

General Terms and Conditions of



applicable only to companies (§ 14 German Civil Code [BGB])

I. Applications

1. Orders become binding through the order-confirmation of the supplier or if orders have been executed by the supplier. Changes and additions have to be made in writing. If the requirement of the written form is contracted out, this must also be done in writing. All offers are non-binding, as far as they are not marked as a binding offer.
2. These conditions apply in case of standing business relations and future business, where reference is not expressly made to them, provided that the customer has been made aware of them when a confirmed order has previously been carried out by the supplier.
3. Different conditions of purchase by the customer are only binding for the supplier if he has expressly accepted them.
4. Should individual provisions be or become ineffective, the validity of the remaining provisions is not affected thereby.

II. Prices

1. Except when otherwise stipulated, the prices apply ex works excluding freight, customs duties, incidental import charges, packaging and excluding value-added tax at the statutory rate.
2. If the decisive cost factors change after submitting the offer or after order confirmation to the point of delivery by >5 %, these prices will be adjusted accordingly.
3. The supplier is not bound to previous prices in subsequent orders (follow up orders).
4. We reserve the right to adjust the prices appropriately within two months subsequent to conclusion of contract due to modified costs for wages, material, distribution and so on.

III. Obligation to deliver, take delivery and co-operate

1. The extent of our delivery obligation arises exclusively from this contract. We reserve the right to make alterations to construction, shape and colour in response to improvements in technology or the requirements of the law insofar as the alterations are insignificant or are reasonable for the customer. Partial deliveries which are reasonable for the customer can be carried out and invoiced.
2. For the duration of the examination of production samples, print proofs etc. by the customer, the delivery period shall be put on hold until receipt of the customer's statement. The fulfilment of our delivery obligations requires the timely and proper fulfilment of the customer's duties.
3. If the supplier himself does not receive deliveries despite having placed appropriate orders with reliable suppliers, he will be released from his obligation to perform and may withdraw from the contract.
4. Delivery periods commence upon receipt of all documents required for execution of the order, payment made in advance and timely order of materials, as far as agreed upon. On-time delivery is regarded as having been kept with the ready for dispatch notification advice, where dispatch, through no fault of the supplier, cannot be made.
5. Appropriate part deliveries as well as reasonable variations to order quantities are admissible. In principle, we are entitled to deliver quantities either over or under order of up to 10 % for production-related reasons. In case of a delivered quantity of less than 1.000 items or especially difficult variations, higher tolerances up to a maximum of 20 % are permitted in absence of differing agreements. Orders will be carried out according to the general state of technology within the scope of the material-related and packaging-related tolerances required for technical reasons and in merchantable quality, unless specific execution standards have been agreed upon in individual cases. Deviations in colour, choice, weight, length etc. that are negligible or customary in the trade do not represent defects that fall under a warranty obligation.
Thickness tolerances of foils: <200 my +/- 10%, 200 up to 400 my +/- 7%, >400 my +/- 5%.
6. Quantity contracts shall be settled and paid within six months at the latest after conclusion of contract, unless explicitly agreed otherwise.

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7. In the event of confirmed blanket orders without an agreement on terms, lot production sizes and purchase deadlines, the supplier can demand, at the latest three months after confirmation of the order, a binding agreement. If the purchaser does not comply with this demand within three weeks, the supplier is entitled to set a period of grace of two weeks and to refuse delivery and to claim compensation after expiration of this term.
8. Force majeure entitles the supplier to delay the delivery by the duration of the prevention and a reasonable time for adjustment or withdrawal from the contract completely or partially on account of the non-fulfilled part of the contract. Industrial action, adjustment or unforeseeable unavoidable circumstances such as operating difficulties, which make timely delivery impossible for the supplier in spite of reasonable effort, are treated as equivalent to force majeure.

