

General Terms and Conditions of the Eversfrank Group



EVERSFRANK GROUP
PRINT. MEDIA. ENVIRONMENT.

I. Scope of application, conclusion of contract

- (1) These General Terms and Conditions (GTC) shall only apply if the Customer is an entrepreneur (section 14 BGB), a legal entity under public law or a special fund under public law.
- (2) Orders shall be executed exclusively on the basis of the following GTC of Evers & Evers GmbH & Co. KG (Contractor). Individual agreements with the Customer including subsidiary agreements, supplements and amendments shall take precedence over these GTC. Subject to proof to the contrary, a written contract or written confirmation by the Contractor shall be authoritative for the content of such agreements. The GTC of the Customer shall only apply to the extent that the Contractor has explicitly agreed to them. This consent requirement shall apply in any case, in particular in the event that the Contractor carries out a delivery to the Customer without reservation in the knowledge of the Customer's GTC. The GTC of the Contractor shall also apply to similar future contracts in the version valid at the time of the Customer's order, even if they are not explicitly agreed again.
- (3) The Contractor's offers are always subject to change and non-binding. By sending an order, the Customer submits a binding offer to the Contractor to conclude a contract. The Contractor may accept this offer within 14 days. Upon receipt of the Contractor's order confirmation by the Customer, in which case an e-mail shall suffice, or upon delivery of the goods, a legally binding contract shall be concluded with the Customer. This shall also apply if the delivery is to be made to a third party on the instructions of the Customer.

II. Prices, payment, default of payment

- (1) Prices are given in Euro and are exclusive of the statutory value added tax. The Contractor's prices are applicable ex works. They do not include packaging, freight, postage and other shipping costs as well as transport insurance and customs duties. Pallets shall be invoiced to the Customer at the price stated in the order confirmation at the latest. The obligation to pay for the pallets shall not apply if the Contractor transfers and assigns a corresponding number of empty pallets of at least the same type and quality to the Contractor concurrently upon collection of the loaded pallets (pallet exchange).
- (2) The Contractor shall be entitled to adjust the prices to be charged on the basis of the order at their reasonable discretion to the development of the costs which are significant for the price calculation. A price increase or a price reduction shall be considered if, for example, the costs for the paper to be procured by the Contractor increase or decrease or in case other changes in the general operating conditions, e.g. energy costs, lead to a significantly changed cost situation (+/- 10 %), which could not be foreseen at the time the contract was concluded. Increases in one type of cost may only be used for a price increase to the extent that they are not compensated by any decrease in costs in other areas since the conclusion of the contract. In the event of cost reductions, the prices shall be reduced by the Contractor to the extent that these cost reductions are not fully or partially compensated by price increases in other areas. When exercising their reasonable discretion, the Contractor shall determine the respective points in time of a price change in a manner that cost reductions are not taken into account according to standards that are less favorable for the Customer than cost increases, i.e. cost reductions shall have at least the same effect on prices as cost increases.
- (3) Payment has to be carried out immediately, at the latest, within 30 working days after receipt of the invoice without any deduction, unless otherwise stated in the invoice. Freight, postage and other shipping costs are not discountable. Upon expiry of the aforementioned payment period, the Customer shall be in default. The invoice shall be issued on the day of delivery, partial delivery or – in

the event of an obligation to collect or default in acceptance – of the Contractor's availability to deliver.

