GENERAL TERMS AND CONDITIONS OF BUSINESS, DELIVERY AND PAYMENT

I. Scope
These general terms and conditions of business, delivery and payment (GTCs) apply to all business relations with entrepreneurs (Article 14 of the German Civil Code), legal entities under public law and associations without legal personality. The order confirmation shall be executed in writing or by telex only. The GTCs shall be exclusively applied if they were expressly objected to them. Individual contractual agreements take precedence over these GTCs.

II. Prices, Conclusion of Contract
1. The prices indicated in the Company’s Estimate apply provided that the specifications in the Order are the same as those in the Estimate, but no longer than four weeks after submission of the Order by the Customer. All price quotes indicated by the Company are exclusive of value added tax. The prices of the Company are quoted ex works. They are subject to change at any time and without prior notice.
2. Subsequent amendments to the contractual services made at the Customer’s request, including the resultant machine down-time, shall be charged to the Customer’s account. Subsequent amendments shall be understood to mean reprinted specimen sheets required by the Customer because of minor deviations from copy that do not, however, warrant compensation.
3. If sketches, drafts, type specimens, specimen sheets, samples, proof sheets, changes to delivered transferred data and similar preparatory work, which are not the subject matter of the Order, are ordered by the Customer, these shall be separately charged for.
4. Where Work is to be supplied to a third party, the party placing the Order shall be deemed to be the Customer, provided no other explicit agreement has been made.

III. Invoicing and Terms of Payment
1. Payment shall be due in full. Any discount granted shall be exclusive of freight, postage, insurance and other shipping costs. The due date for payment is governed by the statutory provisions.
2. The Customer may only assert a right of set-off or exercise a right to retention in respect of claims that are undisputed, ready for a decision or legally established. This does not apply in relation to any claims by the Customer for the costs of completion or the elimination of defects.
3. Where after the conclusion of the Contract the satisfaction of a claim for payment is evidently jeopardized due to the Customer’s inability to pay, the Company may refuse performance. The Company’s corresponding consideration is suspended until satisfactory proof is provided. Article 321 ff. of the German Civil Code remains unaffected. If the Company has a claim against the Customer that is due and arises from the same legal relationship, the Company may also refuse performance until the performance/payment due to the Company has been made. Article 273 III of the German Civil Code remains unaffected.
4. If the Customer fails to pay the price including the costs specified under II (Prices, Conclusion of Contract) within 14 days after delivery of the goods he shall be deemed to be in default even without a reminder being issued. In the event of default, the Company shall be entitled to demand payment at the current rate of interest, but at least 5% above the basic rate. Further claims are hereby not excluded. In the event of default, the Company shall also be entitled to claim payment of a lump sum in the amount of 40 Euros. The lump sum shall be taken into account towards compensation owed for losses based on the cost of asserting the Company’s legal rights.

