



General Terms of Delivery and Payment (AGB)

EppsteinFOILS GmbH & Co KG

§ 1 Scope of Application

- (1) The services and offers of EppsteinFOILS GmbH & Co KG (hereinafter referred to as Supplier) shall be executed exclusively on the basis of these General Terms of Delivery and Payment. These conditions shall apply to all present and future sales relations with the contractual partner (hereinafter referred to as Customer), even if they have not been expressly agreed upon yet again. These terms and conditions of sale and delivery are exclusive. The Supplier will not accept terms issued by the Customer which are in conflict with, or differ from, our General Terms of Delivery and Payment, unless we have explicitly agreed to the applicability of such terms in writing. For evidentiary purposes, all agreements concluded between the Supplier and the Customer in connection with the execution of this contract must be laid down in writing. Individual agreements shall continue to take precedence over these General Terms of Delivery and Payment. No additional oral agreements between the contractual parties have been made. Our conditions are deemed to have been accepted at the latest upon receipt of the merchandise or once the service has been provided.
- (2) Our General Terms of Delivery and Payment shall only apply for companies within the meaning of § 14, German Civil Code (BGB).

§ 2 Offers and Conclusion of Contracts

- (1) Offers of the Supplier are without obligation and not binding. For evidentiary purposes, declarations of acceptance, all orders, supplements, amendments and/or ancillary agreements must be laid down in writing. Individual agreements shall continue to take precedence over these General Terms of Delivery and Payment. Orders can be accepted by the Supplier within a period of two weeks following the order.

The acceptance of the Supplier shall take place under the reservation of the correct and punctual supply in so far as the non-delivery is not attributable to the Supplier (in particular, where a congruent covering transaction has been entered into with the subcontractors). The customer will be informed of any non-availability of performance without delay. Any counter-performance already made by the customer shall be reimbursed without delay.

- (2) Inasmuch as the sending of a confirmation of order shall not be executed, the contractual agreement shall still come into effect if the Supplier delivers on the basis of the order and the Customer accepts the goods.
- (3) Drawings, illustrations, dimensions, weights and other performance data are only binding if there is express written agreement to the effect.
- (4) The rights accorded to the customer on the basis of this contract shall only be transferable with the consent of the Supplier.

§ 3 Prices and Conditions of Payment

- (1) Unless the order confirmation specifies otherwise, the prices of the Supplier, which will generally be invoiced in Euro, shall be considered "ex works" [INCOTERMS 2010] plus the statutory value added tax applicable at that time. Prices do not include packaging, freight, postal charges, customs, surcharges for dangerous goods, excess charges or insurance.
- (2) To the extent that order-related costs for the Supplier, e.g., by increased prices for raw materials or higher energy costs, verifiably and substantially increase or decrease (by more than 5%) no earlier than three years after the conclusion of the contract for reasons for which the Supplier is not responsible, the Supplier and the Customer undertake to agree on an appropriate price increase in accordance with the principle of good faith.

Following a substantial change pertaining to certain cost factors, such as in particular in the event of an increase in costs for material procurement, wages and incidental wage costs, regulatory charges, freight or energy costs, the Supplier is entitled to adjust

the price in accordance with the cost increases, if the changes occurred between conclusion of the contract with the Customer and the contractually intended delivery of the goods. In this event the Supplier will immediately notify the Customer.

- (3) With tolling, the agreed prices and conditions presuppose that the Supplier receives the requisite material to be refined in time, that this material is suited for the required works and that it is provided in sufficient quantities prior to execution of the order. Should this not be the case, the Supplier is entitled to invoice the additional costs for the workload and material costs where relevant. If this material to be refined is provided too late, the Supplier shall reserve the right to determine a new delivery date.
- (4) The writing-off of call-offs shall ensue in accordance with the deliveries made. If more call-offs are placed than provided for in the order size, the Supplier is entitled to cancel the excess delivery or to charge it at the current market price. In the event of a cancellation or partial cancellation of order by the Customer, the Supplier is entitled to demand the agreed upon compensation. The Supplier does, however, have to take into account which expenses have thus been saved, owing to the complete or partial cancellation, or what else could be acquired due to the capacities which were thus freed up for other work on the basis of said cancellation. Consequential costs on the basis of a cancellation or partial cancellation, e.g. due to the reverse transaction of metal contracts already received, are to be borne by the Customer.
- (5) Unless individually agreed otherwise, the invoices of the Supplier shall be due and payable within 14 days of invoice date, without deduction. Cheques are only accepted as conditional payment. With cheques, the day the cheque is honoured shall be considered the day of valid payment.
- (6) If in each case:
 - (i) the Customer, in violation of the contract, does not comply with the payment terms and conditions, or (ii) the Supplier learns of any circumstances allowing a good-faith reasonable doubt with regard to the Customer's creditworthiness, or (iii) the total scope of outstanding receivables exceeds the amount of the trade credit insurance,

the Supplier shall be entitled, without prejudice to any other statutory or contractual rights:

