

# General Terms and Conditions of Processing and Delivery (GTCPD) of Etikettendruck Förster GmbH & Co. KG

Last revised January 2022

## 1. Scope of validity

1. These GTCPD shall apply to all business transactions between Etikettendruck Förster GmbH & Co. KG (hereinafter referred to as FÖRSTER) and the purchaser, principal or orderer, hereinafter referred to as the Client, in addition to any other expressly agreed special contractual agreements.

FÖRSTER shall not recognise any deviating or supplementary terms and conditions – even in the case of unconditional provision of services or acceptance of payment – unless FÖRSTER expressly agrees to their validity in writing.

2. These GTCPD shall only apply in business transactions with entrepreneurs within the meaning of section 14 German Civil Code (BGB); they shall also apply to all future business relationships without having to be included again until new GTCPD are provided by FÖRSTER.

3. All agreements made between FÖRSTER and the Client within the framework of the contractual negotiations shall be recorded in writing for reasons of proof and confirmed by both parties.

4. Ancillary agreements, subsequent contractual amendments and the assumption of a guarantee, in particular warranties concerning characteristics, or the assumption of a procurement risk must be made in writing, insofar as they have been issued by persons who are not authorised representatives.

## 2. Advice

1. FÖRSTER shall only advise the Client upon express request. In particular, omitted statements do not constitute advice.

2. FÖRSTER's advice shall exclusively cover the quality of its own products, but not to their use by the Client or the Client's further customers; any advice nevertheless provided by the Client concerning the application is non-binding.

3. The advice provided by FÖRSTER shall exclusively cover the products and services created by FÖRSTER as product and service-related advice.

It shall not cover advice which is independent of the contract, i.e. any declarations given without services being provided by FÖRSTER.

4. FÖRSTER's consulting services are based exclusively on empirical values from its own company and only extend to the state of the art in science and technology in a non-binding capacity.

5. In the case of rubberised, self-adhesive and non-adhesive products, the Client shall be responsible for checking and observing the compatibility with the substrate materials intended for application.

## 3. Conclusion of contract

1. Offers made by FÖRSTER are subject to change without notice; they are deemed to be an invitation to submit an offer.

2. Design work is only free of charge to the extent that the delivery contract based on the corresponding design becomes and remains valid or an offer for design work is explicitly made for this.

3. Details, descriptions and photographs of FÖRSTER's goods and products, in particular in technical documents, catalogues, brochures, circulars, advertisements and price lists, are non-binding unless their inclusion in the contract has been expressly agreed; they do not release the Client from the obligation to perform its own inspections.

4. Colour-fastness and light-fastness, resistance to moisture, heat and weathering as well as drawings, illustrations, dimensions, weights and other performance data should be agreed in writing for evidential reasons.

5. The order placed by the Client generally constitutes the offer to conclude the contract.

6. The order shall contain all details concerning the execution of the order. This applies to all deliveries, services, work and other forms of performance rendered by FÖRSTER. This includes in particular, but is not limited to, information on the item description, number of items, dimensions, material, material composition, pre-treatments, processing specifications, treatment instructions, storage, standards and all other technical parameters and physical characteristics. The Client must provide us with the documents, data, standards, specifications and drawings with the latest revision status as well as any order and delivery specifications required for our performance in good time.

Missing, incorrect or incomplete information shall be deemed to be expressly not agreed and shall not give rise to any obligations on the part of FÖRSTER.

7. If the order placed by the Client deviates from the FÖRSTER's offer, the Client shall indicate the deviations separately.

8. FÖRSTER is entitled to obtain further information that permits proper execution of the order.

9. Orders shall be placed in writing or in (electronic) text form; orders transmitted orally as well as by telephone shall be executed at the Client's risk.

10. Acceptance of the order by FÖRSTER shall take place within three weeks of receipt of the order, unless a longer acceptance period is provided for.

11. FÖRSTER's services are determined based on the order confirmation.

12. FÖRSTER reserves the right to carry out the processing of the delivery items or objects of performance in another company or to have such carried out without additional costs for the Client.

13. If the Client withdraws an order that has been placed, FÖRSTER may, without prejudice to the option to claim higher actual damages, charge ten percent of the delivery or service price for the costs incurred in processing the order and for the loss of profit. The Client reserves the right to prove a lesser damage.

