

General Terms and Conditions of Sale and Delivery

1. Application of the General Terms and Conditions of Sale and Delivery

1.1 All deliveries by Alupak AG are made on the basis of these General Terms and Conditions of Sale and Delivery (GTCS D). The Contracting Party is familiar with these GTCS D and has expressly and unconditionally recognised them by placing an order. Any deviations from these Terms and Conditions require the written confirmation of Alupak AG in order to be valid.

1.2 In particular, these GTCS D shall take precedence over any deviating general contractual provisions of the Contracting Party (specifically the General Terms and Conditions of Purchase). Any such deviating provisions shall apply solely if recognised in writing by Alupak AG.

1.3 In particular, the Contracting Party may not seek to rely on the fact that it has referred to its general terms and conditions in its correspondence (including subsequent correspondence), quotes, order confirmations, delivery notes or invoices, etc. These General Terms and Conditions of Sale shall take precedence in any case. Only these GTCS D shall apply between the parties.

1.4 Provisions which deviate from these GTCS D and which form part of a specific contract concluded in writing or by means of an electronic signature are presumed to take precedence over these GTCS D.

2. Quotes

2.1 By making an enquiry, the Contracting Party is requesting Alupak AG to provide a quote (invitatio ad offerendum). The Contracting Party shall specify exactly for which products Alupak AG is to provide a quote.

2.2 It is at the sole discretion of Alupak AG to decide whether to provide a quote to the Contracting Party. If Alupak AG does not respond to an enquiry, this may not be construed as a quote under any circumstances.

2.3 If Alupak AG provides a quote, it shall be deemed to be non-binding unless it has been expressly marked as binding.

2.4 If Alupak AG does not set a deadline for acceptance in a quote marked as binding, the quote shall be binding for five days.

3. Orders and order confirmation

3.1 Orders placed by the Contracting Party shall only become binding if Alupak AG has confirmed them in writing (e.g. by e-mail or fax) or if the Contracting Party accepts without reservation a quote marked as binding in writing (e.g. by e-mail or fax) within the deadline for the quote.

3.2 If orders require confirmation from Alupak AG, this shall be issued within ten working days. During this period, the Contracting Party is bound to its order. If Alupak AG does not respond by this deadline, the order shall be deemed to have not been placed.

3.3 Alupak AG may supply products other than those ordered if the goods are generic and not specified in detail, provided that they are of at least average quality and serve the same intended purpose.

4. Approval of plans and drawings

4.1 If Alupak AG manufactures or has products manufactured specifically for the Contracting Party, it shall have the execution plans and any drawings (e.g. for prototypes) approved by the Contracting Party. Upon receiving authorisation, the Contracting Party becomes responsible for the correctness and feasibility.

4.2 If the products, which were created on the basis of the approved execution plans and any drawings, prove defective or faulty, the liability and/or warranty of Alupak AG shall lapse.

5. Prices, payment terms and defaults in payment

5.1 The agreed prices are exclusive of value added tax and include the product price plus storage and shipping costs and any duties (e.g. customs duties).

5.2 The agreed prices are fixed prices, subject to market-related increases in raw material prices of more than 1% or increased third-party costs (e.g. transportation and shipping costs).

5.3 In the event of market-related increases in raw material prices of more than 1%, Alupak AG may pass on the raw material price

increase of more than 1% or the increased third-party costs (e.g. transportation and shipping costs) to the Contracting Party. However, market-related reductions in raw material prices or reduced third-party costs (e.g. transportation and shipping costs) will not result in a subsequent reduction in fixed prices.

5.4 Any agreed discounts may be deducted by the Contracting Party from the invoice or from the product price adjusted for value added tax, customs duties, levies and storage, transportation and shipping costs within the relevant deadlines. If no deadlines for the discount deduction are provided for, but a discount deduction has been agreed, the deadline for the discount deduction shall be five days.

5.5 Unless otherwise agreed in individual cases, the following terms of payment shall apply: Thirty days net after receipt of the invoice; Alupak AG may request advance payments up to a maximum of the agreed fixed price. This shall also apply in the event that several delivery items are delivered in separate deliveries.

5.6 Alupak AG may assign its claims against the Contracting Party or have them collected by third parties. However, the Contracting Party may not assign claims against Alupak AG or have them collected by third parties without the prior written consent of Alupak AG (pactum de non cedendo).

5.7 If the Contracting Party is in default of payment, Alupak AG may charge default interest of 8% from the Contracting Party after a reminder has been issued. The Contracting Party shall pay an administrative fee of CHF 20.00 per reminder.

6. Place of delivery (place of performance), transfer of benefit and risk, delivery date and delay in delivery

6.1 The place of delivery (place of performance) shall be at the registered office of Alupak AG (provision of the products including delivery note on the ramp [EXW, Incoterms® 2020]), irrespective of whether the products are sent to the Contracting Party.

6.2 Alupak AG may provide the ordered products in partial deliveries; in the case of the original agreement of partial or successive deliveries, Alupak AG may also provide excess or short deliveries of up to 10%. The following provisions shall apply mutatis mutandis to partial and/or successive deliveries.