 - (a) to cease performance of the contract as the Supplier decides ex aequo et bono, while taking into account the Customer's interests. This comprises for example, any further work on ongoing orders or further deliveries;
 - (b) to demand advance payments or the provision of equivalent collateral for any outstanding deliveries; and to withdraw from the contract after the expiry of a reasonable additional period of time for advance payments to be made or for the provision of collateral - without prejudice to any other statutory rights.

However, the Supplier shall only have these rights insofar as it is sufficiently probable that the doubts based on facts entitling the Supplier to take such measures are lasting, i.e., will last for at least six months after learning thereof.
- (7) The Customer only gains the right to offset the invoice if its counter-claims are established by force of law, are uncontested or have been recognized by the Supplier. In addition to this, the Customer is only authorised to exercise a right of retention to the extent that its counter claim is based on the same contractual relationship.

§ 4 Execution and Scope of Delivery

- (1) The execution shall ensue in merchantable quality within the context of the technically required tolerances applicable to material and processes, insofar as no other specifications have been agreed to in individual cases. Agreements on quality within the context of § 434 Paragraph 1 Sentence 1 German Civil Code (BGB) as well as on any special utilisation must expressly be laid down in writing for evidentiary purposes. In particular, samples which have been provided shall not be considered an agreement on quality. Individual agreements shall continue to take precedence over these General Terms of Delivery and Payment.

- (2) The written order confirmation of the supplier is binding for the scope of the delivery. Partial deliveries are noted on the delivery note. Additional agreement and amendments must be agreed to in writing.
- (3) The Customer has to examine the execution documents as presented by the Supplier in detail and return these documents to the Supplier after having provided a signature thereon. The signature shall serve as a token of acceptance. With orders on the basis of samples, receipt thereof is to be clearly marked and identified. The Customer has to make clear indications regarding desired changes. The countersigned execution documents and / or samples shall be considered an agreement on the legal and factual nature within the context of § 434 Paragraph 1 Sentence 1 of the German Civil Code (BGB).
- (4) Technical advice, recommendations, information and statements of the Supplier with regard to the products made by the Supplier shall be provided after adequate examination. In case of doubt, however, such advice, recommendations, information and statements shall ensue outside of the scope of contractual obligations and are voluntary and not binding. In this respect, any liability is excluded, unless the Supplier acts with wilful misconduct or with gross negligence. This does not apply to any statements by the Supplier which the Supplier is expressly or implicitly obligated to make by contract, such as any necessary operating instructions on the use of the product.
- (5) Depending on the type of make, we expressly reserve the right to make surplus or short deliveries by weight and quantity of up to 10 %, and with orders of less than 100 kg up to 20%, namely both with regard to the entire final quantity or the ordered quantity, as well as for every individual partial delivery, to the extent that this corresponds to custom and usage and to the extent that the interests of the Customer have been taken into account after due consideration.
If not otherwise agreed, the following tolerances shall apply for deliveries of foils: thickness +/-20 %, format +/-2,5 mm, weight of paper +/-10 %.

§ 5 Delivery and Performance Period

- (1) Binding delivery times have to be agreed to expressly and in writing in order to apply. With all other delivery dates, these shall merely refer to non-binding and approximate delivery times, where the Supplier shall endeavour to comply with said delivery dates.
- (2) Delivery times commence on the date of the confirmation of order by the Supplier, not, however, prior to the time in which all details concerning the execution of the delivery have been clarified and all prerequisites as required so as to ensure performance on the part of the Supplier have been fulfilled on the part of the Customer. To the extent that the Customer should request amendments subsequent to placing of order, a new delivery period shall only commence upon confirmation of the amendments by the Supplier.
- (3) Deliveries prior to expiry of the delivery period are permitted. In the event of immediate delivery of the goods, sending a confirmation of order can be dispensed with. In this case the confirmation can be substituted by a delivery note.
- (4) The day of delivery shall be the day of notification of the readiness of the consignment for dispatch, otherwise the day of dispatch of the goods. Deliveries that are part of a blanket purchase order always have to be accepted within six months after the date of the order confirmation.
- (5) The Supplier is entitled to make partial deliveries. Every partial delivery shall be considered an independent transaction.
- (6) To the extent that the Supplier shall default in delivery, the Customer first has to provide the supplier with a reasonable period of grace so as to allow performance. If this deadline passes without fulfilment, the Customer is entitled to assert its rights subject to the relevant preconditions stipulated in §§ 280, 281, 284, 286, 323 of the German Civil Code (BGB).
- (7) Should the situation occur in which the Supplier does not receive deliveries and performances from its subcontractor, or does not

