

Terms and Conditions of Delivery and Payment

All agreements and offers are subject to the following conditions of the Büttenpapierfabrik Gmund GmbH & Co. KG (hereinafter referred to as contractor). They shall be deemed accepted by placing an order or by accepting delivery, if the ordering party was given the opportunity to take notice of its content in due time and in a reasonable way within the course of the business relationship. The ordering party's diverging terms and conditions, which are not explicitly accepted by the contractor in writing, shall remain non-binding, even if they are not objected to explicitly.

Websites of the Büttenpapierfabrik Gmund GmbH & Co. KG are addressed to private- as well as to commercial users.

I. Subject of the Contract

The offer for our products on the websites of <http://www.gmund.com> and the websites linked thereto is non-binding and without obligation. Illustrations displayed on the screen are merely optical approaches and to some extent differ from the pictures (colour, structure, effects) for technical reasons (e.g. screen calibration). The contractor reserves the right to perform reasonable technical- and other alterations of individual goods. Our illustration of goods on the internet does merely constitute a non-binding invitation to the customer to order.

II. Price offer

1. The offers shall not be valid except if stipulated in written form.
2. The prices displayed shall be subject to the condition that the specifications of the order, on which the offer is based, remain unchanged. The prices offered shall be in EURO gross (including the applicable VAT) and shall remain valid for a maximum of 4 months from the day of receipt. Before the user places the order for an article, the price for the respective product, the shipping costs and its description shall be displayed [on the screen]. This sum (purchase price and shipping costs) shall be integral part of the purchase contract concluded between the user and the contractor. The user shall undertake to pay this price. Payment is due upon the user placing his order.

III. Placing an order - Purchase order – Accepting an order – Altering an order

The user shall have the opportunity to acquire the goods displayed on the contractor's websites by purchase.

1. The contract shall be deemed concluded, if the order is confirmed in by the contractor in writing. By pressing the button "buy" the user shall place a legally binding offer for the purchase of the requested product with the contractor. The Büttenpapierfabrik Gmund shall accept this offer by shipping the product. The description of the product is not a guarantee. Subsequent alterations of the order – caused by the ordering party – shall entitle the contractor to alter the respective contractual terms thereby affected. All alterations- or the mutually agreed cancellation of the contract shall require written form.
2. In case circumstances, that render questionable the ordering party's solvency, subsequently become known to the contractor, he may render the further execution of the order as well as the delivery subject to prepayment or may demand reasonable security.

IV. Execution

1. The ordering party's advance consent to technical specifications:

The ordering party shall be obliged to inspect the masters/models provided by the contractor as to their essential qualities as well as to their specifically demanded qualities. Necessary rectifications shall be communicated in writing. The contractor shall not be liable for possible unknowable defects, which the ordering party overlooked during inspection or which the latter did not object to, except if the contractor did not disclose these defects maliciously.

2. Tolerance as to quantity:

As a matter of principle the contractor shall be entitled to effect production-related over- or under-delivery of up to 10%.

3. Tolerance as to quality

The order shall be executed in accordance with the state of the art within the bounds of the technically necessary material- and process related tolerances and in commercial quality, unless particular specifications of execution were stipulated with the ordering party in particular cases.

4. Delivery time/period

Complying with the stipulated delivery time, which is subject to written confirmation, requires that the ordering party fulfills his incidental obligations (e.g. providing the documents for the order, the necessary material, consenting to masters/models etc.) in due time. A new delivery time shall take effect, if, after the confirmation of the order, the ordering party demands changes in the order, which have effect on the duration of manufacture.

5. Defaults in Performance

In the case that the contractor delays performance, the ordering party shall not be entitled to exercise his rights under section 323 German Civil Code (§ 323 BGB) except if the contractor is responsible for the delay. This provision does not result in a change in the burden of proof. Business disruption in the own enterprise as well as in other enterprises, on which manufacturing and delivery are essentially dependant, exonerates from adhering to the delivery period without giving rise to damages as far as relief cannot be produced in time or merely by incurring unreasonable expenses. In such case the delivery time is extended for the time of business disruption. As business disruption in these terms shall be deemed all serious obstacles, which, from an objective point of view, the contractor did neither cause by negligence nor which he could have foreseen, in particular general shortage in raw materials and energy, traffic bottlenecks, interferences by the authorities, labor disputes, war, insurgency as well as all larger and/or extended fires. The preceding paragraph shall apply mutatis mutandis, if, despite congruent covering purchase, the contractor is not supplied by the pre-supplier in due time.

