

General terms and condition of sale, delivery and payment of the private company with limited liability Santino B.V., hereinafter referred to as “Santino”, with its registered office and principal place of business in Eindhoven.

Article 1 - Applicability of the general terms and conditions.

1. These general terms and conditions apply to all offers/tenders issued by Santino and agreements entered into for the brokerage activities or sale of products to be delivered/completed by Santino to a third party (hereinafter referred to as “the contracting party”), if and insofar as this is not expressly derogated from by means of an agreement in writing.
2. The applicability of any (personal) terms and conditions applied by the contracting party are expressly rejected, unless Santino has expressly accepted these.

Article 2 - Offers/coming into effect of agreements.

1. All offers/tenders from Santino are without obligation and can be revoked by Santino. An offer/tender from Santino has a validity period of one (1) month after the date/signing of the offer/tender unless expressly stated otherwise in the offer/tender concerned. The contents, statements, price lists and specification that occur in leaflets, brochures, websites and other advertising materials are subject to proviso (delivered products can derogate therefrom to a minor extent).
2. Consensus concerning the sale/delivery of Santino's products will come into effect by means of issuing an order or application in writing by the contracting party to Santino and the acceptance thereof by Santino. By means of the order of application issued in writing the contracting party accepts these general terms and conditions. An order or application will apply as accepted by Santino after confirmation in writing by Santino or due to the fact that Santino has commenced the performance of the agreement. An application or order confirmed by Santino in this manner will be referred to in these general terms and conditions as an “agreement”. This also includes orders that are placed via a web portal with log-in secured by a password, or as the case may be via Electronic Data Interchange (EDI) with Santino.
3. If the acceptance by the contracting party derogates from the offer/tender from Santino, Santino will not be bound thereby, even if the derogation concerns minor points. In that case no agreement will come into effect, unless Santino notifies otherwise.
4. Statements, specification, drawings and suchlike relayed to an offer/tender, will be deemed to form part of this offer/tender and will remain the property of Santino. They may never be copied, shown and/or handed over to, made known to, and/or used by third parties without express permission in writing from Santino and must be immediately returned to Santino upon request from Santino.
5. Statements, specification, drawings, information, notifications, quotations, advertising and suchlike, which are made known by Santino with regard to prices or characteristics, will be represented or made as precisely as possible. Obvious mistakes or errors in the offer (at the discretion of Santino) will not bind Santino. Any derogations will not give the contracting party the right to delivery and/or the right to postpone or refuse payment, or any right to compensation. The lists, specification, measurements and suchlike applied by Santino are drawn up by Santino and/or its suppliers to the best of one's ability. It is the responsibility of the contracting party to inspect prior to concluding the agreement whether the products meet the requirements and specification desired by the contracting party.
6. The offers/prices do not automatically apply to repeat orders, unless this has been expressly agreed. A composite quote will not oblige Santino to delivery of a part at a corresponding part of the price stated for the whole delivery.

Article 3 - Prices and quantities.

1. Insofar as not expressly agreed otherwise in writing, Santino's prices are ex warehouse in Euros, including packaging and excluding VAT and dispatch costs. The dispatch costs will be charged separately, depending on the choice made in the agreement for the manner of delivery.
2. Unless it has been agreed in writing that this concerns fixed prices, all price increases occurring after the concluding of the agreement as a result of for example an increase of materials/raw materials prices (including cotton), freight rates, wages, social security costs, customs, import and export costs/duties, turnover tax, as well as price increases resulting from exchange rate fluctuations, will be

charged on to the contracting party. In the event of such charging on, the contracting party will be entitled to in writing declare the agreement terminated within ten (10) days after the price increase was made known. If the contracting party does not use this right, the contracting party will be deemed to agree to the price increase.

Article 4 – Payment.

