

General Terms and Conditions, Terms of Delivery and Payment

I. Scope

The fulfilment of all contracts between Nagels Druck GmbH (in the following "Contractor") and the Client is subject to the following terms and conditions. Deviating agreements require the written form.

II. Consideration

1. The prices stated in the Contractor's quote apply on the condition that the contract data at the basis of the submitted quote remain unchanged. The Contractor's prices do not include any value added tax. The Contractor's prices apply ex-factory. They do not include packaging, freight, postage, insurance and other shipping costs.

2. Changes in retrospect on the Client's initiation, including any machine standstill caused thereby, will be at the Client's expense. Also deemed changes in retrospect are repeated test prints that are demanded from the Client for minor deviations from the sample.

3. Sketches, drafts, test forcing sets, test prints, samples and similar preliminary work initiated by the Client will be charged if the contract is not awarded. The terms of Section IX apply accordingly.

III. Payment

1. The payment (net price plus value added tax) shall be paid without deduction within 21 calendar days as of the invoice date. The invoice will be issued on the date of the delivery, partial delivery or readiness for delivery (obligation to be performed at the debtor's place of business). Bills of exchange will be accepted only upon separate agreement and as payment without discounts granted. Discount and expenses will be at the Client's expense. They shall be paid immediately by the Client. The Contractor shall not be liable for the timely presentation, protest, notification, and return of the bill of exchange in the event of failed encashment, unless it or its vicarious agents are at fault for intent or gross negligence.

2. In case extraordinarily large quantities of paper and cardboard, special materials or preliminary services are provided, prepayment may be demanded for such.

3. The Client may only offset its claims against undisputed claims or claims found valid by final and absolute judgment. A Client who is an enterprise in the meaning of the HGB [German Commercial Code] has no rights to withholding and offsetting. However, the rights pursuant to Sec. 320 BGB [German Civil Code] remain reserved, for as long and insofar as the Contractor does not fulfil its obligations pursuant to Section VI 3.

IV. Claims of defects/Contractor's liability

1. The Client shall inspect the delivered goods as well as the preliminary and interim products delivered for correction in any case as to their compliance with the contract. The risk of potential defects shall transfer to the Client upon the notice of readiness for printing, unless defects are concerned that were caused or could have been noticed not before the production process following to the notice of readiness for printing. The same shall apply to all other release notices given by the Client for the further production.

2. Claims of defects shall be permissible only within one week as of the receipt of the product. Hidden defects that cannot be discovered upon the immediate inspection may only be claimed against the Contractor if the notice of defects is received by the Contractor within 6 months after the product was shipped from the supply factory.

3. In the case of justified reclamations, the Contractor shall be obligated at its discretion in exclusion of other claims to rework and/or make a replacement delivery and specifically, up to the contract sum, unless an assured characteristic is missing or the Contractor or its vicarious assistant are at fault for intent or gross negligence. The same applies in the case of a justified claim of defect concerning the reworking or replacement delivery. In the case of delayed, omitted or failed reworking or replacement delivery however, the Client may withdraw from the contract. Sec. 323 no. 2 BGB remains unaffected. Liability for consequential damages due to defects is excluded, unless the Contractor or its vicarious assistant is at fault for intent or gross negligence.

If the subject of the contract is contract processing work or further processing of print products, the Contractor shall not be liable for any adverse effects thereby caused on the products to be finished or processed to the extent, as the damage was not caused by intent or gross negligence.

4. Defects on a part of the delivered products do not entitle to claims of defect for the entire delivery, unless the partial delivery is useless to the Client.

5. In respect of colour reproductions, slight deviations from the original cannot be claimed as defects. The same applies to the comparison between press proof and production print.

6. The Contractor shall be liable for deviations in the characteristics of the used material only up to the amount of its own claims against the respective supplier. In such a case, the Contractor shall be exempted from its liability if it assigns its claims against the supplier to the Client. The Contractor shall be liable in the same way as a guarantor, insofar as claims against the supplier are not established through the Contractor's fault or these claims are not enforceable.

