

# General Terms and Conditions of Business of Druckerei C.H.Beck, Nördlingen

## 1. General/Scope

- 1.1** The following General Terms and Conditions apply to all contracts ("**orders**") for deliveries and other services provided by **Druckerei C.H.Beck**, Bergerstraße 3-5, 86720 Nördlingen, telephone +49 9081 85-0, fax +49 9081 85-206, e-mail: [info@becksche.de](mailto:info@becksche.de) ("**Contractor**"), a branch of Verlag C.H.Beck GmbH & Co. KG, Wilhelmstr. 9, 80801 Munich, to a Customer ("**Customer**") unless expressly agreed otherwise; the latter applies in particular if specific general terms and conditions apply to a certain type of contract (e.g. orders in an online shop).
- 1.2** Our services are not intended for consumers ("consumer" is defined in Section 13 of the German Civil Code (BGB) as "any natural person who enters into a legal transaction for purposes that are predominantly neither commercial nor their independent professional activity").
- 1.3** Any deviating, conflicting or supplementary general terms and conditions of the Customer shall not become part of the contract unless we expressly agree to their validity. We hereby object to the validity of the Customer's general terms and conditions. The performance of our services and the acceptance of payments therefore do not constitute acceptance of the Customer's terms and conditions.
- 1.4** The Customer waives its own general terms and conditions unless it expressly objects in writing and requests individual agreements.
- 1.5** The Contractor reserves the right to refuse orders and to terminate contracts that have already been concluded without notice if the transmitted print data contains content that is grossly offensive, e.g. pornographic or extremist, or whose expression and/or distribution is punishable by law.

## 2. Conclusion of contract

- 2.1** The offers contained in the Contractor's catalogues and contract documents are always subject to change unless they are expressly designated as binding. They are to be understood solely as an invitation to the Customer to submit an "offer" to conclude a contract within the meaning of Section 145 of the German Civil Code (BGB). The Contractor's declaration of acceptance shall be made by means of an order confirmation or tacitly by the execution of the order.
- 2.2** If employees of the Contractor make verbal side agreements or give assurances that go beyond the written contract, these always require written confirmation. This does not apply to verbal statements made by the management or persons who have unlimited authority from the Contractor.
- 2.3** The natural person who declares the offer for the conclusion of the contract acts on behalf of the company or institution/organisation for which they work; the latter is the "**Orderer**". If the Orderer wishes to conclude the contract for a third party as the Customer, the Orderer must make it clear

that the contract is to be concluded with the third party; otherwise, the Orderer itself becomes the Customer (Section 164 (2) German Civil Code (BGB)).

**2.4** Accordingly, even in the case of orders with delivery to third parties, the Orderer is considered the Customer, unless otherwise expressly agreed.

### **3. Prices**

**3.1** Prices in quotations prepared by the Contractor, including references to prices in catalogues or price lists, are always subject to the proviso that the order data on which the quotation is based remain unchanged, but for a maximum of four months after receipt of the quotation by the Customer.

**3.2** The Contractor's prices are net ex works. They do not include packaging, freight, postage, insurance and other shipping costs. The Contractor's prices do not include value added tax.

**3.3** If the delivery or service is to take place 4 months after conclusion of the contract or later, the contracting parties agree to renegotiate the price in good faith in the event of changes in the Contractor's costs for materials, wages, third-party services, etc. If no agreement is reached by the date scheduled for delivery or performance, the Contractor shall be entitled to increase the price to the extent that reflects all changes in the basis of calculation. In the event of an overall reduction in costs, the Customer shall be entitled to demand a corresponding adjustment in its favour.

**3.4** In the event of a change in the statutory value added tax, Section 29 German Value Added Tax Act (UStG) shall take precedence.

**3.5** Subsequent changes at the instigation of the Customer, including any resulting machine downtime, shall be charged to the Customer. Repetitions of test prints requested by the Customer due to minor deviations from the template shall also be considered subsequent changes.

**3.6** Sketches, drafts, sample typesetting, test prints, samples and proofs, changes to delivered/transferred data and similar preparatory work that has been agreed or requested by the Customer will be charged. The same applies to data transfers of any kind.

