

1. General Terms

- 1.1. These General Terms and Conditions of business shall apply to all our business dealings with customers. They shall apply in particular to all future business, even if no express reference is made to them.
- 1.2. These General Terms and Conditions shall be final for all our business dealings with customers. In particular, customers' general terms and conditions, such as conditions of purchase, shall not become part of the contract, irrespective of whether they contain provisions which deviate from or supplement these General Terms and Conditions of business.
- 1.3. Any amendments of or additions to these General Terms and Conditions, and any ancillary agreements, shall require our written confirmation.

2. Offers, Order Confirmations, Tools, Designs, Extra/Short Deliveries

- 2.1. The size and conditions of the contract shall be determined by our written order confirmation. In general our offers are non-binding. If, by way of exception, we make a binding offer, be it oral or written, and if the offer is accepted by the customer within the time-limit given, our written order confirmation shall still be controlling unless the customer objects immediately.
- 2.2. Documents enclosed with the offer, such as photographs, drawings, details as to size and weight, samples, shall only be binding to the extent that they are expressly designated as such.
- 2.3. In the event of obvious clerical or calculation errors in the offer or in the order confirmation, we shall be entitled to cancel the contract. Claims for damages by the customer are excluded.
- 2.4. If the customer reimburses or assumes all or part of the tooling costs, this shall not give him the right to claim title to the tools. These shall remain our property at all events, irrespective of any industrial property rights the customer may have.
- 2.5. Documents relating to our products, in particular designs, details of composition, and drawings, including intangible property rights such as patents, copyrights, shall remain our property, even if an order is placed. We shall therefore have the exclusive right to use and copy such documents. If the designs incorporate customer models, the foregoing refers solely to that part of the designs prepared by us.
- 2.6. We shall be permitted to supply quantities which exceed or fall short of the total quantity ordered by up to 10%. The price shall be increased or decreased accordingly.

3. Products of the customer

The customer agrees to cover by insurance the products put at our disposal by him, such as the product to be filled, raw materials, packing materials, labels etc. as well as specially manufactured moulds and mould parts which are stored in our warehouse. Maropack will not cover by insurance the above mentioned products.

4. Verification Obligation of the Customer

- 4.1. The subject of the contract shall be exclusively the proper filling of the filling product into primary or secondary packaging. If we procure the filling product ourselves, the proper condition of the filling product shall also be the subject of the contract. It is up to the customer alone to check whether the types of primary or secondary packaging we suggest are suitable for the filling product, in particular from the point of view of stability. The customer is in particular obligated to perform the necessary stability tests, in particular such tests as are required by law, if any. We are gladly prepared to place sample materials at the customer's disposal for these tests upon request; we reserve the right to charge the customer for this.
- 4.2. It is up to the customer alone to check to ensure that the trade names, trademarks, get-ups, advertising texts, product information and warnings, etc. used by us at the customer's suggestion in the execution of the contract do not infringe rights of third parties, and that they are correct and complete. The customer must therefore exempt us from liability if we infringe rights of third parties in executing the contract.

5. Prices, Payment Period, Default of Payment, Set-off

- 5.1. The customer shall pay the price stated in the order confirmation plus value-added tax at the statutory rate. Unless otherwise agreed the price shall be ex works, excluding packaging and insurance.
- 5.2. Unless otherwise agreed the price plus statutory value-added tax shall be payable 14 days after receipt of the invoice.
- 5.3. Bills of exchange and cheques shall only be accepted on account of performance and upon agreement. In addition, bills of exchange shall only be accepted on condition that they are discountable. Discounting charges shall be charged at the going rate at the time in question from the date of issue/presentation onwards.
- 5.4. If the payment period mentioned in para. 5.2 above is exceeded, we shall have the right, without notice, to charge interest from that time onwards at a rate 3 percentage points above the discount rate of the Swiss National Bank in effect at that time, but at least at a rate of 5% p.a., whichever rate is higher.
- 5.5. The customer shall only have a right of set-off or withholding for similar claims if such are uncontested or res judicata. For non-similar claims the right of withholding is restricted to the customer's claims arising from the same contractual relationship.
- 5.6. If the customer's financial circumstances deteriorate substantially after he has placed an order, or if we learn after the order has been placed that the customer's financial circumstances had deteriorated substantially beforehand, we shall be entitled to demand that the customer either make advance payment or furnish security, at our option.

6. Delivery Periods, Late Delivery, Partial Deliveries

- 6.1. Information relating to delivery periods shall be non-binding. If, as an exception, a binding delivery period is agreed, it shall begin on the day receipt of the order is acknowledged. However, the commencement of the delivery period shall be deferred until such time as all details of the contract have been clarified, in particular until the customer has provided us with all documentation, permits and clearances, and has made any agreed down payment. The delivery period can only be met if the customer fulfils his contractual obligations. The delivery period shall be deemed met if the products have been shipped, or if notice of their readiness for shipment has been given, before it expires.

