confirmation has been given.
- 2.2. All online quotations given by the Company shall represent a non-binding request to the customer to order goods from the Company. The order for the requested goods shall be placed via completion in full of an order form sent to the customer. When filling out the order form, the customer is given the opportunity of noting and printing out the Company’s Terms of Business. The order can only be sent provided these Terms of Business have been accepted. In sending the order, the customer in return makes a binding offer to conclude a sale and purchase agreement subject to these General Terms of Business. The Company must immediately confirm receipt of the consumer order. The confirmation of receipt shall not of itself constitute binding acceptance of the order. The Company shall in fact be entitled to accept this offer within 14 calendar days of receipt of the order, by sending an order confirmation, or else to refuse the offer. The order confirmation for the offer may be sent by post, e-mail or fax. The offer shall be deemed to have been refused if the aforementioned acceptance period expires without action.

### **3. Payment terms and prices**

- 3.1. All prices shall be exclusive of VAT at the statutory rate. Any freight costs, customs and import duties, packaging costs and insurance, where applicable, shall be charged and shown separately.
- 3.2. The goods shall be paid for in response to an invoice, by direct debit, cash in advance or on delivery via credit card. Cash on delivery shall only be possible for shipments within Germany. Foreign orders shall only be accepted and processed subject to cash in advance. We reserve the right to accept or refuse certain methods of payment in individual instances. If no credit insurance has been arranged with a credit insurer, payment must be via cash in advance.
- 3.3. In the event of payment in response to an invoice, the purchaser undertakes to pay the invoice amount within 14 days of receipt of the goods; in the case of orders from our online shop, the customer may only select this method of payment with effect from their second order. In the case of payment via direct debit, the debit will be taken within a week of conclusion of the contract. In the case of payment via credit card,

the payment will be taken prior to shipment of the goods. In the case of payment via cash in advance, the purchaser undertakes to pay the purchase price immediately upon conclusion of the contract. In the case of payment via cash on delivery, the purchaser undertakes to pay the purchase price at the time of delivery of the goods. The prenotification of SEPA business-to-business direct debits will be sent at least 5 working days before execution.

- 3.4. If the purchaser is in arrears of payment, it shall be responsible for any negligence during this period. It shall also be liable for accident in relation to the payment, unless the loss would have occurred even if it had made the payment on time. In the event of default, the Company shall also be entitled to retain further supplies and services.
- 3.5. The purchase price shall attract interest during the period of default. The default interest rate shall be eight percentage points above the base rate per annum.
- 3.6. This shall not exclude the possibility of a claim for a greater loss.

#### **4. Delivery and shipment**

- 4.1. The Company may, at its own discretion, select the route and manner of shipment. Delivery shall take place via dispatch from the warehouse to the address notified by the customer. The goods ordered may in principle be collected by the customer from the company's warehouse, as the place of destination, in which case the timing of such collection must be agreed separately. Acceptance shall be subject to any agreement to the contrary within the Company's operation.
- 4.2. Details in relation to the delivery time shall not be binding, unless a fixed delivery date has exceptionally been promised. If the nature and size of the order means that the customer may reasonably be expected to accept part-deliveries, these may take place.
- 4.3. If the Company is unable to deliver the goods ordered, through no fault of its own, it shall be entitled to withdraw from the contract to supply the customer. In this case, the customer shall be informed immediately that the goods ordered are not available; payments already made shall immediately be refunded. However, this shall not affect the Customer's other statutory claims.
- 4.4. Goods may also be delivered franco domicile within mainland Germany. Unless stated otherwise, when shipping goods outside Germany or to the German islands, the price for packaging and shipment shall be calculated separately and notified to the customer in advance. If the purchaser wants the goods shipped in a special way, thereby giving rise to higher costs, it must bear these additional costs itself.
- 4.5. In the case of call off orders, under which no term, production batch sizes and acceptance dates are agreed, the Company may demand a binding statement in this respect at the latest three months after confirmation of the order. If the customer fails to meet this demand within three weeks, the Company shall be entitled to set a two week additional period, and to withdraw from the contract after its expiry, or else to refuse the delivery and claim compensation.
- 4.6. Occurrences of force majeure shall entitle the Company to postpone delivery by the duration of the hindrance and a reasonable start-up period thereafter, or else to withdraw in full or in part from that proportion of the contract not yet fulfilled; this shall not affect the customer's right to reduce the price accordingly. Force majeure shall refer to strikes, lock-outs or unforeseeable circumstances, for example operational problems for which the Company is not responsible, and which make it impossible for it to deliver on time, despite its best efforts; the Company shall bear the burden of proof. The same shall apply if the aforementioned obstacles arise during a period of default or in relation to a subsidiary supplier. The customer may ask the Company to indicate within two weeks whether it wishes to withdraw or to deliver within a reasonable period, which the Company must then specify. If it fails to give such an indication, the customer may withdraw from the unfulfilled proportion of the contract. The Company shall immediately notify the customer if an instance of force majeure as described above should occur. It must seek to minimise the prejudice suffered by the customer, if necessary by providing the moulds for the duration of the hindrance.