### **4. Customer's obligations to cooperate in work services; order documents; indemnification**

**4.1** If the subject matter of the order is the production of print material or another result to be achieved through work or services within the meaning of Section 631 (2) of the German Civil Code (BGB) (**work services**), particularly in the areas of printing services and IT, the Customer shall have the following obligations to cooperate, in order to enable the Contractor to fulfil the order properly and, in particular, on time.

Work services in **the area of printing services** includes, in particular, layout, typographic design, graphics, image processing, etc.

Work services in **the area of IT** (software and hardware) include, in particular, the development of software; system integration, configuration, adaptations, also with regard to third-party software; programming of scripts and workarounds.

- 4.2** The Customer is obliged to provide the Contractor with the necessary information, documents and physical templates, as well as any materials (collectively referred to as "**contract documents**") in a timely manner, complete and free of defects, in the required technical quality; this also applies if the Customer uses third parties, e.g. suppliers, for this purpose. The requirements for data quality (e.g. resolution), data format and form of provision/data transmission specified in the document referred to in the offer with technical requirements for order documents shall be decisive.
- 4.3** If the Customer provides data to the Contractor, it is obliged to use state-of-the-art measures to protect against malware.
- 4.4** The Contractor, for its part, is not obliged to check order documents for completeness and suitability for the execution of the order, notwithstanding the Contractor's obligation to carry out a timely check for easily recognisable defects (e.g. incomplete data transmission, damaged files) and to notify the Customer immediately of any defects detected. The Customer is solely responsible for the quality of the content and legal compliance of order templates.
- 4.5** The Customer declares that the use of the order specifications for the execution of the order does not infringe the rights of third parties (e.g. intellectual property, personal rights) or violate legal regulations (e.g. competition law). The Customer declares that they have obtained the necessary licences or consents for the use of third-party content (e.g. texts, images, fonts, trademarks). The Customer shall indemnify the Contractor against all third-party claims upon first request and shall compensate the Contractor for any damages incurred, including costs of legal defence and/or legal action, resulting from the Customer's breach of the above declarations.

## **5. Payment**

- 5.1** Payment must be made immediately upon receipt of the invoice without any deductions. Any agreement regarding a discount does not apply to freight, postage, insurance or other shipping costs. The invoice shall be issued on the date of delivery, partial delivery or readiness for delivery (debt to be collected, default of acceptance). Bills of exchange shall only be accepted by special agreement and on account of payment without discount. Interest and expenses shall be borne by the Customer. They are to be paid immediately by the Customer. The Contractor shall not be liable for the timely presentation, protest, notification and return of the bill of exchange in the event of non-payment, unless he or his vicarious agents are guilty of intent or gross negligence.
- 5.2** In the case of exceptional advance services or payments, reasonable advance payment may be demanded.
- 5.3** The Customer may only offset or exercise a right of retention with an undisputed or legally established claim. If the Customer is a merchant (Section 1 German Commercial Code (HGB)), he shall have no rights of retention or set-off. However, the rights under Section 320 German Civil Code (BGB) shall remain in force as long as and to the extent that the Contractor has not fulfilled its obligations under Clause 9.4 .

**5.4** If the fulfilment of the payment claim is at risk due to a deterioration in the Customer's financial circumstances that occurred or became known after the conclusion of the contract, the Contractor may demand advance payment and immediate payment of all outstanding invoices, including those not yet due, retain goods not yet delivered and suspend further work on orders still in progress.

**5.5** The Contractor shall also have the rights specified in clause 5.4 if the Customer fails to make a due payment despite a reminder. Section 321 (2) of the German Civil Code (BGB) remains unaffected.

**5.6** In the event of late payment, statutory default interest and the statutory flat-rate default fee shall be payable. This does not exclude the assertion of further damages caused by default. If the Customer does not pay the price including any ancillary costs (Section 3.2 ) within 10 days of receipt of the invoice and delivery of the goods or provision of the service, they shall be in default even without a reminder; if a shorter payment period is specified in the invoice, this shall be decisive for the commencement of default.