IV. Delivery
1. Delivery dates shall be agreed individually upon conclusion of the contract at the latest. If this does not occur, the statutory provisions shall apply in this respect.
2. The Company shall only be entitled to make partial deliveries if this is appropriate having regard to the principles of good faith in accordance with Article 242 of the German Civil Code. This may particularly be the case if
   − partial deliveries are of use to the Customer according to the purpose of the contract, and
   − the delivery of the remainder of the ordered goods is still guaranteed.
This does not affect any rights/cisms of the Customer arising from a breach of duty in this respect for which the Company is responsible.
3. If the goods are to be delivered, the risk of accidental loss and incidental deterioration of the goods shall pass to the Customer as soon as the person in charge of transport has taken delivery of the shipment.
4. Where the Company is in default of performance, the Customer may only withdraw from the contract according to Article 314 I of the German Civil Code if the failure of the Company to fulfill the responsibility of the Company. This shall not affect Clause IV.5. This provision does not affect the provision of payment in advance.
5. Temporary stoppages – in the Company’s or a supplier’s business for which the Company is not responsible – particularly strikes, lockouts and all events of force majeure, shall only entitle the Customer to withdraw from the Contract if he cannot objectively be expected to continue to adhere to the Contract. Otherwise, the date of delivery shall be extended by the period of delay caused by the stoppage. In no event shall the Company be held liable in such cases.
6. The Company shall be entitled to retain the printing and punch copy, manuscripts, raw material and other items made available by the Customer in Article 369 of the German Commercial Code until full payment of all claims arising from the business transaction.
7. In the case of Orders in respect of which a previously determined total order quantity is to be delivered in instalments to be separately called off and paid for by the Customer (call- off orders), the Customer shall be obligated, unless otherwise agreed, to accept the total order quantity underlying the call-off order within 12 months of conclusion of the contract.
8. The Customer’s obligation to call constitutes a primary obligation. If acceptance of the total order quantity has not taken place within the acceptance period, the Company shall at its option have the right to
   − deliver the remaining quantity and demand payment of the outstanding part of the purchase price,
   − store the remaining quantity at the cost of the Customer or
   − sell the unsuitable delivery to the Customer after accepting the remaining quantity and, upon the fruitless expiry of this deadline, to withdraw from the contract pursuant to Article 323 of the German Civil Code.
Further rights of the Company shall not be affected.
9. The Company shall be entitled to sell the property of the Company against the Customer up to the invoice date. This Work may be neither pledged nor transferred to third parties by way of security before it is fully paid for. The Company has a claim against the Customer up to the invoice date. This Work may be neither pledged nor transferred to third parties by way of security before it is fully paid for. The Company has a claim against the Customer up to the invoice date.
10. If a third party is involved in the processing or transformation of the Company, the Company is co-owner only up to the amount of the invoice price (total amount of the invoice including VAT) of the goods to which it retains title. The property thus acquired shall be deemed as conditional property.

VI. Complaints, Warranties
1. The Customer shall, in all cases, inspect the goods supplied and any pre-products and immediately draw the Company’s attention to any defects that occur and could only be detected during the production process following the signing for press/ clearance for production. The same shall hold for any other releases by the Customer.
2. Notification of evident defects must be made in writing within one week of receipt of the goods, notification of concealed defects within one week after detection; otherwise no warranty claim may be made.
3. If complaints are justified, the Company shall, at its option, be obliged and entitled to rectify the defect claimed or replace the goods. If the Company does not perform this obligation within a reasonable period or if the rectification or replacement fails to meet requirements, the Customer may require a reduction of the purchase sum (abatement) or the cancellation of the contract (withdrawal).
4. Defects in part of the Work supplied shall not entitle the Customer to make a claim for the entire Work, unless that part of the Work which is free from defects is of no value to the Customer.

XIII. Place of Performance, Jurisdiction, Applicable Law
In business transactions the customs of the trade in the printing industry shall apply (e.g. no obligation to surrender possession of semi-finished products such as data, lithographs or printing plates produced for the production of the final product on order), provided the order does not specify otherwise.

XII. Rights of Third Parties
The Customer’s claims for defects shall lapse in one year beginning with the handover of the goods as well as claims for damages caused by the defect and resulting from the defect. If the realizable value of the securities exceeds the claims of the Company by more than 10 %, the Company shall – on demand by the Customer – release such securities as the Customer shall choose.

III. Archiving
Only under an express agreement and against special reimbursement shall products, materials and data to which the Customer is entitled, be archived by the Company beyond the time of handing over the final product to the Customer or persons employed by him in performing an obligation. Where there is no agreement, the Customer himself must provide any insurance.

XI. Periodical Publications
Notice to terminate contracts with respect to periodical publications may not be given by either party unless a period of notice of three (3) months is given.

XI. Rights of Third Parties
The Customer shall ensure that his order requirements and, in particular, submissions delivered by him, do not infringe the rights of third parties e.g. copyright, trademarks or rights of personal- ity. The Customer shall fully indemnify and hold the Company, its representatives and its employees, including the courts of defending and/or bringing legal actions, unless the Company proves that he was not at fault and that he complied with all of his duties to take care and review.

XIII. Place of Performance, Jurisdiction, Applicable Law
The Customer is a merchant, a legal person under public law or a public fund as defined within the meaning of the German Commercial Code or is not subject to general jurisdiction in Germany, the place of performance and jurisdiction for all disputes arising from the contract and all disputes arising directly from or relating to this contract, shall be the registered office of the Company. The Contract shall be governed and construed according to the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.