IV. Delay in delivery

1. If we are unable to keep the agreed delivery date due to circumstances which are not within our or our suppliers' control, the delivery period can be reasonably extended. In this case, we will inform the customer immediately. Any other claims arising from failure to comply with the delivery time due to circumstances beyond our control are excluded.
2. In case of a delay in delivery, the customer is entitled to claim a lump-sum compensation of 0.5 % of the delivery value per full week of delay, up to an upper limit of 5% of the delivery value. Evidence that damage attributable to the delay in delivery has been caused to the customer is to be provided by the customer. Moreover, the customer can set a reasonable extension in writing, which may not be less than 15 working days. After a reasonable extension period has expired, the customer is entitled to rescind the contract or to claim damages instead of performance. Claims for damages on part of the customer concerning delay in delivery as well as claims for damages in place of the delivery, which exceed the above-mentioned lump-sum compensation, are excluded in all cases of delayed delivery, even after expiry of a set extension for performance.
3. Paragraph 2 does not apply, if the delay is caused intentionally, by gross negligence or substantial breach of duty. Neither does it apply if a specific contract was agreed. A specific contract must expressly be confirmed in writing by our management. In any case, however, liability for damages is limited to the foreseeable, typical damage. No change of burden of proof to the disadvantage of the customer is connected with the preceding provisions.

V. Packaging, shipping and transfer of risk

1. If not agreed otherwise, the supplier chooses packaging, type and form of dispatch to the best of his judgement.
2. Unless otherwise specified in the General Terms and Conditions, the terms and definitions of INCOTERMS 2010 shall apply.
3. When the goods have left the supplier, the risk will be borne by the purchaser, even if the delivery is free of carriage charges. If the delivery is delayed because of reasons for which the purchaser is liable, the risk is borne by the purchaser once he is informed that the goods are ready for delivery.
4. At the written request and cost to the purchaser, the goods will be insured against storage, breakage, transport and fire damage.
5. Shipping and all other packaging according to packaging regulations are non-returnable, with the exception of pallets which are to be returned by the purchaser. The customer is obligated to effect the disposal of the packaging at his own expense.

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VI. Reservation of proprietary rights

1. The deliveries continue to be the property of the supplier until all claims the supplier is entitled to and may have against the purchaser have been met, even if payment for specific claims has been made. If any amount remains outstanding on the account, the title of ownership to the deliveries (goods subject to retention of title) shall be retained as security against the balance due. If in connection with the payment of the purchase price by the purchaser, an obligation to accept the bill of exchange or check is established for the seller, the reservation of proprietary rights does not expire before the buyer, being the drawee, honours the bill.
2. Treatment or processing by the buyer is effected under exclusion of acquisition of ownership according to § 950 German Civil Code [BGB] upon order of the supplier; the supplier becomes co-owner of the goods thus produced in function of the ratio of the invoiced net amount of the suppliers goods to the invoiced net amount of the goods to be treated or processed which, being reserved goods, serve as security for the claims of the supplier according to paragraph 1.
3. If the purchaser processes (combining / mixing) the goods with other goods which do not belong to the supplier, the regulations of §§ 947, 948 German Civil Code [BGB] apply, with the result that the co-ownership share of the supplier in the new item is henceforth considered as retained goods for the purpose of such conditions.
4. Only in the normal course of business, the buyer is allowed to resale reserved goods on condition that he has also arranged a reservation of proprietary rights according to paragraph 1 – 3 with his customer. The purchaser is not entitled to any other dispositions about the merchandise under reservation of title, especially pledging and the transfer of ownership for security.
5. In case of resale the purchaser herewith transfers all resulting outstanding debits and other requirements against his customers with all ancillary rights immediately to the supplier until the fulfilment of all demands by the supplier. At the supplier's request, the purchaser must provide the supplier with all the information and documentation required to assert the supplier's rights in dealings with the purchaser's customers.
6. If the reserved goods are resold by the buyer after processing according to paragraph 2 and/or 3 together with other goods not belonging to the supplier, the assignment of the purchase-money claim according to paragraph 5 is only valid to the amount of the invoice value of the supplier's reserved goods.
7. If the value of the securities existing for the supplier exceeds his claims by a total of more than 10% then the supplier is obliged upon request of the buyer insofar to release securities of his choice.
8. Garnishments or confiscations of the retained goods by third parties shall be notified to the supplier without delay. Intervention costs arising out of that are in any case for account of the purchaser, unless they are defrayed by a third party.
9. Should the supplier, taking action according to the above clauses, make use of his right to take back the reserved ownership goods, the supplier is entitled to privately sell the goods or have them auctioned. Reserved goods shall be returned at their realised price, and at no more than their agreed delivery prices. Further claims of compensation for damages, especially the loss of profit incurred, remain reserved.

