

# General Terms and Conditions

11/2006

## I. SCOPE

- (1) Supply, service and quotation occur exclusively on the basis of these present Terms and Conditions which there- by apply to all future business dealings even if they are not expressly agreed anew. Contrary confirmations by the customer with reference to the latter's own terms are hereby contested.
- (2) The Customer is aware that Styria Print Holding GmbH may at its discretion instruct companies affiliated to it under § 228 of the Commercial Code to complete the order in the Customer's name. In such cases, Styria Print Holding GmbH will only act as an intermediary for the order for the account of another and the order shall be regarded as agreed between the Customer and the third party; unless Styria Print Holding GmbH or the third party advises the Customer differently.
- (3) In addition, Styria Print Holding GmbH or affiliated companies as provided for under § 228 of the Commercial Code may also enlist third parties to assist with completion of the order.
- (4) Departures from these present Terms and Conditions shall only have binding force if the contractor has confirmed them in writing.
- (5) These Terms and Conditions remain binding even if individual parts are not effective for any reason.

## II. PRICE QUOTATIONS

- (1) The prices quoted by the contractor in the offer are valid under the reservation that the order data based on the quotation remain unchanged. These do not include, unless otherwise specified, freight, postage, insurance and other shipping costs. If not otherwise specified in the quotation, this refers to daily prices that can be adjusted to the respective price situation at the time of production, for all order-related materials such as print substrate (paper, board, etc.), printing equipment (films, repros, stamping die moulds, etc.) and bookbinding materials, as well as all special distribution charges (special packaging, etc.). Only simple packaging (wrapping) of the print products is included in the prices. If the customer desires special packaging (board, carton, box), this will be charged at cost price. Pallets for our supplies will be provided as exchangeable pallets. Pallets that are not returned will be charged at cost price.
- (2) Orders that deviate from the quotation with regard to their wording in any point require confirmation by the contractor in order to justify a liability. If the contents of an order confirmation deviate from the purchase order, objections must be raised after the order confirmation has arrived.
- (3) Moreover, quotations are always non-binding, unless the liability of these quotations has been expressly agreed.

An increase in significant product-related costs (such as films, pallets, data medium, paper, board, printing blocks, repros, book binding material, costs of data transmission, etc.), as well as an increase in personnel costs due to collective contractual agreements or legal specifications after price quotation but before settlement of the delivery, entitles the contractor to charge for the resulting price increase. This condition is expressly authorised by the customer.

- (4) Subsequent changes instigated by the customer (for example, during ordering and originator correction) including machine downtime caused by these will be charged to the customer.
- (5) If the quotation is exceeded (cost estimate) due to changes by the customer, this counts as being authorised by the customer. In such cases, the customer foregoes the right to withdraw. Changes to the order or additional orders can be charged at appropriate prices.
- (6) Costs for drafts are always charged separately and are not included in delivery prices. This applies for all special requests, such as the production of samples, finishing and assembly of press work that are in excess of the usual scope. Samples and drafts produced at the customer's request are always property of the contractor and are charged for separately, even if the order does not attain execution status.
- (7) The customer bears the costs for the data transmission initiated by him (such as via ISDN). The contractor does not accept responsibility or guarantee for any transmission errors.

## III. INVOICE PRICE

The contractor invoices his supplies and services with the day on which he makes deliveries and partial deliveries, or for which he places goods in stock for the customer or holds ready goods on call for the customer. The invoice price can differ from the order price if the changes to the calculation base mentioned in Point II occur or if changes are made by the customer after the order has been fixed.

## IV. TERMS OF PAYMENT

- (1) Net cash upon receipt of the invoice. In the case of exchanges, cheques or transfers, the day on which the financial institute makes the credit entry for the contractor is applicable.
- (2) The contractor can demand advance payments for the provision of large quantities of paper and cartons, special materials or advance services.
- (3) The contractor has no obligation to execute the order before a determined advance payment has been made. All further resulting consequences (such as non-adherence to the delivery dates) are charged to the customer.

- (4) The customer can only offset such claims that are undisputed or finally recognised. A customer who is a merchant entered as such in the commercial register is not entitled to rights of retention and set-off rights.
- (5) Justified customer complaints do not entitle the customer to retain the entire balance of the invoice, only an appropriate part.

