

# **SHRINKFAST**

## **Transportverpackung**

### **General Terms and Conditions SHRINKFAST Transportverpackung GmbH**

#### **§ 1 Scope of application**

(1) These Terms and Conditions of Sale shall apply exclusively to entrepreneurs, legal entities under public law or special funds under public law within the meaning of Section 310 (1) of the German Civil Code (BGB). We shall only recognize terms and conditions of the Purchaser that conflict with or deviate from our Terms and Conditions of Sale if we expressly agree to their validity in writing.

(2) These Terms and Conditions of Sale shall also apply to all future transactions with the Purchaser, insofar as these are legal transactions of a related nature.

(3) Individual agreements made with the purchaser in individual cases (including ancillary agreements, supplements and amendments) shall in all cases take precedence over these terms and conditions of sale. Subject to proof to the contrary, a written contract or our written confirmation shall be authoritative for the content of such agreements.

#### **§ 2 Offer, content of the contract and conclusion of the contract**

Our offers are subject to change and non-binding. The contract shall not be concluded until we have confirmed the order in writing. If our order confirmation deviates from the customer's order, the deviations shall be deemed to have been approved if the customer does not object to them without delay. If an order is to be regarded as an offer in accordance with § 145 of the German Civil Code (BGB), we may accept it within two weeks.

#### **§ 3 Copyrights and documents provided**

We reserve the property rights and copyrights to all documents provided to the customer in connection with the placing of the order - also in electronic form - such as calculations, drawings, etc.. These documents may not be made accessible to third parties unless we give our express written consent to do so. If we do not accept the orderer's offer within the period of § 2, these documents shall be returned to us without delay.

#### **§ 4 Prices and payment**

(1) Unless otherwise agreed in writing, our prices shall be ex works, freight prepaid.

(2) All prices are net prices and do not include the value added tax applicable at the time of delivery.

(3) In the absence of any written agreement to the contrary, all payments by the customer shall be made in EURO at the customer's expense and risk, in particular with regard to timeliness.

(4) Payment of the purchase price shall be made exclusively to the account specified overleaf. The deduction of cash discount is only permissible in case of a special written agreement.

(5) In the case of orders from new customers and / or orders outside Germany, we reserve the right to set as a condition of payment cash in advance by pro forma invoice.

(6) In case of increased production costs, in particular due to wage increases and price increases for raw and auxiliary materials, we are entitled to price increases, provided that a period of more than 3 months has elapsed between conclusion of the contract and acceptance.

## **§ 5 Delivery**

(1) Deliveries shall be ex works according to Incoterms 2020 (Incoterms 2020 EXW, SHRINKFAST Transportverpackung GmbH, Remshalden-Grünbach).

(2) The beginning of the delivery time stated by us presupposes the timely and proper order. We reserve the right to plead non-performance of the contract.

(3) The delivery time shall be calculated according to the provisions in the order confirmation. If the delivery time is not marked as binding in the order confirmation, it is the expected and approximate delivery time.

(4) The delivery time begins with the dispatch of the order confirmation.

(5) We shall be entitled to make partial deliveries, provided that the customer does not suffer any unreasonable disadvantages as a result and this is reasonable for him.

(6) The period of performance shall be reasonably extended in the event of force majeure. Cases of force majeure shall also include events unforeseeable at the time of conclusion of the contract, such as pandemics, epidemics, energy and raw material shortages, strikes, lockouts official measures, terrorist attacks and war. We shall inform our customers immediately of the existence of force majeure and of the expected end of these circumstances.

(7) If the customer is in default of acceptance or culpably violates other obligations to cooperate, we shall be entitled to demand compensation for the damage incurred by us in this respect, including any additional expenses. We reserve the right to assert further claims. If the above conditions are met, the risk of accidental loss or accidental deterioration of the object of sale shall pass to the customer at the point in time at which the customer is in default of acceptance or debtor's delay.

(8) Further legal claims and rights of the purchaser due to a delay in delivery remain unaffected.

## **§ 6 Transfer of risk in case of shipment**

If the goods are shipped to the Purchaser at the Purchaser's request, the risk of accidental loss or accidental deterioration of the goods shall pass to the Purchaser upon dispatch to the Purchaser, at the latest upon leaving the factory/warehouse. This shall apply irrespective of whether the goods are dispatched from the place of performance or who bears the freight costs.

## **§ 7 Reservation of proprietary rights**

(1) We reserve title to the delivered item until full payment of all claims arising from the delivery contract. This shall also apply to all future deliveries, even if we do not always expressly refer to this. We shall be entitled to take back the object of sale if the customer acts in breach of contract.

