

## General terms and conditions

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*This document is the English translation of the German version of the General terms and conditions. In case of doubt, the German version prevails.*

### 1. Scope of application

1.1. The following terms and conditions apply exclusively for all contracts concluded between the company Gundlach Verpackung GmbH (hereinafter also referred to as "Gundlach") and companies within the meaning of § 14 German Civil Code ("BGB"), legal entities governed by public law or public law special funds (hereinafter referred to as "buyer"). The buyer's terms and conditions do not apply in its entirety unless Gundlach has explicitly agreed by prior consent in writing. This also applies to individual clauses in the buyer's terms and conditions that do not conflict with the conditions laid down here. Gundlach's terms and conditions also apply exclusively when Gundlach carries out the delivery to the buyer without reservation in the knowledge of the buyer's deviating clauses. Even if Gundlach refers to a letter that contains and/or refers to terms and conditions of the buyer or a third party, this does not constitute acknowledgement of the validity of those terms and conditions.

1.2. These terms and conditions shall also apply to all future business dealings with the buyer.

1.3. Individual contractual agreements take precedence over these terms and conditions in any case.

### 2. Offers and orders

2.1. The offers by Gundlach are non-binding. A contract is only concluded with Gundlach's order confirmation submitted in writing or electronically by persons authorised to represent the company or by delivery of the goods to the buyer. Spoken statements made prior to the conclusion of a contract are legally non-binding.

2.2. By ordering the goods, the buyer submits a binding offer. Gundlach is entitled to accept this offer within two weeks of receipt by Gundlach.

2.3. Orders, changes to confirmed orders by the buyer as well as verbal agreements are only deemed to be accepted or binding if they have been confirmed in writing by Gundlach by means of persons authorised to represent it. Silence on the part of

Gundlach is not deemed to be consent. If the order confirmation by Gundlach contains changes to the order, these changes are deemed to have been approved by the buyer if he does not object to them within one week. The time limit is triggered upon receipt of the amended order confirmation. Gundlach accepts no responsibility or obligation to check for any errors in the order confirmation, unless the buyer corrects them promptly, but not later than 24 hours after receipt of the order confirmation.

2.4. Should the buyer wish to cancel or amend the contract after the order has been confirmed, but before production, this will only be possible in agreement with Gundlach.

2.5. Gundlach does not assume any risk of procurement with regard to self-delivery by Gundlach's suppliers (so-called material provision), unless Gundlach is responsible for the non-timely or incorrect self-delivery.

### 3. Prices

3.1. The prices are in euros plus the statutory value-added tax applicable at the time, unless another currency has been expressly agreed. Payments may only be made in the currency agreed for this purpose.

3.2. If a currency other than the euro has been agreed with the buyer, and if this currency appreciates or depreciates in value against the euro after conclusion of the contract by an amount of 5 percent and more compared to the time of contract conclusion, Gundlach is entitled to a corresponding price increase in the event of a devaluation and to invoice accordingly, or in the event of an appreciation, the buyer is entitled to request a corresponding credit note.

3.3. Unless otherwise agreed by Gundlach in writing (in particular in the form of INCOTERMS), the prices listed are net, duty unpaid and include standard packaging costs. The buyer shall bear any additional costs.

3.4. Gundlach and the buyer agree that not all goods that are the subject of the contract are produced in stock. Circumstances may therefore arise between the conclusion of the contract and the delivery of the goods which significantly increase the manufacturing costs of the goods to be produced and which could not be considered in the underlying price calculation at the time of the conclusion of the contract.

If, after conclusion of the contract but before execution of the agreed delivery, there is a significant change in

the raw material and/or other direct costs totalling more than 5 percent in relation to the underlying price calculation, the price needs to be renegotiated.

3.5. Deviations in the invoiced price compared to that in the order confirmation due to contractual service charges such as storage charges need to be accepted by the customer. It should be noted that after expiry of the agreed provision date, storage shall be free of charge for a period of 6 months. After expiry of the free storage period, delivery and invoicing will be made to the buyer. Alternatively, Gundlach may, against payment, store the goods for a further period of 6 months at its own discretion before they are then delivered, at the latest, to the buyer and invoiced.

