

GENERAL DELIVERY AND PAYMENT TERMS AND CONDITIONS

of the Association of Dutch Manufacturers

of Paper and Board and Flexible Packaging “KARTOFLEX”

1. **Offer**
 - 1.1. The offers made by the supplier are subject to contract, even if they contain a time limit for acceptance. If an offer includes a proposal and this is accepted by the client then the supplier is entitled to revoke the proposal within 2 working days after receipt of the acceptance.
 - 1.2. Any and all offers are based on implementation under normal circumstances and during the normal working hours of the supplier.
 - 1.3. Each and every contract of a client is always accepted on the suspensive condition that the creditworthiness of the client becomes sufficiently clear from the obtained information.
 - 1.4. Changes in the accepted offer, of any nature whatsoever, made by or on behalf of the client that result in higher costs than could be relied on with the quotation are charged to the client additionally.
 - 1.5. In case of a combined quotation there is no obligation to deliver a part at a stipulated part of the price quoted for the whole.
 - 1.6. If models, copy, data carriers, and the like were only submitted for a part of the work to be manufactured then the supplier is not bound by the price quoted for the whole.
2. **Contract extras**

Changes in the original order, of any nature whatsoever, made by or on behalf of the client in writing or otherwise that result in higher costs than could be relied on with the quotation are charged to the client additionally at the rates then applicable at the supplier.
3. **Goods of the client**
 - 3.1. The supplier shall keep the goods entrusted to the same by the client within the framework of compliance with the agreement properly with the care that befits a good keeper.
 - 3.2. The client does at all times bear the risk in respect of the said goods, barring in case of damage / destruction due to intent or gross negligence on the part of the supplier. If the client wants to cover the said risk then the client must personally provide for insurance at its own expense.
 - 3.3. The client who makes materials or semi-finished products available to the supplier is held to also make the necessary plus sheets (miscellaneous impurities during processing or treatment) available.
 - 3.4. In case of availability of materials or semi-finished products the supplier is, barring intent or gross negligence on the part of the supplier to be evidenced by the client, not liable for the lack of sufficient quantity in the boxes, bags, and packs sent to the same.
 - 3.5. Following availability of materials or semi-finished products the packaging, plus sheets and cutting waste, die cuttings, and the like become the property of the supplier.
 - 3.6. The client grants the supplier a right of pledge on any and all goods that are within the framework of compliance with the agreement with the supplier placed in the possession of the supplier by the client by way of additional security for everything that the client, in any capacity whatsoever and on any account whatsoever, may be liable to pay to the supplier, also including non-exigible and conditional debts.
4. **Transfer of risk, transport and delivery**
 - 4.1. The risk in respect of the goods transfers from the supplier to the client at the moment that they leave the factory, regardless of the shipment method stipulated by the parties.
 - 4.2. If transport of the goods to be delivered was stipulated then this takes place at the expense of the client, unless CPT or CIP according to the Incoterms 2010 was stipulated. As the occasion arises the cheapest shipment method is followed. With each and every other manner of change at the request of the client, the additional costs are charged to the client.
 - 4.3. If transport of the goods to be delivered was stipulated then delivery takes place at an appropriate entrance on the ground floor. The person who is present at the business of the client at the time of delivery and who takes receipt of the goods is deemed to be correspondingly authorised.
 - 4.4. The acceptance of goods by the carrier, without note on the consignment note or the receipt, qualifies as evidence that the packaging was in order.
5. **Delivery date and purchase**
 - 5.1. The stipulated delivery date is not a fatal deadline, unless expressly stipulated otherwise.
 - 5.2. If the client makes changes in an already awarded contract resulting in an overstepping of the stipulated delivery date by the supplier due to the changes then the said overstepping shall be at the risk and expense of the client.
 - 5.3. The client is held to purchase the performed order / delivered goods immediately after completion. If the client rejects the purchase or fails to supply information or instructions required for the delivery then the goods shall be stored at the risk of the client. As the occasion arises the client shall be liable to pay all additional costs, including storage costs and freight expenses.
 - 5.4. If the client does not purchase a (partial) delivery within the stipulated period then the supplier is, at its sole discretion, entitled to deliver (the remainder) to the client at the expense of the same and to invoice this in the usual manner or to dissolve the order to the extent that it must still be implemented, without prejudice to its right to compensation as determined in article 6.
 - 5.5. The supplier is also entitled to this if the client did not purchase the total quantity of goods to be delivered in partial shipments within one year after the first delivery or, failing a stipulated delivery date in case of a shipment to be delivered all in once, within one year after the conclusion of the agreement. This also applies if upon the conclusion of the agreement no special period was stipulated. The client should, however, be given notice of default by the supplier.
6. **Cancellations**

