



# General Terms and Conditions



## Cliqloc®- General Terms and Conditions, July 2012

Cliqloc GmbH  
General terms and conditions of delivery  
for the use in relation with business  
entities / entrepreneurs

### § 1 Validity

1. All deliveries, services and quotations of the vendor to business entities / entrepreneurs are subject to this general terms and conditions of delivery. These are part of all further contracts which may be concluded between the vendor and its contractors (hereinafter called "client") for offered deliveries and services. They are also valid for all further deliveries, services or offers to the client, even if they have not been specially negotiated again.

2. The vendor does not accept commercial terms and conditions of the client or other customers, even if the vendor does not expressly contradict their validity in individual cases. Even if the vendor refers to a document containing commercial terms and conditions of the client or of other customers or refers to such, this does not suggest any agreement to the validity of such terms and conditions.

### § 2 Quotation and conclusion of contract

1. All quotations from vendor are subject to change and without obligation unless they are expressly marked as binding or contain a particular deadline for acceptance. The vendor may accept orders or contracts within fourteen days of their receipt.

2. An order or contract of the client will only be valid after receipt of a down payment of 50% of the total invoice value including statutory VAT resulting from the order confirmation or the contract, respectively.

3. The sole authoritative document for the legal relations between vendor and client is the purchase contract concluded in writing, including these general terms and conditions of delivery. This fully reflects all agreements between the contracting parties on the object of the contract. Oral statements by the vendor prior to the conclusion of the contract

shall not be considered binding and oral understandings between the parties shall be replaced by the written contract between the parties, insofar it is not expressly agreed that they shall continue to be effective. Supplements and modifications to the agreements reached, including these terms and conditions, require the written form in order to be effective.

### § 3 Prices and payment

1. The prices apply for the scope of supply and performance stated in the order confirmation. Additional or special services will be calculated separately. The prices are quoted in EURO ex works plus packaging, the statutory rate of VAT, customs duty in the case of exports and fees and other public costs.

2. Where the agreed prices are based upon the list prices of the vendor, and where the delivery is to be made more than four months following conclusion of contract, then the list price of the vendor valid at delivery shall apply (in each case minus an agreed percentage or fixed discount).

3. The offsetting of counterclaims or retention of payments based on such claims is only permitted if the counterclaims are undisputed or have been established under law.

4. The vendor is entitled to make deliveries or provide services only against prior payment or deposit if, after the conclusion of the contract, circumstances become known to him which are of a nature to considerably reduce the client's credit worthiness and on account of which the payment of the vendor's outstanding demands from the relevant contractual relations (including those from other individual orders for which the same framework contract applies) is put at risk.

### § 4 Delivery and the period of delivery

1. All deliveries shall follow ex works

2. Terms and deadlines announced by the vendor in advance are always only approximate unless a fixed term or a fixed deadline is expressly promised

or agreed. If shipping has been agreed, delivery dates and deadlines refer to the time of transfer to the forwarder, carrier, or other third party assigned to transport the goods.

3. If the object of the purchase also includes printed material, the delivery deadline begins not before the written "ready-to-print approval" by the client.

4. The vendor is authorized - without limiting his further rights of delay of the client - to demand a prolongation of delivery and performance period from the client for the period, the client does not fulfill his contractual obligations.

5. For call orders the period between first and last partial delivery will be 6 months subject to any agreement otherwise. The customer shall call off deliveries and make dispositions allowing the vendor a delivery time of a fortnight at the minimum.

6. The vendor is not liable for impossibility of delivery or for delays in delivery in so far as these have been caused by force majeure or other events which were not foreseeable at the time of concluding the contract (e.g. operating disruptions of all kinds, difficulties in procuring materials or power, transport delays, strikes, lawful lockouts, workforce, energy or raw materials shortages, difficulties in procuring necessary official approvals, official measures or non-delivery or incorrect or late delivery by suppliers), for which the vendor is not responsible. As far as such incidents make delivery or service for the vendor difficult or impossible and the obstruction is not only of temporary duration, the vendor shall be fully entitled to withdraw from the contract. In the event of impediments that are of temporary duration the deadlines for delivery or performance shall be extended or the delivery or performance dates shall be postponed by the period of the impediment plus a reasonable start-up period. If as a result of the delay the client cannot reasonably be expected to accept the goods or services, it may cancel the contract by immediate declaration to the



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vendor in written.

7. The vendor is only entitled to make partial deliveries if

- the client can use the partial delivery as part of the contractually intended purpose

- delivery of the remaining goods as ordered is assured

- the client incurs no major additional effort or costs. (except the vendor intends to bear these costs)

8. Excess deliveries or short deliveries are according to this contract up to 10% of the size of an order. In case of excess deliveries they shall be additionally refunded, in case of short deliveries the purchase price shall be reduced relatively.

