

General Terms and Conditions of CD-Color GmbH & Co. KG

§ 1 Abstract, scope of application

1. Our following General Terms and Conditions only apply if the purchaser is a business person (§ 14 BGB (*German Civil Code*)), a legal entity pursuant to public law or a fund under public law. It does not apply to consumers.
2. Our General Terms and Conditions apply exclusively. Deviating, opposing or supplemental general conditions of the purchaser become a component of the agreement only and to the extent as we have explicitly agreed to their validity in writing. This requirement for consent applies in any case, for example also if we have executed the delivery to the purchaser without reservation being aware of the purchaser's general terms and conditions.
3. Individual agreements with the purchaser concluded in isolated cases (including subsidiary agreements, supplements or changes) outrank these General Terms and Conditions in any event. A written contract or our written confirmation are decisive for the content of such agreements.
4. Legally relevant declarations and notifications to be issued to us by the purchaser after the formation of a contract (e.g. deadlines, notices of defect, declarations of withdrawal or reductions) require the written form to be effective.

§ 2 Conclusion of contract

1. Our offers are subject to change and non-binding. This also applies if we have provided the purchaser with catalogues, technical documentation, other product descriptions or documentation – also in electronic form – to which we retain proprietary rights and copyrights.
2. The ordering of the goods by the purchaser constitutes a binding offer of contract. Unless specified differently in the order we are entitled to accept this offer of contract within 2 weeks from receipt by us. The acceptance may be declared in writing (e.g. by order confirmation) or through delivery of the goods to the purchaser.

§ 3 Prices

1. The agreed prices are ex works and apply plus VAT legally applicable at the date of delivery. Any customs fees, levies, taxes and other public dues are borne by the purchaser.

2. The calculations are based on weights, number of items and quantities determined by us unless the purchaser immediately objects, however no later than within 14 days.
3. If our prices generally decrease or increase during the term of the agreement the changed prices apply for the still to be supplied amounts. In the event of a price increase the purchaser is entitled to immediately withdraw from the agreement by way of written declaration, however at the latest within four weeks from receipt of the notification regarding the price increase. The withdrawal does not affect deliveries performed prior to the price increase.

§ 4 Consultation pertaining to the application

If we provide consultancy services, they are performed at the best of our knowledge. All specifications and information regarding suitability and application of the supplied goods do not exempt the purchaser from own inspections and trials. This particularly applies if thinners, hardeners, additional paints or other components are added which were not purchased from us.

§ 5 Delivery

1. The purchaser has to pick up the goods at the place of fulfilment according to § 11 at the agreed time of delivery or, if a time of delivery was not bindingly agreed upon, immediately following notification of provision. If the purchaser is in default of accepting the goods, we are entitled to dispatch the goods at our discretion at the purchaser's expense or to store them - if no other option exists also outside. In this case we are not liable for accidental destruction, loss or damage of the goods. In the event of storing the goods we are entitled to invoice the goods after one week.
2. If, by derogation from paragraph 1, it is agreed that we are obligated to dispatch the goods, the transport is conducted at the expense of the purchaser and the choice of transport as well as the route is at our discretion unless special instructions are provided. The risk is transferred at the moment the goods are handed over by us to the freight forwarder. Deliveries from EUR 1,000.00 are carriage paid place of delivery.
3. Partial deliveries reasonable for the purchaser are permissible.
4. Significant, unforeseeable disruptions of operation, exceeding of delivery deadlines or failed deliveries from our suppliers as well as those not caused by us, disruptions of operation due to lack of raw material, energy or staff, strikes, lock-outs, difficulties in acquiring transportation, traffic interruptions, force majeure and acts of God for us and our sub-suppliers extend the delivery time by the duration of the impediment if they are relevant for the delivery of the goods. We shall inform the purchaser regarding the commence-

ment and end of such impediments without undue delay. If such events delay the delivery by more than one month, the purchaser as well as we shall be entitled to withdraw from the agreement with respect to the affected amounts, excluding compensation claims. Our statutory rights of withdrawal and termination as well as the statutory regulations regarding the processing of the agreement under exclusion of obligation to perform (e.g. impossibility or unfeasibility of performance and/or subsequent fulfilment) remain unaffected. Also the purchaser's rights of withdrawal and termination according to § 9 of these General Terms and Conditions remain unaffected.

