

Cellpack AG General Terms and Conditions

I. General provisions

Only the present terms and conditions shall apply to the legal relationship between Cellpack AG, Villmergen (hereinafter: Supplier) and a customer ("Customer"). Customer's terms and conditions and / or stipulations deviating from these present terms and conditions shall only apply if Supplier has expressly consented to them in writing.

II. Prices, Incoterms and offsetting

1. Unless otherwise agreed, all prices are in Swiss francs plus applicable VAT.
2. Unless otherwise expressly agreed, all deliveries are EXW Cellpack AG, Anglikerstrasse 99, CH-5612 Villmergen (INCOTERMS 2020).
3. Unless otherwise agreed, Customer shall make payments without deduction and within thirty (30) days. Payments may only be made to bank accounts named by Supplier; only such payments shall discharge of debt. Dangers of "cyber crime" are expressly reminded. Should Customer receive bank details other than usual ones, he shall immediately report this to his usual Supplier's contact before making any payment.
4. Claims may only be set off against undisputed or statutory claims.
5. In the event of late payment, default interests of eight per cent per year (8% p.a.) will be due from the 31st day following the invoice date, without a need for reminder.

III. Retention of title and securities

1. Supplier claims retention of title for all deliveries. All delivered goods remain Supplier's sole and unlimited property until paid for in full. Supplier is authorized to seek entry of retention of title in respective official registers.
2. In case of justified doubts regarding Customer's solvency, Supplier may request securities or concurrent payments aligned with deliveries. In case Customer should not comply with this request within a reasonable period defined by Supplier, Supplier may demand immediate payment of the total price or impose, immediately, a contractual penalty of 10% of the total price, in conjunction with a binding, enforceable payment plan.
3. Until full payment has been made, Customer is held to insure all delivered goods against theft, breakage, fire, water damage and comparable risks, with Supplier designated as beneficiary.

IV. Delivery; Deadlines; Default

1. Supplier shall be entitled to make partial deliveries.
2. In case deadlines for deliveries cannot be met due to:
 - a) Force Majeure, including but not limited to, mobilization, war, epidemics, direct or indirect impact of official orders, material and product shortages, acts of terrorism, rioting or similar events (e.g. strike, lockout),
 - b) virus and other attacks by third parties on Supplier's IT system, insofar such occurred despite compliance with usual protective care measures,
 - c) obstacles due to Swiss, US and/or other applicable national, EU or international regulations on foreign trade law, or due to other circumstances not attributable to Supplier,
 - d) delayed, incomplete and/or non-conform delivery to Supplier,
 - e) missing information and/or required actions by Customer,all agreed deadlines shall extent in an appropriate manner, without placing Supplier into delay of delivery.
Supplier shall be released from performance obligations if such hindering circumstance, not attributable to Supplier, continues for more than four (4) weeks, without interruption.
3. Should Supplier be in delay in an attributable manner, Customer may claim suffered credibly proven damage if such damage results from the delay. Such compensation shall be, for each completed week of delay, half a percent (0.5%), but, in total, not more than five per cent (5%) of the purchase price, and only for the part of the deliveries directly affected.
4. Should shipment or delivery, upon Customer's request, be delayed for more than one (1) month after readiness for shipping has been notified, Supplier may charge Customer storage fees amounting to half a per cent (0.5%) of delivery items' price for each additional month or part thereof, up to a maximum of five per cent (5%). Proof of higher or lower storage costs remains unaffected.

V. Transfer of Risk

1. Risk transfers to Customer with the submission of the "ready to ship" notification. Without written notification, the risk is transferred to the carrier at handover.
2. In case of delays attributable to Customer, risk transfers the moment Customer falls into default of acceptance.

