

SONOPRESS GMBH
General Terms & Conditions of Delivery

Version: December 2008 Sonopress GmbH General Terms & Conditions of Delivery Page 1 of 2

1. Scope

Sales, deliveries and other services by Sonopress GmbH (hereinafter: "Sonopress") shall be rendered exclusively in accordance with the following General Terms and Conditions of Sale and Delivery (hereinafter: "Terms of Delivery"), which the customer accepts by placing his order or accepting delivery. They shall also apply for any future transactions with the customer.

The application of the customer's conflicting and supplementary terms and conditions is excluded even if they have not been expressly contradicted by Sonopress.

2. Conclusion of Contract and Performance

2.1 Offers by Sonopress are nonbinding. Contracts shall not be concluded until Sonopress has issued a written confirmation of order or until the order is performed and shall be governed exclusively by the contents of the confirmation of order (if provided) and these Terms of Delivery. A contract will not come about if its conclusion means a violation of Council Regulation (EC) No 2580/2001 and/or Council Regulation (EC) No 881/2002. Verbal agreement or commitments must be confirmed in writing by Sonopress to become effective.

2.2 Sonopress is entitled, at its own choice, to perform all or part of the order in Gütersloh or at other production facilities of Sonopress or other connected undertaking in terms of Art. 15 et seq. of the German Stock Corporation Act, which may also be located abroad.

2.3 Sonopress is entitled to adjust the ordered quantity upward or downward in reasonable limits and according to the production processes which are known to the customer without prior consultation with the customer.

Deliveries of more or less items are reasonable within the following tolerances:

Size of order:			
0	-	5,000 pieces	Tolerance + - 5%
5,001	-	10,000 pieces	Tolerance + - 300 pieces
10,001	-	20,000 pieces	Tolerance + - 400 pieces
>	-	20,000 pieces	Tolerance + - 500 pieces

The delivered amount will be invoiced.

3. Periods and Deadlines

3.1 Delivery dates and delivery periods are only binding if they have been confirmed by Sonopress in writing and the customer has disclosed or provided to Sonopress all of the information and documents necessary for delivery in a timely manner and has made any agreed advance payments as scheduled. Agreed periods shall commence on the date of the confirmation of order. In the event of additional or expanded orders placed at a later time, such periods shall be extended accordingly.

3.2 Unforeseeable, unavoidable, as well as events outside of the scope of Sonopress' influence for which Sonopress bears no responsibility such as acts of God, war, natural disasters, administrative ordinances or labour conflicts, shall release Sonopress from the obligation to make timely delivery or performance for the duration of such events. Agreed periods shall be extended accordingly by the length of the disturbance; the customer shall be informed in an appropriate manner that a disturbance has occurred. If the end of the disturbance is not foreseeable or if it lasts for more than three months, each party shall be entitled to rescind the contract.

3.3 In the event of late delivery by Sonopress, the customer shall be entitled to cancel the Agreement only if Sonopress is responsible for the delay and a reasonable period, set by the customer for the delivery, has expired unsuccessfully.

3.4 Sonopress may make partial delivery or partial performance for justified reasons or if it was agreed.

4. Shipment, Transfer of Risk, Insurances

4.1 Unless the customer stipulates otherwise, shipment shall be made using a reasonable form of shipment in the customary packaging.

4.2 Solely the customer is responsible for the disposal of sales packaging materials. Sonopress is not subject to a take-back obligation under § 6 of the *Verpackungsverordnung* (Regulation on packaging materials).

4.3 Risk shall pass to the customer upon delivery of the subject of delivery to the transport company or to the customer himself. If delivery or shipment is delayed for reasons for which the customer bears responsibility, risk shall pass to the customer on the day of the notice of the readiness of the subject of delivery for shipment.