14. Samples of any kind whatsoever, e.g. drafts, dummy samples, test prints, test lithographs etc., shall only be produced specifically for the Client according to its specifications after a prior order in this respect has been placed. These samples will be invoiced separately to the Client.

## 4. Framework agreements

1. If a framework agreement has been agreed between FÖRSTER and the Client according to which the complete annual requirement is manufactured and stored on call, the Client undertakes to accept the complete remaining quantity still in stock or still to be manufactured after the expiry of one year of the order date. Any change to the ordered delivery item or service during the term of the framework agreement is only possible by means of a separate contractual agreement between FÖRSTER and the Client.

2. Unless otherwise agreed, all call-off orders are to be accepted within one year of the order being placed, without a request for acceptance needing to be issued. If this period has expired, FÖRSTER is entitled to invoice the goods and to dispatch them at the Client's expense and risk or to withdraw from the contract immediately.

## 5. Amendments to the contract

1. If the Client wishes to make changes to the object of delivery item or service after conclusion of the contract, this shall require a separate contractual agreement.

2. Sketches, drafts, sample typesetting, sample prints, first sample parts, galley proofs and similar preliminary work shall only be sent to the Client at the Client's express written request.

3. Subsequent changes to the contract at the instigation of the Client, including the machine downtime caused thereby, shall be charged to the Client. Subsequent changes shall also include repetitions of print proofs requested by the Client due to minor deviations from the original.

4. In the event of missing or incorrect information, FÖRSTER reserves the right to make appropriate changes to the delivery item or service. Disadvantages due to missing or incorrect information, in particular additional costs or damages, shall be borne by the Client.

5. We reserve the right to make technical changes to the delivery item or service that do not jeopardise the contractual objective, in particular with regard to material and design.

## 6. Delivery time

1. If a delivery or performance period has been agreed, this shall commence with the dispatch of the order confirmation, but not before full clarification of all details of the order and the proper fulfilment of all obligations to cooperate on the part of the Client; the same shall apply accordingly to delivery or performance dates.

2. In the event of mutually agreed changes to the subject matter of the order, delivery or service deadlines and delivery or service dates shall be agreed anew.

This shall also apply if the subject matter of the contract has been renegotiated after conclusion of the contract without any change being made to the subject matter of the contract.

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3. Delivery or service periods and delivery or service deadlines are subject to the proviso of defect-free and timely upstream delivery as well as unforeseeable production disruptions.

4. Delivery and performance deadlines shall be automatically extended by the period in which the Client does not fulfil its obligations towards FÖRSTER. In particular, the delivery and performance deadlines shall be suspended for the duration of the inspection of the print proofs, galley proofs, proofs, samples etc. by the Client from the time of dispatch to the Client until final approval. This also applies accordingly to delivery and performance dates.

5. The delivery or performance time shall be deemed to have been complied with if, by the time of its expiry, the delivery item or service has left the works of FÖRSTER or FÖRSTER has given notice of its completion for collection.

6. FÖRSTER is entitled to provide the agreed delivery or service even before the agreed time.

7. Partial deliveries or services are permissible – insofar as reasonable for the Client – and can be invoiced separately.

## 7. Default of acceptance

1. If the Client does not take delivery of the goods on the agreed delivery date or expiry of the agreed delivery period due to circumstances for which it is responsible, FÖRSTER may demand compensation for the additional expenses incurred as a result.

2. If the delivery or performance is delayed by the Client, FÖRSTER may charge storage costs in the amount of 0.5 percent for each month or part thereof, but not more than a total of five percent of the delivery or performance price. The contracting parties shall be at liberty to provide evidence of higher or lower storage costs.

FÖRSTER is authorised to determine a suitable place of storage at the Client's expense and risk as well as to insure the delivery items or objects of performance.

3. Products to which the Client is entitled, in particular data and data carriers, will only be archived by FÖRSTER beyond the date of delivery of the goods subject to express agreement and in return for special remuneration.

4. If FÖRSTER is entitled to claim damages instead of performance, it may, without prejudice to the possibility of claiming higher actual damages, claim 15 percent of the price as damages, unless the Client proves that no damage has been incurred at all or that the damage is significantly lower than the lump sum.