receive these deliveries and performances completely, without faults or in a timely manner, and should this be for reasons that are not attributable to the Supplier or due to force majeure, then the Supplier shall inform the Customer about the presence of said circumstances in a timely manner. In this case the delivery deadlines shall endure for the duration of the period of obstruction. Also included herein are strike, lock-out, state intervention, shortage of energy and raw materials, bottlenecks and transport problems through no fault of the Supplier, prevention of operations through no fault of the Supplier, for instance due to natural forces such as damage caused due to fire, water and damage to machines and all other obstructions which, when considered objectively, cannot be deemed to have been culpably effected by the Supplier. If a binding delivery date or delivery deadline has been agreed, and if the agreed delivery date or delivery deadline is exceeded by more than three months, the Customer is entitled to withdraw from the contractual agreement due to the not yet fulfilled part.

- (8) In the case of call orders, two weeks after confirmation of order, the Supplier is entitled to demand binding information regarding the individual calls of said order. Should the Customer not comply with this request within these two weeks or should the Customer default in acceptance, the Supplier is entitled to grant a period of grace of two weeks and, subsequent to the expiry of this grace period, to rescind from the contract and demand compensation for damages.
- (9) The liability of the Supplier for slightly negligent default in delivery is expressly excluded, provided it is not related to essential contractual obligations, e.g., such obligations which are essential for achieving the objective of the contract and on the compliance of which the other contractual party may regularly rely, any loss or damage arising from death, injury or impairment to health, or any breach of warranties. The same shall apply to any breaches of duty caused by any agent (such as an employee) of the Supplier. Compensation for consequential damages, e.g. owing to the loss of profit or covering purchases, is excluded.

§ 6 Dispatch and Passage of Risk

- (1) Unless otherwise individually agreed in writing, the Supplier shall provide the goods ex works (in accordance with INCOTERMS 2010). From the moment the goods have been made available, the risk shall pass to the Customer. The Supplier informs the Customer when the goods are ready for collection. The Supplier reserves the right to decide on the route of transport and the mode of transport, provided it has been authorised to deliver the goods. The Supplier is entitled, but not obliged, to insure the deliveries in the name and on the account of the Customer.
- (2) In the event of an agreed obligation to send the good and if the dispatch of goods is delayed because the Supplier is making use of the Supplier's right of retention on the basis of a complete or partial default in payment on the part of the Customer, or owing to another reason attributable to the Customer, the risk shall pass on the date of the notice informing the Customer of the readiness of dispatch of the goods at the latest.
- (3) If acceptance is planned or has been agreed to, this shall ensue without delay after notifying the Customer of the readiness of dispatch of the goods, in accordance with other agreements in the delivery specifications. The costs for acceptance are to be borne by the Customer. If the goods are not accepted despite granting a reasonable period of grace or if the Customer renounces receipt, the Supplier is entitled to send the material to the Customer at the cost and risk of the Customer or to store the material. In this case it shall be assumed that the goods were delivered free of faults, unless said faults would also not have been recognisable in the event of acceptance.
- (4) Goods that have been announced as being ready for dispatch have to be called without delay. Otherwise it is at the Supplier's option to send said goods or to store them at the cost and risk of the Customer.

- (5) Should goods be returned for reasons not attributable to the Supplier, the Customer shall bear every risk until arrival at the premises of the Supplier. The same shall apply for delivery of material for tolling work.

