Terms and Conditions

Terms of Sale and Delivery

§ 1: Conclusion of contract

1) The following terms and conditions shall apply exclusively. Customer's purchase terms, if deviating from or supplementing these terms and conditions, shall only apply to the extent they are acknowledged by the seller in writing. The present terms and conditions are applicable to all companies, legal entities under public law, and special funds under public law.
2) All offers are without commitment and net of VAT, and only become legally binding upon our written order confirmation.
3) Should the customer order goods by electronic means, we will confirm the receipt of the order without delay. An order confirmation shall not constitute a binding acceptance of the order. However, the order confirmation may be combined with the declaration of the acceptance of the order.

§ 2: Printed and/or design samples

Printed and/or design samples as may be provided by us shall be examined by the customer also in terms of all properties required and relevant to the intended use of the goods. The customer shall return sign and return the documents to signal his consent. Any necessary authorisations are to be clearly marked by the customer.

§ 3: Copyrights

1) The customer shall be responsible for compliance with the industrial property rights and copyrights regarding the equipment ordered by the customer. Unless otherwise agreed, the customer shall be obliged to examine all printing samples, drafts and finished samples for possible third-party copyrights, trademark rights, and other rights such as patents and utility models and inform us of the results. The seller will notify the customer if he becomes aware of any industrial property rights and copyrights owned by third parties.
2) The customer shall indemnify us from all third-party claims arising from the use or infringement of such rights, regardless of fault on the part of the customer.
3) Insofar as the customer has ordered us to apply the Green Dot to his sales packaging, he shall guarantee that a trade mark agreement is in place between him and Duales System Deutschland GmbH or the respective holder or rights, and that he will fulfil his system contribution obligations in accordance with the German Packaging Ordinance [VerpackV]. Other entities such as FSC PEFC shall be subject to equivalent obligations.
4) All third-party printing material, manuscripts, and other objects as may be made available do not need to be retained beyond six months after delivery of the last order executed with such objects.

§ 4: Marking

We reserve the right to affix our corporate text or our company registration number to all types of deliveries in accordance with the appropriate practice or regulations and the given space, with due regard being given to the purpose of the contract.

§ 5: Execution, delivery, delivery periods

1) For technical production reasons, the seller is entitled to deviate by up to 10% from the agreed order quantity and weight. Consignments of purpose-built items with a weight of less than 2,000 kg will entail an increased percentage of 15% on allowable over- and underdeliveries, and an increased percentage of 20% when the weight is below 1,000 kg. Invoicing will be based on the quantity actually delivered. This shall not be deemed to warrant a notice of defect.
2) The size of the cardboard box will be stated in mm of the internal dimensions, in the order - length x width x height. All indications of size are subject to a 1% tolerance, as is customary in the trade.
3) Prototypes will be crafted with the help of a plotter, differently from the production process. We reserve the right to minor deviations between such prototypes and consignments of machined goods.
4) Partial deliveries are permitted against payment of the incurred extra costs to the extent they are acceptable to the customer.
5) All printing plates, tools and other implements manufactured by or on behalf of the manufacturer shall remain the manufacturer's property even if all or part of the manufacturing costs are invoiced and settled by the customer. All due invoices of these items are payable without deductions. The seller shall not be obliged to release these items to the customer. Printing plates and tools will be kept for two years to allow for the processing of possible follow-up orders.
6) Delivery periods shall be deemed to be approximate unless expressly agreed to in writing to be binding.
7) The delivery period shall begin on the date of order acceptance. In the event that the confirmed order is amended, the delivery period shall begin upon confirmation of such amendment.

§ 6: Palletisation

1) The seller shall maintain a pallet account on behalf of the customer which serves to document the pallets and cover panels in his possession.
2) The seller shall acknowledge the receipt of each pallet.
3) Every time palletised goods are delivered, the customer shall concurrently return as many equivalent pallets to the seller as were delivered to him.

4) Any pallets which are not returned at all or are returned in damaged condition will be brought to account.

