

# General Terms and Conditions of Business, Delivery and Payment

January 2020

## I. Scope

These General Terms and Conditions of Business, Delivery and Payment apply to all business relations with entrepreneurs (Article 14 of the German Civil Code), legal entities under public law or special funds under public law. Corresponding Orders shall be exclusively carried out on the basis of the following conditions, other terms and conditions shall not become part of the contract, even if we do not expressly object to them. Article 305 b of the German Civil Code shall not be affected.

Oral agreements of any kind require the written approval by the Company to become effective. The potential ineffectiveness of one of the conditions shall neither influence the remaining conditions nor the effectiveness of the contract as a whole.

## II. Prices

1. The prices indicated in the Company's Estimate apply provided that the specifications in the Order are the same as those in the Estimate, but no longer than four weeks after submission of the Estimate to the Customer. Where Work is to be supplied to a third party, the party placing the Order shall be deemed to be the Customer, provided no other explicit agreement has been made. All prices and charges indicated by the Company are exclusive of value added tax. The prices of the Company are quoted ex works. They are exclusive of packing, freight, postage, insurance and other shipping costs.

2. Subsequent amendments made at the Customer's request, including the resultant machine downtime, shall be charged to the Customer's account. Subsequent amendments are also understood here to mean repeated specimen sheets required by the Customer because of minor deviations from copy.

3. Sketches, drafts, type specimens, specimen sheets, samples, proof sheets, changes to delivered/transferred data and similar preparatory work ordered by the Customer, shall be charged.

## III. Invoicing and Terms of Payment

1. The invoice shall be made out on the date of delivery, partial delivery or when the goods are ready for delivery (Customer is responsible for picking them up; default of acceptance). Payment is to be made immediately following receipt of the invoice without any deduction, unless stated otherwise on the invoice.

2. Reasonable advance payment may be demanded in the case of unusual preliminary inputs.

3. The Customer may only offset undisputed or legally enforceable claims or exercise a right of retention. This does not apply in relation to any claims by the Customer for the costs of completion or the elimination of defects.

4. Where after the conclusion of the Contract the satisfaction of a claim for payment is evidently jeopardized due to the Customer's inability to pay, the Company may demand advance payment, retain goods not yet delivered and suspend the execution of unfinished Work. The Company shall also be entitled to do this if and when the Customer enters arrears for the payment of goods properly delivered to which the same legal relationship pertains, without prejudice to Art. 321 II of the German Civil Code.

5. In the event the Customer does not pay the price including all auxiliary costs according to paragraph II ("Prices") within 10 days after the due date, he will be in default without reminder. In case of default of payment default interest of 9% above the respective base rate shall be paid. This applies with the reservation of the right to further claims.

## IV. Delivery

1. Delivery dates and periods are only binding if expressly confirmed in writing. If no delivery date has been agreed, the Company is obliged to execute delivery at the earliest possible date. The delivery period starts with the date of the order confirmation but not before the Customer has fulfilled his obligations (supply of files, data, licenses and approvals) and, if agreed, partial or initial payment according to performance or other securities.

2. The Company shall only be entitled to make partial deliveries if

- the partial delivery is of use to the Customer according to the purpose of the contract,
- the delivery of the remainder of the ordered goods is guaranteed, and
- this does not result in significant additional work or additional expense for the Customer.

3. If the goods are to be delivered, the risk of accidental loss and incidental deterioration of the goods shall pass to the Customer as soon as the person in charge of transport has taken delivery of the shipment.

4. Where the Company is in default of performance, the Customer may only exercise rights under Article 323 of the German Civil Code, if the delay is the responsibility of the Company. This provision does not alter the burden of proof.

5. Stoppages - in the Company's or a supplier's business for which the Company is not responsible - such as strikes, lockouts and events of force majeure, shall only provide sufficient grounds to terminate the Contract if the Customer can no longer reasonably be expected to wait any further. Otherwise, the date of delivery shall be extended by the period of delay. At the earliest, however, the Contract may be terminated four weeks after commencement of the above mentioned stoppage. In no event shall the Company be held liable in such cases.

6. The Company shall be entitled to retain the printing and punch copy, manuscripts, raw material and other items made available by the Customer in under Article 369 of the German Commercial Code until full payment of all claims arising from the business transaction.

7. In the case of call-off orders, the Customer shall be obligated to accept the total quantity underlying the call-off order. The Customer's obligation to call constitutes a primary obligation. Unless otherwise agreed, an acceptance date of 6 months from the day upon which the order was confirmed, shall apply. If acceptance has not taken place by this time, the Company shall have the right to set a period of two weeks for the Customer to accept the quantity of the order which has yet to be accepted. If acceptance does not take place upon the expiry of this period, the Company shall have the right to either demand that the purchase price is paid in advance and deliver the whole of the remaining quantity, or to withdraw from the contract pursuant to Article 323 of the German Civil Code. Further rights of the Company shall not be affected.

## V. Retention of Title

1. The Work delivered shall remain the property of the Company until payment of all claims of the Company against the Customer up to the invoice date. This work may be neither pledged nor transferred to third parties by way of security before it is fully paid for. The Customer shall notify the Company immediately in writing if and to the extent that third parties seize any work belonging to the Company.

2. The Customer is only entitled to further sale in the ordinary course of business. The Customer hereby assigns its claims from the further sale to the Company. The Company hereby accepts the assignment of such claims. If the realizable value of the securities exceeds the claims of the Company by more than 10%, the Company shall - on demand by the Customer - release such securities as the Company shall choose.