1. Insofar as not expressly agreed otherwise in writing, Santino will send its invoices simultaneously with or immediately after the delivery of the products concerned and payment must take place before the due date set out in the invoice. The payment term is a final deadline; if payment is not made in time the contracting party therefore will be in breach of contract without notice of default. The entry date of the transfer to Santino's bank account number applies as the day of payment.
2. If the contracting party has not made any comment with regard to the invoice within a maximum of five (5) days after the invoice date, the calculated price will be deemed to be approved. Objections to the amount of the invoice will not suspend the payment obligations related to the undisputed part.
3. If the contracting party omits to pay the owed sums of money after the first reminder, the contracting party will owe the legal fees actually incurred by Santino at law and otherwise (including the non-assessed legal costs) and court costs.
4. If payment of the invoice is not made in time by the contracting party, Santino will be entitled to charge default interest to the contracting party from the time of the invoice being due and payable, which default interest is to be calculated per month, whereby a part of the month will be calculated as a full month. The amount of this interest rate per month will be equal to the statutory commercial interest. This interest will be calculated over the total outstanding amount plus VAT.
5. The contracting party is not permitted to suspend a debt under an agreement with Santino or to set this off against any claim against Santino. Payments must be made by the contracting party without any withholding and/or deduction on whatsoever basis.
6. Santino retains the right to require security for the payment or as the case may be advance payment, whereby the fulfilment of its obligations can be suspended until the required security has been provided. In the absence of adequate provision of security/advance payment within the period set out, Santino will be entitled to terminate the ongoing agreements (whether or not partially) without further notice of default or judicial intervention.
7. In the event of bankruptcy, moratorium or guardianship of the contracting party, Santino's claim will be immediately due and payable.
8. If payment is not made in time by the contracting party, or if the contracting party is otherwise in attributable failure towards Santino, including remaining after a demand in default of taking receipt of the products purchased by the contracting party, Santino will inter alia have the right to terminate and/or to suspend (a part of) the agreement concerned and/or all other ongoing agreements with the contracting party, without any notice of default or judicial intervention. Santino will also have the right to charge a financial penalty to the contracting party of 35% of the entire order - insofar as this has not yet been invoiced - without prejudice to the right of Santino to claim compensation in full instead thereof.

Article 5 - Delivery/completion of products by Santino.

1. The manner of delivery/completion will be determined in conformity with the Incoterms 2020 in the agreement concerned. If this is not the case, the following manner of delivery/completion will apply as chosen: DDP (Delivered Duty Paid).
2. If Santino cannot deliver the products through the actions of the contracting party, all costs attached thereto will be at the contracting party's expense and Santino will be entitled to store (have stored) the products at the contracting party's expense and risk, and to claim prompt payment from the contracting party.
3. From the time of the delivery/completion the products will be at the contracting party's risk.
4. Insofar as not expressly agreed otherwise in writing, Santino will be entitled to partial delivery.

Article 6 – Delivery period.

1. The delivery period is taken to mean the period determined in the agreement, within which the products must be delivered/completed.

2. Santino will make efforts to have the delivery/completion or performance take place within the agreed delivery period(s), but any exceeding thereof will not give the contracting party the right to compensation or cancellation of an agreement. A stated delivery period will never be a final deadline. In case of exceeding a period the contracting party must give Santino notice of default in writing.

3. In the event of delay in the delivery/completion or performance of an agreement, which has arisen through the actions of the contracting party, or which are pursuant to the law or otherwise at the contracting party's account, Santino will have the right to invoice a part of the total agreed price on the agreed delivery date pro rata the delivered part, plus all extra costs incurred. The payment term referred to in article 4 will apply in that case.

Article 7 A. – Retention of title.

1. Santino is and remains the owner of the delivered products until the time when the purchase price is paid in full, regardless of whether a name or pictorial trademark of the contracting party is included or affixed thereon or therein.

2. Therefore, as long as the retention of title applies, the contracting party will be prohibited from selling, leasing, exchanging, lending out, or raising money on, giving on consignment, or sending on approval, or giving in pledge, or removing or having removed the products concerned from the location where they are situated, other than in the usual course of the contracting party's business.

3. If the contracting party does not, or does not completely, fulfil any obligation under an agreement with Santino, as well as in the event of bankruptcy, moratorium, liquidation or dissolution of the contracting party, the contracting party will be deemed to be in default by operation of law and Santino will be entitled, without any notice of default or demand, to collect (have collected) the products delivered by it under the agreement concerned, wherever these may be situated and to resell these. The costs incurred or to be incurred for this purpose, including the costs of packaging and possibly any required destruction will be at the contracting party's expense, without prejudice to the right of Santino to claim compensation in full.

4. The contracting party will inform every third party, which wishes to levy attachment on the products with regard to which retention of title applies, or the administrator in its moratorium, or the receiver in the contracting party's liquidation, immediately in writing, with a copy to Santino, of the fact that Santino is the owner of these products.