## **6. Quality**

**6.1** It is expressly agreed that the Contractor is entitled, at its discretion, to make deviations in colour, dimensions and design with regard to the contractual goods, provided that these deviations do not prevent the goods from fulfilling their technical purpose under the contract. Such deviations in colour, dimensions and design shall not be considered defects in the legal sense.

**6.2** Deviations that do not exceed minor deviations customary in the industry shall also not be considered defects.

**6.3** The above provisions do not apply to warranted characteristics.

**6.4** The contractual goods shall be deemed free of defects if they have the agreed quality and/or are suitable for the agreed purpose.

## **7. Delivery, order execution**

**7.1** All deliveries are made ex works.

**7.2** The Contractor shall carry out shipping for the Customer with due care; however, it shall only be liable for damage or loss of the goods in cases of intent and gross negligence. The risk shall pass to the Customer as soon as the goods are handed over to the carrier. The goods shall be insured in accordance with the respective shipping conditions of the carrier.

**7.3** Delivery dates and performance dates are only binding if they have been expressly agreed as binding or expressly confirmed by the Contractor. If the contract is concluded in writing, this confirmation must also be in writing.

**7.4** Partial services and partial deliveries are permissible to a reasonable extent.

**7.5** If the Contractor is in default with a delivery or other services, he shall first be granted a reasonable grace period. After the grace period has expired without result, the Customer may withdraw from

the contract. Compensation for damage caused by default shall be limited to the foreseeable damage typical for this type of contract, unless the Contractor is liable for intent or gross negligence; the damage to be compensated shall in any case be limited to the amount of the order value (the Contractor's own performance, excluding advance performance and materials). The Customer may only exercise the rights under Section 323 of the German Civil Code (BGB) if the Contractor is responsible for the delay; this provision does not imply a change in the burden of proof.

## **7.6 Force majeure**

**7.6.1** If the Contractor is prevented from performing its obligations due to force majeure (meaning an event or circumstance beyond our reasonable control e.g. (but not limited to) natural disasters, war, terrorism, pandemic, infrastructure disruptions such as power failures, data network failures, transport disruptions, etc.), the parties' performance obligations, including the Customer's payment obligations, shall be suspended until the obstacle to performance has been removed. The Contractor shall not be liable in cases of force majeure.

**7.6.2** The Customer shall only be entitled to terminate the contract if it cannot reasonably be expected to wait any longer; otherwise, the agreed delivery/performance period shall be extended by the period during which the impediment to performance existed. Termination shall be possible at the earliest four weeks after the impediment to performance has occurred.

**7.6.3** If the impediment to performance lasts longer than two months, both parties shall be entitled to terminate the contract.

**7.7** Clause 7.6 shall apply accordingly if an impediment to performance is due to industrial action such as strikes or lockouts, including at the Contractor's premises or those of its suppliers or service providers.

**7.8** The Contractor shall have a right of retention in accordance with Section 369 of the German Commercial Code (HGB) to the printing and stamp templates, manuscripts, raw materials, data carriers and other items provided by the Customer until all due claims arising from the business relationship have been settled in full.

## **7.9 Packaging**

**7.9.1** The Contractor shall take back packaging in accordance with its obligations under the Packaging Act. The Customer may return packaging to the Contractor's premises during normal business hours after giving timely prior notice.

**7.9.2** Alternatively, the Customer may return packaging upon delivery. Packaging will only be taken back immediately after delivery of the goods; in the case of subsequent deliveries, only after timely prior notification and provision. The costs of transporting the used packaging shall be borne by the Customer.

**7.9.3** The obligation to take back packaging does not apply if the Contractor has designated another collection point for the Customer. If a designated collection point is further away than the

Contractor's premises, the Customer shall only bear the transport costs that would be incurred for a distance up to the Contractor's premises.

**7.9.4** The returned packaging must be clean, free of foreign substances and sorted according to type. Otherwise, the Contractor is entitled to demand that the Customer bear the additional costs incurred for disposal.

#### **7.10 Pallets**

In the event that the Contractor (including its vicarious agents) hands over pallets to the Customer (including its vicarious agents) during a delivery, the conditions of the "**Cologne Pallet Exchange**" ("Kölner Palettentausch") shall be deemed agreed upon (clauses available at <https://www.dslv.org/de/palettenklauseln>).