§ 7 Warranty

- (1) The Customer is obliged to inspect the delivered goods without delay, and this is to be executed with the diligence of a prudent businessman. The purpose hereof is to establish obvious defects, as would be visible without further ado. Also considered obvious defects would be the absence of possible accompanying documents as well as easily visible and/or considerable damage of the goods. In addition to this, this shall also include all cases in which a different product was delivered or a delivery volume or amount was too small. The Supplier is to be notified of such obvious defects without delay and in writing. What is more, in the event of recognisable faults upon delivery, the transport company also has to be notified of such defects and the recording of said defects is to be induced by the transport company. This obligation on the part of the Customer to inspect the goods shall also exist in the event of outturn samples and/or an inspection certificate regarding the carrying out of a quality control having been sent.
- (2) With regard to defects which only become apparent at a later point in time, the supplier has to be informed hereof in writing and without delay as soon as said defects become apparent. In the event of a violation of said inspection and notification obligation on the part of the Customer, the goods shall be considered as accepted in consideration of the concerning defect.
- (3) Defects in goods that have been delivered, including their complete absence as well defects regarding content of accompanying documents shall be remedied by the Supplier within one year after delivery, subsequent to corresponding notification by the Customer. This rectification shall be carried out at the discretion of the Supplier by means of cost-free repair or a replacement. In the event of a substitute delivery the Customer is obliged to return the defective goods.
- (4) If the defect cannot be remedied within a reasonable period of grace or if the rectification or substitute delivery could not be executed for other reasons, the Customer shall be entitled, at its discretion, to claim a rescission of the contract (conversion) or a reduction of the remuneration. Remedy may only be deemed to have failed if the supplier has been granted sufficient opportunity to effect repair or replacement without the desired effect having been achieved, or if repair or replacement is seriously and finally refused or unreasonably delayed by the Supplier; if justified doubts regarding the likelihood of success exist, or if unreasonableness must be assumed on other grounds. Unreasonableness shall be assumed in the event of disproportionately high costs for rectification or if the success to be attained by the rectification is in no reasonable proportion to the expenditure which is no longer justified by the Customer's interests.
- (5) The liability of the Supplier for slightly negligent breaches of duty is expressly excluded, provided this is not related to essential contractual obligations, e.g., such obligations which are essential for achieving the objective of the contract and on the compliance of which the other contractual party may regularly rely, any loss or damage arising from death, injury or impairment to health, or any breach of warranties, or claims under the German Product Liability Act. The same shall apply to any breach of such duties caused by any agent (such as an employee) of the Supplier.
- (6) Liability claims as well as other contractual claims shall be barred one year subsequent to passing of risk or after the statutory commencement of the limitation period, whichever is the later date.

§ 8 Packaging and Indemnification against Liability of the Supplier

- (1) It is at the Supplier's discretion to select the packaging while taking the interests of the Customer into account. The packaging is charged at net cost. Packaging that has been lent out shall remain

the property of the Supplier. It is to be returned to the Supplier free of charge within a reasonable period of time in good order and condition, provided no other arrangements have been made.

- (2) The Customer is entitled to return at its cost transport packaging to the Supplier, at the place of consignment of the goods.
- (3) The packaging is to be returned in a clean condition, devoid of any foreign substances and sorted according to the different types of packaging materials.

§ 9 Reservation of Title

- (1) The supplier shall retain the reservation of title regarding the delivered goods, until receipt of all payments arising from the business relationship with the Customer. In the case of breach of contract by the customer, in particular in the event of arrear payments, the Supplier shall be entitled to enforce its reservation of title by reclaiming the goods. Reclaiming the goods does not constitute withdrawal from the contract unless this has been expressly declared in writing.
- (2) The Customer is obliged to handle the goods with care and in accordance with the corresponding maintenance indications and instructions of use.
- (3) The Customer has to notify the Supplier immediately of any change in ownership of the goods or any change of his residential or business address.
- (4) In the event of attachment or other intervention by third parties, the Customer shall immediately inform the Supplier hereof in writing so as to enable the Supplier to institute legal proceedings and thus to enforce its right of ownership. Insofar as the third party is not able to reimburse the Supplier for legal or extralegal costs arising in this connection, the Customer shall assume liability for this. In the event of breach of this obligation, the Supplier is entitled to rescind from the contract and demand the return of the goods.
- (5) The Customer is entitled to resell the goods in usual business transactions. The Customer is not entitled to effect other disposals, in particular pledging and assignment, as security of the reserved property.
- (6) If, in the course of reselling, the goods are not immediately paid in full by the third party purchasers, the Customer is obliged only to sell the goods under retention of title to the third party purchasers.
- (7) The entitlement to reselling the goods shall no longer apply when the Customer ceases payment or is in default of payment toward the Supplier.
- (8) Now already the Customer shall assign to the Supplier all claims with all ancillary rights derived from the resale of the reserved goods in processed and unprocessed conditions, including all securities and ancillary rights in the amount of the total of the invoice amount agreed on with the Supplier, including the legally valid VAT, which shall arise from the Customer's resale of the goods to his client, irrespective of whether the goods supplied are being resold with or without further processing. The Customer remains authorized for collection of these receivables even after assignment thereof. This authorisation shall end if the Customer suspends payment or is in default of payment toward the Supplier. In this case the Supplier is entitled to disclose this assignment and to collect the claims itself.
- (9) The possible processing or transforming of the goods shall always be carried out for the Supplier. In the event of the item being processed together with other goods not owned by the Supplier, the Supplier shall acquire co-ownership of the new item in proportion to the invoice value of the item supplied in comparison with the value of the other processed goods at the time of processing. As for the rest, for the items created by processing, the same shall apply as to the item delivered subject to reservation of title. If the item is inseparably combined with other objects which do not belong to the Supplier, the Supplier shall obtain co-ownership of the new item in relation to the invoice value and pro rata to the other processed items at the time of mixing. If mixing is performed in such a manner that the item of the Customer is to be regarded as