Article 7 B. Retention of title in Germany (Eigentumsvorbehalten in Deutschland)

1. In derogation from the provisions of article 7 A the following applies with regard to the products delivered by Santino to the contracting party, which is established in Germany:

(In Abweichung vom im vorgehenden Artikel 7A Festgelegte, gilt bezüglich der vom Lieferanten (Santino) an in Deutschland etablierte Abnehmer (contracting party) gelieferten Sachen folgendes:)

2. Das Eigentum an den gelieferten Waren bleibt zur Sicherung aller Ansprüche vorbehalten, die dem Lieferanten aus der gegenwärtigen und künftigen Geschäftsverbindung bis zum Ausgleich aller Salden gegen den Abnehmer zustehen.

3. Das Eigentum des Lieferanten streckt sich auch auf die durch Verarbeitung der Vorbehaltsware entstehende neue Sache. Der Abnehmer stellt die neue Sache unter Ausschluss des eigenen Eigentumserwerbs für den Lieferanten her und verwahrt sie für ihn. Hieraus erwachsen ihm keine Ansprüche gegen den Lieferanten.

4. Bei einer Verarbeitung der Vorbehaltsware des Lieferanten mit Waren anderer Lieferanten, deren Eigentumsrechte sich ebenfalls an der neuen Sache fortsetzen, erwerbt der Lieferant zusammen mit diesen anderen Lieferanten – unter Ausschluss eine Miteigentumserwerbs des Abnehmers – Miteigentum an der neuen Sache wobei das Miteigentumsanteil des Lieferanten entspricht dem Verhältnis des Rechnungswertes der Vorbehaltsware des Lieferanten zu dem Gesamtrechnungswert aller mitverarbeiteten Vorbehaltswaren

5. Der Abnehmer tritt bereits jetzt seine Forderungen aus der Veräußerung von Vorbehaltsware aus die gegenwärtigen und künftigen Warenlieferungen des Lieferanten mit sämtlichen Nebenrechten im Umfang des Eigentumsanteils des Lieferanten zur Sicherung am Lieferanten ab.

6. Bei Verarbeitung im Rahmen eines Werkvertrages wird die Werklohnforderung in Höhe des anteiligen Betrages der Rechnung des Lieferanten für die mitverarbeitete Vorbehaltsware schon jetzt am Lieferanten abgetreten.

7. Solange der Abnehmer seine Verpflichtungen aus der Geschäftsverbindung mit dem Lieferanten ordnungsgemäß nachkommt, darf er über die in Eigentum des Lieferanten stehende Ware im ordentlichen Geschäftsgang verfügen und die an abgetretene Forderungen des Lieferanten selbst einziehen.
8. Bei Zahlungsverzug oder begründeten Zweifel an der Zahlungsfähigkeit oder Kreditwürdigkeit des Abnehmers ist der Lieferant berechtigt, die abgetretenen Forderungen einzuziehen und die Vorbehaltsware zurückzunehmen.
9. Scheck-/Wechsel-Zahlungen gelten erst nach Einlösung der Wechsel durch den Abnehmer als Erfüllung.
10. Hinsichtlich der Vereinbarung von Eigentumsvorbehaltsrechten im Deutschland (Artikel 7 B) gilt ausschließlich Deutsches Recht.

Article 8 – Complaints.

1. The contracting party will be obliged to closely inspect (have inspected) the products immediately after delivery. The noticed differences in quantity must be reported in writing to Santino within two (2) working days after the delivery of the products, in the absence of which the accuracy of the numbers set out in the delivery note or the dispatch note will be established. Any complaints regarding the quality of the products must be reported in writing to Santino as soon as possible, but no later than within eight (8) working days after the delivery of the products, with a precise description of the nature and ground of the complaints. Complaints regarding the quality can only relate to whether or not the delivered products correspond with that which has been agreed, or whether or not the delivered products meet the requirements that apply in the usual business practice. Santino has the right to reject complaints made by the contracting party in any event if in Santino's opinion these concern minor derogations in quality, quantity, width, colours, finish, size, workmanship and suchlike, which are deemed permissible in the trade, or which are technically unavoidable. After the expiry of the aforesaid period the contracting party will be deemed to have approved the delivery.
2. Defects in a part of the delivery will not give the contracting party the right to reject the entire delivered consignment.
3. If the complaints concern invisible defects, or defects that are otherwise not noticeable (hidden), these must be reported in writing to Santino within eight (8) days after the contracting party has discovered the defect, or as the case may be if this concerns an earlier date, could have discovered the defect.
4. Insofar as not determined otherwise, all causes of action on the part of the contracting party against Santino will nevertheless always lapse six (6) months after the delivery of the products.
5. Complaints can only be enforced with regard to products that are still in the condition in which these were delivered (= not worn/used, clean and provided with labels and in the original packaging), except in the event of complaints regarding hidden defects.