## 8. Impediments to delivery and performance

1. In cases of force majeure, FÖRSTER shall be released from the corresponding obligation to fulfil the contractual obligations and from any obligation to pay damages or from any other contractual remedy for breach of contract in this connection as of the time at which the impediment makes it impossible for FÖRSTER to deliver or provide the service, provided that the Client is notified thereof without undue delay. If the notification is not made without undue delay, the exemption shall take effect from the point at which the Client receives the notification. Services already rendered by the Client shall be reimbursed to the Client by FÖRSTER without undue delay.

2. "Force Majeure" refers to the occurrence of an event or circumstance which prevents FÖRSTER from performing one or more of FÖRSTER's obligations under the contract if and to the extent that FÖRSTER demonstrates that: (a) such hindrance is beyond the reasonable control of FÖRSTER; and (b) it was not reasonably foreseeable at the time of the conclusion of the contract; and (c) the effects of the hindrance could not reasonably have been avoided or overcome by FÖRSTER.

Until proven otherwise, force majeure shall be presumed to exist in the following events:

- (i) War (declared or undeclared), hostilities, attack, acts of foreign enemies, large-scale military mobilisation;
- (ii) Civil war, riot, rebellion and revolution, military or other seizure of power, insurrection, acts of terrorism, sabotage or piracy;
- (iii) Currency and trade restrictions, embargo, sanctions;
- (iv) Lawful or unlawful official acts, compliance with laws or government orders, expropriation, seizure of works, requisition, nationalisation;
- (v) Plague, epidemic, natural disaster or extreme natural event;
- (vi) Explosion, fire, destruction of equipment, prolonged failure of transportation, telecommunications, information systems or power;

(vii) General labour unrest such as boycotts, strikes and lockouts, go-slows, occupations of factories and buildings.

3. If the effect of the asserted impediment or event is temporary, the consequences set out in clause 1 shall only apply for as long as the asserted impediment prevents FÖRSTER from performing the contract.

4. If the duration of the asserted impediment has the effect that the contracting parties are substantially deprived of what they could reasonably expect by virtue of the contract, both contracting parties shall be entitled to terminate the contract by notifying the other contracting party within a reasonable period of time. Unless otherwise agreed, the contracting parties expressly agree that the contract may be terminated by either party if the duration of the impediment exceeds 60 days.

5. FÖRSTER is furthermore entitled to withdraw from the contract insofar as FÖRSTER, through no fault of its own, is not supplied by one of its own suppliers despite the latter's contractual obligation and is therefore unable to meet its own delivery or performance obligations towards the Client. In this case, FÖRSTER will inform the Client of the non-availability of the delivery item or object of performance without undue delay and will reimburse the Client without undue delay for any services rendered.

6. FÖRSTER shall also be entitled to the rights set out in clause 8 to the extent that FÖRSTER was already in default when these circumstances occurred.

## 9. Payment

1. Unless otherwise agreed, the agreed prices shall be in euros in accordance with the EXW (ex works) clause of INCOTERMS 2020 plus VAT, customs duty, freight, packaging and transport insurance costs and other shipping costs.

Insurance of the goods to be shipped will only be provided by FÖRSTER upon express written request and at the Client's expense.

2. FÖRSTER is entitled to amend the agreed price accordingly if changes in cost occur after the conclusion of the contract, in particular due to collective agreements or changes in material or energy prices. Evidence of the change in costs shall be provided to the Client upon request.

3. FÖRSTER is entitled to amend the agreed price appropriately if changes occur before or on the occasion of the execution of the order because the information provided by the Client or the documents made available were incorrect or if changes are otherwise requested by the Client.

4. Sketches, drafts, sample typesetting, sample prints, first sample parts, galley proofs, changes to supplied or transmitted data and similar preparatory work initiated by the Client as well as data transfers shall be charged separately to the Client. This shall also apply if a serial order is placed.

5. FÖRSTER is entitled to demand a reasonable advance payment upon conclusion of the contract. Such remuneration shall not include interest.

6. Unless otherwise agreed, invoices are due within 30 days net from the date of invoice. They are payable without deductions. In the event of non-payment, the Client shall be in default on the due date without a further reminder being required.

Discounts and rebates shall only be granted upon separate agreement. Partial payments require a separate written agreement.

7. Settlement by bill of exchange requires a separate prior agreement with FÖRSTER. Discount charges and bill of exchange costs shall be borne by the Client. Invoice settlement by cheque or bill of exchange shall only be made on account of performance and shall only be deemed to be payment after they have been credited without reservation.

