

General Terms and Conditions for the Marabu GmbH & Co.KG, Business Unit Printing Inks Status of March 1st, 2022

I. Validity

1. We, Marabu GmbH & Co. KG ("Marabu"), exclusively deliver based on these general terms and conditions (GTC). Primarily our German GTC apply. Our GTC apply to all our deliveries with entrepreneurs and other persons within the meaning of § 310 BGB, unless the contracting parties have expressly agreed on deviating regulations.
2. GTC of the purchaser are not valid in any case, even if Marabu hasn't refused the purchaser's reference to his general business conditions no matter in which form or at what time it is made. GTC of the purchaser can only become valid if we have expressly acknowledged them. Deliveries do not represent an acknowledgement of the purchaser's general business conditions.
3. The acceptance of the delivery is regarded as acknowledgement of these GTC.
4. Our GTC apply to all business transactions concluded with us, including e-commerce transactions and transactions made on a later stage between us and the purchaser even if they are not referred to in the individual case.

II. Conclusion of contract

1. Orders of any kind as well as other agreements, supplements, and amendments to an order are only regarded as accepted if we have acknowledged them; the receipt of the delivery note on the part of the purchaser or the execution of the delivery are regarded as order confirmation as well.
2. Our offers are subject to change.
3. If we enclose documents in an offer – such as illustrations, drawings, indications of weight and measurements – these shall only apply approximately, unless they are expressly designated as binding.
4. The regulations of § 312i Para. 1, Sentence 1, No. 1 to 3, and Sentence 2 BGB (German Civil Code) do not apply to contracts concluded with us in electronic business transactions (e-commerce).

III. Prices

1. The prices effective are always the prices according to our price list at the time of ordering unless a fixed price has been expressly agreed.
2. Prices in inquiries and price lists are excluding the legal VAT.
3. The minimum order value is € 500 unless otherwise stated in the offer. For orders with a lower value, a flat-rate cost will be charged. Freight and packaging costs shall be borne by the purchaser.
4. Orders for items that are only offered in the specified packaging units will be rounded up if necessary.
5. For all color shades not included in the price list (i.e. special shades/applied colors), delivery is only made from 1 liter in full liter quantities. However, we reserve the right to deviate the delivery quantity upwards or downwards by 10%.

IV. Terms of payment

1. Our invoices are to be paid in accordance with the payment terms regulated in the individual contract between us and the purchaser. If no individual contracts exist, our invoices are to be paid within 30 days of the invoice date.
2. We are authorized to execute deliveries COD.
3. We reserve the right to accept bills of exchange and checks. In any case, the acceptance is only on account of payment. The costs of discounting and collection shall be borne by the buyer. We do not assume any liability for timely presentation and protesting. No discount will be granted for payment by bill of exchange.
4. Payments shall be deemed to have been effected when we can finally dispose of the amount.
5. If the purchaser is in default with a payment from one of the existing contracts for more than 10 days, or if he has stopped his payments, or if there has been a substantial deterioration of his financial circumstances, our claims from all existing contracts with the purchaser become due for payment at once; deferments or other deferments of payment - also by acceptance of bills of exchange - shall end; we may demand security for deliveries not yet made.

V. Delivery Time

1. Dates of delivery and delivery times are only binding if they have been expressly designated by us as binding.
2. Our obligation to deliver ceases as long as the purchaser is in arrears with an obligation unless the purchaser has given security in the amount of the obligation.
3. Force Majeure (e.g. pandemic-related restrictions), breakdowns, subcontractors exceeding delivery time, deficiency of raw material, energy, labor shortage, strikes, lockouts, difficulties in providing means of transport, traffic hold-ups, orders of state authorities or the lack of approvals by the authorities or of other approvals necessary for the execution of the delivery exempt us from the obligation of performance for the period of the disturbance and to the extent of its effect. We shall not be responsible for the aforementioned circumstances even if they arise during our already existing delay.
4. Provided that unforeseen events within the meaning of paragraph 3 considerably change the economic significance or the contents of our performance or have a considerable effect on our business, we have the right to withdraw from the contract. In this case, the purchaser is only entitled to claims for restitution; claims going beyond, particularly claims for damages, are excluded.
5. The supplier is entitled to partial deliveries; partial deliveries can always be charged separately.
6. If we fall behind with the performance, the purchaser can withdraw from the contract if he has given us an appropriate period of grace and this period has expired without effect. If the delay is limited to a part performance, the purchaser can only withdraw from the entire contract under the circumstances mentioned above if he is not interested in the partial performance. Claims for damages are limited in accordance with Section IX.