#### V. DELAYED PAYMENT

- (1) If a significant deterioration in the customer's financial circumstances becomes known or if he is in delay of payment, the contractor is entitled to demand the immediate payment of all invoices, including invoices that are not yet due. Moreover, the contractor is entitled to make the further processing of current orders dependent on proportionate payments. Furthermore, the contractor is entitled to retain the goods that have not yet been delivered and to discontinue further processing of current orders if the proportionate payments are not paid.
- (2) In the case of delayed payment, bank interests for delay are charged. The enforcement of further claims for damages is not excluded in this case.
- (3) Dunning fees of € 0.00 for the 1st reminder, € 5.00 for the 2nd reminder and € 7.50 for the 3rd reminder will also be charged; when the payment deadline given in the 3rd reminder has expired without success, the matter will automatically be forwarded to a debt collection agency e.g. KSV, or a lawyer. In the event of intervention by a lawyer or debt collection agency, reference is made to the standardised costs set out in the schedule of lawyers' fees or the regulation issued by the Austrian Federal Ministry for Economic Affairs. The product remains the property of Druck Styria GmbH & Co KG or Druck Carinthia GmbH & Co KG respectively until the price has been paid in full.

#### VI. DELIVERY PERIOD

- (1) The delivery time commences at the day when the order arrives at the contractor, provided that all procedure documentation is available to the contractor in a clear and explicit form and that no anomalies have been noted in the order confirmation; it terminates on the day when the goods have left the contractor's premises.
- (2) Agreed delivery dates are always only approximate dates, provided these have not been expressly agreed as fixed dates in written form. In the case of agreed fixed dates, the obligations to co-operate (such as delivery of error-free data, checking of pre- and intermediate results, delivery of films, models, author corrections, etc.) and their dates must be defined when the order is placed. If the customer does not comply with the obligations to co-operate or if he does not adhere to the agreed dates, the contractor is not liable for adherence to the agreed delivery date. This also applies in cases where the order is subsequently changed by the customer. In addition, the contractor has the right to compensation for the costs incurred.
- (3) The course of the delivery time is interrupted during the period in which consigned proofs, press proofs or outturn samples are checked by the customer.
- (4) In the event of delayed delivery, the customer can only demand a withdrawal from the contract after setting an appropriate period of grace. The grace period must be

appropriate with the type and scope of the order.

- (5) In the event of force majeure or other unpredictable or exceptional circumstances or circumstances beyond control, such as in the event of difficulties in the procurement of materials, operational failures, strikes, lockouts, insufficiency of means of transport, interventions by authorities, power supply difficulties, etc. - even if they occur at preliminary supplier's or subcontractors - the delivery period is extended appropriately if the contractor is hindered in the fulfilment of his obligations on time. If the supply or services become impossible or unacceptable due to the circumstances mentioned above, the contractor is released from his contractual obligations. If the delay in delivery continues for longer than two months, the customer is entitled to withdraw from the contract. If the delivery period is extended or if the contractor is released from his contractual obligations, the customer cannot derive any claims for damages as a result. The contractor can only invoke the circumstances mentioned above if he informs the customer of these immediately.

#### VII. DELIVERY

- (1) Deliveries are made from the contractor's premises on the account and at the risk of the customer, if this has not been otherwise agreed. Transportation insurances are only drawn up at the express wish of the customer and at the customer's cost. The risk is transferred to the customer as soon as the consignment has been handed over to the person transporting the goods or has left the contractor's warehouse for the purpose of shipment. If the consignment is delayed at the customer's request, the risk is transferred to him together with the information that the consignment is ready for shipment.
- (2) Excess deliveries and short deliveries are allowed up to 5% for simple work, up to 10% for more difficult or multi-coloured work and are charged proportionately based on continued printing. The tolerance rates of the supply industry are taken into account additionally for provided materials. In the case of deliveries of custom-made paper less than 1,000 kg, the percentages increase to 10 or 20%, under 2,000 kg to 8 or 15%.

#### VIII. SET ERRORS AND MISPRINTS, CORRECTIONS

- (1) Set errors are rectified free of charge, if they have been caused by the contractor either by intention or through gross negligence.
- (2) Alterations compared with the printer's layout copy are charged to the customer according to the amount of time required for the work (author correction). Alterations ordered by telephone, fax or e-mail are performed by the contractor without assumption of liability for the correctness of these alterations. If the customer demands changes or correction via e-mail, the customer is obliged to alert the contractor immediately of this e-mail in a suitable manner (such as by telephone or fax). This applies in particular for subsequent changes to proofs that have already been printed.
- (3) Proofs are submitted to the customer only on explicit demand. The contractor is however entitled to submit proofs without agreement. In this case, the customer is also obliged to approve the proofs within the mentioned time limit. If the time limit is exceeded without acknowledgement, approval is assumed. If submission of a proof is for-

borne, the customer is liable for the incorrectness of the print layout caused by him.