#### **4. Delivery**

4.1. Delivery dates are only binding if Gundlach have expressly guaranteed in writing that they will be adhered to. The obligation only applies barring unforeseen events for which Gundlach is not responsible. The delivery date is deemed to have been met if the goods are handed over to the transport company in good time so that in normal circumstances, delivery on time can be expected.

4.2. If a request-for-release or delivery schedule is agreed between the parties, it is binding for both parties. Deviations require the explicit written consent of the other party. Emails are generally treated as equivalent to written consent.

4.3. If the delivery date is not met by Gundlach, the buyer is entitled and obliged to set Gundlach a reasonable period of grace for delivery in writing, depending on the current order situation at Gundlach. As a rule, the grace period generally has to be at least 10 working days. After a fruitless expiry of the grace period and if the delivery date and the grace period could not be met due to unforeseen events for which Gundlach cannot be held responsible for, the buyer may withdraw from the contract. In cases of standing or successive delivery contracts, the right of withdrawal is limited to the specific delivery, unless continuation of the entire contract is no longer reasonable to the buyer. In the event that Gundlach is unable to supply a buyer for longer than 3 months due to a shutdown of production capacities, the contracting parties are of the opinion that there is no culpable delay for the duration of the incapacity.

4.4. The risk is transferred to the buyer when the goods are handed over for transport, unless expressly agreed otherwise in writing. This also applies if free or freight-free delivery has been agreed and/or

Gundlach carries out the transport itself. The buyer will bear the shipping costs, unless agreed otherwise in writing.

4.5. Insofar as no written agreements have been made regarding packaging, the choice is on Gundlach. Pallets, lattice boxes and cover boards and other packaging and transport materials made available by Gundlach that are suitable for multiple use, shall remain Gundlach's property. The buyer must return them to Gundlach in flawless condition at his own expense within one week of using the goods delivered in them.

4.6. Unless expressly agreed otherwise in writing, Gundlach is entitled to make partial deliveries.

4.7. During the manufacture of the goods, excess or short deliveries of up to +/- 20% may occur due to production. Any excess or short deliveries within this tolerance, represent a proper performance of the contract. The buyer has to pay the price for the quantity actually delivered.

4.8. In the case of free-to-the-door deliveries, Gundlach reserves the right to choose the freight forwarder, unless expressly agreed otherwise in writing.

#### **5. Terms of payment, set-off, assignment**

5.1. Unless agreed otherwise, the invoiced amount is due without deduction 14 days after receipt of the invoice. Discounts are permissible only if they have been expressly agreed in advance and confirmed in writing. If the buyer does not pay the invoiced amount within 14 days after receipt of the invoice or after the agreed payment date, he will be in arrears commencing the following day, even without a separate reminder. The statutory provisions for interest on arrears apply in this case.

5.2. Payment orders, bills of exchange and cheques shall not be accepted in lieu of performance, but only on account of performance. In the case of payment by money orders, bill of exchange and cheque, fulfilment shall only occur on the value date of the bank credit entry. Collection costs as well as bank charges for transfers are borne by the buyer. Gundlach accepts no liability for the timeliness of presentation.

5.3. The buyer is only entitled to rights of set-off and retention if his counterclaims have been legally established, are undisputed or have been recognised by Gundlach. In the event of defects in the delivery, the consequential counter-rights of the buyer remain in effect.

5.4. If, after conclusion of the contract, a significant deterioration in the buyer's financial circumstances occur or when other indications become known which make the solvency of the buyer appear questionable, Gundlach is then entitled to withhold performance until the buyer has paid the consideration or provided security. If in this case, after being requested to do so, the buyer fails to provide either the full consideration or suitable security within a period of one week, Gundlach is entitled to withdraw from the contract. Gundlach's right to claim damages under the statutory requirements remains unaffected.

5.5. Gundlach has the right to assign claims against the buyer to a third party at any time and at its own discretion provided this is reasonable for the buyer and he does not suffer any significant disadvantage as a result. Gundlach is not obliged to inform the buyer in advance of such an assignment.