Article 9 – Return consignments

Unless this has been expressly agreed, the contracting party does not have the right to return products.

Article 10 – Guarantee

1. Santino does not provide any guarantees with regard to colour fastness, water tightness, washable and other technical properties of the products, unless these:
 - a. are confirmed in writing by Santino, or as the case may be
 - b. are referred to on the products as for example shrink-free, washable and suchlike by means of labels, labelling, or otherwise.
2. Unless expressly agreed otherwise in writing between parties, Santino guarantees that the products have a useful life of six (6) months after the delivery by Santino to the contracting party. If it appears that the products show defects within this guarantee period, which cannot be attributed to:
 - usual wear and tear;
 - external circumstances;
 - changing of the products;
 - improper/abnormal use; and/or
 - the failure to follow Santino's instructions (inter alia: cleaning instructions);

the contracting party can report the complaint concerned to Santino. In that case Santino will first assess the noticed defects and establish the cause. If Santino notices that these defects fall under its guarantee, Santino will ensure free of charge repair, or replacement, or payment, which will be at Santino's discretion. Only in the event that the defects fall under the guarantee, will return consignments be permitted after prior permission in writing from Santino. Other return consignments as well as the storage costs will be at the contracting party's expense. The specified statement by Santino regarding the return consignment will be binding for the contracting party in that case, with the exception of proper proof to the contrary. The contracting party will be liable for damage arisen due to careless packaging and/or dispatch of the products, or as the case may be due to defective or the absence of insurance of the products to be returned.

3. In the event that the defects fall under Santino's guarantee, but in the opinion of Santino, repair or replacement is not an option, Santino will financially compensate the contracting party. This amount will under no circumstances exceed the value of the delivery.

4. Guarantee claims are in any event excluded if the contracting party has not reported complaints regarding (alleged) defects to Santino in writing stating reasons within the periods referred to in article 8.

Article 11 – Liability.

1. Santino will be exclusively liable in the event of an intentional act or gross negligence. Liability can only arise after the contracting party has fulfilled the obligations on the part of the contracting party on the basis of article 8 of these terms and conditions, and is limited to the fulfilment of the guarantee obligations under article 9.

2. In the event that Santino is still liable, any obligation of compensation will be limited to only direct damage or loss to the maximum of the amount of the agreed and paid price, excluding turnover tax. The compensation owed by Santino will under no circumstances amount to more than the amount paid by Santino's insurance for that loss event.

3. Liability for indirect or intangible loss is excluded regardless of the cause. Indirect or intangible loss is taken to mean, but not limited to, consequential loss, or demurrage, lost income/margin and profits, loss of customers and damage to one's reputation and/or goodwill.

4. In the event of hindrance of the performance of an agreement by Santino resulting from force majeure, Santino will be inter alia entitled to suspend the performance of the agreement concerned for a maximum of sixty (60) days, without judicial intervention. During the suspension period Santino will be entitled to wait with making its choice apparent for the performance, or as the case may be the termination, wholly or in part, of the agreement. Force majeure on the part of Santino is in any event the case when there are strike actions, exclusion, fire, lack of auxiliary materials, raw materials, semifinished products (inter alia as a result of delay or breach of contract by suppliers), or workers (inter alia as a result of sickness), all this on the part of Santino or its suppliers, hindrances in traffic, riots and civil commotion, import and export barriers, government measures, transport disruptions and furthermore in general all other causes, incidents and circumstances that are beyond the control or power of Santino.

Article 12 – Intellectual property rights.