5. If the delivery occurs in leased containers, they have to be returned within 90 days from receipt of the delivery completely empty and carriage paid. The purchaser is liable for the loss and damage of leased packaging if he is responsible for the loss or damage. Leased packaging may not be used for other purposes or for the storage of other products. They are merely intended for the transport of the delivered goods. Labelling may not be removed.
6. We shall not accept the return of disposable packaging; instead, we shall nominate a third party to the purchaser who recycles the packaging in accordance with the Packaging Ordinance.

§ 6 Payment

1. The purchase price and the remuneration for ancillary services are immediately due upon delivery unless otherwise agreed to in writing. If we are entitled to partial performances they may also be asserted by interim invoices within a uniform supply agreement and shall become due and payable.
2. Agreed terms of payment apply from the moment of provision of the goods and/or from the supply of goods and regardless of the purchaser's receipt of the invoice.
3. Default interest in the amount of 8% above the respective base interest rate according is payable. The assertion of further damages remains unaffected.
4. The provision of bills of exchange is not cash payment and only permissible on account of performance with our prior consent. Discount and bill of exchange expenses are at the expense of the purchaser.
5. The purchaser is only entitled to offsetting or right of retention if his claim is final and absolute or uncontested.
6. Discount is principally excluded. If otherwise agreed, discounts are generally only permissible if there are no outstanding payments relating to the entire business relationship.

7. The non-payment of due invoices or other circumstances indicating a significant deterioration of the purchaser's financial situation (e.g. application to commence insolvency proceedings) entitle us to demand immediate payment of all our claims from the ongoing business relationship with the purchaser. According to the statutory regulations pertaining to refusal of performance and after stipulating a deadline - if required - we are furthermore entitled to withdrawal from the agreement (§ 321 BGB (*German Civil Code*)).

§7 Reservation of title

1. We reserve ownership to the sold goods up to the complete payment of all our current and future claims from the purchase agreement and the ongoing business relationship (secured claims). The reservation of title also applies if individual claims are included in current accounts and the balance has been drawn and accepted. Purchase price claims remain unsettled despite payment as long as a reciprocal liability assumed by us in this context – such as in the context of a cheque-exchange-process – continues to exist.
2. The goods under reservation of title may not be mortgaged or pledged as security to third parties until complete payment of the secured claim. The purchaser is obligated to notify us of any access to our goods by third parties in writing without undue delay.
3. The purchaser performs any processing or intermingling on our behalf without generating any liability for us. In the event of processing or intermingling with other items not owned by us the purchaser now transfers to us the co-ownership to the new item as security in the ratio of the value of the reserved goods to the other processed goods under the proviso that the purchaser stores the new item on our behalf.
4. The purchaser is entitled to dispose of the products in the course of proper business as long as he complies with his obligations from his business relationship with us on time.
5. The purchaser now assigns to us any claims from the sale of goods to which we have right of title as security to the extent of our share in the sold goods. If the purchaser connects or intermingles the supplied goods against payment with a main item of a third party, he now assigns to us his remuneration claims against the third party as security up to the amount of the invoice value of the supplied goods. We accept these assignments.
6. Upon our demand the purchaser has to provide us with all necessary information regarding the inventory of the goods in our possession and the claims assigned to us as well as inform his purchasers of the assignment.
7. The purchaser is obligated to diligently store the reserved goods and to insure them against loss and damage at his expense. He hereby assigns his claims from the insurance policies to us in advance. We accept this assignment.

8. If the realisable value of the sureties exceeds our claims by more than 10%, we shall release securities at the request of the purchaser at our discretion.
9. The purchaser's right regarding the disposal of the products owned by us as well as the collection of the claims assigned to us expires as soon as he ceases payment and/or becomes insolvent. If these circumstances occur we are entitled to demand the immediate surrender of all products under reservation of title excluding the right of retention of the purchaser without giving a period of grace or exercise withdrawal.
10. If the reservation of title is not effective according to the laws of the country where the supplied goods are stored, the purchaser has to provide security of equal value at our request. If he does not comply with this demand, we are entitled to demand the immediate payment of all pending invoices without consideration of agreed payment terms.