If the client cancels an accepted order either in full or in part then the client is held to compensate the supplier for all expenses incurred and to be incurred in view of the implementation of the said order (costs of preparation, storage, commission, and the like) and, if so desired by the supplier, pay for the materials or semi-finished products designated for the implementation of the said order at the prices included by the supplier in its calculation; all without prejudice to the right of the supplier to claim compensation for the lost profit as also for the damages, costs, and interest deriving from the cancellation of the accepted order, within reason to be determined by the supplier in a binding manner.
7. **Payment**
 - 7.1. Unless stipulated otherwise, the client must pay the price and the other amounts payable pursuant to the agreement within 30 days after the date of the invoice, without relying on any discount, setoff or suspension. In case of late payment the client shall be in default without a notice of default by the supplier being required.
 - 7.2. The supplier is, regardless of the stipulated payment conditions, at all times authorised to desire security for the payment and to suspend the completion of the order if the said security is not provided. The provided security shall need to be such that the claim with the potentially accrued interest and costs is covered properly and that the supplier shall be able to call the same without difficulty. A security that potentially becomes insufficient at a later stage must on demand of the supplier be supplemented to sufficient security.
 - 7.3. If the client pays late then the statutory commercial interest is payable up to the date of satisfaction. For each month (or part thereof) the said interest amounts to a twelfth part of the annual interest payable pursuant to section 119a subsection 2 of Book 6 of the Dutch Civil Code.
- 7.4. For contracts that require a long processing time payment may be requested in instalments.
- 7.5. If the client is in default or fails to comply with one or more of its obligations then the client is held to pay full compensation for both the extrajudicial and the judicial collection costs, including the costs for lawyers, bailiffs, and collection agencies. The extrajudicial costs are set at a minimum of 15% of the principal sum with interest, such with a minimum of € 250.00.
- 7.6. The amounts that the buyer is liable to pay to the supplier on account of the agreement immediately falls due in full if: (I) the buyer applied for suspension of payment or is granted suspension of payment or is declared bankrupt or if a corresponding application is filed, (II) the business of the buyer is, whether or not partly, terminated or transferred, and/or (III) a prejudgment or executory attachment is imposed at the expense of the buyer, unless within eight calendar days after a corresponding request of the supplier the buyer provided the supplier, at the reasonable discretion of the supplier, with appropriate security for all the amounts that the buyer is and shall be liable to pay to the supplier.
8. **Right of retention and reservation of title**
 - 8.1. The supplier who has goods of the client in its possession is authorised to retain the said goods up to satisfaction of any and all costs that the supplier incurred for the implementation of the contracts of the same client, regardless of the fact whether the said contracts are related to the aforementioned or other goods of the client, unless the client provided sufficient security for the said costs.
 - 8.2. Each and every delivery of goods by the supplier to the client takes place under reservation of the title of the same until the client has paid everything that the client is liable to pay on account of any agreement, including interest and costs, as well as potential claims on account of non-compliance by the client with an agreement.
 - 8.3. If the client does not comply with an obligation on account of the agreement vis-à-vis the supplier then the latter is, without any notice of default being required, entitled to take possession of goods delivered by the same that remain unpaid, no matter where and in what state they are. The client hereby, as the occasion arises, already gives the supplier consent and, as the occasion arises, offers the supplier the opportunity to enter any and locations in order to enforce its right to take possession of the said goods.
 - 8.4. Goods delivered by the supplier that pursuant to this paragraph fall under the reservation of title can only be resold within the framework of the normal business operations. Besides the client is not authorised to pledge the goods or to establish any other right on the same.
9. **Force majeure**
 - 9.1. Force majeure is in any case understood as each and every circumstance beyond the control of the supplier that temporarily or permanently hinders compliance with the agreement as also, to the extent not already included in the same, war, threat of war, riots, flooding, stagnation in respectively restriction or discontinuation of the supplies by public utilities, lack of coal, gas, natural oil products or other resources for power generation, fire, machinery breakdown and other accidents, industrial action, official measures, non-delivery of necessary materials and semi-finished products to the supplier by third parties or fixed suppliers, and other unforeseen circumstances, also in the country of origin of these materials and semi-finished products, that hinder the normal business operations and delay the implementation of the order or make this within reason impossible.
 - 9.2. If the performance is due to force majeure delayed by more than one month then each party is, upon exclusion of further rights, authorised to, in accordance with the law, dissolve the agreement respectively the part of the agreement that is related to the relevant delivery, without the supplier being liable to pay compensation for damages on the part of the client or third parties.
 - 9.3. The supplier is also entitled to rely on force majeure if the circumstance that prevents (further) compliance occurs after the supplier should have complied with its obligation.
 - 9.4. If the supplier has already partly complied with its obligations upon the occurrence of the force majeure, or can only partly comply with its obligations, then the supplier is authorised to invoice the already delivered and/or the deliverable part separately and the client is held to pay this invoice as if it regards a separate contract.
10. **Prices and price changes**
 - 10.1. Prices are always excluding VAT and other officially imposed duties.
 - 10.2. If the price of the goods is calculated based on weight then the net weight is decisive for plastics and the gross weight for all other products.
 - 10.3. In case of an increase of the prices of materials, semi-finished products or services that are required for the implementation of the order, an increase of the shipping costs, salaries, social security employer's contributions, and other terms and conditions of employment, a change in the currency exchange rates, implementation of new and increase of existing official duties on raw materials, energy or residual substances or in general circumstances that are comparable to this and occur after the conclusion of the agreement then the supplier is authorised to increase the stipulated prices accordingly.
 - 10.4. Laborious text, additional tests, and author's correction shall also give cause to a price increase as well as extraordinary or within reason unforeseen processing difficulties deriving from the nature of the materials and products to be processed.
 - 10.5. The passing on of cost increasing costs entitles the client to terminate the agreement if continuation of the agreement can within reason not be requested of the same, having regard to the scope of the price increasing costs.
11. **Packaging**