6.3 Alupak AG shall pack the products provided in a professional manner.

6.4 If transportation or dispatch of the products is agreed, Alupak AG shall hand over the packaged products and a delivery note to a recognised carrier or a carrier appointed by the Contracting Party.

6.5 The benefit and risk of the products shall pass to the Contracting Party when they are made available on the ramp, irrespective of whether the products are transported or dispatched.

6.6 Unless otherwise specifically agreed in writing or by means of electronic signature, the delivery dates specified by Alupak AG shall be deemed to be approximate estimates.

6.7 Delays in delivery on the part of Alupak AG shall not entitle the Contracting Party – subject to section 6.8 below – to withdraw from the contract, to claim damages due to delays or to claim penalties for delays, etc. The liability of Alupak AG in the event of delay is – so far as legally permissible – fully excluded.

6.8 If a delivery becomes temporarily or completely impossible due to force majeure (war, severe supply chain restrictions, epidemics or pandemics), Alupak AG may, at its discretion and without any liability, (i) withdraw from the contract or (ii) offer the option of a later delivery (stating a new approximate delivery date). If a later approximate delivery date is specified, the Contracting Party may within five working days (Monday to Friday) declare it is withdrawing from the contract. If the products in question are manufactured specifically for the Contracting Party, Alupak AG may charge the Contracting Party for any costs incurred to date (in particular for raw materials ordered from third parties) in the event of the Contracting Party withdrawing from the contract.

7. Retention of title

7.1 The products shall remain the property of Alupak AG until the fixed price has been paid in full, irrespective of whether partial deliveries have already been made.

7.2 Retention of title does not exclude the right of the Contracting Party to use the delivered products or to modify and sell them. However, as long as retention of title exists, the Contracting Party may neither assign them as security nor pledge them.

8. Inspection and acceptance of the delivery, Warranty

8.1 The following shall be recorded on the delivery note:

- Order number
- Material number of Alupak AG, including product designation
- Delivery quantity and delivery date
- Information on partial and remaining deliveries
- Country of origin, including customs tariff number (statistical commodity code)

8.2 Alupak AG warrants that the products meet a standard of average quality or, in the case of explicitly agreed upon written specifications designated as warranties, comply with these specifications. Alupak AG makes no further warranties, either implicitly or explicitly. Any other warranties (including those based on statutory provisions) are excluded to the extent permitted by law.

8.3 The Contracting Party shall inspect the products once the benefit and risk have passed (section 6.5). The Contracting Party has a period of five working days (Monday to Friday) in which to do so.

8.4 Defects in products which the Contracting Party has discovered during the inspection in accordance with section 8.3 above or could have discovered by exercising due care shall be reported in writing to Alupak AG (e.g. by e-mail or fax) within a period of eight working days at the latest after the time of transfer of benefit and risk (section 6.5), otherwise all warranty claims shall be forfeited. Any latent defects in the products that the Contracting Party does not notice until later must be notified to Alupak AG in writing (e.g. by e-mail or fax) within 3 days of the Contracting Party discovering them, otherwise the warranty rights in respect of those products will also be forfeited.

8.5 Where there are defects in the products, the Contracting Party is only entitled to a replacement delivery of defect-free products. All other legal remedies, specifically rescission, reduction and compensation, are expressly excluded.

8.6 The warranty period is six months from the date of transfer of benefit and risk.

9. Return of packaging material

9.1 If it is agreed that empties and packaging material are to be returned, the costs shall be borne by the Contracting Party.

10. Exclusion of product liability and indemnification

10.1 Alupak AG accepts no liability for claims for damages by third parties caused by product damage. In this respect, Alupak AG shall be indemnified and held harmless by the Contracting Party from third-party claims for damages upon first request.

11. Confidentiality, Intellectual property

11.1 Any information, drawings, etc. that Alupak AG shares with the Contracting Party may not be used for other purposes, reproduced or made accessible to third parties. Furthermore, the Contracting Party may not disclose the contractual relationship with Alupak AG to third parties without the written consent of Alupak AG. Alupak AG holds the copyrights in all such materials. Upon request, all documents handed over (including all copies or duplicates) must be returned to Alupak AG without delay.

11.2 Alupak AG shall remain the sole owner of all rights to all intellectual property (irrespective of whether these can be registered or not [e.g. patents, trademarks, samples, designs, expertise, goodwill, processes, trade secrets, domain names, etc.]) relating to the products.

11.3 The Contracting Party may not use the intellectual property of Alupak AG outside of the contractual relationship or outside of the intended purpose, in particular from registering or asserting intellectual property rights itself.

12. Data protection

12.1 The Contracting Party undertakes to comply with the relevant data protection regulations.

13. Place of performance, Applicable law, Place of jurisdiction

13.1 The registered office of Alupak AG shall in all cases be the place of performance irrespective of the place of performance for the delivery of products (section 6.1).

13.2 This contractual relationship is subject to Swiss law. The UN Convention on Contracts for the International Sale of Goods is expressly excluded.

13.3 The exclusive place of jurisdiction shall be the registered office of Alupak AG.