

# Terms and Conditions of Maxiprint EU LLC, Version 1 from 1.1.2007

## 1. Validity

Important notice: For all legal purposes all binding agreements and arrangements are governed by the German version of these terms. The Maxiprint.com website is not directed to any person in any jurisdiction where by reason of that person's nationality, residence or otherwise the publication or availability of the Maxiprint.com Website is prohibited. Persons in respect of whom such prohibitions apply must not access the Maxiprint.com website. This applies in particular to persons not resident in Spain.

For all quotations, cost estimates, purchase and supply transactions following conditions are exclusively applied, as long as compulsive law regulations do not oppose to them or other written prescriptions are explicitly agreed upon.

Repeated confirmations by the customer referring to his own purchase & sales conditions are denied. Any of his derogations to the General Conditions are only valid, when they are confirmed by us in written form. The same applies to verbal conventions or complementary agreements to the written contract.

## 2. Order placement, order acceptance and terms

a) Orders are only binding, when they are confirmed by us in writing.

b) When orders are meant for delivery to a third party, the purchaser is considered as customer. If delivery takes place in favour of a third party or the consignee of the supply is enriched to some extent by the possession and subsequent use of same, then both the purchaser and consignee of the supply are jointly considered as customers. When placing this kind of order the purchaser assures his understanding on this issue and agreement.

c) When ordering on behalf of a third party, disregarding whether in one's own or a different name, both the purchaser and invoice consignee are jointly considered as customers. A later change to the invoice after the invoice has already been issued, having it addressed to another invoice consignee upon purchaser's request, means an implicit debit participation by this invoice consignee. When placing this kind of order the purchaser tacitly assures invoice consignee's understanding on this issue.

d) In principle, delivery terms must be considered as not binding. The terms mentioned on the quotation or order confirmation concerning order completion correspond to the respective time plan status. If given terms are not kept to, a reasonable respite has to be granted to us. After unsuccessful expiry of the respite time the customer may withdraw from the contract. Before that moment the supplies and performances ordered and taken up by the customer can be invoiced by us.

e) Fixed terms for performance execution are only valid when we confirm them in writing as fixed term or firm date.

f) Owing to acts of God or circumstances beyond our control, making inapplicable or difficult the fulfilment of the acknowledged orders, we are entitled also with orders being confirmed and already in progress, excluding all claims for damage compensation, to either withdraw from order or reduce the scope of supply or consequently postpone order execution to a later stage. An agreed term is extended as long as delay lasts. However, rescission by the customer is not possible earlier than four weeks after the occurrence of the above described anomalous situation. We exclude these cases from our responsibility.

### **3. Order execution / authorisation by the customer**

a) We execute all orders, unless different written agreement, in compliance with the print data files supplied or transferred by the customer. Data has to be supplied in the file formats shown on our order forms. With different file formats we cannot guarantee any faultless performance. The customer is totally responsible for data completeness and correctness, also when there are data transmission or data support errors, which may not be ascribed to our responsibility.

b) We are not bound to check all types of materials (which also applies to data supports and transferred data) supplied by the customer or one of the third parties introduced by him. That does not apply to data which evidently do not appear on conditions to be processed or unreadable data. As to data file transfers, the customer are bound before data transmission to implement programmes for computer protection against viruses and other possible damage causes according to the latest updated technical level. Data protection is entirely entrusted to the customer. We are authorised to make copies.

### **4. Advertising**

Even without express approval by the customer, we are authorised to send print copies as quality samples to a third party or use them for our own advertising.

### **5. Periodic work**

Contracts covering regularly repeated work can be cancelled by the end of one month upon at least three months' notice.

### **6. Industrial property rights and copyright royalties**

The customer takes the sole responsibility when the rights of a third party (especially copyright royalties) are infringed as a consequence of the execution of his order. The customer declares that he owns the copy and reproduction rights of the submitted documentation. The customer sets us free from any claims by a third party due to right infringement.