- (4) The Contractor shall be entitled, also within the scope of an ongoing business relationship, to make a delivery only against advance payment. A corresponding reservation shall be declared in the order confirmation at the latest. This shall apply in particular in the event of the provision of extraordinarily large quantities of paper or cardboard, special materials and/or extensive advance performance.
- (5) The Customer may only offset against an undisputed or legally established claim and may only assert rights of retention in these cases.
- (6) If the fulfillment of the payment claim of the Contractor obliged to perform in advance against the Customer is at risk due to a deterioration of the Customer's ability to perform which has occurred or become known after conclusion of the contract (e.g. by an application for the opening of insolvency proceedings, notification from the Contractor's trade credit insurance that no sufficient limit is available for deliveries to the Customer), the Contractor may demand advance payment, retain goods not yet delivered until payment of the consideration or provision of a security in accordance with the statutory provisions, as well as stop further work on orders still in progress and – if necessary after setting a deadline – withdraw from the contract (section 321 BGB [German Civil Code]). In the case of contracts for the manufacture of unjustifiable items, the Contractor may declare withdrawal immediately. The statutory provisions on the dispensability of setting a deadline shall remain unaffected.
- (7) In the event of default in payment by the Customer, default interest shall be payable at a rate of nine percentage points above the respective base interest rate of the European Central Bank. This shall not preclude the assertion of further damages caused by default, statutory lump-sum default charges (section 288 (5) of the German Civil Code) and interest on arrears (section 353 of the German Commercial Code).

III. Special cooperation obligations of the Customer (print data, paper)

- (1) The Customer is responsible for all materials supplied by them, such as master copies, their layout and their (editorial) content (hereinafter collectively referred to as print data) and, if applicable, the paper. The Customer shall be obliged to carefully check the print data prior to transmission to the Contractor as to whether they are suitable for the agreed printing order. The Contractor will not check the print data.
- (2) The Customer shall supply the Contractor with complete and reproducible print data in accordance with paragraph 3 by the date specified in the order confirmation at the latest. If the Customer culpably fails to deliver the print data by the agreed date, the Contractor may postpone the delivery date in accordance with clause V. (4) and/or demand compensation from the Customer and/or withdraw from the contract after the expiry of a reasonable extension or – if the requirements of section 323 (2) of the German Civil Code (BGB) are met – even without setting an extension. If the Contractor withdraws from the contract for the aforementioned reason, he may demand the originally agreed remuneration as compensation (lump sum); however, he is obliged to take into account any expenses saved as a result of the cancellation of the contract or which he acquires or maliciously refrains from acquiring through the use of their workforce elsewhere. The Customer shall be entitled to prove that no damage was incurred at all or that the damage was significantly lower than the lump sum.
- (3) The Customer must submit the print data in a format and with the specifications stated in the Contractor's guidelines for print and address data delivery. These guidelines can be viewed and

downloaded from the website <https://www.eversfrank.com/services/downloads/>. In the event of deviating formats or other specifications, error-free printing is not guaranteed.

- (4) If the parties have mutually agreed that the Customer will purchase the paper to be printed themselves and provide it to the Contractor for printing, the Customer alone shall be obliged to check the suitability of the paper for the agreed print job. The Contractor does not check whether the use of this paper could lead to faulty printing. Paragraph 2 shall apply accordingly to timely delivery.

IV. Preparation of order implementation and conversion of print data by the Contractor

- (1) After transmission of the print data in accordance with clause III. (2), the Contractor shall only examine whether the print data have a format and the specifications in accordance with clause III. (3). If this is not the case or if the print data are not decodable, the Contractor shall inform the Customer accordingly so that the Customer can explain themselves in accordance with paragraphs 2 and 3 of this section. If the order confirmation does not specify a date in accordance with clause III. (2), the Contractor shall set the Customer a reasonable deadline for the delivery of rectified print data.
- (2) If the format of the master copy does not comply with the specifications in clause III. 3, in particular because print data is not available in the CMYK color model, the Contractor shall be entitled, at the Customer's explicit request, to convert the master copy into a printable format, to the extent that this is technically possible. When converting RGB data or ICC color profiles into the CMYK color model, color deviations from the original will naturally occur. If the Customer has not requested a sample in accordance with paragraph 3, the Contractor shall be entitled to execute the print order using the converted master copy at the Customer's risk.
- (3) The Contractor shall only transmit a four-color process printing sample (specimen) of the master copy converted in accordance with paragraph 2 to the Customer by e-mail or on a data carrier prior to implementation of the print order at the Customer's explicit request. In this case, the Contractor shall be obliged to check the sample and to declare or refuse print approval to the Contractor immediately after receipt thereof. With the print release, the Customer declares that he has checked the sample for conformity with the submitted master copy and approves any deviations of the sample from the submitted master copy as being in accordance with the contract.
- (4) The declarations of the Customer according to paragraphs 2 and 3 must be provided in text form.