5.6. The assignment of claims of the buyer from the business relationship is precluded without Gundlach's explicit written consent.

## 6. Retention of title

6.1. The delivered goods remain the property of Gundlach as reserved goods until the purchase price has been paid in full and until all claims already existing from the business relationship and the ancillary claims existing in close connection with the delivered goods (default interest, default damage, etc.) have been settled. The suspension of individual claims in a current account or the account balancing and the recognition thereof shall not cancel the retention of title.

6.2. If goods subject to retention of title are processed by the buyer or a third party commissioned by him to form a new movable item, the processing will be carried out for Gundlach without Gundlach being bound by this. The new item becomes Gundlach's property. In the event of processing together with goods not supplied by Gundlach, Gundlach acquires co-ownership of the new item in proportion to the value of the reserved goods to the other goods at the time of processing. If goods subject to retention of title are combined, mixed or blended with goods not supplied by Gundlach in accordance with §§ 947, 948 German Civil Code (BGB), Gundlach will become co-owner in accordance with the statutory provisions. If the buyer acquires sole ownership by combining, mixing or blending, he immediately transfers joint ownership to Gundlach in proportion to the ratio of the value of the reserved goods to the other goods at the time of combining, mixing or blending. Gundlach accepts the anticipated offer of transfer of

ownership. The item owned or co-owned by Gundlach in this case is also deemed to be reserved goods in the meaning of the following conditions.

6.3. The buyer must keep the reserved goods safe free of charge and insure them sufficiently at his own expense.

6.4. The buyer is entitled to resell or use the goods subject to retention of title in the course of his normal, proper course of business. However, this only applies with the proviso that the claims assigned in advance in accordance with clause 6.5 are actually transferred to Gundlach. The buyer is not authorised to dispose of the reserved goods in any other way, in particular to pledge them or assign them as security. If the buyer defaults on payment, he is only entitled to resell the reserved goods if he instructs his buyer to pay the purchase price directly to Gundlach. If Gundlach only has co-ownership of the reserved goods, the buyer must only instruct his buyer to pay Gundlach the share of the purchase price that corresponds to the invoice value of the reserved goods delivered by Gundlach.

6.5. The buyer hereby assigns all claims from the resale of the reserved goods to Gundlach in advance. Gundlach accepts this assignment. If Gundlach only has co-ownership of the reserved goods, the advance assignment agreed in sentences 1 and 2 only applies to the amount of the invoice value of the reserved goods delivered by Gundlach.

6.6. The buyer remains entitled to collect the assigned claims. Gundlach's legal competence to collect the claims himself remains unaffected. However, Gundlach will not collect the claims as long as the buyer meets his payment obligations from the proceeds received, he is not in payment default and, particularly, no application has been filed for the instigation of insolvency proceedings or the initiation has been rejected due to lack of assets. Upon request, the buyer has to name the debtors of the assigned claims to Gundlach stating the address and he must notify them of the assignment. Gundlach is also authorised to notify the debtors of the assignment himself.

6.7. Insofar as Gundlach is entitled to withdraw from the contract due to breach of duty by the buyer, in particular due to default in payment, the buyer must return the goods delivered under retention of title to Gundlach without delay after declaration of Gundlach's withdrawal and request for restitution. The user shall bear the costs for the return.

6.8. The buyer must inform Gundlach immediately in writing of any compulsory enforcement

measures taken by third parties in respect of the reserved goods or the assigned claims, by handing over all the necessary documents, in particular a copy of the compulsory enforcement measures protocol. At the same time, the buyer must send Gundlach an affidavit in which he declares that the goods subject to the enforcement measures are goods delivered by Gundlach and are subject to Gundlach's retention of title. The costs of Gundlach's intervention against the compulsory enforcement measure are borne by the buyer, unless they are reimbursed by the third party.

6.9. Gundlach undertakes to release the securities to which Gundlach is entitled at the buyer's request insofar as the value of Gundlach's securities exceeds the claims to be secured by more than 50%.