Boxes, crates, and similar packaging products that are charged separately can – if returned postage paid in a good state within 14 days – be taken back at the charged price upon deduction of repair costs that may appear necessary after return.
12. **Tolerance**
 - 12.1. **Quantity** – the supplier is deemed to have performed properly if differences in quantity do not exceed more than:
 - a. for **paper products**:
 - 20% more or less than the indicated quantity in case of orders up to 250 kg.
 - 10% more or less than the indicated quantity in case of orders from 250 up to and including 5000 kg.
 - 5% more or less than the indicated quantity in case of orders exceeding 5000 kg.
 - b. for **cellophane**, plastics or a combination thereof:
 - 30% more or less than the indicated quantity in case of orders with a net weight of 500 kg.
 - 20% more or less than the indicated quantity in case of orders with a net weight from 500 up to and including 1000 kg.
 - 10% more or less than the indicated quantity in case of orders exceeding 1000 kg.
 - c. for **cardboard**:
 - 20% more or less than the indicated quantity in case of orders of less than 500 kg.
 - 10% more or less than the indicated quantity in case of orders of more than 500 kg.
 - d. for **corrugated cardboard boxes**:
 - 20% more or less than the indicated quantity in case of orders of fewer than 1,000 pieces.
 - 15% more or less than the indicated quantity in case of orders from 1,000 up to 5,000 pieces.
 - 10% more or less than the indicated quantity in case of orders of more than 5,000 pieces.

GENERAL DELIVERY AND PAYMENT TERMS AND CONDITIONS

of the Association of Dutch Manufacturers

of Paper and Board and Flexible Packaging “KARTOFLEX”