8. If there are several outstanding claims of FÖRSTER against the Client and if payments of the Client are not made in respect of a specific claim, FÖRSTER is entitled to determine against which of the outstanding claims the payment was made.

9. In the event of default in payment, deferral or partial payment, FÖRSTER shall be entitled to demand default interest in the amount of nine percentage points p.a. above the respective base interest rate and to withhold further services until all due invoices have been settled. We reserve the right to prove higher damages.

10. By placing the order, the Client confirms its solvency and/or creditworthiness.

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In the event of justified doubts as to the Client's solvency or creditworthiness, FÖRSTER shall be entitled to demand advance payment or a suitable security for the performance to be rendered by the Client.

If the Client is not prepared to provide advance payment or to provide security, FÖRSTER shall be entitled to withdraw from these contracts after a reasonable grace period and to claim damages for non-performance.

**11.** Terms of payment granted shall lapse and outstanding claims shall become due for payment immediately if insolvency proceedings are applied for against the assets of the Client or if the Client has provided inaccurate information regarding its creditworthiness or in the event of other justified doubts regarding the Client's solvency or creditworthiness.

**12.** The Client shall only be entitled to rights of set-off against claims accruing to FÖRSTER if the counterclaim is undisputed or has been legally established.

The assignment of claims against FÖRSTER requires FÖRSTER's consent.

**13.** The Client shall only have a right of retention if the counterclaim is based on the same contractual relationship and is undisputed or has been finally determined by a court of law or if FÖRSTER has substantially breached its obligations under the same contractual relationship despite a written warning and has not offered adequate security.

If a performance by FÖRSTER is indisputably defective, the Client shall only have a right of retention to the extent that the amount withheld is reasonably proportionate to the defects and the anticipated costs of remedying the defects.

**14.** The payment dates shall also remain valid if delays in delivery occur through no fault of FÖRSTER.

**15.** In the case of initial orders, FÖRSTER is entitled to charge reasonable and customary one-off programming and set-up costs in addition to the contractually agreed prices for the delivery item.

**16.** Insofar as value added tax is not included in FÖRSTER's invoice, in particular because FÖRSTER, on the basis of the information provided by the Client, presumes an "intra-Community delivery" within the meaning of section 4 no. 1 b in conjunction with section 6 a German VAT Act (UStG) and a VAT payment burden (section 6 a IV UStG) is subsequently imposed on FÖRSTER, the Principal shall be obliged to pay to FÖRSTER the amount with which FÖRSTER is charged. This obligation exists irrespective of whether FÖRSTER has subsequently to pay VAT, import turnover tax or comparable taxes in Germany or abroad.

#### **10. Performance services**

**1.** The place of performance for the services commissioned shall be FÖRSTER's premises. Unless otherwise agreed in writing, the Client shall collect the goods there after notification of completion.

**2.** The place of performance of the payments to be made to FÖRSTER arising from the business relationship is the registered office of FÖRSTER.

**3.** The Client shall be obliged to effect acceptance as soon as it has been notified by FÖRSTER of the completion of the services commissioned.

If the Client does not accept the service within two weeks of notification, acceptance shall be deemed to have taken place.

**4.** The risk of any defects in the goods shall pass to the Client with the declaration of readiness for printing, unless these are defects which only arose or could only be detected in the production following the declaration of readiness for printing.

**5.** The risk of destruction, loss or damage of the goods shall pass to the Client upon notification of completion of the goods.

Insofar as shipping has been agreed, the risk shall pass upon dispatch of the goods or their handover to the commissioned transport company.

**6.** Unless otherwise agreed, FÖRSTER shall determine the type and scope of the packaging. Disposable packaging shall be disposed of by the Client.

**7.** If the shipment is made in returnable packaging, this must be returned carriage paid within 30 days of receipt of the delivery. The Client shall be responsible for any loss of or damage to the returnable packaging.

Returnable packaging may not be used for other purposes or to hold other items. It is only intended for the transport of the delivered goods. Inscriptions must not be removed.

**8.** In the event of damage to or loss of the goods during transport,

an inventory should be arranged immediately and FÖRSTER notified accordingly. Claims arising from any transport damage must be asserted by the Client with the carrier without undue delay.

#### **11. Delivery**

**1.** In the absence of a breach of duty, FÖRSTER shall not be liable for damage caused by incorrect or inaccurate labelling and marking of goods provided or other supplies. Goods and other supplies provided by the Client or by a third party engaged by it, in particular also data carriers and transferred data, shall not be subject to any duty of inspection by FÖRSTER.

