

General sales terms
Gebr. Dürrbeck Kunststoffe GmbH

1. Scope of application, choice of law

- 1.1. The following sales terms regulate our business relationship in commercial dealings; they apply exclusively, and we do not accept contradictory customer terms or customer terms that deviate from our sales terms unless we have explicitly agreed in writing to their applicability. Our sales terms also apply if we make unconditional deliveries to customers knowing that their terms are contradictory to or deviate from our sales terms.
- 1.2. All content agreed between us and the customer for the purpose of drawing up the contract are conclusively put down in writing, via fax, or in text form ("contractual form" hereafter) in our quote/order confirmation and these general terms and conditions.
- 1.3. Our sales terms also apply for all future transactions with the customer without needing further inclusion of or reference to their applicability in subsequent business with the customer.
- 1.4. **The law of the Swiss Confederation applies for the contract and the legal relationship with the customer in its entirety, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG). This choice of law clause also applies to contracts between us and German companies.**

2. Offers, webshop, completion of contracts, offer documents, correspondence

- 2.1. Our "offers" are – with the exception of the desired inclusion of these general terms and conditions – non-binding in legal terms, unless explicitly designated in exceptional instances as "binding offer" or similar. Thus the customer's order consistently constitutes the proposition, which we may accept within two weeks by way of order confirmation. Otherwise the order is invalid.
- 2.2. Offers in our webshop are non-binding, with the exception of the binding intent to include our general terms and conditions as the basis for the customer's order. The customer may initially transfer products in the webshop to a non-binding shopping cart, correct and adjust the entries there, or delete products that were added by mistake. Then personal information may be entered. The customer has not submitted a binding offer until confirming the undertaking and the applicability of the general terms and conditions when sending their order. We will first send the customer an e-mail to confirm receipt of the order, which does not represent an acceptance of the contract on our part. After reviewing the customer's order, we will send – generally within 2 business days – a pro forma invoice as an order confirmation, which represents our acceptance of the contract. We will save the order information. The language in the contract is German.
- 2.3. We retain ownership and copyright to illustrations, drawings, calculations, and other documents of a sensitive nature. The customer must have our explicit written approval in contractual form before passing on to third parties. Any confidential documents and copies that have been lent to the customer must be returned to us at our request, and the customer must subsequently maintain confidentiality regarding the contents of such.
- 2.4. The customer must have our explicit written approval in contractual form in order to cancel a contract. In granting our approval to cancel, we collect a cancellation fee based on the stage of processing and the arrangements that have already been made, which may also include our lost profits but will be at least a handling fee of 100.00 EUR.

3. Prices, terms of payment

- 3.1. Unless it appears otherwise in the order confirmation, our prices are quoted net "ex factory," and do not include packaging, transport, insurance, tolls, or other additional costs. We reserve the right to change our prices accordingly if reductions or increases in price occur which we cannot prevent despite careful business practices, especially if this is due to bargaining agreements or material price changes. We will show proof of this to the customer upon request.
- 3.2. Legal VAT is not included in our prices. It will be accounted for separately at the legal amount on the day of invoicing.
- 3.3. Deduction of discount requires special agreement in contractual form; the printed date of invoice and receipt of payment with us are decisive.
- 3.4. Unless it appears otherwise in the order confirmation, the purchase price is due within 30 days of the date printed on the invoice, without deductions. After this date, an interest of 8% above the ECB base interest rate will be due for late payment. If no invoice is enclosed with the delivery due to error, the customer must report this to us immediately. If they do not comply with this, the interest rate for late payment specified above will be assessed from the 35th day after delivery was received.
- 3.5. Offsetting and compensation are only due to the customer if their counterclaims are found legally enforceable, undisputed, or accepted by us. In addition, they are only entitled to exercise the right of retention insofar as their counterclaim affects the same delivery. The assignment of customer claims from contracts made with us is excluded.
- 3.6. We account all payment receipts - even if the customer makes a contradictory statement - towards interest and costs first, and then towards the oldest claims respectively.