1. The copyright, design rights and generally speaking all intellectual property rights with regard to the products (such as inter alia the characters, texts, subscriptions, drawings, images, labels, patterns, designs, trademarks, logos, etc. as well as the modifications thereof depicted thereon) are exclusively vested in Santino or a third party designated by Santino. The contracting party is not permitted - not even for personal use - without prior permission in writing from Santino, to use the products, or any characters, texts, subscriptions, drawings, images, labels, patterns, designs, trademarks, logos etc. depicted thereon (inter alia in domain names and search results of search engines), as well as to copy the modifications thereof and/or to produce (have produced) several copies thereof by parties other than Santino. The contracting party is also not permitted, without the aforesaid permission from Santino, to apply other combinations on the basis of the products, or as the case may be to make changes in the designs and/or the label.

2. Unless expressly agreed otherwise, Santino guarantees that it does not infringe any intellectual property rights of third parties with the products sold by it to the contracting party. With due regard to article 11.2, Santino indemnifies the contracting party against all claims with regard to the intellectual

property rights accruing to third parties due to any infringement of the intellectual property rights accruing to these third parties, if these infringements can be attributed to an intentional act or gross negligence on the part of Santino and the infringement concerned is declared well-founded by means of a final judgment. This guarantee lapses if the contracting party omits to promptly report the notification from a third party addressed to the contracting party, stating that an infringement of any intellectual property right of the latter has taken place, in writing to Santino, or as the case may be omits in such a case to promptly make all relevant correspondence and procedural documents available to Santino.

3. The guarantee described in the previous subclause does not apply to products that are produced in conformity with instructions/assignment from the contracting party. The guarantee also does not apply to the labels/trademarks/logos prescribed by the contracting party and/or models/samples, patterns, subscriptions, drawings and/or designs of materials originating from the contracting party. In that case the contracting party indemnifies Santino against all damage/costs suffered/incurred (including claims by third parties) caused by the infringement of any intellectual property right. Santino will be entitled to demonstrate the products that are produced in conformity with the instructions/assignment from the contracting party, for the purpose of the promotion of its own business.

Article 13 – Personal Data Processing

1. The contracting party can provide personal data to Santino during the performance of the agreement. The contracting party provides permission for the processing of this personal data.

2. Santino will not be entitled to provide the personal data to third parties in the context of the agreement without prior permission in writing.

3. Santino will process the personal data in a proper and careful manner and in accordance with the applicable legislation and regulations.

4. The contracting party guarantees that the data to be processed by Santino, the processing of the data and the result of this processing, will not be in conflict with the applicable legislation and regulations. The contracting party will indemnify Santino against all claims by third parties on the basis of the argument that the data processed by Santino, the processing of data and/or the result of this processing infringes applicable rights.

5. Santino enables the contracting party to fulfil the obligations vested in the contracting party as the controller on the basis of the General Data Protection Regulation and will promptly inform the contracting party (without unreasonable delay) after noticing any breach of the security of personal data.

Article 14 – General

1. Any delay during claiming strict compliance with contractual or non-contractual obligations and during exercising any right, will not have any impact on the option on the part of Santino to still exercise its rights.

2. If one or more provisions of these general terms and conditions or of an agreement might be in conflict with any applicable mandatory statutory provision, the provision concerned will lapse and will be replaced by a new, comparable provision that is permitted by law and to be recorded by Santino and the contracting party in mutual consultation.

3. Amendments of and/or addendums to the agreement will only be valid after these amendments and/or addendums have been agreed in writing by Santino and the contracting party.

4. Santino and the contracting party state that Dutch law exclusively applies to all their agreements and other legal relationships, which are (also) governed by these general terms and conditions. The Vienna Sales Convention does not apply. All disputes ensuing directly or indirectly from or relating to the agreements and/or these general terms and conditions, will only be submitted to the court with competent jurisdiction in the Oost-Brabant district; Santino can derogate from this rule on jurisdiction and can apply the statutory rules on jurisdiction.

5. Parties will be - during and after the performance of an agreement - obliged towards each other to maintain the confidentiality of mutual confidential business matters which they take note of during the performance of an agreement.

6. Every setting aside, addendum and/or amendment of any provision of an agreement and/or of these general terms and conditions will only have binding effect if this has been agreed in writing by parties.

7. Unless these general terms and conditions expressly offer the option of termination, the contracting party waives the right to termination of an agreement.
8. If statements or actions with regard to the agreement, or these general terms and conditions, are required to be in writing, electronic statements and/or statements will also be regarded as such.
9. If Santino uses a version of these general terms and conditions that is not in Dutch and there are differences between the Dutch version and the version in another language, the Dutch version will be exclusively binding.