### **8. Retention of title**

**8.1** The delivered goods remain the property of the Contractor until all claims against the Customer existing on the invoice date have been paid in full.

**8.2** The Customer is only entitled to resell the goods in the ordinary course of business. The Customer hereby assigns its claims from the resale to the Contractor in advance; the Contractor hereby accepts the assignment. The Contractor remains authorised to collect the claim even after the assignment. The Contractor undertakes not to collect the claim as long as the Customer meets its payment obligations to the Contractor, is not in default of payment, no application for the opening of insolvency proceedings has been filed and there is no other deficiency in its ability to perform. If this is the case, the Contractor may demand that the Customer disclose the assigned claims and their debtors, including addresses, provide all information necessary for collection, hand over the relevant documents and notify the debtors of the assignment.

**8.3** If the value of the securities existing for the Contractor exceeds its claim by more than 20% in total, the Contractor shall be obliged, at the request of the Customer or a third party affected by the Contractor's over-collateralisation, to release securities of its choice to this extent.

**8.4** In the event of seizures of the goods subject to retention of title by third parties or other interventions by third parties, the Customer must point out the Contractor's ownership and must notify the Contractor immediately in writing.

**8.5** In the event of processing or treatment of goods delivered by the Contractor and owned by the Contractor, the Contractor shall be deemed the manufacturer in accordance with Section 950 of the German Civil Code (BGB) and shall retain ownership of the products at all stages of processing. If third parties are involved in the processing or treatment, the Contractor shall be limited to a co-ownership share equal to the invoice value of the goods subject to retention of title. The property thus acquired shall be deemed to be reserved property. The same shall apply in the event of mixing and combining.

## **9. Complaints/warranties**

- 9.1** The Customer must immediately check the conformity of the goods with the contract, as well as the preliminary and intermediate products or data such as sketches, etc. (Section 3.6 ) provided for correction. The risk of any errors shall pass to the Customer upon declaration of readiness for printing/production, unless these are errors that only arose or could only be detected during the production process following the declaration of readiness for printing/production. The same applies to all other declarations of approval by the Customer.
- 9.2** Obvious defects must be reported in writing within one week of receipt of the goods, hidden defects within one week of discovery; otherwise, the assertion of warranty claims is excluded. Further obligations in accordance with Section 377 of the German Commercial Code (HGB) remain unaffected.
- 9.3** The Customer must give the Contractor the time and opportunity necessary for the subsequent performance owed, in particular to hand over the rejected goods for inspection purposes.
- 9.4** In the event of justified complaints, the Contractor shall initially be obliged, at its discretion and to the exclusion of other claims, to repair and/or replace the goods up to the value of the order, unless a warranted characteristic is missing or the Contractor or its vicarious agents are guilty of intent or gross negligence. The same applies in the event of a justified complaint about the rectification or replacement delivery. If the Contractor does not fulfil this obligation within a reasonable period of time or if the subsequent delivery/rectification fails even on the second attempt, the Customer may demand a reduction in payment in accordance with the extent of the defect (reduction) or declare their withdrawal from the contract. Liability for consequential damage caused by defects is excluded, unless the Contractor or its vicarious agents are guilty of intent or gross negligence.
- 9.5** Defects in part of the delivered goods do not entitle the Customer to reject the entire delivery, unless the partial delivery is of no interest to the Customer.
- 9.6** Defects must always be reported before passing on to third parties for further processing.
- 9.7** In the case of colour reproductions in all manufacturing processes, minor deviations from the original cannot be objected to. The same applies to comparisons between other templates (e.g. digital proofs, press proofs) and the end product. Furthermore, liability for defects that do not affect the value or usability, or only affect them to a minor extent, is excluded.
- 9.8** The Contractor shall only be liable for deviations in the quality of the material used up to the amount of its own claims against the respective supplier. In such a case, the Contractor shall be released from its liability if it assigns its claims against the suppliers to the Customer. The Contractor shall be liable as a guarantor insofar as claims against the supplier do not exist due to the Contractor's fault or such claims are not enforceable.
- 9.9** Excess or short deliveries of up to 10% of the ordered print run cannot be rejected; for deliveries of custom-made paper weighing less than 1,000 kg, the percentage increases to 20%, and for deliveries

weighing less than 2,000 kg, it increases to 15%. The invoice is always reflecting the quantity delivered.