#### IX. DEFAULT OF ACCEPTANCE

- (1) The customer is obliged to accept the goods dispatched or available for collection according to the contract immediately; if he does not comply with this obligation, the delivery counts as carried out on the day on which acceptance should have taken place in accordance with the contract; the risk of loss by accident is thus transferred to the customer.
- (2) The contractor is entitled to store the goods at the cost and risk of the customer or to store the goods at a carrier's premises in the case of default of acceptance or if it is impossible to deliver the goods as a result of force majeure.

#### X. COMPLAINTS, GUARANTEES

- (1) The customer must check the conformity of the delivered goods with the contract as well as check the correctness of the pre- and intermediate products delivered in each case. The risk of possible errors is transferred to the customer when the products are declared as ready for press, provided that no errors are concerned that only arise during the production operations conducted after the "ready for press" declaration or that could only be recognised at this point. This applies for all other release declarations by the customer for further production.
- (2) Complaints (notification of defects) due to obvious defects must be reported immediately after delivery and definitively to the contractor. Hidden defects must be proved to the contractor immediately upon discovery, but at the latest within 3 months after the goods have left the contractor's premises or their sphere of control.
- (3) The warranty period for movable goods is three months.
- (4) The presumption of § 924 of the Austrian Civil Code is excluded. The customer must prove the submission of the defect at the time of transfer.
- (5) The right of recourse according to § 933 b, second sentence of the Austrian Civil Code becomes invalid two years after the contractor has performed the service.
- (6) In cases of justified complaints, the contractor is obliged to make amendments, up to the amount of the order value. The liability of the contractor regarding subsequent damages due to the defects is excluded.
- (7) Defects in a part of the supplied goods do not justify a complaint regarding the entire delivery.
- (8) In the case of colour reproductions in all print processes, negligible deviations from the original cannot be objected to. The same applies for the comparison between proofs and production prints, especially if proof and product paper do not match. Guarantee for the authenticity characteristics of colours, bronzes, varnishings, impregnations, laminations and rubber coatings is only rendered to the extent in which the sub-contractors have committed themselves to the contractors.
- (9) If the customer is submitted a digital proof for the "ready for press" declaration as a correctable intermediate product, it is expressly pointed out that the final product might contain colour variations that are caused by the various production procedures. If a binding sample is required, an additional proof must be provided, for a fee.
- (10) On no account does the contractor accept any liability for damages that occur due to deficient storage of the products by the customer.

- (11) If rejected print products cannot be returned to the contractor, a claim based on warranty or compensation for damages can only be made if a precise documentation of the defects, corresponding to a recognised quality control method, is submitted to the contractor. In such a case, the customer recognises a quality documentation from the contractor based on a recognised quality assurance method.

#### XI. LIMITATION OF LIABILITY

- (1) Claims for damages are excluded if the damage has not been caused by intentional or gross negligence. In all cases, the amount of the compensation is restricted to the value of the order. Claims for damages due to impossibility of performance are restricted to the compensation of the foreseeable damage and the amount of the order value. Aforesaid liability limitations apply to the same extent to those enlisted by the Supplier as assistants in the performance or execution of a contract and also to any liability arising from fault due to the Supplier's poor choice of servant, in particular in relation to Item I.(2).
- (2) In the case of liability, only compensation in money can be claimed over and above this, whereby the liability is restricted to the amount of the order value. In view of this, the customer is recommended to take out an additional insurance. Liability for loss of profit, indirect or consequential damages, damages to third parties, missing savings, loss of interest, immaterial damages, as well as damages from claims by third parties, etc. is excluded in all cases.
- (3) Claims for damages must be legally asserted within six months from the time at which the damage becomes known or within three years from the point of delivery or service, otherwise the claim will expire. After one year from the point of delivery or service by the contractor, the customer bears the burden of proof.
- (4) If a liability on the part of the contractor comes into consideration, he is released from the liability in the amount for which he conveys existing and enforceable claims against companies performing delivery or further processing services to the customer.
- (5) The liability to pay damages for product liability claims according to the statute for Product Liability Claims or other regulations is - provided not legally compulsory - excluded. The full contents of the liability limitations must be imposed on possible consumers, with the obligation for further imposition. The delivery item only offers that security that can be expected taking into consideration the material-specific characteristics.