3. In the processing of goods supplied by the Company and owned by it, the Company shall be deemed to be the manufacturer within the meaning of Article 950 of the German Civil Code and the products shall remain its property at all stages of processing. If a third party is involved in the processing, the Company is co-owner only up to the amount of the invoice price (total amount of the invoice including VAT) of the goods to which it retains title. The property thus acquired shall be deemed as conditional property.

## VI. Complaints, Warranties

1. The Customer shall, in all cases, inspect the goods supplied and the pre-products and intermediate products forwarded for proofreading immediately to ensure that they comply with the contract. Risk

of errors, if any, shall pass to the Customer as soon as the Work has been signed for press/cleared for production except for such errors as occur or which could only be detected during the production process following the signing for press/clearance for production. The same shall hold for all other releases by the Customer.

2. Notification of evident defects must be made in writing within one week of receipt of the goods, notification of concealed defects within one week after detection; otherwise no warranty claim may be made.

In case of a claim the company needs samples of the claimed print and - if the item has already been molded or injected - a sample part and precise information about the conditions during the molding process.

The Customer can only be held liable for damages of intermediate products (foils for compression- or injection-made parts, etc.) in the event that - despite correct treatment and handling - verifiable defects in the foil itself lead to failures. This warranty exclusively relates to the replacement of defective foils, if any.

3. If complaints are justified, the Company shall, at its option, be obliged and entitled to rectify the defect claimed or replace the goods. If the Company does not perform this obligation within a reasonable period or if the corrections made repeatedly fail to meet requirements, the Customer may require a reduction of the purchase sum (abatement) or the cancellation of the contract (withdrawal).

4. Defects in part of the Work supplied shall not entitle the Customer to make a claim for the entire Work, unless partial delivery is of no value to the Customer.

5. No claims may be made for minor deviations from the original in colour reproductions during all printing processes. The same holds for the comparison between other proofs (e.g. digital proofs and print proofs) and the final product. Moreover, no liability shall be borne for deficiencies that do not impair the value or utility of the goods or do not impair these to a material degree.

6. The Company is not obliged to inspect deliveries (including data media, transferred data) by the Customer or a third party on the Customer's behalf. This shall not apply for obviously unprocessable or unreadable data. Prior to data transfers, the Customer shall be obliged to apply state-of-the-art protective programs against computer viruses. The Customer shall be solely responsible for data security. The Company is entitled to make a copy.

## VII. Over- or under-deliveries

In case of over- or under-deliveries, quantity tolerances, as customary in the industry, in the amount of up to 10% of the order quantity are no reason for complaints. The actually delivered quantity will be invoiced. For deliveries of paper or foils as custom-made products of less than 1,000 kg the percentage increases to 20%, for less than 2,000 kg to 15%.

## VIII. Liability

1. The Company shall be liable

- for death, personal injury or injury to health for which it is culpable and
- for other damage caused intentionally or by gross negligence, including where the breach of duty is based upon the analogously culpable conduct of a legal representative or vicarious agent.

2. The Company shall also be liable in the case of a slightly negligent breach of essential contractual duties, including by its legal representatives or vicarious agents. Essential contractual duties are duties which must be fulfilled for the contract to be properly performed at all, the breach of which endangers the achievement of the contractual purpose and which customers can legitimately expect to be complied with. Liability in this respect is limited to damage typical for the type of contract and foreseeable with respect to the type of product.

3. Finally, the Company shall be liable

- in the case of fraudulently concealed defects and warranties relating to the quality of the goods as well as
- in the case of claims under the German Product Liability Act.

4. If the subject of the order are refining procedure or subsequent treatment of printed matter, the Customer cannot be held liable for any impairment caused during production of the product to be refined, resp. subsequently treated - unless the damage caused is the result of gross negligence or intent.

5. All other liability on the part of the Company is excluded.

## IX. Limitation

The Customer's claims to warranty and compensation (VI. and VIII.) shall lapse in one year beginning with the handover or delivery of the goods with the exception of the claims for damages specified in VIII. 2. This shall not apply where the Company has acted with intent to deceive.

## X. Customs of the Trade

In business transactions the customs of the trade in the printing industry shall apply (e.g. no obligation to surrender possession of semi-finished products such as data, lithographies or printing plates produced for the production of the final product on order), provided the order does not specify otherwise.

## XI. Archiving / Wear

1. Only under an express agreement and against special reimbursement shall products to which the Customer is entitled, particularly data and data carriers, be archived by the Company beyond the time of handing over the final product to the Customer or persons employed by him in performing an obligation.

2. Die cut tools, or similar, which are essential for finishing the order will be stored free of charge by the Customer for the duration of 12 months from the last day of use according to the Customer's standard due care. After this period has expired, there is no obligation for the Customer to continue the storage, resp. the Customer is entitled to dispose of such items.

3. Tools showing signs of wear which lead to malfunctions in production or unsatisfactory quality will be renewed without prior notice to the Company. The costs for this will be borne by the Company.

## XII. Testimonials, Promotion Purpose

The Customer is entitled to utilize both pictures and names of any and all work which has been created during the fulfilment of the contract for the Company as testimonial and for the purpose of self-promotion.

## XIII. Rights of Third Parties

The Customer shall ensure that his order requirements and, in particular, submissions delivered by him, do not infringe the rights of third parties e.g. copyright, trademarks or rights of personality. The Customer shall fully indemnify the Company in this respect against all claims of third parties, including the costs of defending and/or bringing legal actions.

## XIV. Place of Performance, Jurisdiction, Applicable Law

If the Customer is a merchant, a legal person under public law or a public fund as defined within the meaning of the German Commercial Code or is not subject to general jurisdiction in Germany, the place of performance and jurisdiction for all disputes arising from the contract shall be the Registered Office of the Company. The Contract shall be governed and construed according to the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.