6. Acceptance

Acceptance shall take place in accordance with the contractual stipulations. If acceptance at call is stipulated, the goods shall be taken delivery of within 6 months, unless otherwise expressly agreed. The contractor shall be entitled to charge the costs incurred by a delay of acceptance. The risk of deterioration of quality and the risk of loss shall pass to the ordering party after the expiration of 6 month beginning with the stipulated first delivery time.

V. Payment

1. Payment of the price shall be made by credit card or by direct debit. Other forms of payment, in particular payments by bank transfer, check or in cash cannot be processed and shall not exonerate from the obligation to pay the price by credit card or direct debit. The invoice shall be made out on the day of delivery, partial delivery or readiness to deliver (obligation to be performed at the debtor's domicile, default of acceptance).
2. The ordering party is not entitled to offset or to invoke a retaining lien except against an undisputed debt or against claims which have become res judicata.
3. The contractor shall be entitled to claim pre-payment, to retain the goods not yet delivered as well as to suspend further work if the performance of the obligation to pay the price is at risk due to the ordering party's lack of financial capacity. The contractor shall also be entitled to these rights, if the ordering party is in default of payment for deliveries, which are based on the same legal relationship. Section 321 (2) German Civil Code (§ 321 II BGB) shall remain unaffected.
4. The user takes notice of the fact that the contractor uses third party businesses to handle payment processes, in particular Payone and Concordis. All integrated third party businesses are being displayed during the ordering- and payment process respectively. The General Terms and Conditions of these businesses shall apply in addition to the General Terms and Conditions of the Büttenpapierfabrik Gmund.
5. Default of payment shall give rise to default interests of 8% over the base rate. This shall not bar further claims for additional damages caused by default. Failure by the ordering party to effect payment of the price including additional costs pursuant to paragraph II ("Price Offer") within 10 days after the invoice is received and the goods are delivered, shall establish default even without reminder.

VI. Retention of Title

The title to the goods delivered shall remain with the contractor until full payment of the purchase price. In the case that the goods are resold, even in a processed condition, the counterclaim for this redelivery shall be deemed assigned in first rank to the contractor entirely or in part, that is in the amount of the contractors claims resulting from the delivered goods.

VII. Information on the right of withdrawal and the consumer's right to withdraw and return the goods

If the user of the online-shop is a consumer, he is entitled to the right to withdraw from the contract and to return the goods pursuant to sections 312d, 355 German Civil Code (§§ 312d, 355 BGB). A consumer is a natural person, who engages in a legal transaction with a purpose which can neither be attributed to her commercial nor her self-employed professional activity, section 13 German Civil Code (§ 13 BGB).

The consumer may declare withdrawal of his offer with the contractor within two weeks from the conclusion of the contract in written form, that is per e-mail, fax or by letter or by returning the product. In case of withdrawal by returning the product, the two week period shall have been complied with, if the goods were dispatched in due time.

The revocation is made without stating reasons.

Items manufactured to order are exempt from the right to return.

The declaration of withdrawal may optionally be addressed to:

E-mail address: office@gmund.com

Fax: +49 (80 22) 75 00-99

Postal Address: Büttenpapierfabrik Gmund GmbH & Co. KG, Mangfallstraße 5, D-83703 Gmund am Tegernsee

This address is also valid for withdrawal by returning the products in due time.

VIII. Obligation to inspect, Notification of defects and Prescription

1. The goods shall – without delay – be inspected and treated with the due care of a prudent businessman after their arriving at the place of destination. The inspection shall cover all essential and stipulated properties with respect to the use of the package means. The ordering party's obligation to inspect the delivered goods shall also apply in cases where samples/specimen were delivered.
2. Written notice shall be given within a period one week of receiving the goods in case of apparent defects and within a period of one week of detecting the defect in case of hidden defects; otherwise the assertion of warranty claims shall be precluded. Defects of parts of the shipment shall not give rise to the right to reject the shipment in whole, as far as the separation of the defective and non-defective parts is possible by use of reasonable means.
3. In cases of justified complaints the contractor shall at first and at his own choice be obliged and be entitled to remedy and/or to replacement. In the case that the contractor does not meet his obligation within a reasonable period of time or in the case that remedy fails despite repeated attempts, the ordering party may reduce payment (diminution) or claim rescission of the contract (revocation).
4. The contractor does not warrant that package means are suitable for the purpose designated by the ordering party except if peculiar properties are warranted *in writing*. Immaterial deviations from the original shall not give rise to rejection. Moreover, liability for defects, which do not impair the value or the fitness for use or do so merely in an immaterial way, shall be barred. The contractor's liability for deviations in the quality of the materials assembled shall not surpass the value of the order.
5. The contractor shall not be liable for variances and changes except as far as the defects in the materials were perceptible by proper inspection before use.