4.4 For goods (raw materials for example films, tapes or other graphic products and manufactured goods etc.) that belong to the customer or that are stored by Sonopress for the customer, Sonopress is entitled to charge an amount of € 60,- per month for each pallet stored. The amount increases by € 30,- with each subsequent month. After six months, Sonopress is entitled to return the goods at the customer's cost and risk or to freely sell the goods for the account of the customer and to apply any proceeds to any receivables of Sonopress. If the possibility of realization by a free sale fails for three months, Sonopress is entitled to dispose of the goods at the customer's cost.

4.5 Insurances will only be made by customer's request.

5. Prices, Terms of Payment

5.1 If the parties have not agreed to a particular price, the price shall be determined by the price list of Sonopress applicable on the date of the conclusion of contract. Should the customer, or a third party on his behalf, supply Sonopress with supplied materials to enable Sonopress to process the order (e.g. print components) which are outside the Sonopress specifications (e.g. width, size, thickness, processability, etc.), Sonopress is entitled to invoice the customer for the incremental costs involved in converting the articles.

5.2 All Sonopress prices are ex works and exclusive of the applicable statutory value-added tax, any import duties and the costs of normal packaging and dispatch (freight, postage), which will be charged separately.

5.3 Sonopress issues invoices on the day of delivery (or readiness for delivery in case Sonopress is required to collect the goods). In case of partial deliveries or partial performances according to clause 3.4, Sonopress is entitled to invoice each partial delivery or partial performance.

5.4 Each invoice shall be due for payment without any deduction within 30 days of the date of invoice. Payments by the customer shall not be deemed to have been made until Sonopress has received such payment.

5.5 If the customer has notified Sonopress that he uses the services of a third party for the receipt of Sonopress deliveries and execution of payment transactions, in particular the receipt of invoices and/or their payment, all Sonopress declarations/statements (in particular declarations of intent or similar business activities such as payment reminders) are immediately effective for the customer also on receipt by the third party. Deviations are only valid if the customer has previously informed Sonopress in writing.

5.6 If the customer does not pay on time, Sonopress shall be entitled to charge 5% above the effective base lending rate as default interest. Sonopress reserves the right to claim any further damages.

5.7 Bills of exchange shall only be accepted upon special arrangement and on account of performance and without any costs or bank charges for Sonopress.

5.8 If, following the conclusion of contract, Sonopress becomes aware of a lack of the customer's capability of performance, Sonopress shall be entitled to only make outstanding deliveries upon the customer's prepayment or rendering of collateral; in the event that prepayment or collateral have not been provided even after the expiration of a reasonable period of grace, Sonopress may fully or partially cancel all relevant contracts in whole or in part without prejudice to any further rights it may have.

5.9 The customer is only entitled to a set-off if his counterclaim is uncontested or has been finally adjudicated.

5.10 The customer is only entitled to assert a right of retention if his counterclaim is based on the same contract and is uncontested or has been finally adjudicated.

6. Default of Acceptance

6.1 If the customer refuses acceptance after expiration of a reasonable period of time set by Sonopress or announces seriously and definitely that he will refuse acceptance, Sonopress shall be entitled to cancel the contract or claim damages without prejudice to any further rights it may have.

6.2 If Sonopress claims damages according to clause 6.1 Sonopress shall be entitled to demand the contract value as compensation without providing evidence; the customer is entitled to prove that Sonopress has suffered no damage or that the amount of the damage is considerably lower. The right to assert any actual higher damages is reserved.

6.3 If the customer is in default of accepting performance or if he should be in breach of other duties to co-operate with Sonopress, Sonopress shall be entitled to reasonably store the goods at the customer's risk and expense.

7. Agreement about Characteristics. No Guarantee

7.1 Sonopress warrants that the delivered goods, at the time at which the risk passes to the customer have the agreed characteristics; the latter are determined by the specific written agreements about qualities, features and performance characteristics of the delivered goods.

7.2 Sonopress does not provide any undertaking (guarantee) for the characteristics of the goods above and beyond agreement about the characteristics referred to in clause 7.1.