§ 7: Default in taking delivery on the customer's part

1) Should the customer refuse to take delivery of all or part of the goods at the agreed delivery date, the seller shall be entitled to demand fulfilment of the contract or, after the expiry of a reasonable additional time set by the seller, to claim damages for non-performance or to withdraw from the contract.
2) In the case of on call orders, the customer shall be obliged to actually take delivery of the ordered goods at the agreed dates. The last delivery shall be effected within six months after the initial delivery. After the date of the last delivery, we will be entitled to put the goods not yet accepted by the customer into storage and charge extra storage expenses amounting to EUR0.25 per pallet/day. We reserve the right to make further claims. The customer may provide evidence that the seller's losses caused by the delay are non-existent or significantly lower.
3) In the event that a call is not made in good time, all defects and losses of quality of the goods shall be borne by the customer.

§ 8: Force majeure

1) Should performance of the order be delayed as a result of a force majeure, the agreed delivery period shall be extended by the duration of the events causing the delay. The seller shall inform the customer immediately of any cases of force majeure occurring. Otherwise, the contract shall continue to be valid without changes. If the event causing the delay lasts for more than six weeks, either party may withdraw from the contract.
2) The risk of accidental perishing or accidental deterioration of the goods shall pass to the customer upon release or, in case of sale by delivery to a place other than the place of performance, upon delivery of the consignment to the forwarder, haulage contractor, or other person determined for executing the delivery.

§ 9: Warranty

1) We will, at our option, provide a warranty by way of repair or replacement covering all defects of the goods delivered.
2) Should the supplementary performance fail, the customer shall be entitled, as a matter of principle, to demand at his option either a reduction of the compensation or rescission of the

contract (withdrawal). In case of a minor breach of contract, however, especially when the defect is only marginal, the customer shall not be entitled to withdraw from the contract.
3) The customer shall notify us in writing of all apparent defects within a period of eight working days after receipt of the delivery or, in the case of concealed defects, within eight working days after the defect was discovered, failing which the warranty claim cannot be asserted. Timely despatch shall be sufficient to meet the deadline. The customer shall be fully subject to the onus of proof for any reasons for claims, especially for the defect as such, or the time of detecting the fault and for any notification of the defect being made in due course. The notification of defect must be accompanied by samples of the rejected goods.
4) If the customer chooses to withdraw from the contract on account of legal or material defects following the failed supplementary performance, he shall not be entitled to damages due to the defect. Any liability under the German Product Liability Act shall remain unaffected. If the customer chooses to claim damages upon failure of the supplementary performance, the goods will be retained by the customer if reasonable. Damages will be limited to the difference between the purchase price and the value of the defective item. This shall not apply if the breach of contract was caused with malicious intent on our part.
5) The period of warranty is six months from delivery of the goods. This shall not apply if the customer fails to inform us of the defect in a timely manner. The entitlement to a notice of defect shall expire after a cut-off period of three months from delivery, and the goods shall be deemed accepted after this time. Defects in part of a consignment shall not lead to a notice of defect concerning the consignment as a whole, provided that the intact goods can be separated from the defective parts using reasonable means.
We do not guarantee the delivered goods (including but not limited to packaging material) to be suitable for the use intended by the customer unless such intended use is not expressly the object of the order.
Assessment of defects: Defects shall be assessed based on the DIN standard on corrugated cardboard packaging and on the inspection catalogues for corrugated cardboard boxes issued by the Verband der Wellpappenindustry e.V. association as amended from time to time.
6) The properties of a package in terms of usefulness for a given purpose will only be warranted if the warranty was provided in writing.
7) Customary deviations especially with regard to the glueing, smoothness, and purity of the paper material and the glueing, stapling, colours and print shall not be deemed to constitute a defect.

§ 10: Liability

1) Liability due to slightly negligent breaches of uncritical contractual provisions is excluded. This proviso shall also apply to slightly negligent breaches of duty committed by our legal representatives or vicarious agents. Insofar as we are liable for negligence, our duty of replacement shall be restricted to the amount covered by our liability insurance.
2) The preceding limitations of liability shall not apply to product liability claims asserted by the customer. Furthermore, such limitations of liability shall not apply in the event of health or bodily injury and the loss of life of the customer or his legal representatives or vicarious agents,

to the extent they are attributable to us.
3) Claims for damages asserted by the customer due to a defect are subject to a limitation period of one year after delivery of the goods, except for cases of malicious intent.
4) Liability from product liability claims will remain unaffected.
5) Should the customer choose to claim damages instead of a supplementary performance according to Article 281 of the German Civil Code, such damages shall be limited to the amount of the extra costs incurred for a covering purchase but shall not exceed the amount of the order value.