§ 8 Warranty claims of the purchaser

1. The purchaser is obligated to check the goods for defects immediately upon receipt.
2. Obvious defects have to be reported immediately in writing, however within 14 days from receipt of the goods. Hidden defects have to be reported immediately, however within 14 days from their discovery. The notification has to occur in writing and has to stipulate the type and extent of the defect in detail. Our liability for the undisclosed defect is excluded if the purchaser omits the proper examination and/or notice of defect.
3. In case of properly asserted and justified notices of defect we are entitled to subsequent fulfilment through remedy of defect or replacement delivery at our discretion. Our right to refuse the chosen type of subsequent fulfilment under legal prerequisites remains unaffected.
4. In the event of a defect we are responsible for the costs required for the verification and subsequent fulfilment (particularly transport, shipping, labour and material costs) unless they increase because the goods were shipped to a location other than that of the place of fulfilment. However, if the purchaser's demand for remedy of defect is apparently unjustified, we are entitled to demand repayment of the incurred costs from the purchaser.
5. If the subsequent fulfilment fails twice or if an appropriate period of notice provided by the purchaser has elapsed without success, the purchaser may withdraw from the purchase agreement or reduce the purchase price. However, the right to withdrawal does not exist in case of an insignificant defect.
6. In the event of recourse (§ 478 BGB (*German Civil Code*)) we are entitled to refuse the purchaser's right of recourse except for claims of new delivery of the goods and reimbursement for expenses, if we grant the purchaser equal compensation for the exclusion

of his rights. Compensation claims of the purchaser are excluded without the necessity of granting compensation.

7. Compensation claims of the purchaser and/or replacement of futile expenses are only applicable according to § 9 and are excluded for the remainder.

§ 9 Other liability

1. We are liable for compensation in case of intent and gross negligence - regardless of the legal grounds. In case of slight negligence we are only liable
 - a) for damages resulting from the violation of life, body or health,
 - b) for damages resulting from the violation of essential contractual obligations (obligations the fulfilment of which allows the proper execution of the agreement and the compliance of which the contractual partner may regularly assume and is entitled to assume); however, in this case our liability is limited to the replacement of the foreseeable and typical damage.
2. The liability limitation arising from paragraph 1 does not apply if we have maliciously omitted to disclose a defect or if we have provided a warranty for the quality of the goods. This also applies for claims of the purchaser according to the Product Liability Act.
3. The purchaser is only entitled to withdraw from or terminate the agreement based on a violation of obligation not related to a defect if we are responsible for the violation of obligation.

§ 10 Statute of limitation

1. By derogation from § 438 (1) No. 3 BGB (*German Civil Code*) the general period of limitation for claims based on material defects and defect of title is one year from receipt of the goods by the purchaser.
2. However, if the goods are items which were utilised for a building according to their usual type of usage and which have caused the defect of the building (building material), the period of limitation is 5 years from delivery according to statutory regulation (§ 438 (1) No. 2 BGB (*German Civil Code*)).
3. The above periods of limitation of the sales convention also apply for contractual and extra-contractual compensation claims of the purchaser which are based on a defect of the goods, unless the application of the regular statutory period of limitation (§§ 195, 199 BGB (*German Civil Code*)) would result in a shorter period of limitation in individual cases. The periods of limitation of the Product Liability Act remain unaffected. Apart from that the

statutory periods of limitation apply exclusively for compensation claims of the purchaser according to § 9.

§ 11 Place of fulfilment, place of jurisdiction and other

1. Place of fulfilment for all obligations from the business relationship or the individual agreement is our respective place of dispatch, for payment our registered office.
2. Exclusive place of jurisdiction for all disputes arising directly or indirectly from this contractual relationship is our registered office or the general place of jurisdiction of the purchaser at our discretion. This also applies for disputes in certificate, exchange or cheque processes.
3. The laws of the Federal Republic of Germany apply exclusively for the contractual relationship with our customers. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) of 11. April 1980 is excluded.
4. The purchaser's data is stored and processed by us to the extent necessary for the proper processing of the contractual relationship.