- e. for all other products:
- 30% more or less than the indicated quantity in case of orders with a net weight up to 500 kg.
 - 20% more or less than the indicated quantity in case of orders with a net weight from 500 up to and including 1000 kg.
 - 10% more or less than the indicated quantity in case of orders with a net weight as from 1000 kg.
- Per order is understood as one shipment in one format and quality. Invoicing takes place on the basis of the actually delivered quantity.
- 12.2. Quality – the supplier is deemed to have delivered properly if the difference in quality, colour, hardness, glaze, thickness, etc. is minor. Upon the assessment whether a delivery exceeds the permissible thresholds a representative random sample from the work is assessed: hence rejection on the basis of a few copies is not possible. Differences in cardboard colour do not entitle to complain.
- 12.3. Grammage – the permissible deviation from a stipulated grammage for paper amounts to:
- | | |
|---|----|
| • up to and including 39 gr/m ² | 8% |
| • 40-59 gr/m ² | 5% |
| • 60 and more gr/m ² | 4% |
| • and for cardboard up to 500 gr/m ² | 6% |
| • as from 500 gr/m ² | 4% |
- 12.4. Thickness – the permissible deviation from a single measurement compared to the stipulated thickness for the following amounts to:
- | | |
|--|------|
| • cellophane and plastic film up to and including 40µ | 20% |
| • cellophane and plastic film over 40µ | 15 % |
| • aluminium foil (whether or not component of another product) | 10% |
| • other materials or combinations | 15% |
- 12.5. Format – the permissible deviation from the stipulated format for the following amounts to:
- a. Paper on rolls 1% with a minimum of 3 mm; paper on sheets 1% with a minimum of 5 mm (in length and width)
 - b. Cellophane or plastic film on rolls 2 mm
 - c. Bags from cellophane or plastic film in unfolded width / length up to and including 200 mm 2mm; over 200 mm 4 mm
 - d. Paper bags in unfolded width maximum 3 mm in bag length maximum 5 mm
 - e. The permissible deviation from the stipulated roll diameter is 3 cm. A limited number of so called residual rolls can have a smaller diameter.
- Dimensions of corrugated cardboard boxes are measured internally and the dimensions are indicated in the sequence length x width x height. In case of sheets the first mentioned dimension is parallel to the direction of the corrugation (i.e. the direction of a corrugation peak and a corrugated trough). A tolerance of at most + or – 5 mm is permitted in respect of a dimension.
- 12.6. If a maximum or minimum value is stipulated then the double downward or upward deviation is permitted.
- 13. Complaints and liability**
- 13.1. The client is held to inspect (have inspected) the delivered goods at the time of delivery (completion), however in any case as soon as possible. In this respect the client must verify whether the quality and quantity of the delivered goods correspond with the agreement, including the aforementioned tolerances.
- 13.2. Potential visible shortcomings must be reported to the supplier in writing within two days after delivery. Invisible shortcomings must be reported within three weeks after discovery, however at the latest within three months after delivery.
- 13.3. If a claim is, in pursuance of the previous paragraph, filed in a timely fashion then the client remains held to purchase and pay the purchased goods and to give the supplier the opportunity to deliver proper goods in replacement of the inferior goods. Inferior goods must be returned to the supplier at the expense of the same, unless stipulated otherwise.
- 13.4. Defects of a part of the delivered goods do not entitle to reject the delivered shipment in full. It is, in particular, technically unavoidable that during the production of paper and plastic packaging, cardboard and similar products a small part of the total shows deviations from the agreement. A small part is understood as 3% - with a maximum of 10,000 units – of the total delivery.
- 13.5. For the liability of the supplier it is noted that for damages of the client on account of or in connection with an agreement by and between the supplier and the client: (a) the supplier is not liable for consequential damages or indirect damages, e.g. lost income or reduced proceeds, lost savings, loss of goodwill and costs in connection with interruption, standstill and/or restart of a business or part thereof; (b) for damages other than those mentioned under (a) the supplier is only liable to the extent that it is insured in connection therewith and the said insurance proceeds, as the occasion arises, with payment.
- 13.6. The restrictions as intended in article 13.5 are not applicable if the client demonstrates that the damages, for which the client holds the supplier liable, are the result of intent or gross negligence (gross recklessness) (of the managers) within the organisation of the supplier.
- 13.7. Should the supplier, despite the restrictions pursuant to article 13.5, nonetheless be held to pay any form of compensation then the latter shall never exceed the invoice value of the delivered goods, at least the part thereof as a result of which or in connection with which the damages were caused.
- 13.8. If an event occurs that results in damages on the part of the client or that shall within reason result in damages on the part of the client for which the supplier is liable then the client must forthwith, however in any case within three weeks after the said event, inform the supplier of the said event in writing and/or electronically. If the client fails to
- provide a timely written and/or electronic notification then its right to claim compensation on the basis of the relevant event expires, unless the client was within reason unable to take note of the event within the aforementioned time limit of three weeks. In that case the time limit of three weeks starts as from the moment that the client could within reason have taken note of the event.
