

TERMS & CONDITIONS OF SALE & DELIVERY (TCSDs)

Section 1 Conclusion of contract

All deliveries by Wepoba Wellpappenfabrik GmbH & Co. KG (hereinafter: "Wepoba Wellpappenfabrik") shall take place based on these TCSDs. Inclusion of the orderer's differing conditions is expressly excluded unless Wepoba Wellpappenfabrik acknowledges these conditions. Carrying out a delivery shall not count as acknowledgement of the orderer's differing conditions. Offers by Wepoba Wellpappenfabrik are always non-binding and without obligation. A contractual relationship shall not come into existence until Wepoba Wellpappenfabrik accepts an order by confirmation of order.

Section 2 Prices

Offer prices are current daily prices. If there is a cost increase not foreseeable by calculation and for which Wepoba Wellpappenfabrik is not responsible (especially wages and materials costs) by more than 10% and a period of more than four months elapses between conclusion of contract and delivery date, Wepoba Wellpappenfabrik shall be entitled to adjust the agreed prices by written notice by the amount of the increased costs applicable to the goods to be delivered. In this case, the orderer shall be entitled, within seven working days after receiving the price adjustment notice, to withdraw from the contract regarding the specific delivery. Sales prices shall be understood as excluding packing, sketches, designs, printing blocks, tools or other preparatory works fabricated and/or performed at the client's request.

Section 3 Testing

The printing and execution documents prepared by us shall be verified by the client with regard to all the properties that are essential and necessary for use of the packaging material. The client shall sign and return the documents as an indication of his consent. If corrections are necessary, the orderer must clearly identify these. We shall not be obliged to examine any third party intellectual property rights. In the event of violation, the client must indemnify us against any third party claims.

Section 4 Retention obligation

Our retention obligation for client-supplied printing and execution documents or other items provided shall end six (6) months after the last order manufactured using the documents and/or items.

Section 5 Delivery

Except insofar as agreed otherwise, deliveries shall take place ex works excluding packaging. We shall be entitled to over- or under-deliveries by up to 10% of the delivery order and to invoice for this, and the client shall be obliged to accept the over- or under-deliveries insofar as this is reasonable for the client, taking our interests into account. Delivery deadlines confirmed by us will be complied with as far as possible. Deviations from these delivery deadlines shall not be grounds for damages compensation claims unless the delivery deadline was expressly agreed as binding.

If the raw materials price situation changes or there are bottlenecks in raw materials supply, we reserve the right if necessary to supply other quality compositions that are at least equivalent.

The decisive criterion for this shall be compliance with the technical characteristics stated in the data sheet, but not weight per unit area or individual weights of the paper. Operational restrictions, operational shutdowns, mechanical breakdowns, shortage of raw or auxiliary materials or other emergency situations that result in stoppage or reduction of our production shall count as Force Majeure.

In accordance with usual practices and regulations, we have the right to affix our company text, our company logo and/or our corporate identification number to all kinds of deliveries.

Section 6 Palleting

If delivery takes place on pallets, the client shall return the same number of equivalent pallets one for one. Pallets returned damaged or not at all will be invoiced.

Section 7 Complaints

1. Insofar as feasible in accordance with the ordinary course of business operations, the client shall examine the delivered goods without delay and, if a defect is apparent, shall notify us of this in writing without delay – within five (5) working days at the latest. Moreover, the rules of Section 377 of the HGB (German Code of Commercial Law) shall apply.
2. a) As retrospective fulfilment in the case of a justified complaint, we shall have the option either to remedy the defect or deliver a defect-free replacement. Only if this retrospective fulfilment has failed several times shall the client be entitled – unless an unimportant defect is involved – to exercise any rights such as withdrawal, price reduction and damages compensation instead of the performance.
b) The client's claims on grounds of material defects and/or legal deficiencies shall become time-barred in 12 months counting from the passing of risk. This shall not apply if the time-barring period for specific claims cannot be shortened because of statutory provisions or established case law.

Section 8 Liability

1. We do not accept any liability for gluing, paper smoothness and purity of the papers, adhesion, stapling, colours, printing and EAN (European Article Number) bar coding that are customary in the industry sector. We shall be liable for a packaging's properties regarding its usability for a specific purpose that is not evident from the delivery contract only if we gave a corresponding written assurance.