9. If the vendor falls behind with a supply or service of if a supply or service is impossible for him, for whatever reason this may be, then the vendor's liability is limited to compensation in accordance with § 8 of these general terms and conditions of delivery

### §5 Execution of the contract

1. The vendor shall comply with the provided metal sheet thickness as far as possible. Deviations with regard to the metal sheet thickness contractually agreed upon or provided by the client shall not represent defects as far as the purpose of use is substantially affected hereby.

2. In case of printed products an exact compliance with the agreed upon shade of colour stated by the client cannot be guaranteed due to technical reasons. Deviations with regard to the shade of colour contractually agreed upon or provided by the client shall not represent defects as far as the purpose of use is substantially affected hereby.

3. The observance of third party property rights with regard to the individual client's printings shall be the responsibility of the client. He shall hold the vendor harmless for any such claims by third party.

4. Drafts, printing plates, embossing presses, and other tools necessary for the performance of the order which have been

provided by the vendor are only covered proportionally to the stipulated purchase price unless otherwise agreed upon. They remain property of the vendor after and despite payment has been effected.

5. If the vendor produces drafts or drawings for reasons of order preparation and the order will be realized the vendor shall charge just and equitable for this work to the client who is required to reimburse.

### §6 Place of fulfillment, delivery, packaging, transfer of risk, acceptance

1. The place of performance for all obligations in connection with the contractual relationship is Cologne, unless otherwise agreed.

2. The type of dispatch and the packaging are subject to the best judgement of the vendor.

3. The risk is passed to the forwarding agent, the carrier, or any other person or institution charged with the execution of the shipment at the handover of the goods at the latest (whereby the commencement of the loading process is decisive). This also applies if partial deliveries are made or the Vendor has been commissioned to provide further services (e.g. dispatch or installation). If dispatch or handover is delayed due to circumstances whose cause lies with the client, the transfer of risks to the client takes place on the day when the vendor is ready for dispatch and has notified this to the Client. Transport packaging and all other packaging – except for pallets - will not be taken back by the vendor. The client is liable for the disposal of packaging at its own expense.

4. Any warehouse charges after passing of risks are to be borne by the client.

5. The shipment will be covered against theft, breakage-, transport-, fire- and water risk only on demand and cost of the client

### § 7 Guarantee

1. The guarantee period amounts to one year on delivery or on acceptance, as far

as an acceptance is necessary.

2. The delivered goods have to be accurately inspected immediately after delivery to the client or determined third parties. The objects are deemed to be approved if the vendor does not receive notice of the defect - either immediately evident or recognized as a result of an immediate careful examination - in writing (telefax or email) and with an exact description of the defect within seven working days from the arrival of the object of the contract or within seven working days of the defects being discovered or the time at which the defect was recognizable without a closer examination by the client during normal use of the object of the contract. On demand of the vendor the damaged goods shall be sent back to the vendor free of charge. If the notice of defects is justified, the vendor will reimburse the costs of the cheapest method of dispatch; this does not apply in so far as the costs rise because the item of supply is located somewhere other than the place of use as determined.

3. In case of material defects in the items supplied the vendor is initially obliged and entitled to repair them or supply replacements according to his choice, which is to be made within an appropriate period. In the event of the failure, i.e. in particular the impossibility, impracticality, refusal or unreasonable delay in reworking delivered goods or delivering replacement goods, the client shall be entitled to withdraw from the contract or reduce the purchase price appropriately.

4. If the vendor is to blame for a defect, the client may demand compensation under the conditions stipulated in § 8.

5. Guarantee does not apply if the client modifies the goods or let them modify by third parties without allowance from the vendor and which makes the supplementary performance impossible or more difficult. In each case the client must bear the additional costs of remedying defects caused by the modification.

6. In the case of call orders defects or delay of a partial delivery only applies to



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the grade provided in these terms and conditions with regard to the partial delivery concerned.

7. Print errors which have not been contradicted in written by the client before print release, client's guarantee claims are hereby expressly excluded. For the proper conduct of this claim the sending of an email or telefax is sufficient.

8. Delivery of used products as agreed in individual cases with the client shall exclude all and any guarantee.

§8 Liability for compensations caused by fault

1. The vendor's liability for damages, regardless of the legal grounds but in particular due to impossibility, delay, defective or incorrect delivery, contractual infringement, infringement of duties during contract negotiation and action in tort is, in so far as there is a question of blame in each case, limited in accordance with this § 8.