- 13.9. Any and all claims for compensation for damages of the client expire twelve months after the event as a result of which the damages were caused, barring to the extent that it regards damages that were reported to the supplier in a timely manner as indicated above.
- 13.10. The supplier is not liable for the consequences of errors in models, materials, data carriers, film masters or uniform article code(s) supplied by the client or for the consequences of difficulties occurring during the use, processing or treatment of goods delivered by the supplier in accordance with the test or tests approved by the client.
- 13.11. The client shall in no instance whatsoever be entitled to any claim vis-à-vis the supplier after the delivered goods or a part thereof were or was commissioned, processed or treated.
- 13.12. If the supplier is held liable for damages by a third party for which the supplier is, in pursuance of the agreement with the client and/or these delivery terms and conditions, not liable then the client shall fully indemnify the supplier in connection therewith and compensate the supplier for everything that the latter must pay to the said third party.
- 14. Printing; EAN symbols and Dutch Commodities Act**
- 14.1. For the printing the supplier uses normal ink. If the client imposes special requirements on the printed matter, for instance, with regard to light and alkaline resistance, rubbing resistance, etc., then the client must expressly indicate this in advance. Even if the supplier accepts these requirements, minor deviations from the same cannot give cause to rejection of the goods or liability of the supplier.
- 14.2. The supplier only makes printing proofs available if expressly requested by the client or if the supplier deems this to be desired. Each and every proof or revision is charged.
- 14.3. Printing proofs that were signed for approval by the client are binding in terms of the implementation of the contract and can therefore not give cause to complaints.
- 14.4. The parties expressly exclude the liability of the supplier for the consequences of the uselessness of the so called EAN symbol ('barcode') or any other code, placed on the goods delivered by the supplier at the request of the client, and for the consequences of the incorrect reading of this kind of code by the equipment used for the same, all barring intent or gross negligence of the supplier during the manufacture.
- 14.5. Without specific written instructions of the client the orders are implemented with the raw materials common in the industry according to normal production methods. The supplier is, within the framework of the Dutch Packaging and Consumables (Commodities Act) Decree, only liable for the influence of the packaging material on the product to be packaged and vice versa if and to the extent that the client pointed the supplier to the specific characteristics of the product to be packaged in writing and prior to the order and gave the supplier the opportunity to determine a standpoint in respect of these aspects.
- 15. Intellectual property rights**
- 15.1. By awarding a contract to duplicate or reproduce any objects protected by industrial property rights the client declares that the copyright or industrial property right of third parties is not infringed. The client indemnifies the supplier in and out of court against any and all consequences, both financial and otherwise, that derive from the duplication or reproduction.
- 15.2. If there is or remains reasonable doubt about the correctness of the rights alleged by third parties as intended in paragraph 1 of this article then the supplier is authorised but not held to suspend compliance with the agreement until it was irrevocably established in court that the supplier does not infringe the said rights through compliance with the agreement. Subsequently the supplier shall yet implement the order within a reasonable period of time.
- 15.3. The copyright in respect of sketches, drawings, lithos, pictures, software, models, and the like designed and/or created by the supplier remains vested in the same, even if they were manufactured under the authority of the client.
- 15.4. If an ordered design, as intended in paragraph 3, is not followed by an order then this is charged after one month.
- 16. Disputes**
- 16.1. Dutch law is applicable to each and every proposal, offer, order, agreement, and legal acts that are the result of the same. The provisions of the Vienna Sales Convention are not applicable.
- 16.2. Any and all disputes that derive from or are related to proposals, agreements or other legal acts that the supplier is involved in shall be settled by the district court in the district where the supplier holds its registered office.
- 17. Production resources**
- 17.1. Any and all production resources, e.g. plates, sheets, stones, printing plates, cylinders, lithos, negatives, positives, slides, dies, jacks, data carriers, software, and other graphic materials are part of the printing inventory and are, as such, the property of the supplier, even if they were charged.
- 17.2. The client cannot desire that these parts are surrendered to the same, unless stipulated otherwise in advance with the supplier.
- 17.3. The supplier is not held to retain these parts.
- 17.4. The etching for gravure is removed from the form cylinder after completion of the printing order, unless an arrangement was agreed on with the buyer about the retention of this cylinder.
- 17.5. Paragraphs 1 and 2 of this article are not applicable to production resources delivered by the client. These shall remain the property of the client.
- 17.6. The materials or data (carriers) supplied by the client must comply with the specifications provided by the supplier.