



W. GRÖNING GMBH&Co.KG - General Terms and Conditions of Export

1. Application and validity of the General Terms and Conditions

- 1.1 Our supplies and services are performed exclusively under these present Terms and Conditions. Consequently, they also apply to all future business relations, without requiring additional express agreement. These General Terms and Conditions shall be deemed accepted upon receipt of the goods and/or services, at the latest. We hereby object to any counter confirmation or acknowledgement thereof by the customer referring to customer's own general terms and conditions.
- 1.2 Deviations from these present Terms and Conditions shall only be valid if expressly confirmed by us in writing.

2. Offers and conclusion of contract

- 2.1 Our offers are non-binding and subject to change. If the order of a customer qualifies as an offer the contract shall be concluded by our written acceptance thereof or by carrying out the delivery.
- 2.2 Any agreements or arrangements shall be concluded in writing. This applies particularly to ancillary, subsidiary or side agreements, guarantees of durability or preservability, and/or guarantees relating to qualities, properties, or conditions, and to any subsequent contractual amendments.
- 2.3 Drawings, pictures, measurements, weights and/or any other performance data shall only be binding if expressly agreed in writing. Such data shall not be deemed a guarantee of quality or condition.

3. Delivery, default

- 3.1 The commencement of the delivery period specified by us shall be subject to the prior clarification of all technical questions.
- 3.2 All times and periods specified by us shall be non-binding, unless otherwise agreed in writing. We do and will not assume the risk of the availability of supplies and raw materials.
- 3.3 In the event of delays in delivery and performance due to force majeure or other events that impede or render impossible delivery (e.g. strike, lock-out, extreme weather conditions, etc.), we shall be entitled to postpone delivery or performance by the time of the impediment plus a reasonable start-up period. The same shall apply if above-stated obstacles occur at our suppliers or their sub-suppliers.
- 3.4 Proper and timely availability of materials and raw supplies is reserved. This shall only apply in the case that we are not at fault for non-delivery.
- 3.5 If on-call delivery has been agreed, the customer shall call for delivery within an adequate period.
- 3.6 We can only be put in default by service of a formal notice by customer, unless statutory or contractual provisions provide otherwise. Formal notices and time limits set by the customer shall only be valid if in writing.
- 3.7 Observance of our delivery obligations shall be conditional upon the due and timely performance of the customer's obligations. We reserve the objection of non-fulfilment of the contract.



- 3.8 We shall be entitled to supply out part-deliveries and render partial performance at any time if reasonably acceptable to the customer.
- 3.9 In the event of our default, we shall be liable pursuant to Clause 12 for any damage proven by customer to be caused by our default. For damage/loss caused by slight negligence in the event of our default, we shall only be liable in the amount of 5% of the purchase price agreed with us.
- 3.10 In the case that we fail to perform a due obligation or fail to perform it according to contract, the customer may terminate the contract after setting an additional time limit for performance, provided we do not perform our obligation within this additional time limit. If the customer claims damages in addition to a termination of the contract, said claim shall be limited to 25% of the agreed purchase price in the case of slight negligence.
- 3.11 In the case of a delay in acceptance by the customer or in the event of a breach of any other of customer's obligations to co-operate, we shall be entitled to raise the statutory claims available to us. The risk of accidental perishing and/or accidental deterioration of the object of the purchase shall transfer to the customer no later than at the time at which the customer is in default.
- 4. Transfer of risk, packaging, recovery**
- 4.1 Unless otherwise agreed, delivery ex works/store „Rheine-Mesum“ is agreed (EXW-Incoterms); the usual commercial provisions shall be interpreted in accordance with the applicable Incoterms as amended.
- 4.2 No transport or other packaging as defined by the German Regulation of Packaging (Verpackungsverordnung) will be recovered, with the exception of reusable transport means, such as pallets, etc.. The customer is responsible for disposal of one-way packaging at customer's own cost. Reusable transport means are only made available to the customer by way of lending; the customer shall return them in proper condition, i.e. free of any remnants and in undamaged condition; in the case of dirty or damaged transport means, the customer shall bear the cost of cleaning or repairing them, or customer shall be liable to pay us compensation if cleaning or repair is not possible.
- 5. Prices, payment, set-off, retention right**
- 5.1 Our prices are plus the valid VAT, as amended. Prior to transferring the turnover for goods and services supplied within the European Union, the customer shall provide us with customer's VAT-ID no. under which customer's purchase transactions are taxed within the EU. In the case of goods and services from the Federal Republic of Germany, supplied outside the EU, and which are not supplied or arranged for by us, the customer shall present us with the evidence of removal required for tax purposes. If such evidence is not furnished, the customer shall also pay the VAT levied on the invoice value for such supplies or services within Germany.
- 5.2 Additional supplies and services are invoiced separately. We reserve the right to reasonably change our prices if after conclusion of the contract cost reductions or increases occur due to collective wage agreements or changes in the cost of materials. These shall be verified to the customer upon request.
- 5.3 Unless otherwise agreed, all prices stated are exclusive of packaging, shipment, transport and customs duties.
- 5.4 The amount invoiced is due payable 30 days as from invoicing without any deductions, unless expressly agreed otherwise. In the case of cash payment within 10 days, a discount of 2% is granted, provided the customer's account does not show any other invoiced amounts due for payment.