- 6.2. If we are prevented from delivering the goods by force majeure, the delivery period shall automatically be extended by the duration of the effects of the force majeure, plus a reasonable start-up time. In the event that unforeseeable events or circumstances beyond our control make it unreasonably difficult or impossible for us to deliver the goods, these shall be deemed equivalent to force majeure. Examples of such circumstances are suppliers' delivery delays, industrial disputes, official measures, shortages of raw materials or energy, major plant stoppages, e.g. due to the destruction of the entire plant or important parts thereof, the breakdown of essential production facilities or due to the unforeseeable absence of a large number of employees owing to illness, serious transport disruptions, e.g. due to road blockages, labour disputes in the transportation industry, energy shortages, driving bans. If these circumstances continue for more than four months we shall have the right to cancel the contract. At the customer's request we must state whether we intend to cancel the contract or to deliver the goods within a reasonable period of time to be fixed by us. Claims for damages by the customer are excluded.
- 6.3. If we are responsible for exceeding a reasonable delivery period, we shall only be deemed in default if the customer has given us a reasonable time extension, which shall not be less than three weeks, and we do not deliver the goods within this deadline. Following expiry of this additional period the customer can cancel the contract. Claims for damages by the customer on the basis of slight negligence on our part are excluded.
- 6.4. We shall be entitled to make partial deliveries, for which we can issue partial invoices. The time for payment shall run separately for each partial invoice.

7. Shipment, Default in Accepting Delivery by the Customer

- 7.1. Transport shall be at the customer's risk, even if we bear the transport costs. We shall be entitled, but not obligated, to obtain transport insurance. The cost of any transport insurance shall be borne by the customer. The risk shall pass to the customer as soon as the goods leave our factory, even in the case of partial deliveries, or if we have undertaken to provide further services. If transportation is delayed for reasons beyond our control or due to actions of the customer, the risk shall pass to the customer upon notification from us that the goods are ready for dispatch.
- 7.2. Unless the customer issues contrary instructions, we shall decide on the means of transport, the transport route and the transport insurance, whereby we shall not be responsible for selecting the fastest or the least expensive alternative.
- 7.3. Claims for damages on the basis of defective packaging of the goods, failure to observe packaging instructions or failure to observe transport instructions due to slight negligence on our part are excluded.
- 7.4. If the goods are damaged or lost in transit the customer shall see to it that the forwarding agent draws up a report of the facts without delay.
- 7.5. If the customer does not promptly accept products that have been declared ready for dispatch, we shall be entitled to store the goods at the customer's expense and risk, and to demand payment of the price, or, after expiry of a reasonable extension period, to refuse to execute the contract and claim damages for default.

8. Customer Complaints, Acceptance, Warranty

- 8.1. The customer is obligated to inspect our performance, i.e. the primary and secondary packaging and the filling product, immediately after delivery and, if necessary, to notify us of any defects without delay. The aforementioned obligation to inspect the goods and notify us of any defects shall also apply in cases where the customer has supplied us with the filling product or other materials. Notice of a defect must be given immediately, whereby notification within 7 work days after the risk has passed to the customer shall in any case be deemed timely.
- 8.2. If the customer has to declare acceptance of the goods in conformity with statutory or contractual provisions, acceptance shall be deemed declared 14 days after the risk passed to the customer.
- 8.3. The guarantee period shall be six months. Any particulars regarding maximum keeping properties given by the customer shall not affect, and in particular not extend, the guarantee period.
- 8.4. Our products shall only be deemed to be defective if they can be proved to possess defects that eliminate or substantially reduce its value or its fitness for the use intended, or if express warranties are lacking. Express warranties are exclusively those that are specifically described as such in the order confirmation.
- 8.5. If the products are defective, the customer can only demand that the defects be remedied. We shall be entitled to deliver replacements instead of remedying any defects. Any rights of the customer to demand replacement goods are hereby excluded; this shall apply in particular to products that have been withdrawn from our product range, and after the goods have been accepted.
- 8.6. The customer shall, however, be entitled to demand rescission of the contract or reduction of the price if the defects are not remedied.
- 8.7. We shall not be liable for normal wear and tear and for defects caused by improper handling or storage under improper conditions by the customer or third persons.
- 8.8. Our warranty shall not apply if eventual defects in the performance are the consequence of breaches by the customer of its obligations.
- 8.9. For divisible performances the warranty rights of the customer are restricted to the part concerned.
- 8.10. The assertion of warranty claims shall have no effect on payment obligations and payment periods. If the customer fails to fulfil his payment obligations or does not fulfil them within the agreed period, our warranty obligations defined above shall be suspended until such time as the payment obligations are met.
- 8.11. If, before placing the order, the customer instructed us to manufacture a sample batch or the like, then this sample batch shall not constitute a sample of a specimen within the meaning of Art. 222 Swiss Code of Obligations. If deviations in the products from the sample batch constitute a defect, the customer shall only have the rights described above.