V. Delivery, delay in delivery

- (1) If the Contractor has agreed to dispatch the goods, risk shall transfer to the Customer as soon as the Contractor has handed over the goods to the forwarding agent, the carrier or any other person or institution designated to execute the shipment. The Contractor shall be entitled to make partial deliveries to a reasonable extent.
- (2) Delivery dates or delivery periods are generally non-binding unless they are explicitly designated as "binding" within the scope of the Contractor's order confirmation.
- (3) Subject to the following provisions, the occurrence of a delay in delivery on the part of the Contractor shall be determined in accordance with the statutory provisions. If the Contractor is in delay of delivery, the Customer's claims for damages in this regard shall be limited to 0.5 % of the net price (delivery value) for each completed calendar week of the delay, but not more than a total of

10 % of the delivery value of the delayed goods. The Contractor shall have the right to prove that the Customer has not suffered any loss at all or only a significantly lower loss than the aforementioned lump sum.

- (4) If the Contractor is unable to adhere to explicitly agreed binding delivery dates for reasons for which they are not responsible (non-availability of the service), they will inform the Customer accordingly without delay. At the same time, the Contractor shall be entitled, in consideration of their interests, to extend the delivery period until the end of the non-availability of the performance plus a period of four weeks, however, by a maximum period of eight weeks in total. This shall not apply if the postponement of the delivery date is unreasonable for the Customer. If the service is still non-available by the new delivery date or if a postponement of the delivery date is unreasonable for the Customer, the Contractor shall be entitled to withdraw from the contract completely or partially. In this case, the Contractor shall inform the Customer immediately and reimburse the Customer immediately for any consideration that may already have been paid. Cases of non-availability of the service as defined above include, but are not limited to, operational disruptions in the Contractor's business (e.g. strike, lockout) as well as all other cases of force majeure (e.g. war, natural disasters), the delayed delivery of goods to the Contractor by their suppliers, provided that the Contractor has concluded a covering transaction, neither the Contractor nor their suppliers are at fault or the Contractor is not obligated to procure the goods in the specific case. A case of non-availability of the service shall also be considered to have occurred if the Customer has not fulfilled their obligations under clause III. within the deadlines specified in the order confirmation and the production capacities of the Printer are insufficient after expiry of the deadline to fulfill the Customer's order immediately after meeting the obligations to cooperate or within the period specified at the time of conclusion of the contract. The statutory rights of the Customer according to clauses VII. and VIII. and of the Contractor, in particular in the event of an exclusion of the obligation to perform, e.g. due to infeasibility or unacceptability of performance and/or subsequent performance, shall remain unaffected.
- (5) The Contractor shall be entitled to a right of retention according to section 369 of the German Commercial Code (HGB) for the master copies for printing and stamping, manuscripts, raw materials and other items supplied by the Customer until complete fulfillment of all due claims arising from the business relationship.

VI. Retention of title

- (1) The Contractor shall retain title to the goods (reserved goods) until all claims of the Contractor against the Customer arising from the business relationship, including current and future claims arising from the purchase contract and also from contracts concluded at the same time or later, have been fulfilled. The reserved goods may neither be pledged to third parties nor assigned as security before full payment of the secured claims. The Customer shall immediately notify the Contractor in text form if an application for the opening of insolvency proceedings has been filed or if third parties (e.g. pledges) have or threaten to have access to the reserved goods.
- (2) In the event of the Customer violating the contract, in particular in the event of non-payment of the due payment claim, the Contractor shall be entitled to withdraw from the contract in accordance with the statutory provisions and to demand the return of the goods on the basis of the retention of title and the withdrawal. If the Customer does not pay the due payment claim, the Contractor may assert these rights if they have previously unsuccessfully set the Customer a reasonable deadline for payment or if setting such a deadline is dispensable according to the statutory provisions.