## **7. Warranty, responsibility and return right**

- a) The customer must in any case check the supplied goods for compliance with the contract as well as the preliminary and intermediate products sent back for corrections. At printing or production authorisation all possible fault risks are taken up by the customer, when these are not faults that first appeared or could be identified at the production process immediately after authorisation. The same applies to all other declarations of authorisation made by the customer. Defects have to be described in written form without delay, at the latest within 3 working-days. Hidden defects, which cannot be found in spite of immediate search, must be claimed within the legal warranty period.
- b) Supplies of all types can only be sent back by agreement with us. Goods sent back unfree shall not be accepted. For a justified claim we will refund you shipping costs of the cheapest type of shipment, as far as that was previously agreed with us in written form.
- c) Light deviations from the original on all colour prints at all production process steps cannot be rejected. The same applies, on technical grounds, when comparison is established between various models, for instance proofs and test prints, even when these were produced by us, and end product.
- d) For any deviations from the characteristics of used material we only answer up to the amount of order value. Our responsibility ceases when the customer delivers the material.
- e) If the customer did not order from us any proof or trial prints pulled at our end, we are free from all responsibilities. The customer accepts, that a PDF as "material for production" may also not reveal all possible fault causes. Therefore, claims on this issue are not accepted.
- f) Defects of one part of the delivered goods do not justify the rejection of the whole supply.
- g) Supplies increased or reduced by 10 % out of the ordered quantity have to be upheld.
- h) For a defect ascribed to us on the supplied object we are entitled at our discretion to touch up or provide a replacement performance. If touch-up fails the customer has the choice between a reduction of the purchase price or withdrawal from the contract.
- i) Continuous customer's claims - based on whichever legal grounds - are excluded. We take no responsibility for damages not concerning the supplied object. This exclusion implies in particular profit losses and other capital losses suffered by the customer. That applies also to all damages caused by our employees, representatives and casual helpers.
- j) We answer for damages resulting from delay and violations to contract-based obligations only as far as these damages can be foreseen in advance.

k) If any changes are made to the supplied object by the customer or a third party our responsibility is excluded.

l) All types of data supports sent to us are unlimitedly applied as one-way expendable material. In lack of an explicit written confirmation data must be recorded by us for one use only within 14 days after data supply. Responsibility for models sent to us, should they be damaged or mislaid, is only taken on to cover material value, when we are explicitly asked by the customer for their keeping and have agreed to it in writing. All types of continuous claims are excluded.

m) As for consumers law regulations concerning warranty performances are applied.

n) The company cannot be held responsible for indirect damages affecting supplied goods.

## **8. Price**

a) For our products and services performed please refer to our current price list, except when different prices have been agreed with us in written form.

b) Unless other information specified, prices are meant for delivery ex store plus packing, delivery costs, VAT and other costs.

c) Later on, ie. after order acceptance at our end, arising order modifications are invoiced. As order modification we also consider every modification of commercial order details (invoice consignee, delivery address, type of shipment, payment solution and similar). Every modification upon customer's request is invoiced at the corresponding currently applied working rate.

d) Any changes to supplied or transferred data and similar preliminary work caused by the customer are invoiced separately.

e) We are authorised, not obliged, to carry out the necessary preliminary work - in particular on customer's supplied or transferred data – without notice and independently from him, if this is done to support customer's business interest or it helps to keep to timing schedule for order completion. These activities are invoiced according to the amount of time respectively required for them. Any relevant additional costs charged to the customer, that exceed ten per cent out of order value (quotation price), require preliminary approval by the customer before invoicing these costs as to the part of the additional costs exceeding ten per cent out of order value.

f) At order cancellation by the customer or non-delivery of data within the agreed term the currently applied working rate is due. If the services already performed by us exceed this amount, the relevant deduction shall be done based on them.

## **9. Shipment**

- a) Fulfilment place is company location.
- b) Delivery takes place at the delivery address advised by the purchaser. A different agreement requires our written approval.
- c) Shipment takes place to customer's charge.
- d) As soon as goods are supplied to forwarding agents, freight carriers or mail service, at the latest on leaving our factory premises, the customer takes up the risk for the goods. Risk is transferred to the customer in case of free and ex works supplies too.
- e) Every consignment, where an external damage is present, must be accepted by the customer only by previous assessment of damages through the forwarding agent/freight carrier/post office. Failing to follow up this procedure all relevant claims for damage compensation set up with us are void.