VI. Dispatch, transfer of risks, waste product responsibility, liability of the importer in third countries

1. With the dispatch of the merchandise at the latest, the risk is transferred to the purchaser. This also applies to partial deliveries if we bear transport charges for the delivery. In all cases, transport is effected ex our works or ex our warehouse at the risk of the purchaser. There is no responsibility for damages and losses during transport.
2. If dispatch is delayed because of circumstances for which we are not responsible, the risk shall pass to the purchaser on the day of readiness for shipment.
3. Unless the purchaser has given special shipping instructions and these have been confirmed by us, the shipping method and route will be chosen by us. We are not obliged to insure the deliveries.
4. The fulfilment of the national waste product responsibility (based on the EU directives for electrical appliances 2012/19/eu and packaging 94/62/eg) is the responsibility of the buyer if Marabu is not domiciled in the country. Marabu strives to comply with the national regulations on product responsibility under waste law despite the fact that there is no legal obligation to do so. If this is the case, Marabu shall inform the buyer thereof. If Marabu does not expressly inform the buyer of this, the buyer shall continue to be responsible for the implementation of the national regulations on product responsibility under waste law.
5. Insofar as we ship products to countries outside the EU, it is the responsibility of the buyer as importer to check whether the products delivered by us are in compliance with the regulations of the importing country or the country of destination specified by the buyer regarding their import or use. We do not accept any liability for breaches of duty in this respect. The buyer is obliged to release us from any obligation arising from such breaches of duty.

VII. Retention of title

1. We retain title to the goods delivered by us until full payment of all claims arising from the business relationship, including all ancillary claims and until the bills of exchange and checks issued for this purpose have been honored. The retention of title extends to the products created by processing. If our goods are processed, combined or mixed with other material, we shall acquire co-ownership of the resulting product in the ratio of the value of our goods to the value of the other material. The transfer of ownership shall be replaced by the fact that the purchaser shall keep these products for us free of charge with the diligence of a prudent businessman.
2. All claims arising from the sale of goods to which we are entitled to ownership rights are hereby assigned to us by the purchaser as security - if applicable, in the amount of our co-ownership share in the sold goods. We hereby accept the assignment. Until revoked, the purchaser is authorized, in addition to us, to sell or process the goods in the ordinary course of business.

3. The goods subject to retention of title may neither be pledged by third parties nor assigned as security. The purchaser must notify us immediately if third parties seize the goods subject to retention of title.
4. We are obliged to release, on request of the purchaser, securities he is entitled to with the reservation of choice in so far as the value of the securities exceeds the claims to be insured by more than 30%.