IX. Liability

The ordering party's claims for damages or reimbursement arising from any legal cause shall be barred. The Büttenpapierfabrik Gmund shall not be liable for properties and consequential damages caused by the properties of additionally bought raw materials and other materials.

This exemption from liability shall not apply

- to damages caused intentionally or by gross negligence.
- to negligent breach of material contractual duties, including such of legal representatives or persons employed in performing an obligation for whom the principal is vicariously liable; insofar he shall not be liable except for the direct kind of average damage which is typical and foreseeable with respect to such product and such contract.
- In the case of negligent infringement of life, body or health of the ordering party.
- In the case of maliciously withheld defects and for guaranteeing for the properties of the goods.
- In the case of claims arising from the Product Liability Act.

The user shall be subject to the obligations to notify and inspect pursuant to section 377 German Commercial Code (§ 377 HGB), if he is a merchant.

X. Limitation of actions

The ordering party's claims for warranty and damages (paragraphs VIII and IX) shall become statute-barred within one year beginning with the delivery of the goods. This shall not apply, as far as the contractor acted maliciously.

XI. Drawings/Sketches, Drafts/Layouts and other preliminary/preparatory work

shall be charged if ordered by the ordering party even if the final order should not be placed.

XII. Discontinuing the website by the Büttenpapierfabrik Gmund GmbH & Co. KG

The Büttenpapierfabrik Gmund reserves the right to discontinue the services and benefits offered on this website completely or in part at any time and without giving any reasons whatsoever. The user explicitly acknowledges this right. This shall not give rise to any claims for damages or for loss of profit against the Büttenpapierfabrik Gmund.

XIII. Integrated third party websites

Third party websites may – by links or otherwise – be integrated into the website of the Büttenpapierfabrik Gmund. The Büttenpapierfabrik Gmund does not have any influence on the content of such websites and is not responsible therefore. The Büttenpapierfabrik Gmund repudiates any content of such websites, in particular, if such is of offensive, anti-constitutional or of pornographic nature.

The General Terms and Conditions of operators of linked pages shall apply in addition to these General Terms and Conditions.

XIV. Copyright

1. The obligation to investigate into the copyright and the right of reproduction all drafts, masters and models of the order shall be with the ordering party, except where he explicitly commissioned the contractor to do so. The contractor shall inform the ordering party about conflicting rights known to him.
2. The copyright and the right to reproduction of own sketches, drafts, originals, films and alike by any process and for any use shall remain with the contractor unless otherwise provided for, even if the final order is not placed.
3. The title to means of production employed shall rest with the contractor, even if a partial fee to cover the costs for them is charged. There is no obligation to restore possession – even for duplicates.
4. The obligation to keep external documents, scripts and other objects provided [to the contractor] shall expire within 6 months of delivery of the last order manufactured with these objects.

XV. Labeling

The contractor reserves the right to place his corporate text, his corporate logo or his corporate identification number in accordance with the respective practice and provisions and the given room on delivered objects of all type.

XVI. Data Protection

Pursuant to section 26 of the Federal Data Protection Act (§ 26 Bundesdatenschutzgesetz (BGBI I 1977 I S. 201) the contractor informs the ordering party that the contractor saved the ordering party's data necessary to ensure a business-like transaction. User data necessary for handling of the contract as well as warranty claims shall exclusively be used for this purpose.

XVII. Place of Performance, Place of Jurisdiction and Severability

1. Changes in this contract shall be made in written form. Oral agreements abrogating the stipulation requiring written form shall be null and void.
2. The place of performance for delivery and payment is Gmund at the Tegernsee [Bavaria, Germany]. The courts of Munich [Bavaria, Germany] shall have jurisdiction for all disputes arising from this contract, including cheque proceedings (summary proceedings based on an unpaid cheque), proceedings based on the a bill of exchange or promissory note and proceedings restricted to documentary evidence, if the ordering party is a merchant, a legal entity under public law or a special fund under public law or if there is no domestic general jurisdiction for the ordering party. German Law shall be applicable to this contractual relationship. The application of the UN Convention on the International Sale of Goods shall be barred.
3. The nullity or invalidity of individual provisions of these terms and conditions shall be without prejudice to these terms and conditions as a whole.
4. The Büttenpapierfabrik Gmund reserves the right to change these terms and conditions at any time without giving any reasons. The respective contractual relationship shall be governed by the version of terms and conditions which were accepted by the user.

XVIII. Miscellaneous

For the rest, the delivery shall be subject to the terms and conditions of the Federal Paper Industry.