## **10. Liability**

**10.1** The Contractor shall be liable in accordance with applicable statutory provisions

**10.1.1** for damage caused intentionally or through gross negligence;

**10.1.2** for fraudulently concealed defects and assumed guarantees for the quality of the goods;

**10.1.3** in the event of culpable injury to life, limb or health;

**10.1.4** for claims arising from the German Product Liability Act.

**10.2** In the event of a slightly negligent breach of essential contractual obligations, including by legal representatives or vicarious agents of the Contractor, the latter shall only be liable for foreseeable damage typical for this type of contract, depending on the nature of the goods or the subject matter of the contract. Essential contractual obligations are obligations whose fulfilment is essential for the proper execution of the contract and on whose compliance the Customer may regularly rely.

**10.3** The above limitation of liability shall also apply in favour of the legal representatives and vicarious agents, in particular the employees, of the Contractor.

## **11. Limitation**

The Customer's claims for warranty and damages (Sections 9 and 10) shall become time-barred one year after delivery of the goods or performance of the service. This shall not apply to the claims specified in Section 10.1.

## **12. Partial payments/security deposits for goods delivery**

**12.1** The Contractor is entitled to issue instalment payments or advance invoices to the Customer up to the full value of the goods specified in the contract. If the Customer does not pay the Contractor within 14 days of the invoice date, the Contractor shall be released from its delivery obligations in terms of actual delivery and timing until the instalment or advance invoice has been paid. Binding delivery dates shall be postponed accordingly. If the Customer fails to make payment after receiving a further request to settle the instalment and advance invoice with a reasonable deadline, the Contractor shall be entitled to withdraw from the contract without further conditions. In this case, claims for damages and/or reimbursement of expenses by the Customer are expressly excluded.

**12.2** If, after conclusion of the contract, the Contractor becomes aware of facts, in particular default of payment with regard to earlier deliveries, which, according to due commercial judgement, indicate that the purchase price claim is at risk due to the Customer's inability to pay, the Contractor shall be entitled to set a reasonable deadline and demand that the Customer, at its discretion, either make

payment or provide appropriate security, and, in the event of refusal, to withdraw from the contract, in which case the invoice for partial deliveries already made shall become due immediately.

### **13. Production clause for work performances**

**13.1** The Customer declares that it waives its right to obtain information about the Contractor's production.

**13.2** The Customer acknowledges that the production is suitable for the contractual goods and corresponds to the current state of the art.

**13.3** Products approved by the Customer after initial sampling shall be deemed free of defects within the scope of the contractual relationship relating to this product if the contractual products correspond to the initial sampling models in terms of technical usability.

**13.4** If the subject matter of the order is work performance in the areas of printing services or IT (Section 4.1 ), the above provisions shall apply mutatis mutandis with the following provisions:

**13.4.1** The production of the contractual goods shall be replaced by the provision of work services.

**13.4.2** The approval of design material submitted to the Customer (e.g. as part of a feedback loop/sprint) shall replace the approval after initial sampling, regardless of whether it is designated as a concept, draft, preview or design or similar, and regardless of whether the Contractor had expressly requested feedback on this material or whether the Customer had expressly or implicitly approved the material.

### **14. Commercial practice**

In commercial transactions, the commercial practices of the printing industry shall apply (e.g. no obligation to provide intermediate products such as data, lithos or printing plates created for the production of the final product owed), unless expressly agreed otherwise.

### **15. Archiving**

**15.1** Any items belonging to the Customer, such as documents, templates and data carriers, which the Customer has provided as order documents, shall only be archived by the Contractor beyond the date of delivery of the final product by express agreement and in exchange for special remuneration. If such items are to be insured, the Customer shall be responsible for this in the absence of an agreement.

**15.2** Section 15.1 , sentence 1 shall apply mutatis mutandis to the archiving of data.

### **16. Periodic work**

Contracts for regularly recurring work may be terminated with three months' notice to the end of a month. The right to extraordinary termination remains unaffected. In particular, the Contractor shall

be entitled to terminate the contract without notice if the Customer falls into arrears with payments in whole or in part.