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VII. Warranty and liability for defects

1. The reference samples which are submitted to the buyer for inspection on request are definitive for the quality and the finish of the products. The warranty of certain characteristics of the delivery item and of the performance of moulds must be made in writing in the order confirmation. Reference to technical norms serves to describe performance. The warranty does not include the risk of damages consequential to defects inasmuch as the supplier, his managerial executives or vicarious agents have not acted with intent or gross negligence.
2. When the supplier has advised the customer beyond his contractual obligation, he only warrants the functionality and suitability of the supplied goods after prior express assurance. The criterion is the state of the art at the time of acceptance of the order.
3. Up to a deviation rate of up to 3% of the stipulated delivery quantity, the consignment is considered as free of faults.
4. The legal obligation of examination and objection according to § 377 German Commercial Code [HGB] rests with the customer on receipt of the goods.
5. The customer has no further entitlement arising from material defects which do not affect or do not significantly affect the value and fitness of the goods for the use recognised by us. Deviations in the condition of raw and auxiliary material do not provide grounds for objection as far as they are declared as allowed in the terms of delivery of the plastics industry and if – with respect to print work – they are due to deviations between trial proof and print for reasons connected with printing technology. We do not warrant fastness to light, nor colour changes. Tolerances which are due to production, particularly regarding deviations in colours, do not give grounds for complaint. Warranty for layouts and films provided by the customer is basically excluded.
6. If there are specific requirements under law, statutory regulation or tendering, the customer is obliged to point them out expressly.
7. If, upon transfer of risks, the goods show a material defect we are in the first instance entitled to effect a completion of performance. The supplementary performance is carried out at our choice by rectification of defects or a replacement delivery. The costs for supplementary performance, particularly costs for transport, travel, work and material, shall be at our expense, provided that these do not increase by having been removed to a place other than the place of performance. The customer is entitled to rescind the contract or demand a reduction of price, if the supplementary performance is not successful.
8. Notice of defects must be made in writing immediately, at the latest two weeks after receipt of delivery. In cases of latent defects the period is extended to one week after determination. Unless otherwise agreed, guarantee claims in these cases shall become time limited at three months after receipt of the goods. This period does not apply if the law prescribes more extensive mandatory periods according to § 438 I no. 2, § 479 I, and § 634a I German Civil Code [BGB]. Before the rejected goods are returned, our agreement has to be obtained. For those goods we are liable only in cases of explicit warranty, for intent and gross negligence. If the customer is entitled to compensation for damages in place of performance, our liability, including our liability according to paragraph 7, is limited to compensation for foreseeable, typical damage. Any further claims asserted by customer, or claims other than as specified in this clause for material defects are excluded

VIII. General liability limits

In all cases deviating from above-mentioned terms in which the supplier is obligated by reason of contractual or legal liability to pay compensation or reimbursement, his liability is limited only to cases in which his executives or the persons employed in performing an obligation for the supplier can be charged with intent or gross negligence.

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IX. Payment conditions

1. All payments must be made exclusively to the supplier in EURO.
2. Except when otherwise stipulated, the purchase price for deliveries or other services is payable with a 2 percent cash discount within 8 days or in full within 30 days after invoice date. The granting of a cash discount is only made if all invoices, which are due on an earlier date, have been duly paid. No cash discount is granted for payments by bill of exchange.
3. The assertion of a right of retention by the purchaser is also precluded unless it is based on the same contractual conditions or the counter-claims are undisputed or declared to have legal force.
4. If the agreed payment period is exceeded, an interest rate of 2 % above the base rate is charged - provided that the supplier does not determine a higher rate of debit interest. In case of a default in fulfilling a payment obligation on the part of the customer, all open obligations regarding that business relationship become due for settlement immediately.
5. The right to decline bills of exchange and cheques shall be reserved. Cheques and bills of exchange shall be accepted on account of performance only; any costs associated therewith are at the customer's expense.
6. The persistent failure to comply with conditions of payment or circumstances which give reason to serious doubts as to the creditworthiness of the purchaser result in the immediate maturity. In addition, the supplier has the right to request advance payments for orders still outstanding and to rescind the contract after granting a reasonable period of extension or to request compensation for non-performance. Furthermore, the supplier can prohibit the purchaser from reselling goods and repossess at the purchaser's expense any goods which have not been paid for.