6.10. The selection of the securities to be released is incumbent upon Gundlach. With the settlement of all Gundlach's claims against the buyer, the ownership of the reserved goods and the assigned claims shall be transferred to the buyer.

## 7. Force majeure

7.1. Gundlach is not liable for impossibility of delivery or for delays in delivery insofar as these were caused by force majeure or other events that were not foreseeable at the time the contract was concluded, for which Gundlach is not responsible.

7.2. Force majeure is deemed to be all events, the causes of which are beyond Gundlach's sphere of influence, including, but not limited to:

Labour disputes of any kind, difficulties in acquiring material, energy or transport options, closed borders, official decrees, export embargoes or other circumstances that affect the operation of Gundlach; or

force of nature, pandemics, acts of war, uprisings/revolution, terrorism, sabotage, arson, fire, natural disasters, failure to obtain the necessary official permits; or

delays or failures in delivery by upstream suppliers of the supplier, in particular as a result of energy crises or raw material supply crises, or if the procurement of raw materials in terms of price and/or quantity cannot be carried out on economically justifiable terms and which could not be foreseen when the contract was concluded for the supplying plant, as well as for all other causes for which the supplier is not responsible.

7.3. Insofar as such events make the delivery or service significantly more difficult or impossible for Gundlach and insofar as the hindrance is not only of a temporary duration, Gundlach is entitled to withdraw

from the contract.

7.4. In the event of hindrances of temporary duration, the delivery or service deadlines will be extended or the delivery or service deadlines will be postponed by the period of the hindrance plus a reasonable starting period. Insofar as the buyer cannot be expected to accept the delivery or service as a result of the delay, he may withdraw from the contract by means of an immediate written declaration to Gundlach. If circumstances permit, Gundlach is obliged to inform the buyer in writing as soon as possible.

## 8. Intellectual property, industrial property rights, ownership of work materials

8.1. The intellectual property or industrial property rights to designs, templates, sketches, patterns, films, lithographs, flexo plates, die-cutter, cutting dies, negatives, plates, pressure rollers, pressure plates, forming devices, digital data, printing cylinders etc. developed by Gundlach (hereinafter: work materials) are the exclusive property of Gundlach. The buyer may not use these work materials without prior explicit written agreements in which an appropriate usage fee is stipulated.

8.2. The buyer is liable for ensuring that the goods manufactured by Gundlach in accordance with his work materials or other specifications or instructions do not infringe any third-party rights, in particular no intellectual property rights or industrial property rights. The buyer hereby undertakes to indemnify Gundlach on first demand against any claims asserted by third parties against Gundlach for alleged or actual infringement of intellectual property and/or industrial property rights, provided that Gundlach has manufactured the goods in accordance with its work materials or other specifications or instructions.

8.3. Work materials that are required for the production of the goods and that have been produced by Gundlach remain Gundlach's property, even if the buyer has contributed financially to the production costs. There is no obligation to surrender them.

8.4. Gundlach will only store working materials and data sets provided by the buyer at the buyer's risk. Gundlach is only liable for due care in its own affairs. Gundlach will only insure these working materials and data sets at the express request of the buyer and only at his expense. If the buyer has not requested the return of these working materials within one year or the data records within two years of their last use by Gundlach, Gundlach is entitled to destroy them without prior notice. The buyer bears the sole risk of a flawless

subsequent provision of the data due to a changed processing technique.

8.5. Documents handed over to the buyer are only for use in accordance with the contract, are therefore confidential and may not be passed on to third parties without Gundlach's written consent.

## 9. Attachment of identification labels

Gundlach is entitled to attach its own company name, its own company logo or its own identification number to the goods manufactured by Gundlach in an appropriate form that does not affect the design of the goods.

## 10. Condition of the goods

10.1. A certain quality in the goods delivered by Gundlach is only warranted if Gundlach expressly promises certain quality characteristics in writing. In the absence of deviating agreements in the contract, the suitability of the packaging material for direct contact with food is not obliged. Gundlach therefore accepts no liability for impairments to the goods or the packaged goods which are based on direct contact without an explicitly written agreement.