- 5.6 If the customer is in arrears with payment we may claim interest at a rate of 8 percentage points p.a. above the base rate of the European Central Bank.
- 5.7 In the event that we gain knowledge of any circumstances that put into doubt the financial standing of the customer, we shall be entitled to demand down-payments or provision of a security, without prejudice to any other statutory claims.
- 5.8 We reserve the right to refuse cheques and bills of exchange, which are only deemed payment upon encashment. Any discount and bank charges shall be at customer's expense.
- 5.9 The customer shall only be entitled to set-off our claims if customer's counter-claims are res judicata, undisputed, or if we acknowledge them. Furthermore, the customer may only exercise a retention right if and inasmuch as customer's counter-claim is based on the same contractual relationship

6. Retention of title

- 6.1 Ownership of the goods supplied shall remain with us until full payment has been effected.
- 6.2 The customer shall support us in all measures necessary to protect our proprietary rights in the country concerned. The customer shall immediately inform us if our proprietary rights are put at risk. This shall apply particularly in relation to any third party acts of disposal or official measures (seizure, garnishment, attachment, etc.).

7. Information concerning measured values

The measured values (weight specifications) are identified with calibrated measuring equipment and processed to our EDP system (freely programmable additional device). The measured values mentioned in our documents originate from this freely programmable additional device. The original and calibrated measured values can be examined at our company.

8. Intellectual property rights

- 8.1 We also reserve ownership of any artwork/copy/printing materials produced by us, such as drafts, drawings, printing plates, films, impression cylinders and plates, regardless of whether the customer pays a portion of the cost thereof. If the customer pays the full cost thereof customer shall be entitled to demand surrender of all and any artwork/copy/printing materials.

A fore-mentioned artwork/copy/printing materials may not be made accessible to third parties as long as they remain our property. This shall apply particularly to information marked or referred to as confidential, in particular written documents; the customer may only pass on such information to third parties with our prior written consent.

- 8.2 The customer alone is responsible for verifying the right of reproduction, including the copyrights of the documents provided by customer. Consequently, customer shall indemnify and hold us harmless against all and any third party claims.
- 8.3 Ownership and the full right of disposal of any samples, sketches, drafts, etc. that do not fall under the artwork/copy/printing materials referred to herein-above will pass to the customer subject to full prior payment of the price.

9. Tolerances

- 9.1 Weight deviations: deviations in the grammage shall correspond with those of the materials used according to the manufacturers' specifications. If the latter do not provide otherwise, deviations of $\pm 15\%$ shall be permitted.



9.2 Dimensional tolerances: we reserve a tolerance in thickness of $\pm 10\%$ for foils and a tolerance of $\pm 5\%$, in width and length, no less however than 10 mm.

9.3 Quantity deviations: We are entitled to supply short or excess deliveries of up to 10% of the quantities ordered, and up to 20% in the case of orders below 100 kg, calculated on the basis of the quantities actually supplied.

10. Pressure

10.1 We use the usual commercial printing colours for printing. If particular requests are made relating to e.g. resistance to light, alkali fastness, abrasion resistance, etc., the customer shall advise us thereof specifically when placing the order. Slight colour deviations are excepted. They do not entitle the customer to refuse acceptance of the goods or to reduce the price.

10.2 We do not and shall not assume any liability for the occurrence of any migration and any resulting consequences. The customer is obliged to expressly advise us in writing of any requirements relating to the suitability of packaging materials for use with foodstuffs, particularly in respect of goods to be packaged. If the customer fails to do so, we shall assume no liability whatsoever.

10.3 We are unable to guarantee the legibility of the coding of flexible materials. No complaints or objections may be raised on the grounds of misprints of 5% and less.