#### XII. PROVIDED MATERIALS AND DATA

- (1) Materials provided by the customer, such as samples, films, data medium of all types, paper, etc. must be delivered to the contractor's premises free of charge. Receipt is confirmed without responsibility for the correctness of the quantity specified in the delivery documents. The contractor is only able to carry out a proper acceptance and check during the production process. The contractor is not obliged to make a check or issue warnings regarding the materials, data (such as via ISDN) and print equipment such as provided set, clean proofs and similar, diskettes, films, etc. delivered by the customer himself or by a third party employed by him. In particular, the correctness of data stored on provided data media or transferred data

(text, pictures) is not checked by the contractor. The contractor also has no liability whatsoever for defects in and with such print equipment provided directly or indirectly by the customer, or for defects in the final product which result from defective delivered data. If the customer demands a check by the contractor, this as well as a possible correction will be charged for separately.

- (2) Order-based models provided by the customer (such as computer printouts, digital proofs) are not binding. It is expressly pointed out that the final product can contain colour variations that are caused by the various production procedures. If a binding model is desired, an additional proof, with costs, would need to be provided. The data will only be processed on the express wish of the customer and will be charged for separately. If the customer does not provide a binding proof or any other proof, or does not order one from the contractor, the contractor does not accept any liability for the correctness and propriety of the exposure or the print. This also applies if the technical specifications on which the order is based are incomplete or incorrect.
- (3) The customer is exclusively responsible for data protection. Independently of this, the contractor is entitled to make a copy.
- (4) The respective updated information sheets for data transfer apply for transfer of the data provided by the customer.

#### XIII. ORDER DOCUMENTS

- (1) The contractor is liable for manuscripts, drafts, models, printing blocks, slides, films, data media and other documents in terms of Section XII (1) up until a point in time that is 4 weeks after the order has been completed. In addition, the contractor does not accept any nature of liability for documents that are not reclaimed. Neither is the contractor obliged to store these documents or the items used for reuse beyond the mentioned date.
- (2) The items mentioned above will, if they are provided by the customer, be treated carefully up until the delivery date. The contractor shall only be liable in the case of intention or gross negligence.
- (3) If the items mentioned above need to be insured, the customer must take out an insurance policy themselves.

#### XIV. STORAGE OF PRINT PRODUCTS AND SIMILAR, ARCHIVING OF DATA

- (1) The contractor has no obligation to store print products, work tools, intermediate products and print equipment (such as exposable data, films, montages, printing blocks, impression cylinders, stamping die moulds, papers, etc.) after the order has been completed, unless a special agreement has been reached with the customer; in this case the customer bears the costs and risk of storage.
- (2) If temporary storage has been expressly agreed with the contractor, the contractor is liable for damages that occur during storage of the goods only in the case of intention or gross negligence. The contractor is not obliged to take out insurance policies to cover risks regarding the stored goods.
- (3) The storage of finished or semi-finished products that are stored for more than one week will be charged for.

XV. PERIODIC WORK If the order includes the execution of regularly recurring print work and if a finish date or a period

of cancellation has not been agreed upon, the order can only be dissolved by written cancellation with a three-month period of cancellation up to the end of a calendar quarter-year.

XVI. PROPRIETORSHIP The operational objects, work tools and intermediate products, in particular, typesets, data media, printing plates, lithographies, films, panels, paper board mats, stanzas, stereos and galvanos, as well as tools and equipment required for the production process (print equipment), and the processed data used by the contractor to manufacture the contract goods remain in the possession of the contractor and are not delivered, even if the customer has paid compensation for this work or if this work has been charged for. Neither does delivery for utilisation take place. This also applies for the work tools (print equipment) and data that have been manufactured by another company on the order of the contractor responsible for the delivery. The above-mentioned tools (print equipment and data) are stored to execute the print order after processing of the print order only upon express order by the customer against compensation of the costs incurred for the contractor.