10.2. In terms of printing and processing, the goods are in conformity with the contract when the printing result and the workmanship are within the tolerances that correspond to the current state of the art.

10.3. Delivery is deemed to have been carried out in accordance with the contract if it complies with the agreed specifications or the international standards of the folding box industry. Deviations that are common in the trade or negligible or technically unavoidable are not deemed to be defects notwithstanding the above provisions.

10.4. Samples provided by Gundlach are hand or plotter samples that may differ from machine production in terms of material, appearance (e.g. punched bridges, colour) and workability (e.g. crease resistance). Gundlach is not liable for such deviations.

10.5. The buyer is aware that processing the goods after prolonged storage may lead to sensory impairments and external impairments such as creasing edge breakage and colour changes, as well as technical impairments such as, for example, poor running properties, bondability, ink adhesion and planar impaction. If the buyer causes the originally request-for-release or delivery agreed dates to be exceeded by more than 6 months, he accepts such ageing phenomena as

the contractually compliant condition of the goods.

## 11. Warranty

11.1. The delivered goods must be inspected by the buyer for completeness and freedom from defects immediately upon receipt and in any case before processing of the goods. In the event of a notification of defects, the buyer must describe the goods precisely and list the defects complained about individually and in detail. The notification must be made in writing and exclusively to Gundlach (and not to any third party such as a carrier). If the notification of defects is not made in accordance with the provisions mentioned above and below, corresponding warranty, compensation and other claims by the buyer are precluded.

11.2. Recognisable shortfalls or excess quantities and externally recognisable damaged goods must already be noted on the receipt. If the buyer does not comply with this obligation, the goods shall be deemed to be in accordance with the contract.

11.3. The buyer is obliged to examine the goods before use with regard to their suitability for the intended use. Gundlach must be informed immediately in writing of all points of complaint found during these inspections. If the buyer does not comply with this obligation, the goods shall be deemed to be in accordance with the contract.

11.4. The buyer is obliged to notify Gundlach of an undetectable defect immediately after its discovery. If he does not comply with this obligation, the goods are deemed to be in accordance with the contract.

11.5. Complaints and rebukes made to third parties, such as commercial agents or transporters, do not constitute notification of defects or notices of defects to Gundlach in due form and in due time.

11.6. Claims for defects do not exist in the case of only insignificant deviations from the agreed quality or only minor impairment of usability.

11.7. Claims for defects on the part of the buyer assume that he can prove the existence of the defect at the time of the transfer of risk.

11.8. Gundlach's liability is excluded for defects based on improper storage and/or processing of the goods by the buyer.

11.9. Gundlach is not responsible for defects that are based on the fact that Gundlach had to use materials specified by the buyer (such as cardboard, adhesives, inks, varnishes or printing forms). The same

applies to defects that are based on the fact that the buyer has specified Gundlach to use certain third-party services. In such cases, the buyer must rather ensure that his specifications do not impair the suitability of the goods for the intended use, unless Gundlach was aware of the unsuitability of the specified materials or the service provider and Gundlach has concealed this from the buyer.

11.10. Gundlach accepts no responsibility for texts, illustrations, graphics, barcodes etc. specified by the buyer which Gundlach prints on folding boxes. In particular, the buyer is responsible for ensuring that no third-party rights, such as industrial property rights or copyrights, or statutory or sub-statutory provisions are violated.

11.11. Any declarations of conformity, quality agreements or specifications issued by Gundlach do not constitute guarantees and do not establish any strict liability. In particular, they do not release the buyer from his obligation to check the goods for their suitability for the respective packaged goods before processing - also by carrying out corresponding analyses.

11.12. A defect in the delivery will be remedied at Gundlach's discretion by improving or replacing the item free of charge. However, if improvement or replacement is impossible or involves a disproportionately high expenditure for Gundlach, the buyer is entitled to a price reduction.

11.13. Warranty claims of the buyer expire 1 year after the transfer of risk, insofar as warranty claims are not already excluded due to the nature of the goods (clause 10.5).