- (3) The Customer shall be entitled to resell and further process the reserved goods in the ordinary course of business until revocation in accordance with VI. (4). sentence 4. The Customer hereby assigns to the Contractor as security all claims accruing to them from the resale against Purchasers or against any third parties.
- (4) If reserved goods are sold by the Customer after processing, mixing or combining with any goods not owned by the Contractor, the Customer hereby assigns to the Contractor the claims arising from the resale in the amount of the value of the reserved goods or in the amount of any co-ownership share of the Contractor according to VI. 6 with all ancillary rights and by way of security. The Contractor accepts the assignment. The obligations under VI. (1) sentences 2 and 3 shall also apply in respect of the assigned claims.
- (5) The Customer shall be authorized to collect these claims even after assignment. The Contractor's authority to collect the claims themselves shall remain unaffected by this; however, the Contractor is obliged not to collect the claim as long as the Customer duly meets their payment and other obligations, there is no deficiency in their ability to pay and the Contractor does not assert their retention of title by exercising a right in accordance with VI. (2). If the Contractor collects the claim themselves, they may request the provision of the assigned claims and their debtors by the Customer, the provision of all information necessary for collection, the provision of the relevant documents and the notification of the assignment to the debtors. Furthermore, if the prerequisites for collection of the claim by the Contractor exist, the Contractor may revoke their consent to further sale and processing of the reserved goods by the Customer.
- (6) If the realizable value of the securities existing for the Contractor exceeds their claims by more than 10 % in total, the Contractor shall be obliged to release securities of the Contractor's choice at the request of the Customer or of a third party affected by the Contractor's overcollateralization.
- (7) The retention of title shall extend to the products resulting from the processing, mixing or combination of the Contractor's goods at their full value, whereby the Contractor shall be considered the manufacturer (section 950 BGB). If, in the event of processing, mixing or combining with goods of third parties, their right of ownership remains, the Contractor shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined goods. In all other respects, the same shall apply to the resulting product as to the reserved goods. Should the Customer nevertheless acquire sole ownership of the new product, the contracting parties agree that the Customer shall grant the Contractor co-ownership of the new product in proportion to the value of the processed or combined, mixed or blended goods subject to retention of title and shall keep this product in safe custody for the Contractor free of charge.

VII. Warranty

- (1) The basis for the liability for defects is primarily the agreement concluded on the condition of the goods. The Contractor shall not be held accountable for public statements (e.g. advertising statements) made by the manufacturer of paper, cardboard and printing inks or other third parties. Statements concerning the specification of the goods do not constitute a guarantee of condition, unless the Contractor explicitly confirms in text form that a certain condition of the goods is guaranteed.
- (2) The Customer shall in any event examine the contractual conformity of any preliminary and interim products sent for correction. With the declaration of readiness for printing, the declaration of readiness for production or any other declaration of release, the Customer accepts the preliminary and interim products as being in conformity with the contract. If a defect in the printed products is

attributable to the material supplied by the Customer (e.g. print data, paper), the Customer's rights on account of a defect shall be excluded.