2. For slightly negligent breaches of essential contractual obligations, the amount of our liability shall be limited to typical contractually foreseeable damage. Essential contractual obligations shall be understood to mean obligations whose fulfilment is the only way to enable execution of the contract and on whose observance the contracting partners are entitled to rely as a matter of course. Otherwise, we shall not be liable for slightly negligent breaches of obligations by ourselves, our legal representatives or our vicarious agents. The aforementioned liability exclusions and liability restrictions shall not apply in cases of strict (no-fault) liability, especially pursuant to the Product Liability Act and in the event of liability for damages arising from injury to life, limb or health.

Section 9 Payment

The stated prices are net prices. Statutory VAT will be invoiced in addition. Unless agreed otherwise, the invoice amount shall be payable within 14 days from the invoice date with 2% discount, or within 30 days net. If bills of exchange are given in payment by agreement, they must be eligible for discount. The client shall bear all costs and fees connected therewith. Bill of exchange payments are not an entitlement to discount deduction. In the event of payment default, and subject to the assertion of a further claim for damages, interest amounting to 9% above the respective base rate (Section 288 Para. 2 of the BGB (German Code of Civil Law)) shall be due for payment. In the event of an outstanding payment or other indications of payments at risk, we can demand immediate payment for a delivery carried out, or the provision of securities. In the aforementioned case, we shall be entitled to refuse further deliveries arising from ongoing contracts until the amounts due have been settled, and in addition to require payment before delivery. Offsetting/counterclaims against our claims is possible only with undisputed or legally established accounts receivable.

Section 10 Retention of title

1. Goods supplied/delivered shall remain our property until payment of all claims against the client arising from the entire business relationship. The client shall be entitled to dispose of the goods in the context of an orderly business transaction. Any other disposal, especially pledging, transfer as security, relinquishment by exchange or disposal via factoring shall not be permissible.
2. As security, the client hereby cedes to us the receivables owed to him by third parties arising from the further disposal of the reserved goods until full payment according to No. 1. If reserved goods are disposed of together with materials made by other companies, ceding of the receivables shall be applicable only to the amount of the invoice value of the reserved goods.
3. If reserved goods are processed with, mixed with or joined to third party goods, we shall acquire co-ownership in proportion to the invoice values of these processed goods.
4. In the case of payments taking place against remittance of a bill of exchange issued by us and accepted by the purchaser, our ownership reservations shall remain upheld until payment of the bill of exchange.
5. The client shall be obliged to object to all third party attempted seizures of the goods serving as security, accompanied by a reference to our rights, and to inform us of this attempted seizure without delay.
6. Lithographs, reproduction documents, negatives, embossing plates, matrixes, flexographic clichés, die-cutting tools, printing cylinders and draft designs, final artworks and colour transparencies, insofar as the aforesaid articles were manufactured by us or manufactured to our order, shall remain our property even if the client was fully or partly invoiced for them. No handover obligation shall exist.
7. If the value of the securities exceeds the amounts owing to us by more than 20%, securities of our choice will be released in this respect at the client's request.

Section 11 Industrial property rights and copyrights

The orderer is responsible for observance of third party industrial property protection rights and copyrights. If the goods that are the subject of the contract culpably violate third party protection rights or copyrights, or if third parties assert fault-based claims against Wepoba Wellpappenfabrik in this respect, the orderer shall be obliged to indemnify Wepoba Wellpappenfabrik from these (claims).

We shall be entitled to own the copyright and to the right to reproduce and otherwise use draft designs, sketches, printing templates and execution documents prepared by us, even if the order is not placed.

Section 12 Place of fulfilment, Place of jurisdiction, Applicable law, Effectiveness

1. The place of fulfilment and exclusive place of jurisdiction shall be Wustermark.
2. German law shall apply exclusively, to the exclusion of the UN sales law (CISG; the United Nations Convention on Contracts for the International Sale of Goods, the Vienna Convention).
3. The ineffectiveness of individual provisions of these TCSDs does not affect the effectiveness of the contract in any other respect.

The client acknowledges the fact that contractor stores data arising from the contractual relationship pursuant to Article 6, Para. 1 of the GDPR (General Data Protection Regulations) for data processing purposes, and reserves the right to communicate the data to third parties (e.g. to insurers) insofar as necessary to fulfil the contract.