11.14. The prerequisite for the fulfilment of warranty obligations by Gundlach is the fulfilment of all contractual obligations incumbent on the customer, in particular the agreed terms of payment.

## **12. Liability**

12.1. Gundlach is liable for damages, irrespective of the legal grounds and insofar as a fault is involved, but limited in accordance with the following provisions.

12.2. Liability for simple negligence is excluded. This does not apply in the event of a breach of an essential contractual obligation, i.e. an obligation the fulfilment of which enables the proper execution of the contract and compliance with which the buyer regularly trusts and may rely on (cardinal obligation). Essential contractual obligations are, for example, the obligation to timely delivery of the delivery item, its freedom from

defects that do not impair its functionality or usability more than significantly, as well as advisory, protection and custodial obligations that are intended to enable the buyer to use the delivery item in accordance with the contract or are intended to protect the life and limb of the buyer's personnel or to protect the buyer's property from substantial damage.

12.3. If Gundlach is liable for damages on the merits, liability is limited to damages which Gundlach foresaw as a possible consequence of a breach of contract when concluding the contract or which it should have foreseen when exercising the due care required in the course of trade. Gundlach's liability for indirect damage and consequential damage, in particular damage in the event of business interruption and for loss of profit, is excluded.

12.4. The liability of Gundlach in accordance with the aforementioned conditions applies to the same extent in favour of a legal representative and a vicarious agent of Gundlach.

12.5. The aforementioned limitations of liability shall not apply in cases of grossly negligent or wilful behaviour, in cases of injury to life, body or health of a person, in the event of assumption of guarantees or in fraudulent behaviour.

## **13. Product liability**

13.1 The buyer may only use the goods manufactured, imported or marketed by Gundlach for the intended purpose and must ensure that these goods (also as raw materials or partial products) are only made available to persons who are familiar with the product hazards or product risks for the intended use or are only placed on the market by such persons.

13.2 Gundlach is fundamentally not liable for damage caused by errors in the construction of a product in which Gundlach goods have been incorporated, or which have been caused by instructions from the manufacturer of this product.

13.3 The buyer is also obliged, when using the goods supplied by Gundlach as a raw material or partial product of their own products, to comply with his product liability warning obligation when placing such products on the market, also with regard to the goods supplied by Gundlach.

13.4 The buyer is obliged to monitor products that he has placed on the market for harmful properties or dangerous consequences of use, even after they have

been placed on the market, and to follow the development of science and technology with regard to such products and to inform Gundlach immediately of any defects in the goods supplied by Gundlach which are discovered due to these observations.

13.5 The buyer is obliged to indemnify Gundlach in respect of all liabilities, losses, damage, costs and expenses that Gundlach incurs as a result of the buyer failing to comply with the above obligations.

13.6 Insofar as the buyer or Gundlach has paid compensation to a third party due to a defect in a product in accordance with mandatory provisions of product liability law, the burden of proof in the event of recourse lying with the buyer to prove that the defect in the processed product was caused or was partly caused by a defect in the goods supplied by Gundlach. Such claims shall continue to be excluded, with the exception of intent and gross negligence.

#### **14. Applicable law, place of jurisdiction**

14.1. These general terms and conditions and the entire legal relationship between the parties fall under the jurisdiction of the law of the Federal Republic of Germany, under exclusion of the UN Sales Law. This also applies in the case of cross-border deliveries.

14.2. The place of fulfilment for Gundlach's service provision is the respective production plant, even if Gundlach takes over the dispatch of the goods at the request of the buyer.

14.3. Bielefeld is the place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship. Mandatory statutory provisions on exclusive places of jurisdiction remain unaffected by this regulation.

#### **15. Severability clause**

Should individual provisions of this contract be invalid or unenforceable or become invalid or unenforceable after conclusion of the contract, this shall not influence the validity of the other provisions in this contract.

The invalid or unenforceable provision shall be replaced by a valid and enforceable provision that matches the economic intention of the contracting parties for the invalid or unenforceable provision as closely as possible. The above provisions shall apply mutatis mutandis in the event that the contract proves to be incomplete.