X. Moulds (Tools)

1. The price for tooling also contains the once-off costs for the making of patterns, but does not contain the costs for test and processing procedures, nor costs incurred by customer initiated alterations. Costs for further samplings caused by the supplier will be at his expense.
2. Except when otherwise stipulated, the supplier has and retains ownership deriving from patent rights of all tooling made by the supplier for the customer or by a contracted third party. The moulds will only be used for orders of the purchaser to the extent that he fulfils his obligations of payment and acceptance.
3. Concerning moulds owned by the purchaser and/or moulds lent by the purchaser, the responsibility regarding storage and maintenance is limited to that commensurate with the suppliers own practice. The cost for maintenance and insurance is at the purchaser's expense. The obligations of the supplier cease when, after completion of the contract and a corresponding request by the supplier, the customer fails to collect the moulds and tooling within an appropriate period. In as much as the orderer has not completely fulfilled his contractual obligations, the supplier reserves the right to retention of the moulds in all cases.
4. The labour costs for changes deviating from the punch or print layout, which may become necessary, will be charged. The same applies to corrections resulting from illegibility or other corrections, in particular corrections made by graphics design.
5. Tools, lithographic prints, films, printing and embossing tools, samples, layouts etc. made by us or a third party remain our property and we reserve copyright, even if the purchaser has paid for the production costs in whole or part. They may not be made accessible to third parties. The customer requires our express prior consent before these may be forwarded to third parties. The obligation to keep external printing documents and other objects provided by the customer shall expire within 24 months of delivery of the last order manufactured with these objects. Tools, lithographic prints and films are destroyed and disposed of correctly by us and at no charge for the customer after 24 months, but no later than 5 years from the last order manufactured with them. A surrender of the tools to the customer will not be made.

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XI. Material orders

1. In the case where the purchaser supplies materials, these are to be delivered at his own expense and at his own risk in due time and in perfect condition with an appropriate extra quantity of at least 10 %.
2. The material provided by the customer has to be delivered DDP.
3. The costs which arise from the storage are to be reimbursed in case of higher quantities.
4. No guarantee of flawless processing can be given on materials, which are not known by the supplier or do not belong ordinarily to the processing area of the supplier.
5. If this requirement is not met, the delivery time shall be extended within reason. Except in cases of force majeure the purchaser also pays the extra cost arising from interruptions to production.

XII. Property rights

1. For all deliveries based on models, patterns or parts supplied by the customer, the customer guarantees that the commercial rights of third parties, for which the goods are being manufactured, are not infringed. The supplier will notify the customer of any such rights of which he has knowledge. The customer has to release the supplier from any claims deriving from a third party and to stand liability for any resulting infringements. If a third party prohibits production or delivery by the supplier by invoking a property right which he holds, the supplier is entitled to discontinue work without reviewing the legal situation.
2. Any drawings and patterns that had been made available to the supplier, but did not proceed to contract, will be returned if requested; otherwise the supplier is entitled to destroy those three months after submission of the quotation.
3. The supplier is entitled to the copyrights and, if applicable, to the industrial property rights pertaining to the models, moulds and devices, drafts and drawings, made by him or a third party on behalf of him.

XIII. Place of performance and jurisdiction

1. Place of performance is the place of the supplier's works.
2. The place of jurisdiction - also for deed, bill of exchange and cheque proceedings - is the location of the supplying factory or headquarters of the purchaser, at the discretion of the supplier.
3. German law shall apply exclusively. The UN Sales Convention [*UN Kaufrecht*] is excluded.