- (3) Claims for defects require that the Customer has fulfilled their statutory obligations to inspect and give notice of defects in accordance with sections 377 and 381 of the German Commercial Code (HGB). If a defect becomes apparent during the inspection or later, the Contractor shall be notified immediately in text form. The notification shall be considered immediate if it is given within two weeks, whereby the timely dispatch of the notification shall be regarded as sufficient to meet the deadline. The same shall apply to obvious defects, including incorrect and short deliveries.
- (4) If the delivered goods are defective, the Contractor may initially choose whether to provide subsequent performance by eliminating the defect (rectification) or by delivering a non-defective item (replacement). The right to refuse subsequent performance under the statutory conditions shall remain unaffected. The Contractor shall be entitled to make the owed subsequent performance dependent on the Customer compensating the due payment claim. However, the Customer shall be entitled to retain a part of the payment claim which is reasonable in relation to the defect. If the supplementary performance has failed or if a reasonable deadline to subsequently perform granted by the Customer has expired unsuccessfully or is dispensable according to the statutory provisions, the Customer may withdraw from the contract or reduce the payment claim in accordance with clause IX. (1). In the event of an insignificant defect, there shall be no right of withdrawal.
- (5) Furthermore, the Customer shall be obliged to provide the Contractor with the defective goods for inspection of the complaints raised for a respective examination according to the Customer's choice of the place of performance of the supplementary performance or at the place of delivery during the regular business hours.
- (6) Defects in a certain part of the delivered goods do not entitle the Customer to raise a complaint about the entire delivery, unless the partial delivery is of no interest to the Customer.
- (7) In the event of color reproductions in all manufacturing processes, minor deviations from the original cannot be objected to. The same applies to the comparison between press proofs, especially in the case of proofs and print runs.
- (8) For defects due to the raw material used (e.g. paper), which the Contractor has obtained from a third party (Subcontractor), the Contractor shall be released from their liability if they transfer their claims against this Subcontractor to the Customer. The Contractor shall be liable in the same way as a Guarantor to the extent that claims against the Subcontractor do not exist or cannot be enforced due to the fault of the Contractor; in this case, the Contractor shall only be liable to the extent of their own claims against the respective Subcontractor.
- (9) The expenses required for the purpose of inspection and subsequent performance, in particular transport, travel, labor and material costs, excluding, however, removal and installation costs, shall be borne by the Contractor if there is an actual defect. Otherwise, the Contractor may demand reimbursement from the Customer for the costs arising from the unjustified request for rectification of the defect, especially inspection and transport costs, unless the lack of defectiveness was not apparent to the Customer.
- (10) Excess or short deliveries of up to 3 % of the ordered print run cannot be objected to, provided that this is reasonable for the Customer, especially in the event of large print runs in the area of printed advertising, considering the interests of the Contractor, in particular the impossibility of producing the exact number of items in the case of small print runs. The actual quantity delivered shall be invoiced. In the event of deliveries of custom-made paper (use of paper purchased at the request of the Customer, which is not in stock), the percentage shall be increased to 5 %.

- (11) The Customer's claims for compensation or reimbursement of futile expenses shall also only apply in the event of defects in accordance with VIII. and shall otherwise be excluded.
- (12) In any case, the special statutory provisions shall remain unaffected in the event of final delivery of the goods to a Consumer (supplier recourse according to sections 478, 479 of the German Civil Code (BGB)).

VIII. Liability of the Contractor

- (1) The Contractor shall be liable, irrespective of the legal grounds, within the scope of fault liability in all cases of intent or gross negligence.
- (2) In the event of minor negligence, the Contractor shall only be liable, subject to a more lenient standard of liability in accordance with statutory provisions (e.g. for diligence in their own affairs), for damages arising from the non-insignificant breach of a material contractual obligation, this being an obligation which has to be fulfilled in order to enable the proper performance of the contract in the first place and which the Customer regularly relies on and may rely on being fulfilled; in this case, however, the Contractor's liability shall be limited to compensation for the foreseeable, characteristically occurring damage. V. (3) shall apply to claims for damages due to delay in delivery.
- (3) The preceding limitations of liability shall apply to the same extent to the Contractor's vicarious agents and assistants.
- (4) In deviation from VIII. (2) and (3), the Contractor shall always be liable for culpably caused damage resulting from injury to life, body or health, in the event of the acceptance of a guarantee of quality, in the event of fraudulent intent and in cases of mandatory liability under the Product Liability Act.

IX. Special provisions for withdrawal and termination

- (1) If the delivery is delayed, irrespective of whether a binding or non-binding delivery date has been stated, the Customer may only withdraw from the contract or claim damages for non-performance or defective performance if they have previously granted the Contractor a grace period of at least two weeks without success and this period has expired to no avail. This shall not apply in the event that the Contractor has seriously and finally declined to perform or another important reason requires immediate withdrawal.
- (2) Due to a breach of duty which does not consist of a defect, the Customer may only withdraw from or terminate the contract if the Contractor is responsible for the breach of duty. A free right of termination of the Customer (in particular according to sections 650, 648 BGB) is excluded. Otherwise, the statutory requirements and legal consequences shall apply.
- (3) Contracts for regularly recurring services may be terminated with three months' notice to the end of a month. The right to extraordinary termination shall remain unaffected. The notice of termination must at least be in text form.
- (4) The Contractor reserves the right to terminate contracts extraordinarily and without notice or to withdraw from the contract if their executive bodies and/or employees would make themselves liable to prosecution by executing the order, if the transmitted print data contains pornographic, fascist, violence-glorifying and/or such content that is incompatible with the basic democratic and liberal order of the Federal Republic of Germany.