the principal item, then it is deemed agreed that the Customer shall assign pro rata co-ownership to the Supplier. The Customer shall hold the thus attained sole or partial ownership rights in safe custody for the Supplier.

- (10) The Supplier hereby commits itself to release the collateral to which the Supplier is entitled, insofar as the value thereof shall exceed the value of the accounts receivable which are to be secured by more than 20% (twenty percent). It is at the Supplier's discretion to select said collateral to be released.

§ 10 Sketches, Drafts, Construction Drawings, Tools and Preliminary Work

- (1) To the extent that the Customer provides tools, it shall bear the costs for maintenance, modifications and replacements of its tools. The Customer is liable for the technically correct construction and safe execution of the tools in the course of production sequence. The Supplier is, however, entitled to make technical changes, as these might be required. Without any particular agreement requiring this, the Supplier is not obliged to inspect and verify the tools, descriptions or samples that have been placed at the Supplier's disposal.
- (2) Construction drawings or other tools and moulds shall be kept for a maximum time period of 12 months after their last utilisation. This shall also apply for all sketches and drafts.

By remuneration of a share of the costs for the machine tools, forms, printing plate costs, print and embossing rolls etc., the Customer does not acquire any entitlement to the tools themselves. The tools remain the property of the Supplier, without any prejudice to possible copyright entitlements on the part of the Customer.

§ 11 Copyrights

- (1) The Supplier retains the ownership and/ or copyright to all presented or provided drawings, illustrations and performance descriptions. These documents, as well as the related offers and/or cost estimates, may not be accessed by third parties or utilised for commercial purposes without prior written authorisation on the part of the Supplier to do this. Should the Supplier request this, said documents are to be returned to the Supplier without delay.
- (2) The Customer is responsible for reviewing rights of reproduction and copyright pertaining to all copies, designs, drawings and finished samples, unless the Customer has expressly given the Supplier the order to do this. The Supplier will notify the Customer of any rights to the contrary of which it has knowledge.

- (3) In the case of delivery in accordance with plans or information of the Customer, the Customer shall indemnify the Supplier against any possible claims of third parties.
- (4) In the case of breach of contract on the part of the Customer, the Customer's trade mark rights shall not preclude the Supplier's right to turn to account the goods.

§ 12 Markings

The contractor reserves the right to mount its company print, logo or company identification number in accordance with the corresponding practice and prescriptions on the visible side of the all delivered objects as is the industry standard.

§ 13 Applicable law, place of jurisdiction and place of performance

- (1) For these General Terms of Delivery and Payment and all legal relationships between the Customer and the Supplier, the law of the Federal Republic of Germany shall apply, to the exclusion of the UN Convention on Contracts for the International Sale of Goods.
- (2) The place of performance shall be the headquarters of the Supplier (Eppstein), unless otherwise expressly agreed.
- (3) In commercial transactions with business persons, legal persons under public law or special assets under public law, the place of legal jurisdiction in case of legal action shall be the headquarters of the Supplier. This shall also apply for legal action in cases of cheque processes. The headquarters of the Supplier shall also then be considered the place of legal jurisdiction between the Supplier and Customer if the Customer does not have any general place of jurisdiction within the Federal Republic of Germany.

§ 14 Severability Clause

If individual terms of these standard business conditions should be or become totally or partly void or ineffective, this shall not affect the validity of the remaining stipulations. The wholly or partly invalid condition is to be replaced by a regulation the commercial success of which most closely approaches that of the invalid provision. The same shall apply in the event of an unintended regulatory loophole.

Eppstein in September 2015