4. Delivery/transfer of risk/delivery quantities

- 4.1. Delivery dates specified by us depict our internal schedules (e.g., "approx. CW"); they are always considered approximate and non-binding for the customer, unless this was explicitly agreed to in contractual form. Therefore it is required, in the event of our delay in delivery, that the customer set a reasonable extended deadline in the course of a delivery period that has been agreed as non-binding or - with no agreement - after a reasonable period has lapsed.
- 4.2. We permit partial deliveries as long as they do not pose an unreasonable detriment to the customer's interests in carrying out the contract.
- 4.3. We deliver ex works Buttelstedt, subject to agreement otherwise in contractual form. The risk of accidental destruction or accidental deterioration of the goods is transferred to the forwarding agent with the notification that they are ready for pick-up or earlier, at the moment the goods are transferred from the factory. This regulation also applies if we arrange transport, accept the costs for this, or undertake the transport ourselves through our logistics department.
- 4.4. Excess and short deliveries due to production may result from the ordered quantity in proportion to our machine capacities/specifications. They are technically unavoidable within the limits of +/- 15% for unprinted goods, and within the limit of +/- 20% of the order quantity for printed goods. The delivery quantities determined are calculated by us using a machine counter or by weight. If the short delivery is within the allowance range above, the customer may request the supply from us in the missing amount - for a calculation adjusted for the reduced post-production quantity and surcharge due to separate supplemental agreement.
- 4.5. Expanding on item 4.4, overloading by up to 25% on our part is possible on small orders up to a product value of €1,000.00, and must be accepted. Calculation will be based on the delivery quantity determined by us.
- 4.6. Packaging costs, especially rental, deposit, and disposal fees for packaging material, are the responsibility of the customer, as are the costs of returning packaging material.
- 4.7. Subsequently demonstrated differences in counting between the delivery quantities determined by us on the basis of machine counting and invoiced within the meaning of item 4.4. Sentence 2, and actual delivery quantities, we or the customer may request a price adjustment against proof of the difference, supplementary delivery, but for a calculation adjusted for the reduced post-production quantity and surcharge due to separate supplemental agreement in contractual form.

5. Delivery quality/allowances/condition

- 5.1. The quality agreements declared for our goods are deemed approximate, and do not constitute guaranteed characteristic unless this was agreed under item 5.2. The quality of our products depends on the raw materials available, and can only be influenced and tested by us to a limited extent. We are therefore not responsible for changes in features and qualities, differences in colour, and deviations in weight due to raw materials unless they would have been detectable in the regular course of business, including adequate and reasonable sampling inspection on our part. Handsheets and samples are considered non-binding illustrative material, and are approximate reference points in terms of design. Deviations from the quality agreement, insignificant impairments in quality, and deviations from our brochures, trial shipments, and patterns that do not significantly impair the function envisaged by the customer do not constitute reductions in quality, and the customer may not derive any rights from this.
- 5.2. The guarantee of characteristics or the acceptance of guarantees must be explicitly agreed to in writing in each case.
- 5.3. We make no guarantee that our goods are suitable for a specific purpose pursued by the customer unless we have explicitly made this guarantee in writing.

- 5.4. To specify the above points, we retain the normal variations specific to the industry here, in terms of material thickness (+/- 15%) and dimension a) = 150 mm width (+/- 15%), b) >150 mm to 500 mm width (+/-8%), and c) >500 mm width to 1.500 mm (+/- 5%). For widths to be produced that are bigger, the permissible deviation will be determined based on the manufacturing dimensions and commercial usability. Any deviations in this context do not qualify for the assertion of claims for damage, claims for defects, compensation, or a reduction of the agreed price.
- 5.5. Under the above points in items 4 and 5, however, measurements, quantities, and weights, etc., outside the permissible allowances also do not qualify for the assertion of claims for damage, claims for defects, compensation, or reduction of the agreed price if quantitatively less than 2% of the tangible delivery lot is affected in cases where other prerequisites are present.
- 5.6. For products which we are to print, slight deviations in colour or register do not constitute quality defects under the above points in section 5, and no rights can be derived therefrom. We do not make any guarantee for the shelf life of the printing ink we use, especially not for interactions of the customer's packaging with our foils and the inks. If there are repercussions of the print on the customer's product, we may assign any claims attributable to the suppliers to the customer for claim precedence and the assertion of any claims. Poor light resistance of the printing inks also does not constitute a quality defect. The imprint in inline printing (recycling symbol or Green Dot, etc.) is not service content. In this respect, deficient printing quality or printing condition cannot result in a defect.
- 5.7. For foils used in the food industry, please note that the first and last layers of the foil roll should always be removed by the customer during processing. For needed foils, we cannot completely eliminate the possibility that remnants from needling are in our delivered foils, despite all caution during production. It is up to the person processing our foils to decide if the products we delivered are suitable for their intended use.
- 5.8. We would like to point out that our goods are generally delivered without any marking (coding) unless otherwise confirmed in writing. If the goods are destined for countries in which they are subject to mandatory marking (coding), it is the customer's responsibility to inform us of this before the offer is made.