#### **10. Reservation of propriety**

- a) All the goods being delivered remain our property till the fulfilment of the complete requirements relevant to the supply contract. If the purchaser is an entrepreneur or a legal entity, the goods remain our property till the receipt of all payments related to the business relationship with the purchaser.
- b) Contract partner's credits resulting from any alienation of the reserved goods are assigned to us starting from now. They are used within the same scope of supply as a security like the reserved goods. If the reserved goods are alienated by the contract partner together with other goods that were not sold by us, the credit assignment resulting from alienation only applies to half of the alienation value of the respectively alienated reserved goods.
- c) Access of a third party to goods and credits belonging to us must be immediately brought to our knowledge by the contract partner.

#### **11. Payment conditions**

- a) Payment is cash on delivery, unless others specified to be confirmed by us in writing. In case of non-acceptance of any C.O.D. consignment or if this cannot be supplied for other reasons, which were not caused by the supplier, then the currently applied lump-sum damage compensation shall be invoiced. The goods shall be invoiced apart from that.
- b) Even though based on a written agreement no C.O.D. payment or advanced payment has to take place, invoices are due immediately after receipt without deduction, unless other written payment conditions have been agreed upon.

- c) Adequate advance or security by bank guarantee, Postcard or credit card may be required on all orders.
- d) If the fulfilment of a due payment is jeopardized by the significant worsening of customer's economic conditions, officially known after contract stipulation, then we are authorised to request you the advance payment, keep back goods and put to hold any further work development. These rights are as well enforced at our end in case of delayed payment by the customer concerning supplies from the same contract.
- e) The customer has title to set up claims with us only when these are ascertained with legal validity, undisputed or have been acknowledged by us.
- f) Retainer rights can be claimed by the customer only within the same legal context.
- g) Claims set up with us are not transferable.

## **12. Calculation of differences related to approved-modified issues**

The issued invoices are drawn up by us under the reservation of possible errors. Six weeks after it reaches the customer, the invoice has to be considered as accepted by him, except that any objections are raised within this period and notified to us in written form by specifying the contested invoice position. After the six weeks' period has expired, any changes to the invoice are excluded. The same also applies when changes are required as to invoice consignee or invoice address. The period of six weeks does not set aside payment obligation or the obligation to contest defects within the shorter terms defined in these Terms & Conditions.

## **13. Commercial use and copyright**

- a) In trading context commercial usages of printing industry are applied (for instance no obligation to send in intermediate products like data, lithography or zincographic plates made to manufacture the given end product), unless any derogating order was issued.
- b) As to creative performances that we produce on customer's behalf, in particular on graphic proofs, image and text marks, layouts etc. we reserve all rights (copyright). The refund paid by the customer for these activities only covers the work performed but not the rights to intellectual property, in particular not the right of further reproduction. Copyright can be transferred to the customer or a third party against refund, when that is agreed in written form. In this case, property rights are actually transferred to the customer or a third party only on payment of the agreed refund.

## **14. Data files and printed documentation from the customer as well as data processing**

- a) The data we receive for business purposes are exclusively recorded to be worked out once at our company and / or by our partners.

b) All objects submitted or sent by the customer, in particular models, data and data supports, are filed after the time when end product has been delivered only by written agreement and against a special compensation. If these objects must be insured and no agreement has been taken accordingly, that must be provided for by the customer. Our responsibility is excluded for any damage or loss based on whichever grounds.

c) Filed data recovery, e.g. data search from archives, having them unzipped and prepared for further processing shall be invoiced at the current data process lump-sum rate for each filed data print ordered.

d) Data or any other printed documentation are dispatched to the customer or a third party against refund. It amounts to the current shipment lump-sum rate each consignment plus carriage and / or postage.

#### **15. Law in force**

Basis applied to the whole business relationship is exclusively Swiss Law. UN commercial law is explicitly excluded.

#### **16. Place of jurisdiction**

Sole place of jurisdiction for all claims resulting from the business relationship is CH-6340 Baar. We are moreover authorised to take legal proceedings at customer's general place of jurisdiction. That does not apply to consumers.

#### **17. Saving clause**

In case of conditions from the above Terms & Conditions entirely or partly invalid, the remaining local legal terms and conditions will apply. The invalid agreement shall be replaced by law regulations in force.