## **17. Contractual penalty**

Any contractual penalties or consequences of default agreed between the Customer and the Orderer shall only be borne by the Contractor if the Contractor is liable on the merits and if these contractual penalties or consequences of default have been communicated to the Contractor in writing prior to the conclusion of the contract. The amount of compensation to be paid shall be limited to the value of the Contractor's own contribution.

## **18. Confidentiality clause**

**18.1** The Customer undertakes to treat all information worthy of protection relating to or arising from the business relationship as confidential. In particular, the Customer shall treat all trade secrets (Section 2 No. 1 German Trade Secrets Act (GeschGehG)) and other information from the Contractor's sphere that is not generally accessible and that becomes known to the Customer through the business relationship as confidential information, regardless of whether the Contractor has deliberately disclosed the information and what type of information it is (tangible, digital, verbal).

**18.2** The duty of confidentiality does not apply to information that was already publicly known at the time it was obtained, or that became publicly known without violating any obligation of confidentiality, or that was demonstrably already known to the Customer before it was disclosed by the Contractor, or that was demonstrably developed by the Customer itself.

**18.3** The disclosure of confidential information to any person bound to professional secrecy is permissible. Disclosure is also permissible if this is necessary to fulfil a legal obligation; in this case, the Customer shall ensure that the measures provided for by law to protect trade secrets are taken, e.g. in court proceedings.

**18.4** The Customer shall remain bound by confidentiality even after the end of the business relationship.

## **19. Customer's property**

**19.1** Templates, raw materials, materials, printing substrates and other items intended for reuse, as well as semi-finished and finished products and items provided by the Customer for the execution of the order, shall only be stored beyond the delivery date by prior agreement and in return for special remuneration. If the Contractor undertakes storage without being obliged to do so, it shall only be liable for intent and gross negligence.

**19.2** The items referred to above shall be treated with care until the delivery date. The Contractor shall only be liable for damage in cases of intent or gross negligence.

**19.3** If the items specified above are to be insured, the Customer shall arrange the insurance himself.

**19.4** Materials procured by the Customer, regardless of their type, shall be delivered to the Contractor free of charge and at the Customer's risk. Receipt shall be confirmed without any guarantee being given for the accuracy of the quantity designated as delivered. In the case of larger items, the costs associated with counting or weight checking as well as storage costs shall be reimbursed.

**20. Imprint**

The Contractor may refer to its company in an appropriate manner on the contractual products in consultation with the Customer. The Customer may only refuse consent if it has an overriding interest in doing so and not if the reference to the Contractor's company is required by press law.

**21. Processing of personal data**

The parties shall process personal data as separate controllers (Article 4 No. 7 GDPR). The parties undertake to process all personal data obtained within the scope of this contractual relationship in compliance with the applicable data protection regulations, in particular the GDPR and the Federal Data Protection Act (Bundesdatenschutzgesetz – BDSG). If personal data is processed on behalf of the other party within the meaning of Article 28 GDPR, the parties undertake to conclude an agreement in accordance with the legal requirements in good time before the start of the processing.

**22. Written form**

All declarations and notifications by the parties, in particular termination or withdrawal, must be made in writing to be effective. Section 127 (2) of the German Civil Code (BGB) applies, i.e. declarations by e-mail or fax also comply with the written form requirement.

**23. Place of performance/place of jurisdiction; applicable law**

**23.1** If the Customer is a merchant, a legal entity under public law or a special fund under public law or has no general place of jurisdiction in Germany, the place of performance and jurisdiction for all disputes arising from the contractual relationship, including cheque, bill of exchange and document proceedings, shall be the registered office of the Contractor. The same applies if the Customer has moved its registered office/place of residence or habitual abode abroad after conclusion of the contract or if its place of residence or habitual abode is unknown at the time the action is brought.

**23.2** German law shall apply to the contractual relationship, with the exception of conflict of laws provisions. The application of the UN Convention on Contracts for the International Sale of Goods is excluded.

**24. Severability clause**

The invalidity of one or more provisions shall not affect the validity of the remaining provisions.