6. Patterns and drafts, third-party property rights

- 6.1. If we create a pattern or sample for certain products to be made later by us as requested by the customer, the samples and patterns are considered approximate targets for later production unless otherwise agreed to in writing. By issuing the production order on behalf of the customer, production for the pattern or sample lent by us is approved as well.
- 6.2. The costs for manuscripts, drafts, peripheral sketches, screen, original and rubber printing plates, and impression cylinders, etc., are not included in the price and will be invoiced separately. We are entitled to replace worn printing plates without prior request, and to invoice the customer for these. The obligation to retain these objects expires when the customer has not placed another order within one year since the last delivery.
- 6.3. If the completion of an order according to the customer's specifications and requests infringes the property rights of a third party, the customer is liable to us for all debts resulting therefrom. The customer is obligated to release us from all third-party claims at first request, as soon as they receive our notification of these claims.

7. Packaging/pallets

- 7.1. Transport and all other packaging will not be taken back except for pallets. The customer is obligated to take care of disposing packaging at their own costs.
- 7.2. H1 pallets are the property of Gebr. Dürrbeck Kunststoffe GmbH. If these are not exchanged upon request, Gebr. Dürrbeck Kunststoffe GmbH is entitled to charge €65.00 each for these plus VAT.
- 7.3. Pallets remain our property and are only provided on loan. We are entitled to charge a security for pallets we have sent, which will be credited towards the carriage-paid receipt of the undamaged pallets.

8. Transport damage/reporting material defects/warranty obligation

- 8.1. Goods must be inspected immediately for transport damage upon receiving. To uphold any claims related to transport law, the customer must assert any transport damage detected in itemised form with the forwarding agent, and record this on the freight bill in detail. Generalisations like "accepted with reservation" or similar without precise description of the damage is not sufficient for this.
- 8.2. The customer's assertion of material defect rights presupposes that the customer inspected the goods immediately upon receiving for damage – visible during careful inspection – and, if material defects were detected, reported these immediately to us in contractual form within three business days of delivery, with a description of the error situation.
Our receipt of the notice of material defects within the above-mentioned period determines compliance with the complaint deadline. The above regulations also apply for partial deliveries. The deadline regulation regarding reporting to us also applies for material defects that were originally concealed and discovered later during the warranty period, starting from the date of discovery. Defects that can be detected through tearing, sewing, welding, or dyeing tests are not considered to be concealed.
If the customer has the finished goods stored with us, the above periods begin when the invoice is received, or when the partial invoice is received for partial delivery, in which we issue the goods to them. The customer is granted the option of inspecting the goods taken into storage as of this point in time.
Failure to meet the term for inspection and report will result in the loss of material defect rights, including any damage claims due to defects.
- 8.3. Even in the case of reports made on time, we are only subject to a warranty obligation if we are responsible for the defect due to malicious or gross negligence on the part of our agents. This also applies for damage claims resulting from a defect additionally subject to item 9.
- 8.4. Claims arising from warranty obligation due to material defects expire within one year from delivery or from notification that it is ready to pick up, or earlier when the corresponding invoice/storage confirmation is received – in cases where it is stored with us.