9. Retention of Title

- 9.1. The products delivered to the customer shall remain in our ownership until we will have received the full payments in accordance with the contract.

Maropack AG Industriestrasse Briseck 4 6144 Zell - CH	Tel. +41 41 989 74 00 Fax +41 41 989 74 01	Internet: www.rommelag.com E-Mail: mail.mpz@rommelag.com
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- 9.2. The customer shall cooperate in any measures necessary for the protection of our title. In particular upon entering into the contract it authorises us to enter or notify the reservation of title in the required form in public registers, books or similar records and to fulfil all corresponding formalities, at customer's cost.
- 9.3. During the period of the reservation of title, the customer shall, at its own cost, maintain the supplies and insure them for our benefit against theft, breakdown, fire, water and other risks. It shall further take all measures to ensure that our title is in no way prejudiced.
- 9.4. If, in the case of deliveries abroad, particular measures on our part are required in the country of importation to ensure the effectiveness of the retention of title or other rights of ours pursuant to para. 9.1-9.3. above, then the customer shall inform us accordingly and take such measures at its own expense. If the laws of the country of importation do not permit retention of title, but allow the seller to reserve other rights with respect to the delivered goods, we can exercise all such rights. If these do not ensure an equivalent securing of our claims against the customer, the customer is obligated to provide at his cost other security interests in the products delivered, or other types of security.

10. Non-Assignment

The assignment of claims that become due to the customer in the course of business dealings with us is hereby excluded.

11. Liability

- 11.1. Claims (not explicitly mentioned in sec. 8) on the basis of some legal argument, in particular claims for damages not affecting the products delivered themselves such as loss of production, loss of use, loss of orders, loss of profit, consequential loss and other direct or indirect damages, are excluded. The same applies when such damages have arisen out of violation of the obligation to improve, but the same does not apply when the products are lacking in express warranties.
- 11.2. Claims by the customer (including claims under a right of recourse) arising out of unlawful acts, product liability, erroneous advice or failure to give advice, positive violation of contract, fault in conclusion of the agreement, cancellation of or withdrawal from the agreement, and other claims not specifically mentioned are excluded, even if the products are lacking in express warranties.
- 11.3. Claims for damages of the customer against us are only admissible provided that we are proved to be at fault and limited to a maximum of up to CHF 2'000'000 (Swiss francs two million). Claims for purely financial losses not attributable to material or personal damage are excluded. This latter provision applies even when the financial losses arise from subsequent reconditioning.
- 11.4. None of the exclusions of liability mentioned in these General Terms and Conditions shall apply in the event of unlawful intent on Maropack AG's part; they shall, however, apply in the event of unlawful intent or gross negligence on the part of auxiliary personnel. Moreover, they do not apply either insofar as mandatory legal provisions stand in the way.

12. Place of Performance, Venue

- 12.1. The place of performance for all deliveries and payments shall be CH-6144 Zell.
- 12.2. The exclusive place of jurisdiction for all disputes is CH-6144 Zell. We are also entitled to sue in the place where the customer has his registered office.

13. Choice of Law

All legal relations between ourselves and the customer shall be governed by Swiss law. The application of the Uniform and the UN Acts on Sale of Goods is hereby excluded.

14. Partial Invalidity

If individual provisions of these General Terms and Conditions should be or become wholly or partially invalid, or if there should be an omission, this shall not affect the validity of the remaining provisions. In place of the invalid provision, that valid provision shall be deemed agreed which corresponds to the intent and purpose of the invalid provision. In the case of an omission, that provision shall be deemed agreed which corresponds to that which would have been agreed, on the basis of the intent and the purpose of these General Terms and Conditions, if the matter had been considered at the outset. This shall also apply when the invalidity of a provision relates to a measure of performance or time specified in these General Terms and Conditions; in such a case, that legally admissible measure of performance or time which comes closest to that originally intended shall apply instead of that which was agreed upon.

AGB/E/2000/1

Maropack AG Industriestrasse Briseck 4 6144 Zell - CH	Tel. +41 41 989 74 00 Fax +41 41 989 74 01	Internet: www.rommelag.com E-Mail: mail.mpz@rommelag.com
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