## **5. Acceptance and transfer of risk**

- 5.1. The risk of accidental loss and accidental deterioration of the goods shall transfer to the customer at the time of delivery, in the case of goods that are to be shipped, when the goods are delivered to the carrier, the transporter or other persons and organisation designated to undertake shipment. If the purchaser defaults in acceptance, delivery shall be deemed to have taken place.
- 5.2. If it is agreed that the customer shall collect the goods from the warehouse, or if the Company is unable to deliver from the warehouse for reasons outside its control, then the risk of accidental loss and accidental deterioration shall pass to the customer when the goods are made available in accordance with the terms of the contract, or if the customer declares it will not accept the delivery item made available.
- 5.3. If the customer is in arrears in acceptance of the delivery item, either intentionally or through gross negligence, by more than three days after notification that the delivery item has been made available, then the Company shall be entitled, after setting an additional period of a further five days, to withdraw from the contract or to claim compensation for non-fulfilment. No additional period may be set if the customer seriously or definitively refuses to accept the delivery item, or is clearly unable to pay the purchase price even within such a period.

## **6. Reservation of title**

- 6.1. The goods delivered shall remain the property of the Company until payment in full of all the primary and secondary receivables due to the Company out of the business relationship with the customer.
- 6.2. The customer shall be entitled to sell on the reserved goods during the normal course of its business. It may not dispose of the reserved goods title in any other way, in particular by way of pledge or of transfer of title by way of security. The customer hereby assigns to the Company its receivables arising out of the sale of the reserved goods, up to the final invoice amount (including VAT) agreed with the Company. This assignment shall apply irrespective of whether the goods were sold unprocessed or after processing. The customer shall retain authority to collect the receivable in question even after such assignment. This shall not affect the Company's authority to collect the receivable itself. However, the Company will not collect the receivable for as long as the customer meets its payment obligations out of the proceeds received, is not in default of payment, and in particular for as long as no application for the opening of bankruptcy or composition or insolvency proceedings has been filed, and payments have not been suspended. The customer shall be obliged to provide the Company with all information necessary to assert these rights and to provide the necessary cooperation.
- 6.3. (5) In the event of distraint or seizure, the customer must notify the Company in writing immediately and must immediately notify third parties of the Company's reservation of title in an appropriate manner.
- 6.4. Any processing or remodelling of the reserved goods by the customer shall take place in the name and for the account of the Company. In this case, the customer's contingent right to the goods shall continue to apply to the transformed product. If the goods are processed together with other items not belonging to the Company, we shall acquire joint title to the new product in the ratio of the objective value of our goods to that of the other items processed at the time of processing. The same shall apply in the event of incorporation. If incorporation takes place in such a way that the customer's product is considered to be the main product, it is agreed that the customer shall transfer prorata joint title to the Company and shall safeguard on our behalf the sole title or joint title thereby arising. In order to secure our claims against the customer, the latter shall assign to the Company any claims that it acquires against a third party through the linking of the reserved goods with a property; the Company hereby accepts such assignment.
- 6.5. The Company undertakes to release the collateral due to it at the purchaser's request, inasmuch as its value is more than 20% greater than the claims to be secured.

## **7. Warranty**

- 7.1. The customer must immediately examine the delivered goods in order to ascertain any quality defects or quantity variations, and must notify the Company in writing of any obvious defects within one week of receipt of the product, failing which it may not make any claim under the warranty. Hidden defects must be notified to the Company in writing within one week of their discovery. Timely dispatch of the notification

shall satisfy this requirement. In this case, the purchaser shall bear the full burden of proof in relation to all claim prerequisites, in particular in relation to the defect itself, to the time at which it was discovered and to the timeliness of the defect notification.

- 7.2. In the event of defects, the Company may elect to honour the warranty either through remedy or replacement delivery. The purchaser's defect claims shall become barred by limitation after a year. This period of limitation shall not apply to damages claims.
- 7.3. If the Company subsequently supplies a perfect delivery item, the Company may ask the customer to return the defective delivery item.
- 7.4. No claim may be made against the Company for losses caused through inappropriate action by the Customer, or action by it in breach of contract, during installation, connection, operation or storage. Moreover, the Company reserves the possibility of the occurrence of variations in physical and chemical values, including colours, dimensions, weights and quantities, even in comparison with presentation samples, which are commercially customary or cannot be technically avoided even subject to due care and attention. The customer acknowledges that as far as manufacturing or standard packaged goods are concerned, over- or under-deliveries of up to 10% are commercially customary and are therefore deemed reasonable.
- 7.5. The type samples and initially sample test report, which the Company shall present to the customer upon request for examination, shall be decisive as regards the quality and execution of the moulded products. The guarantee in relation to specific characteristics of the delivery item and to the performance of moulds must be set out in writing in the order confirmation. The reference to technical standards shall be made for the purposes of the specification.
- 7.6. The following shall apply to corrugated board and solid board products: manufacture of the corrugated board packaging and solid board packaging delivered to the customer shall be based on the current versions of inspection catalogue for corrugated board boxes of the Verband der Wellpappen-Industrie e.V. and of the manual "Solid board packaging" of the Verband Vollpappe-Kartonagen e.V. The Company reserves the right to make the following commercially customary over- or under-deliveries:
  - in the case of deliveries of up to 100 units 30%
  - in the case of deliveries of up to 2000 units 20%
  - in the case of deliveries of over 2000 units 10%