11. Materials and processing

11.1 If the customer does not particularly instruct us otherwise, orders will be carried out with the materials usual in the business, using generally acknowledged production procedures. The customer is responsible for examining the foil for its suitability for packaging purposes.

11.2 In the case of special properties of the filler goods, the customer shall expressly notify us in writing of the use of corresponding materials and enter into corresponding arrangements with us. This shall apply particularly in respect of statutory requirements, such as food laws.

12. Responsibility for the contractual conformity of the goods

12.1 The customer shall examine the goods immediately upon receipt. If the customer fails to notify us in writing of a specific breach of contract immediately upon detecting it or at the time at which such breach would have been determined, the customer will lose the right to raise claims on the grounds of such contractual breach.

12.2 The customer shall be liable for treating the goods supplied with care, for their proper storage and for providing evidence thereof.

12.3 If the goods are not according to contract we may first and foremost at our choice remedy the breach, even in the case of substantial defects, by way of subsequent remedy or replacement delivery within an adequate additional period upon the customer's request.

The customer shall be obliged to reasonably participate in the subsequent remedy and correspond with our instructions in that respect, and shall receive reimbursement of any expenses thus incurred.



12.4 In the event that we fail to remedy the contractual breach as provided by clause 11.3, the customer may reasonably reduce the price. In the case of a material contractual breach, customer may terminate the contract within an adequate time limit if the period set according to clause 11.3 has expired and we have not previously remedied the breach.

12.5.1 Claims of contractual breach cannot be based on insignificant deviations from the agreed quality, on an insignificant impairment of usability, on natural wear and tear and/or on damages/loss caused by improper and/or negligent handling, excessive use, unsuitable equipment and/or particular external impact and/or in the case of conditions not provided for under the contract.

12.5.2 The occurrence of a proportionally low number of defective goods cannot technically be prevented in the production of synthetic or plastic packaging and similar goods, and no objections may be raised relating to a portion of 5% and below of the aggregate quantity, regardless of whether the contractual breach occurs in the processing or in the printing process. Contractual defects in one part of the goods supplied do not create the right to object to the entire delivery, provided the defective goods can be reasonably separated from the faultless goods.

12.5.3 In the case of fully automatic bag production, automatic counting is applied. In this case, we shall be entitled to base our supplies and quantity calculations on the results of said automatic counting

13. Liability

13.1 Unless otherwise provided for in these present Terms and Conditions, we shall be liable only for damages for contractual or non-contractual breaches in cases of wilful intent or gross negligence and in cases of a breach of material contractual obligations. Liability for breaching material contractual obligations shall however be limited to the typical foreseeable contractual damage/loss, except in cases of wilful intent or gross negligence.

13.2 Afore-said restrictions of liability shall not apply to claims based on injuries of life, the body or health. Mandatory statutory liability provisions, such as liability under the Product Liability Act or related to the giving of a guarantee, shall not be affected.

13.3 If and where our liability is excluded or restricted this shall also apply to the personal liability of our employees, workers, staff members, representatives, agents and auxiliary persons.

14. Statute of limitation

All claims of the customer that are based on breaches of the contract shall become time-barred after 12 months; the limitation period shall commence upon delivery. This shall not apply in cases of gross negligence, wilful intent, injuries to life, the body or health, or fraudulent misrepresentation by silence; in these cases the statutory limitation periods shall apply.

15. Observance of the law

15.1 We are responsible for observance of the relevant German product liability and safety laws and technical standards.

15.2 Observance and fulfilment of the relevant foreign trade laws and provisions and any other laws of the customer's country or the country of destination of the delivery shall be upon the customer. The customer shall advise us in writing of any particularities resulting from these Terms and Conditions at the time of conclusion of the contract.

16. Place of performance, place of jurisdiction, applicable law

16.1 The place of performance of all obligations under the contract is Rheine-Mesum.



- 16.2 The place of jurisdiction for all and any current and future claims created under the business relationship with merchants, legal persons governed by public law and special funds under public law, including bills of exchange and cheques, shall be the local court, Amtsgericht Rheine, or the district court, Landgericht Münster. We may also bring action against the customer at his general place of jurisdiction.
- 16.3 These present terms and conditions of business and all legal relations between us and the customer shall be governed by the laws of the Federal Republic of Germany, including the UN-Convention on contracts on the international sale of goods (CISG, as amended on 11 April 1980).

(As of: November 2008)