**2.** The goods to be processed shall be inspected by FÖRSTER for externally visible damage. FÖRSTER is not obliged to carry out any further checks. Defects discovered shall be notified to the Client within ten working days of the discovery of the defect.

**3.** The Client shall be obliged to compensate FÖRSTER for all damages, including lost profits, incurred by FÖRSTER as a result of the provision of material and data that cannot be processed.

**4.** We shall be entitled to a right of retention in accordance with section 369 German Commercial Code (HGB) in respect of the printing and stamping templates, manuscripts, raw materials, data and other items supplied by the Client until all due claims arising from the business relationship have been met in full.

**5.** The items made available to FÖRSTER by the Client shall be stored for a maximum period of two years after their last use. After the expiry of this period, FÖRSTER is entitled to destroy them, unless the Client has expressly requested the return of the items in writing to FÖRSTER before the expiry of the period.

#### **12. Obligation to examine and give notice of defects**

**1.** All claims of the Client due to defective deliveries or services presuppose that the client has fulfilled its due obligations to inspect and give notice of defects.

**2.** The Client is obliged to inspect the goods for defects and damage, in particular also preliminary and intermediate products sent for correction, in accordance with section 377 German Commercial Code (HGB) without undue delay following delivery and to notify FÖRSTER accordingly as well as to give notice of any defects and damage detected later immediately after their discovery as well as to provide FÖRSTER with a return sample from the delivery concerned. The provisions of section 377 German Commercial Code (HGB) shall apply mutatis mutandis to services and work. Notices of defects must be made in writing.

**3.** The use of defective deliveries or services is not permitted. If it was not possible to discover a defect at the time of receipt of the goods or provision of the service, any further use of the delivery item or object of performance must be discontinued immediately after discovery. The Client shall bear the burden of proof that a hidden defect exists.

**4.** The Client shall hand over the goods complained about to FÖRSTER and shall grant the time required to examine the defect complained about. In the event of unjustified complaints, FÖRSTER reserves the right to charge the Client for the inspection expenses incurred.

**5.** The notice of defects shall not release the Client from compliance with its payment obligations.

**6.** Defects concerning part of the delivered goods do not entitle the Client to complain about the entire delivery, unless the partial delivery is of no interest to the Client.

**7.** Deviations in the dimensions of the delivery or service to be provided by FÖRSTER cannot be objected to if these deviations can be qualified as customary in the industry or trade.

**8.** Minor deviations from the original cannot be objected to as regards reproductions in all manufacturing processes. The same applies to the comparison between other templates (e.g. proofs, print proofs) and the final product. Corresponding minor or customary deviations do not constitute a defect in the delivery items or objects of performance of FÖRSTER.

#### **13. Warranty**

**1.** Insofar as there is a defect in FÖRSTER's delivery items or objects of performance, FÖRSTER is entitled to remedy the defect, to make a replacement delivery or to issue a credit note at its own discretion.

**2.** The rectification can also be carried out by the Client after consultation with FÖRSTER.

**3.** Claims by the Client for expenses incurred for the purpose of subsequent performance, in particular transport, travel, labour

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and material costs, are excluded to such extent as the expenses increase because the goods.

4. Excess or short deliveries of up to ten percent of the ordered print run cannot be objected to. The delivered quantity shall be billed. In the case of deliveries made of special material or custom-made, this percentage shall be increased to up to 20 percent of the print run.

5. Unless otherwise expressly agreed in writing, FÖRSTER does not provide any warranty for the reaction of an adhesive coating on special substrates applied at any location place other than at the Client's place of business.

6. Furthermore, liability for defects that do not or only insignificantly impair the value or usability is excluded.

#### **14. Legal defects**

1. Orders based on drawings, sketches or other information provided to FÖRSTER shall be executed at the Client's risk. If, as a result of the execution of such orders, FÖRSTER encroaches on third-party property rights, the Client shall indemnify FÖRSTER against claims of such holders of rights. Any further damage shall be borne by the Client.

2. FÖRSTER's liability for any infringement of property rights in connection with the blending or use of the delivery items or objects of performance with other products is excluded unless FÖRSTER is responsible for the infringement of property rights. Claims for damages shall be governed exclusively by clause 15.