7. Excess or short deliveries of up to 10% of the ordered run cannot be claimed as a defect. The delivered quantity will be invoiced. For deliveries of special paper productions of less than 1,000 kg, the percentage rate will increase to 20% and below 2,000 kg to 15%.

V. Default of payment

1. If the fulfilment of the claim to payment is at risk due to problems in the Client's financial situation having arisen or having become known after the conclusion of the contract, the Contractor may demand advance payment and immediate payment of all unsettled invoices that are not due for payment yet, and may withhold any products not delivered yet as well as suspend all further processing of any work in progress. The Contractor shall also be entitled to these rights if the Client does not make any payment in spite of having received a dunning notice establishing that default has come to pass.

2. In the event of default on payment, default interest shall be paid in the statutory amount. The claim of additional default damage is not precluded thereby.

VI. Delivery/delay of delivery

1. The Contractor shall apply the warranted care in the shipment to the Client, but shall only be liable for intent and gross negligence. The product is insured according to the respective freight forwarding terms of the shipper.

2. Delivery dates are only valid if they are expressly confirmed by the Contractor. If the contract is concluded in writing, the confirmation of the delivery date also requires the written form.

3. If the Contractor is delayed with its services, it shall initially be granted an appropriate grace period. After idle expiration of the grace period, the Client may withdraw from the contract. Sec. 323 no. 2 BGB remains unaffected. Compensation for default damage may only be claimed up to the amount of the contract (internal work and services excluding advance payment and material).

4. Interruptions of service – both at the Contractor's business as well as at the supplier's business – in particular through strike, lock-out, war, unrest and any other acts of god do not entitle to a cancellation of the contractual relationship. The principles regarding frustration of contract remain unaffected.

5. The delivered products shall remain the Contractor's property until the complete payment of all the Contractor's claims existing as at the invoice date. The Client shall be entitled to resale only in the course of ordinary business. The Client shall assign its claims arising from the reselling process to the Contractor. The Contractor hereby accepts the assignment.

6. The Contractor has a right to withhold printing blocks, manuscripts, raw materials and other objects provided by the Client in accordance with Sec. 369 HGB until the complete settlement of all due receivables based on the business relationship.

VII. Custody, insurance

1. Samples, raw materials, print substrates and other objects serving for reuse, as well as semi-finished and finished goods shall be kept in custody beyond the delivery date, only upon prior agreement and against separate compensation. The Contractor shall be liable only for intent and gross negligence.

2. The objects described above, insofar as they are provided by the Client, shall be treated with care until the delivery date. The Contractor shall be liable for damages only in cases of intent or gross negligence.

3. If insurance is requested for the objects described above, the Client shall see to the insurance on its own.

VIII. Periodical work

1. Regularly recurring work can only be cancelled with a notice period of one year always on 30th of June in a year.

IX. Property, copyright

1. The items of equipment used by the Contractor for manufacturing the contract product, in particular films, printing blocks, lithographs and printing plates shall remain the Contractor's property even if they are not invoiced separately and they will not be included in the delivery.

2. The Client shall be liable solely if the rights of third parties, in particular copyrights, are infringed upon in the execution of the Contractor's contract work. The Client shall indemnify the Contractor from all claims brought by third parties for such rights infringements.

X. Imprint

The Contractor may refer to the Client's company in a suitable form on the contract products with the agreement of the Client. The Client may only refuse its agreement if it has an overweighing interest in this respect.

XI. Place of fulfilment, place of jurisdiction, validity, Governing Law

1. The place of fulfilment and the place of jurisdiction for all claims and legal disputes arising from the contractual relationship, including processes relating to bills of exchange and official documents is the place of the Contractor's business if it and the Client are enterprises in the definition of the HGB.

All contractual relations between the Contractor and the Client shall be governed by the laws of the Federal Republic of Germany except for the UN Sales Convention (United Nations Convention on Contracts for the International Sale of Goods dated 11.04.1980)

2. Any invalidity of one or several provisions shall not affect the validity of the remaining provisions.