(2) As long as ownership has not yet been transferred to the Purchaser, the Purchaser shall be obliged to treat the object of sale with care. In particular, he shall be obliged to insure it adequately at his own expense against theft, fire and water damage at its replacement value. Maintenance, inspection and repair work shall be carried out by the Purchaser in good time at its own expense. As long as ownership has not yet been transferred, the customer must inform us immediately in writing if the delivered item is seized or exposed to other interventions by third parties. Insofar as the third party is not in a position to reimburse us for the court and out-of-court costs of an action pursuant to § 771 ZPO (German Code of Civil Procedure), the purchaser shall be liable for the loss incurred by us.

## **§ 8 Warranty and notice of defects as well as recourse/manufacturer recourse**

(1) Warranty rights of the Purchaser require that the Purchaser has duly complied with its obligations to inspect the goods and to give notice of defects in accordance with § 377 of the German Commercial Code (HGB).

(2) If, despite all due care, the delivered goods show a defect which was already present at the time of the transfer of risk, we shall, at our discretion, either repair the goods or deliver replacement goods, subject to timely notification of defects (statutory limitation period 24 months pursuant to § 438 para. 1 no. 3 BGB). We shall always be given the opportunity to remedy the defect within a reasonable period of time.

(3) The customer shall grant us a reasonable period of time, but at least a period of ten working days, to carry out the subsequent performance. The period shall commence upon the customer's request.

(4) We shall bear the costs of subsequent performance on the basis of the statutory provisions. We shall not assume any additional expenses incurred by the transfer of the products to a place other than the original place of use.

(5) Our right to refuse subsequent performance in whole or in part if the legal requirements are met shall remain unaffected.

(6) Warranty claims shall become invalid in the event of fraudulently concealed defects or in the event of an item that has been used in accordance with its customary manner of use and has caused its defectiveness (§ 438 para. 1 no. 2b BGB).

(7) The limitation period for the customer's warranty rights pursuant to Section 438 of the German Civil Code (BGB) shall not begin to run anew as a result of a rectification carried out by us if, when a defect occurs after rectification, it is the same defect or the consequences of a defective rectification.

(8) The legal regulations for the recourse of the seller according to § 445a, 445b BGB remain unaffected.

## **§ 9 Liability**

(1) We are liable without limitation according to the product liability law.

(2) We are liable without limitation for the intentional or grossly negligent breach of contractual obligations.

(3) We are not liable in the case of breach of contractual obligations, provided that we are only guilty of simple negligence and it is not essential contractual obligations.

## **§ 10 Repairs, maintenance and testing**

(1) SHRINKFAST Transportverpackung GmbH offers repairs, maintenance and testing of the hand shrink units. Upon request, a test certificate will be issued, which assures that at the time of the test the hand shrink unit was fully operational and there were no defects.

(2) According to DGUV regulation 79 - use of liquid gas (BGV D34), operators of hand-held shrink fit devices are obliged to have their hand-held shrink fit devices inspected by an expert every two years. We offer such maintenance / inspections and issue a certificate confirming the inspection in accordance with the DGUV regulations.

## **§ 11 Prohibition of assignment**

(1) The customer may assign rights and obligations arising from this agreement to third parties in whole or in part only with our prior written consent.

(2) Item 1 shall not apply to the assignment of a claim for payment within the meaning of § 354a of the German Commercial Code (HGB).

## **§ 12 Data / privacy protection**

We point out that we process the customer's data within the framework of the contractual relationship in compliance with the provisions of the German Data Protection Regulation (DSGVO).

## **§ 13 Miscellaneous**

(1) This contract and the entire legal relationship between the parties shall be governed by the laws of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

(2) Place of performance and exclusive place of jurisdiction and for all disputes arising from this contract is our registered office in Remshalden, unless otherwise stated in the order confirmation.

(3) All agreements made between the parties for the purpose of executing this contract are set down in writing.

## **§ 14 Severability clause**

(1) Should one or more provisions of these GTC or parts of a provision be invalid, this invalidity shall not affect the validity of the remaining provisions or the contract as a whole.

(2) In knowledge of the jurisdiction of the Federal Court of Justice, according to which a severability clause only leads to a reversal of the burden of proof, it is, however, the express intention of the parties to maintain the validity of the remaining provisions of these GTC under all circumstances.

(3) Clause 1 and Clause 2 shall apply mutatis mutandis in the event of a loophole.