9. Liability, liability limitation, expiration

- 9.1. We are only liable to the customer for damages in cases of intent and gross negligence on the part of our agents, irrespective of the legal grounds. If we are inherently responsible according to this, liability for damages is further limited to direct damage. If we manage our employees to fulfil out obligations and are responsible for this with respect to the customer, liability for the damage above is limited to criminal intent. Liability for lost profits and loss of production is excluded.
- 9.2. In any case, liability for damages resulting from defective goods is limited to the amount of three times the scope of delivery of the defective delivery in question, unless our insurance covers beyond that, in which case the actual output of our insurance will form the maximum liability limit in terms of amount.
- 9.3. These policies described in items 9.1 and 9.2 of these terms and conditions do not apply for injury to life, body, or health, or to mandatory liability under product liability law.
- 9.4. If our liability for damages is excluded or limited, such exclusion or limitation shall also apply to the personal damage liability of our staff, employees, contractors, representatives, and agents.
- 9.5. The statute of limitations for damage claims is one year after becoming aware of the damage and the at-fault party, unless longer statutes of limitations are prescribed by law as mandatory.

10. Reservation of ownership/workmanship

- 10.1. We reserve ownership of the purchased item until we have received all payments arising from the delivery contract. In the event of customer conduct that is in breach of the contract, particularly late payment, we are entitled to take back the purchased item after setting a reasonable period. If an ongoing business relationship and current account agreement exist, we also reserve ownership of the purchased item until we have received all payments from the existing current account agreement with the customer. Reservation pertains to the acknowledged balance. If the value of our security interests reaches 120%, we will clear the part that exceeds that upon request.
- 10.2. The customer is entitled to resell the purchased item in the ordinary course of business until further notice from us; however, they now assign all claims against their customers to us - in the amount of our final invoice (including VAT) - that arise from resale to their customers or third parties, regardless of whether the purchased item was resold with or without further processing. We now accept this assignment. The customer is authorised to collect this claim subject to revocation, even after this assignment. Our authorisation to collect the claim ourselves remains unaffected by this, and for this purpose, the customer must immediately notify us.
- 10.3. Processing and treatment of the goods by the customer is always done in our name and on our behalf. If processed with objects that do not belong to us, then the new object becomes our joint property in the proportion of the goods delivered by us to the other processed objects. The same applies if the goods are mingled with other objects that do not belong to us.

11. Place of jurisdiction/arbitration/fulfilment

For disputes arising from the contract or in connection with it - irrespective of the legal grounds on which it is based and including assessment of the contract's validity - within the scope of applicability defined under item 1) of these terms and conditions - including the choice of law agreement made there - the following regulation applies exclusively:

- 11.1. Disputes with an initially claimed amount or comparable value in dispute of less than 50,000 EUR must be asserted in proceedings before the ordinary courts of the Federal Republic of Germany under the exclusive local jurisdiction of the courts in Erfurt/Thüringen. If the amount at issue increases during a legal dispute, be it due to raising the dispute value due to an extension of the claim, or other legal disputes initiated by the same plaintiff subsequently or in parallel, the overall responsibility of the arbitrating body under item 11.2) and the costs for the proceedings initially brought before the ordinary court shall be the sole responsibility of the complainant pending a decision otherwise in the arbitration ruling.
- 11.2. Disputes from an initial dispute value within the above meaning of or over 50,000 EUR are the object of the following arbitration clause, to the exclusion of ordinary jurisdiction: These disputes shall be settled according to the Swiss Rules of International Arbitration of the Swiss Chambers in its current version at the time arbitration proceedings are initiated. The place of arbitration is Berlin, Germany. The arbitration court consists of one arbitrator for dispute values between 50,000 EUR and 350,000 EUR, and three arbitrators for higher dispute values. The arbitration ruling shall be provided with legal reasons in each instance; justifications based on fairness alone are not sufficient. Arbitration proceedings should - subject to the regulations regarding an amended award - be conducted by means of a single oral hearing; the arbitration ruling must be issued within 6 months of when proceedings were initiated.
- 11.3. The place of work, fulfilment, and performance for all obligations from the contract and the business relationship with the customer, including the customer's payment obligations, is Buttstedt/Thüringen.

12. Other/severability clause

- 12.1. We process and store our customers' data in the course of handling the order procedure, and we hereby fulfil our obligation to inform.
- 12.2. If individual provisions in the contract with the customer, including these general sales terms and delivery conditions, are or become invalid in whole or in part, this will not affect the validity of the remaining provisions. The regulation found to be invalid in whole or in part shall be replaced in court/arbitration by a regulation whose economic results come closest to replicating the invalid regulation.

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