VIII. Warranty

1. Warranty involves, at our discretion, remedy or supply of substitute goods.
2. If the remedy fails for the third time, the purchaser may, after a grace period of at least three weeks has expired without result, at its option demand a reduction of the remuneration (abatement) or rescission of the contract (withdrawal). In the event of only a minor breach of contract, in particular in the event of only minor defects, the purchaser shall not be entitled to any claims based on defects. Goods replaced in the course of subsequent performance shall be returned to us by the purchaser.
3. If the purchaser chooses compensation for damages after subsequent performance has failed, the goods shall remain with him. The claim for damages shall be limited in accordance with Section IX.
4. The goods must be inspected immediately after delivery. Visible defects must be notified in writing or electronically readable within one week from receipt of the goods, otherwise assertion of indemnity will be refused. Timely dispatch shall be sufficient to meet the deadline. The full burden of proof lies with the buyer for any indemnity preconditions, especially for the inconformity itself, the moment of assessment of the inconformity, and for the punctuality of the complaint. Non-visible defects which cannot be detected regardless of a solemn examination of the goods shall be notified to us in writing or electronically readable (within one week of discovery, otherwise they shall be deemed to have been approved).
5. Only the product description shall be deemed agreed as the quality of the goods. Public statements, recommendations or advertising do not constitute a contractual description of the quality of the goods.
6. Warranty claims shall be excluded if the goods, although the defect has been discovered by the buyer or could have been discovered by careful inspection, have been resold in whole or in part or have been accepted for processing or use. The same applies if the buyer has inspected or accepted the goods before shipment, or if he has expressly or actually waived an agreed inspection or acceptance.
7. Warranty period is one year from the delivery of the goods.
8. If our operating or processing instructions are not followed, if modifications are made to the products or if consumables are used that do not comply with the original specifications, any warranty shall lapse if the purchaser does not refute a corresponding substantiated claim that only one of these circumstances caused the defect. If the purchaser receives defective processing instructions, we shall only be obliged to supply processing instructions that are free of defects and this only if the defect in the processing instructions prevents proper processing.
9. The purchaser is not entitled to demand any guarantee in compliance with § 443 of German BGB (German Civil Code).
10. No warranty may be claimed for damages arising from the following reasons: Unsuitable or improper use, faulty processing by the purchaser or third parties, natural wear and tear, faulty or negligent handling, unsuitable operating materials, unsuitable building materials or substrates, chemical, electrochemical or electrical influences.
11. The purchaser shall provide the necessary time and opportunity for carrying out any repair or delivery of substitute goods of reasonable discretion.
12. Unqualified modifications or unqualified repair work which have been made by the purchaser or a third party without our permission terminate any liability or guarantee.
13. Returns of goods, including those which are to be made on the basis of a justified complaint, require our consent. Otherwise, acceptance may be refused. Each return must be accompanied by delivery papers and precise details from the invoice.
14. Advice given by our staff or by technical information sheets is given to the best of our knowledge. The purchaser is obliged to check our recommendation by suitable own

IX Liability limitation

1. Our liability is limited to intent and gross negligence, unless we are charged with the violation of an essential contractual obligation. In this case, our liability is limited to the damages typical for the contract and foreseeable by us. The amount of our liability is limited to ten times the value of the goods.
3. The limitations and exclusions of liability shall not apply to expressly guaranteed characteristics, to claims under the Product Liability Act or to damage resulting from injury to life, limb or health.
4. In the extent that our liability is excluded or limited, this also applies to the personal liability of our employees, workers, representatives, and servants.

X. Further rights of the contracting parties

1. If there are unforeseen events within the meaning of paragraph V.3. and consequently the economic importance or the contents of the performance change considerably, if such events have considerable effects on our business, or if the performance agreed proves to be impossible after conclusion of the contract, we are authorized to adapt the contract adequately. As far as an adaptation of the contract is not reasonable economically, we are authorized to back out of the contract totally or partly.
2. We are entitled to withdraw from the contract if an application for the opening of insolvency proceedings against the assets of the purchaser has been filed.
3. The purchaser may withdraw from the contract if the performance incumbent upon us becomes impossible before the transfer of risk due to a circumstance for which we are responsible.

XI. Transferability of rights

The purchaser can only transfer his rights from this contract to a third party totally or partly with our prior written consent.

XII. Compensation, retention

Offsetting with counterclaims against our claims is only permissible if the counterclaim is undisputed or has been legally established. The purchaser shall only be entitled to exercise the right of retention if it is based on the same contractual relationship.

XIII. Data protection

We are entitled to process and store the data received about the purchaser in connection with the business relationship in accordance with the Federal Data Protection Act and the DSGVO.

XIV. Place of performance, place of jurisdiction

1. The place of performance for our obligations is our respective factory or our contract workshop, for the purchaser's obligations our registered office.
2. The exclusive local and factual place of jurisdiction for all claims arising from the business relationship, including claims arising from bills of exchange and checks, is Stuttgart. We may, however, also bring an action before the court having jurisdiction in accordance with the statutory provisions.

XV. Final clauses

1. The law of the Federal Republic of Germany shall apply exclusively. Laws on the international purchase of movable goods, in particular the United Nations Convention on Contracts for the International Sale of Goods (CISG) of 11.04.1980 are excluded.
2. Should any of the above provisions be void, this shall not affect the remaining provisions. Insofar as a provision is not or the contract or these GTC contain a loophole, those provisions shall be deemed agreed which the contracting parties would have agreed in accordance with the economic objectives of these GTC if they had known of the invalidity of the provision or the loophole.