3. In the event of defects of title, FÖRSTER is entitled, at its discretion, to procure the necessary licences with regard to the infringed property rights or to remedy the defects of the delivery item or object of performance by providing a delivery item or object of performance that has been modified to an extent that is reasonable for the Client.

4. The actual place of deployment or use of the services of FÖRSTER is not generally known to FÖRSTER. The Client is therefore obliged to check for itself whether any infringements of property rights or other infringements of rights exist at the place of delivery or use as a result of the delivery or application of the services of FÖRSTER and whether the services of FÖRSTER can otherwise be used at the place of use. FÖRSTER's liability for the infringement of third party property rights shall furthermore only extend to such property rights as are registered and published in Germany, unless FÖRSTER is responsible for an infringement of property rights going beyond this. Claims for damages shall be governed exclusively by clause 15.

5. A transfer or grant of industrial property rights and copyrights, in particular of existing industrial property rights of FÖRSTER to the Client, is not the object of the delivery or service to be provided by FÖRSTER. The type and scope of the rights of use or property rights to be granted shall remain subject to a separate contractual agreement.

6. The operating items used by FÖRSTER for the execution of the order, such as data, films, lithographs, tools and print carriers, shall remain the property of FÖRSTER even in the event of separate settlement and shall not be delivered; any copyrights shall accrue to FÖRSTER.

7. All ideas and documents designed by FÖRSTER, in particular samples, dummies, sketches, drafts, technical information, lithographs, proofs etc., are subject to the protection of the intellectual property of FÖRSTER and may not be used or exploited in any form without FÖRSTER's consent, unless these products have been manufactured exclusively according to the specifications and regulations of the Client.

8. Insofar as FÖRSTER manufactures on behalf of the Client in accordance with drawings, models, samples or other technical documents provided by the Client or in accordance with process requirements specified by the Client, the Client shall assume responsibility for ensuring that the property rights of third parties are not infringed thereby. If third parties prohibit FÖRSTER in particular from manufacturing and supplying such products by invoking existing industrial property rights, FÖRSTER shall be entitled, without being obliged, to verify the legal situation, to cease any further activity to the extent concerned and to claim damages from the Client.

9. With the handing over of such drawings, documents and the like as well as with the desired process results and the specified formulas and underlying material inputs etc., FÖRSTER shall be indemnified by the Client from all claims of third parties in this connection.

#### **15. Liability**

1. Insofar as FÖRSTER, the legal representatives, employees or vicarious agents of FÖRSTER intentionally or grossly negligently violate an obligation, in particular arising from the contractual relationship, or intentionally or grossly negligently commit an unlawful act, FÖRSTER shall be liable for the Client's resulting losses in accordance with the statutory provisions.

2. Insofar as FÖRSTER, FÖRSTER's legal representatives, employees or vicarious agents merely violate an obligation through simple negligence, any claims for damages by the Client against FÖRSTER shall be excluded, irrespective of the type and on whatever legal grounds, in particular due to the violation of obligations arising from the contractual relationship or from tort. This shall not apply in the event of a breach of a material contractual obligation due to simple negligence. In this case, FÖRSTER's liability shall be limited to the foreseeable damage typical for the contract. A material contractual obligation in this sense is an obligation, the fulfilment of which makes the proper performance of the contract possible in the first place and on the observance of which the Client regularly relies and may rely.

3. The above exclusion or limitation of liability shall not apply in the event of at-fault injury to life, limb or health, or in the event of fraudulent concealment of a defect, nor shall it apply if a guarantee of quality is not fulfilled, nor shall it apply if liability exists under the German Product Liability Act.

4. The above provisions shall have no bearing on the statutory provisions concerning the burden of proof.

5. The Client shall only have any recourse claims against FÖRSTER provided the Client has not entered into an agreement with its customer that goes beyond the statutory claims for defects and damages.

6. Any liability on the part of FÖRSTER is excluded insofar as the Client for its part has effectively limited its liability towards its Client.

7. Unless otherwise agreed in these GTCPD, the Client shall be liable to FÖRSTER at least to the extent of the statutory liability. Limitations or exclusions of liability on the part of the Client that limit its legal liability are excluded.

#### **16. Limitation**

1. The limitation period for claims and rights due to defects of the products, services and work performances of FÖRSTER is one year. The commencement of the limitation period shall be governed by the statutory provisions. In the cases of sections 438 (1) no. 2, 438 (3), 479, 634 a (1) no. 2, 634 a (3) BGB, the limitation period provided for therein shall apply. If FÖRSTER is liable for damages pursuant to section 15, the warranty period with regard to the claim for damages shall be governed by the statutory provisions.