§ 11: Terms of payment

1) For want of a written agreement to the contrary, the seller's prices ex stock or ex works including loading and packaging shall be applicable. All prices are net of the statutory turnover tax.
2) The seller shall be entitled to adjust the prices as necessary if more than two months should elapse between conclusion of the contract and the agreed delivery date. Such price adjustments will be justified whenever the seller's calculation basis changes, in particular due to increases in raw material, labour, or transport costs.
3) The invoice amount shall be payable under the aforementioned terms and conditions. Upon expiry of that period, the customer will be in default. Without prejudice to differing terms laid down above, we will grant a discount of 2% on payments made within 14 days; otherwise, payment shall be due within 30 days without any deduction.
4) In the case of initial orders, we can demand cash on delivery or cash before delivery.
5) The customer will only be entitled to offsetting or retention of goods if the counterclaim remains uncontested or has been determined without further legal recourse.

§ 12: Default in payment

1) In the event of default, an interest shall accrue amounting to 8 percentage points per annum above the relevant base interest rate. The seller reserves the right to provide evidence of any further damage caused by such default.
2) In the case of default in payment on the part of the customer, the seller shall not be under a duty to effect further deliveries under any existing contract until the due invoice amounts have been settled.
3) When facts come to our knowledge that call the customer's creditworthiness into question, or if the customer fails to settle any due amount in line with our terms and conditions, then we shall be entitled to demand cash in advance and collect immediately all undue claims that arose from the business relationship. Furthermore, we can withdraw from ongoing contracts or demand securities.

§ 13: Retention of title

1) The delivered goods shall remain the property of the seller until all claims from the business relationship are settled.
2) Such reservation shall not affect the customer's right to use, process, and sell the goods delivered in the course of his ordinary business operations. However, the customer shall not be entitled to pledge such goods or transfer them by way of security so long as the retention of title remains in effect. The goods must be expressly excluded from any transfers by way of security of entire stocks.
3) If the delivered goods are processed as packaging, this shall not abrogate the seller's right of ownership. The customer shall become the owner or co-owner of the new item at the ratio of the invoice value of his goods subject to the retention of title and the packaged goods and/or manufactured packages.
4) Should the goods delivered or the packaging means manufactured on the basis of such goods be resold, the customer shall cede the purchase price claim against the customer's clients to the seller already at this point, until his claim amounting to the invoice value of the delivered goods subject to retention of title is fully settled. The seller herewith accepts such cessation.
5) In the case that the value of the aforementioned security exceeds the value of the claims to be secured by 20%, the seller will release all consignments fully paid for if the customer so requests. The customer shall be obliged to protect the securities (goods subject to retention of title, claims) from third party access by referring to the seller's rights, and to notify the seller immediately. He shall also be obliged to take out reasonable insurance coverage for the goods subject to retention of title.
6) In the case of actions on the part of the customer that are in breach of the contract, including but not limited to default in payment, we shall have the right to withdraw from the contract and demand that the goods be returned.

§ 14: Place of performance, place of jurisdiction and legal system

The place of the seller's commercial establishment that confirmed the order shall be the place of performance and the place of jurisdiction as regards all obligations and disputes (including all lawsuits in connection with bills of exchange or cheques) arising from the delivery contract. German law shall be applicable exclusively, to the exclusion of UN purchasing law (CISG).

§ 15: Legally void provisions

1) Should individual provisions within these terms and conditions be or become void for any legal reason, this shall not affect the validity of the remaining provisions.

2) Any void provisions will be replaced, by mutual agreement, with such valid provisions that reflect the economic purpose of the void provisions as closely as possible.

§ 16: Authorisation according to the German Data Protection Act

Gissler & Pass GmbH shall have the right to store and process, within the scope of the German Data Protection Act, all the customer-related data as may be received during the business relationships that Gissler & Pass maintains with its customers.