#### XVII. COPYRIGHT

- (1) In so far as the contractor is themselves the owner of the copyright and ancillary copyright usufruct of the delivered products or parts of the delivered products, the customer only gains the nonexclusive rights to circulate the delivered products at acceptance of the delivery; apart from this, the rights of use, in particular, the right to reproduce, remains unaffected in the hands of the contractor. The contractor has the exclusive right to use the reproduction media he has manufactured (set, processed data, data media, films, repros, etc) and print products (flags, raw prints, etc) to manufacture reproduction items. He is not obliged to surrender such reproduction media, not even for utilisation purposes.
- (2) The contractor is not obliged to check whether the customer is entitled to reproduce the models, regardless of type, to process the order accordingly or to change or otherwise to use in the intended manner, but is entitled to assume that the customer has all rights with regard to third parties that are required for the execution of the order. The customer makes an explicit assurance that he is in possession of these rights.
- (3) If the customer provides scripts or user software in order to process the data supplied by him, the customer assures the contractor that he is entitled to this restricted transmission of use. The contractor assures the customer that he will only use these scripts or user software to process the concrete order.
- (4) The customer is obliged to indemnify the contractor unrepiningly against all claims raised by third parties as a result of violations of copyrights, ancillary copyrights and other commercial trademark rights or invasions of personal privacy. The contractor must notify the customer immediately of such claims and serve him third party notice in the event of legal recourse. If the customer does not join the contractor as joined party in the proceedings on the third party notice, the contractor is entitled to recognise the plaintiff's claim and to obtain compensation from the customer without regard for the legitimacy of the recognised claim.

**XVIII. MEDIATOR'S LIABILITY** If a mediator of the print order appears in the name of a third party, he is liable for the returnability of the contractor's receivables as guarantor and payer. However, the contractor has the right to demand payment of the open debt from the mediator only after unavailing overdue notice to the principal. The mediator commits to impose the rights of the contractor on his principal.

**XIX. RESERVATION OF PROPRIETARY RIGHTS**

- (1) The delivered goods remain the property of the contractor until complete payment of the delivery price.
- (2) The following conditions only apply for business dealings with customers who are merchants entered as such in the commercial register: the goods remain property of the contractor until complete payment of all the contractor's existing receivables against the customer as of the invoice date. In the case of a current invoice, the reserved property counts as a security for the contractor's claim for balance. The customer's receivables from a resale of the reserved goods are ceded to the contractor when the order is placed to secure all debts of the contractor from the business relationship. The customer is only entitled and empowered to resell the reserved goods based on a contract of sale, contract for work and labour, contract for labour and materials or similar contract, if the Order from the resale is transferred to the contractor. For products subject to copyright protection, the customer is obliged to provide the contractor with rights of use (exploitation rights) or impose these rights on the contractor. The customer is not entitled to other powers of disposal over the reserved goods. Upon demand by the contractor, the customer is obliged to make known the assignment to the third ordering party for payment to the contractor. If the value of the contractor's securities exceeds their receivables value in total by more than 20%, the contractor is obliged in this respect, upon demand by the customer or

a third party affected by the contractor's securities to release the securities according to the customer's choice.

**XX. RIGHT OF RETENTION** The contractor has the right of retention according to § 369 of the Austrian Commercial Code for models, slides, films and repros, manuscripts, data media, raw materials and other items delivered by the customer until complete fulfilment of all due receivables from the business connection.

**XXI. IMPRINT OF NAME OR TRADEMARK** The contractor is entitled to affix his company name or trademark on the finished products without special authorisation by the customer.

**XXII. APPLICABLE LAW, PLACE OF PERFORMANCE, COURT OF JURISDICTION**

- (1) Austrian substantive law applies. The applicability of the UN Convention on Contracts for the International Sale of Goods is excluded. The language of the contract is German.
- (2) The place of performance for delivery and payment is the domicile of the contractor.
- (3) The court of jurisdiction for legal actions on the existence or non-existence of a contractual relationship that is subject to these terms of delivery and payment, or for legal actions resulting from such contractual relationships is, for legal actions by the contractor, according to the contractor's choice, the contractor's court of jurisdiction or the general court of jurisdiction of the customer; for legal actions against the contractor, exclusively the general court of jurisdiction of the contractor.

**XXIII. ORDER AGREEMENT** All order agreements, including subsequent changes, supplements, etc. must be drawn up in writing to be valid. Verbal understandings, for example, by field service employees, have no validity unless they are confirmed in writing.