2. Subsequent performance measures shall neither suspend the limitation period applicable to the original performance nor shall they cause the limitation period to start anew. This is without prejudice to section 212 BGB.

#### **17. Acquisition of title**

1. FÖRSTER shall retain title to all contractual items until all claims to which FÖRSTER is entitled from the business relationship with the Client have been settled in full.

FÖRSTER reserves all property rights and copyrights to the illustrations, drawings, calculations and other (technical) documents provided.

2. If property of FÖRSTER is processed, combined or mixed with property of third parties, FÖRSTER shall acquire title to the new item in accordance with section 947 BGB.

3. If processing, combination or mixing is carried out in such a way that the third-party performance is to be regarded as the main item, FÖRSTER shall acquire ownership in the ratio of the value of FÖRSTER's performance to the third-party performance at the time of processing, combination or mixing.

4. Where FÖRSTER acquires ownership of an item through its performance, FÖRSTER shall retain ownership of this item until settlement of all existing claims arising from the business relationship with the Client.

5. The Client is obliged to store the goods subject to retention of title with due care and, if necessary, to carry out maintenance and repair work in good time at its own expense. The Client shall in-

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sure the goods subject to retention of title against loss and damage at its own expense. Any security claims arising in the event of damage shall be assigned to FÖRSTER.

6. The Client is entitled to resell the item which is (co-)owned by FÖRSTER in the ordinary course of business as long as it fulfils its obligations under the business relationship with FÖRSTER. In this case, the claim arising from the sale shall be deemed to have been assigned to FÖRSTER in the ratio in which the value of FÖRSTER's performance secured by the retention of title stands to the total value of the goods sold. The Client remains entitled to collect this claim even after the assignment. This is without prejudice to FÖRSTER's authority to collect this claim itself.

7. The Client's right to dispose of the goods subject to FÖRSTER's retention of title as well as to collect the claims assigned to FÖRSTER shall expire as soon as it no longer meets its payment obligations and/or an application is made to open insolvency proceedings. In these aforementioned cases as well as in the event of other conduct of the Client in breach of contract, FÖRSTER shall be entitled to take back the goods delivered under retention of title without a reminder.

8. The Client shall inform FÖRSTER without undue delay if there are risks to its reserved property, in particular in the event of insolvency, illiquidity and enforcement measures. At FÖRSTER's request, the Client shall provide all necessary information about the inventory of the goods (co-)owned by FÖRSTER and about the claims assigned to FÖRSTER as well as to inform its customers of the assignment. The Client shall support FÖRSTER in all measures that are necessary to protect FÖRSTER's (joint) property and shall bear the resulting costs.

9. FÖRSTER is entitled to a right of lien on the Client's goods that have come into FÖRSTER's possession on the basis of the contract on account of all claims arising under the contract. The right of lien may also be asserted on account of claims from earlier deliveries or services, insofar as these are connected with the delivery item or object of performance.

For other claims arising from the business relationship, the right of lien shall apply insofar as this is undisputed or has been legally established. Sections 1204 et seq. BGB and section 50 (1) Germany Insolvency Code shall apply mutatis mutandis.

10. If the realisable value of the securities exceeds FÖRSTER's claims by more than ten percent, FÖRSTER shall release securities of its own choice to this extent at the Client's request.

## 18. Material processing

If the Client provides FÖRSTER with materials for processing, the following provisions shall apply in addition:

1. Material procured by the Client of whatever kind shall be delivered to FÖRSTER carriage paid.

2. The goods to be processed shall only be inspected by FÖRSTER upon delivery for externally visible defects and damage. FÖRSTER is not obliged to carry out any further checks. Any defects or damage discovered shall be notified to the Client within ten working days of the discovery of the defect.

3. The goods handed over to FÖRSTER must be made of a material of suitable quality that can be worked well. If these prerequisites are not fulfilled, FÖRSTER will indicate to the Client the additional expenditure that will become necessary and the resulting price increase, if and as soon as FÖRSTER ascertains the unsuitable quality.

If the Client does not agree with the price change, it has the right to withdraw from the contract. Withdrawal must be effected immediately after notification of the changed conditions by FÖRSTER. If the Client declares its withdrawal, it shall pay reasonable compensation for the work already performed.