X. Statute of limitations

- (1) Deviating from section 438 (1) no. 3 of the German Civil Code (BGB), the general limitation period for claims arising from material defects and defects of title shall be one year from delivery. If an acceptance has been mutually agreed, the limitation period shall commence with the acceptance. Section 438 (1) no. 2 BGB, section 438 (1) no. 1 and (3) BGB, section 444 BGB and section 479 BGB shall remain unaffected.
- (2) The preceding limitation periods of the law on sales shall also apply to contractual and non-contractual claims for damages of the Customer which are based on a defect of the goods, unless the application of the regular statutory limitation period (sections 195, 199 BGB) would lead to a shorter limitation period in the individual case. However, claims for damages by the Customer according to VIII. (1) and (4) shall become time-barred exclusively in accordance with the statutory limitation periods.

XI. Data security, data backup

- (1) In the event of data transmissions, the Customer shall use state-of-the-art protection programs against computer viruses prior to transmission. Print data shall be stored by the Contractor for at least the duration of the warranty period, beyond which the Customer shall have no claim regarding the storage of their print data. Data backup shall be the sole responsibility of the Customer.

XII. Custody

- (1) Templates, data, print carriers and other items for reuse, as well as semi-finished and finished products, shall only be kept beyond the delivery date by prior agreement and against special remuneration. The same shall apply to other samples, e.g. folding or processing samples, color samples and printed products from previous orders, irrespective of whether these were produced by the Contractor or by third parties.

XIII. Property, copyright

- (1) The items used by the Contractor to produce the contractual product, in particular data, films, lithographs and printing plates, shall remain the property of the Contractor, even if they are invoiced separately, and shall not be delivered.
- (2) The Customer shall have sole liability if rights, in particular copyrights, trademark rights and/or design rights of third parties, are infringed by the execution of their order. The Customer shall release the Contractor from all claims of third parties including the costs of an appropriate legal prosecution due to such an infringement of rights.

XIV. Imprint, References

- (1) The Contractor may refer to their company in a suitable manner on the contractual products with the consent of the Customer. The Customer may only refuse consent if they have a predominant interest in doing so.
- (2) By submitting print data, the Customer agrees to allow the Contractor to provide third parties, at their own expense, with an appropriate number of products manufactured using this print data for their own purposes as samples for self-promotion and as a reference for customer acquisition. The

Customer shall also grant the Contractor the simple, assignable, worldwide right to use the print data and products for the above-mentioned purposes in an appropriate number of copies, in particular to store them on data carriers, to make them publicly accessible (e.g. on the Internet), to lend them, to exhibit them, to present them and to reproduce them on image or sound carriers. In doing so, the Contractor shall take reasonable account of the confidentiality interests of the Customer or third parties and, if necessary, black out individual passages from the printed materials.

- (3) After delivery of the printed products, the Contractor may refer to the Customer as a reference customer on their website, towards customers and towards interested parties.

XV. Place of performance, place of jurisdiction, applicable law, severability clause

- (1) The place of performance, also regarding the supplementary performance, and the exclusive place of jurisdiction for all disputes arising from the contractual relationship, including proceedings on checks, bills of exchange and documents, shall be the registered office of the Contractor if the Customer is a registered merchant in the sense of the German Commercial Code (HGB) or has no general place of jurisdiction in Germany. The contractual relationship is based on German law without the reference standards of international private law and excluding the UN Convention on Contracts for the International Sale of Goods.
- (2) Any invalidity of one or more provisions of the present GTC shall not affect the validity of the remaining provisions of the present GTC and the contract. Invalid provisions of the present GTC and the contract shall be considered to be replaced by such valid provisions which are suitable to fulfill the economic purpose of the omitted provision as far as possible.