## **8. Liability**

- 8.1. The Company shall only be liable for losses arising other than through loss of life, physical injury and health impairment, inasmuch as such losses have arisen due to intentional or grossly negligent action, or to culpable breach of a material contractual obligation, by the Company or its vicarious agents. An obligation that is critical for proper fulfilment of the contract, and on performance of which the customer may rely, shall be material to the contract. If the Company has breached such a material obligation due to simply negligence, its liability in this case shall be restricted to all predictable or typical losses. The Company accepts no further liability to pay damages, irrespective of the legal basis of such a claim. This shall not affect claims under a quality guarantee given by the Company in relation to the product, or under the German Product Liability Act [*Produkthaftungsgesetz*].
- 8.2. In the current state of the art, online data communication cannot be guaranteed to be faultless and/or constantly accessible. The Company shall not therefore be liable for the continuous accessibility of the online shop or of EDI access.

## **9. Moulds (tools)**

- 9.1. The mould price shall also include the costs of one-off samples, but not those of testing and processing apparatus, or for changes required by the customer. The Company shall bear the costs of further sampling which it instigates.

- 9.2. Unless agreed otherwise, the Company is and shall remain the owner of the moulds manufactured for the customer by the Company, or by a third party commissioned by it. Moulds shall only be used for the customer's orders provided the customer meets its payment and acceptance obligations. The Company shall only be obliged to replace these moulds free of charge provided they are needed to fulfil an output quantity guaranteed by the customer. The Company's obligation to store these shall lapse one year after the last part-delivery from the mould and prior notification to the customer.
- 9.3. If it is agreed that the customer shall become the owner of the moulds, then ownership shall pass to it following payment of their purchase price; delivery of the moulds to the customer shall be replaced by the Company's storage obligation on the basis of an agreement to be concluded separately, which shall give entitlement to their exclusive ownership until acceptance of a minimum quantity specified therein and/or until expiry of a period specified therein. The Company must identify the moulds as third party property and must insure them at the customer's expense at the latter's request.
- 9.4. In the case of the customer's own moulds as per 9.3. and /or moulds loans by the customer, the Company's liability for storage and care shall be restricted to the same due care that it applies to its own affairs. The customer shall bear the costs of maintenance and insurance. The Company's obligations shall lapse if the moulds are not collected within a reasonable period after completion of the order and after the customer has requested them. If the customer has failed to fully meet its contractual obligations, the Company shall at all events be entitled to retain the moulds.

#### **10. Proprietary rights**

- 10.1. If the Company is required to deliver on the basis of drawings, models, samples, or using parts provided by the customer, the latter shall be answerable for the fact that no proprietary rights of third parties are thereby infringed. The Company shall advise the customer of any rights known to it. The customer must hold the Company harmless with respect to claims by third parties and reimburse any losses incurred. If a third party prohibits the Company from manufacturing or delivering on the basis of its own proprietary right, the Company shall be entitled to suspend work, without first checking the legal position.
- 10.2. Drawings and samples given to the Company, which have not led to an order, shall be returned upon request, failing which the Company shall be entitled to destroy them three months after giving its quotation.

#### **11. Development work**

In the event that the customer fails to purchase our products, after commissioning prior development and/or consultancy work for the preparation of corresponding packaging solutions (moulding), we reserve the right to claim the necessary costs on the basis of evidence of work and materials.

#### **12. Evidence clause**

Data stored at the Company's premises in electronic registers or in other electronic format shall be deemed to be admissible evidence for the proof of data transmissions, contracts and executed payments between the parties.

#### **13. Other matters**

- 13.1. If individual clauses of these contractual terms and conditions should be fully or partially invalid, this shall not affect the validity of the remaining clauses, unless a contracting party is so unreasonably prejudiced through the exclusion of individual clauses that it can no longer be reasonably expected to remain bound by the contract. The parties shall replace the invalid clause by another, which comes as close as possible to the commercial purpose of the invalid provision and it itself valid.
- 13.2. No collateral agreements have been concluded. Supplements to the contract shall only be valid provided they are confirmed in writing.
- 13.3. Text form (§ 126a BGB) shall meet the written form requirement and shall be binding for statements to be made under the contractual relations, unless explicitly provided otherwise.

- 13.4. The customer may only assign its rights arising out of a business relationship with the Company subject to the written approval of the latter. The customer may only offset against the purchase price claim using acknowledged or legally approved counterclaims.
- 13.5. Provided this is legally admissible, the place of jurisdiction shall be the registered office of the Company (headquarters) in the Federal Republic of Germany. Exclusively German law shall apply, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

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