2. The vendor is not liable a) in the case of simple negligence of his bodies, statutory representatives, employees or other vicarious agents; b) in the case of gross negligence of non-senior executives or other vicarious agents, inasmuch as it does not concern a breach of duties which are significant for the agreement. Considered essential to the contract are the obligations for prompt supply free of defects and installation and duties of consultation, protection and care, which will make the use of the supply item in accordance with the contract possible for the client or which serve the purpose of protecting the life and limb of personnel of the client or third parties or the client's property against considerable damage.

3. In so far as the vendor is liable for damages for reasons of and in accordance with § 8 (2), this liability is limited to damage which the vendor has foreseen when concluding the contract as a possible consequence of a contractual infringement or which, under consideration of the circumstances, were or should have been known to him or which, by applying

due care and attention he should have foreseen. Furthermore, indirect damage and consequential damage resulting from defects in the item supplied are only subject to compensation in so far as such damage is typically to be expected when using the item supplied as stipulated.

4. The aforementioned exclusions of liability and limitations of liability shall apply to the same extent to the benefit of the management, lawful representatives, salaried employees and other agents of the vendor.

5. In so far as the vendor provides technical information or acts as an adviser and this information or advice is not part of the contractually agreed scope of services owed by him, this is done free of charge and with the exclusion of any liability.

6. The vendor shall not be liable for typographical errors which have not been claimed in written by the client before print approval. The sending of a telefax or email shall be sufficient for the proper duly effected notification of defects.

7. The limitations of this paragraph 8 shall not apply to the vendor's liability for wilful misconduct, for guaranteed characteristic features, damage to life, body or health, or in accordance with product liability laws.

§9 Reservation of title

1. The following, agreed reservation of title is intended to secure all existing present and future demands of the vendor against the client from the delivery relationship existing between the contractual partners.

2. The goods delivered by the vendor to the client shall remain the client's property up until complete payment has been effected for all secured claims. The goods and any goods taking their place and subject to the reservation of title in accordance with this clause shall hereinafter be referred to as the „secured goods“.

3. The client stores the secured goods free of charge for the vendor.

4. The client is entitled to process and sell the secured goods in normal business

dealings up to the point of instigation of recovery (paragraph 9, point 9). Pledges and collateral assignments are inadmissible.

5. If the secured goods are processed by the client, it is deemed to be on behalf of and for the account of the vendor as the manufacturer and the vendor directly acquires property or - if the processing involves materials provided by a number of owners or the value of the processed goods exceeds that of the secured goods - partial property in the items thus created and in proportion of the value of the secured goods to the value of the new items. For the case that no such acquisition of ownership should occur for the vendor, the client shall transfer now his future ownership or - in the aforementioned ratio - his co-ownership in the newly created items to the vendor for reasons of security. If the secured goods are connected with other goods to a single object and if one of the other goods can be seen as the main part, the contractual partner assigns - as far as the main part belongs to the contractual partner - the joint title in the single object to the vendor in the relation stated in sentence 1 of this point (§9 (5)).

6. In the event that the secured goods are sold on, the client hereby transfers the resulting claim against the acquirer - or in case of co-ownership of the vendor of the secured goods in proportion to the proportion of co-ownership - to the vendor by way of security. The same shall apply to any other claims that take the place of secured goods or otherwise accrue with respect to secured goods, e.g., insurance claims or tort claims resulting from loss or destruction of secured goods. The Vendor empowers the client, in a revocable manner, to collect the claims transferred to the vendor in his own name on behalf of the vendor. The vendor may only revoke this power to collect in the event a claim is made

7. If third parties take hold of the secured goods, in particular by garnishment, the client has to advise immediately of



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the property of the vendor and also to inform the vendor to enable the assertion of the property rights. To the extent the third party is unable to reimburse the vendor for the legal costs incurred in this connection, the client shall be liable for such costs.

8. The vendor shall release any secured goods and, in its sole discretion, any items and/or receivables replacing it upon according request, in the event that the value thereof shall exceed the collateralized claims by more than 50%.

9. If, in the event of behaviour by the client contrary to the contract - in particular late payment - the vendor withdraws from the contract (case of recovery) he is entitled to demand the secured goods.

### § 10 Final provisions

1. The legal venue for all and any disputes arising out of the business relations between the vendor and the client is Cologne

2. The relationship between the vendor and the client is exclusively subject to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 (CISG) does not apply

3. In so far as the contract or these general terms and conditions of delivery contain any loopholes, those legally effective provisions which the contracting partners would have agreed according to the commercial aims of the contract and the purpose of these general terms and conditions of delivery if they had been aware of the loopholes are considered to be agreed for filling these loopholes.

### Note:

The Client shall take note of the fact that the vendor stores data from the contractual relationship in accordance with section 28 Federal Data Protection Act for the purpose of data processing, and reserves the right to transmit the data, inasmuch as for the performance of the agreement necessary, to third parties (e.g. insurances).