4. If the goods provided to FÖRSTER prove to be unusable as a result of material defects, FÖRSTER shall be reimbursed for the processing costs incurred.

5. When the material is made available by the Client, the packaging material and the waste due to unavoidable waste during printing form equipment and production printing, during processing by trimming, punching and the like shall remain with FÖRSTER.

6. Where the Client provides print films, then only in conjunction with corrected print proofs.

7. In the case of digital templates/data provided by the Client, these must be created and formatted in accordance with FÖRSTER's specifications. If this is not the case, the Client shall not be permitted to make a complaint in this respect.

In the case of data transmissions, the Client shall use state-of-the-art computer virus protection programs prior to transmission.

Data backup is the sole responsibility of the Client.

FÖRSTER is entitled to make a copy.

8. FÖRSTER shall not be liable for any damage caused by inaccurate labelling and marking of the goods delivered by the Client.

9. The Client shall be obliged to compensate FÖRSTER for all damages, including lost profit, incurred by FÖRSTER as a result of the provision of material which is not fit for processing or which is harmful.

10. FÖRSTER shall not pay any compensation for rejects occurring to the extent customary in the industry.

## 19. Tools

1. In the case of tools belonging to the Client or tools made available by the Client on loan, FÖRSTER's liability with regard to storage and care shall be limited to the care exercised in its own affairs. Costs of maintenance and insurance shall be borne by the Client. FÖRSTER's obligations established in accordance with this clause 19 shall lapse if, after completion of the order and a corresponding request to the Client to collect the tools, the Client has not collected the tools within 14 days of the request.

2. As long as the Client does not meet its contractual obligations in full, FÖRSTER shall have a right of retention to the tools.

## 20. Galley proofs and print proofs

1. Galley proofs and print proofs shall be checked by the Client for typesetting and other errors and returned to FÖRSTER with a declaration of readiness for printing. Changes made by telephone shall be confirmed in writing.

2. For errors which the Client overlooks in the course of checking the galley proofs and the print proofs, it shall not be permitted to make a later notice of defects, unless the errors were not recognisable.

3. The Client is responsible for errors in the copy templates provided.

## 21. Confidentiality

1. The Client undertakes to treat all aspects of the business relationship worthy of protection as confidential. In particular, it shall treat as business secrets all commercial and technical details which are not in the public domain and which become known to it through the business relationship. Information or aspects of the business relationship which were already publicly known at the time of disclosure as well as such information or aspects of the business relationship which were already demonstrably known to one contracting party prior to the disclosure of the information by the other contracting party shall not be subject to the duty of confidentiality.

The Client shall ensure that its employees also protect FÖRSTER's legitimate interests in confidentiality.

2. The documents provided to the Client may only be reproduced within the scope of operational requirements and copyright provisions.

3. All documents may not be made accessible to third parties, either in whole or in part, or used outside the purpose for which they were provided to the Client without FÖRSTER's written consent.

4. Procedures which FÖRSTER has handed over or made known to the Client, in whatever form, may only be used for the purpose intended or specified in the contract; disclosure to third parties is not permitted without FÖRSTER's express consent.

5. Any disclosure, even partial, of the business relationship with FÖRSTER to third parties may only be made with FÖRSTER's prior written consent; the Client shall also oblige the third parties to maintain confidentiality within the framework of a similar agreement. The Client may only advertise the business relationship with FÖRSTER subject to prior written consent.

6. The Client is obliged to maintain secrecy even after the end of the business relationship.

7. The Client undertakes not to conduct business directly or indirectly with customers of FÖRSTER or to advertise such business with the aid of the information received from FÖRSTER which is subject to secrecy.

## 22. Applicable law

1. The exclusive local place of jurisdiction is the registered office

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Etikettendruck Förster GmbH & Co. KG**

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of FÖRSTER. FÖRSTER is entitled to sue the Client before any other court having jurisdiction under the law.

2. The business relations with the Client shall be governed exclusively by the law of the Federal Republic of Germany. The applicability of the CISG – “Vienna Sales Convention” and private international law is excluded.

3. Should individual parts of these GTCPD be invalid, this shall not affect the validity of the remaining provisions. The contracting parties shall endeavour to replace the invalid clause with another clause that comes as close as possible to the economic purpose and legal meaning of the original wording.

4. The contractual language is German.

**23. Contact details**

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