VI. Warranties and indemnities

1. Safe of any deviating written agreement, claims for material defects shall become statute-barred after twelve (12) months following the transfer of risk, unless mandatory law stipulates a longer period. For replaced or repaired goods, the warranty period is six (6) months provided the period for originally delivered goods has already expired.
2. Notices of defects by the customer must be made immediately and in writing (letter, fax or e-mail). Customer shall carefully check and review all received goods and shall notify Supplier in writing of any defects, but no later than seven (7) calendar days after receipt of the goods. In case Customer does not submit a complete and timely notification of defects, delivered goods are deemed to be free of defects, unless otherwise foreseen by mandatory statutory provisions. If the defect is not reported and

/ or the Supplier is not given sufficient opportunity to rectify defects, warranty rights shall expire.

3. Supplier will, at Supplier's choice and as quickly as possible, either replace defective goods or repair the defect. If such fails, Customer may withdraw from the contract or reduce the remuneration in accordance with the proven disadvantage suffered by the defect. All Customer's warranties under this article are final, unless otherwise stipulated by law.
4. The following circumstances are excluded from the warranty – unless otherwise stipulated by law: insignificant defects, defects as a result of excessive, improper, faulty, negligent use of the delivered goods, repair attempts by Customer or third parties which have not been approved priorly by Supplier, disadvantages of any kind going beyond the defect itself, lack of defect notification, expiry of the warranty period as well as any and all circumstances beyond Supplier's influence or not attributable to him.
5. Furthermore, claims for damages of whatever kind and for whatever reason are excluded, unless mandatory law stipulates otherwise. In particular, the following shall be excluded, and always within the boundaries of mandatory law, including but not limited to: financial losses such as loss of income, profit, orders; limits of use, production downtimes, waiting costs, loss or damage of materials or products, system downtimes or delays, loss of goodwill, loss of immaterial assets, actions and omissions by vicarious agents and/or other auxiliary persons, claims for damages or contractual penalties from third parties towards the Customer, contractual liability obligations towards third parties, recourse claims, recall costs, expenses for the assertion of rights, taxes, customs duties and other charges, other financial or economic losses or damage, whether direct, indirect or consequential, and based upon whatever basis or theory, as well as any other atypical or accidental damage caused, incurred or arising.

VII. Export Control Regulations

1. The fulfilment of Supplier's obligations is subject to the absence of obstacles due to Swiss, US or other applicable national, EU or international regulations of foreign trade law, as well as the absence of embargoes, other sanctions or circumstances (e.g. Force Majeure).
2. Customer is obliged to provide all information and documents that are required for export, shipment or import.

VIII. Confidentiality and data protection

1. Supplier ensures that all applicable statutory provisions on the protection of confidential information are observed. Customer is obliged apply the same degree of care in his sphere of influence.
2. To the protection of personal data applicable legal requirements shall apply. Insofar Supplier processes personal data outside of Switzerland, according protective measures as stipulated by applicable mandatory law will be taken. Corresponding obligations apply to Customer with respect to his actions.

IX. Property rights and copyrights

1. All images and texts used by the Supplier (including, but not limited to, photos, videos, logos, websites, catalogues, technical descriptions and instructions for use) are Supplier's property or Supplier is authorized to their commercial use based upon specific titles (license or other usage rights). The same holds true to the delivered goods themselves.
2. Regardless of whether such property and/or commercial use rights are registered or not, only the Supplier is authorized to use them. Any use by third parties requires Supplier's prior written consent. The contractual relationship between the parties does not constitute such consent.
3. Customer shall be responsible for any damage, of whatever kind suffered by the Supplier resulting from a violation of the prohibition of use, be it by the Customer or by third parties insofar as such can be attributed to Customer.

X. Place of jurisdiction; applicable law

1. The registered office of the Supplier shall be the sole place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship between the parties. However, Supplier shall also be entitled to sue Customer at Customer's registered office.
2. The contractual relationship including its interpretation shall be subject to Swiss law, excluding however its conflict-of-law provisions and the United Nations Convention on Contracts for the International Sale of Goods (CISG).