7.3 All information given in catalogs, price lists and other information literature provided by Sonopress to the customer is under no circumstances to be understood as such guarantee for specific characteristics of the delivered goods.

7.4 For supplied materials, which were produced using parts provided by the customer, specifically at the customers request, or by a third party on behalf of the customer (e.g. print material), Sonopress will not offer any guarantee or warranty, if the supplied materials differ from what was agreed or contractually required as a result of using these parts.

8. Claims of Customer in Relation to Defects, Customers' Duty to inspect Goods

8.1 All rights of the customer relating to defects of the subject of delivery require that the subject of delivery has been inspected by the customer without undue delay upon delivery and that he has notified Sonopress of any defects without undue delay in writing, but no later than two weeks following delivery; hidden defects must be reported to Sonopress in writing without undue delay following their discovery.

8.2 Defects in only a part of the total amount of delivery shall not entitle the customer to cancel the contract, unless the partial delivery is of no interest to the customer. The same shall apply in respect of claim for damages ("großer Schadensersatz").

8.3 In the event of a notice of defect Sonopress shall have the right to inspect and test the subject of delivery in question. To such end, the customer shall grant Sonopress the required time and opportunity. Sonopress may also demand from the customer that he sends the subject of delivery in question to Sonopress at Sonopress' expense. If the customer's notice of defect proves to be unjustified, he shall be obligated to Sonopress for the compensation of all expenses incurred in this context - e.g. travel expenses and costs of technicians or shipping costs.

8.4 Defects shall be remedied by Sonopress at its own choice by remedial work or the replacement delivery of a faultless part or of an entirely faultless item of delivery ("subsequent performance"), both at no cost for the customer.

8.5 The customer shall grant Sonopress the required time and opportunity for the subsequent performance. The customer shall only have the right, following consultation without undue delay with Sonopress, to

- remove the defect himself or have it removed by a third party and demand from Sonopress compensation for his necessary expenses caused by the subsequent performance if there is an emergency causing a threat to plant safety or to avert unreasonably large damage or if Sonopress is in default of subsequent performance.
- 8.6 The customer shall not have any claims if defects are caused by the customer, e.g. by inappropriate or improper use, faulty start-up, faulty treatment by the customer or third parties commissioned by him, natural wear and tear, provided that Sonopress does not bear any responsibility for the defect.
- 8.7 The costs of materials, shipping and labor for the purpose of subsequent performance shall be assumed by Sonopress, unless the customer has to bear exceptionally such expenses in accordance with clause 8.3, last sentence.
- 8.8 If the removal of the fault or the replacement delivery fails or is unreasonable to the customer, or Sonopress has refused either in accordance with section 439 subsection 3 German Civil Code ("BGB") due to unreasonable costs, the customer, at his own option, shall be entitled pursuant to the statutory provisions to cancel the contract, to reduce the purchase price or demand damages instead of performance (or compensation for expenses respectively).
- 8.9 The limitation period regarding claims of the customer for subsequent performance, cancellation of the contract or reduction of the purchase price for the delivered item shall be 12 months from the time of delivery to the customer.
- As regards claims of the customer for damages and his claims on account of malicious concealment or intentionally caused defects, the statutory limitation periods shall remain applicable.
- If the delivered goods are sold indirectly or directly by the customer or by contractual partners of the customer to consumers, the claims for recourse against Sonopress will expire no earlier than two months after the customer has fulfilled claims of the consumer or other buyers.
- 9. Damages and Limitation of Liability**
- 9.1 Sonopress shall be liable for damages without limitation according to the statutory provisions, unless clause 9.2 provides otherwise.
- 9.2 For property damage and financial loss the liability of Sonopress is limited as follows:
- (i) Sonopress shall be liable only to the extent of the typical foreseeable contractual damage for the slightly negligent breach of material contractual duties;
- (ii) Sonopress shall not be liable for the slightly negligent breach of immaterial contractual duties.
- This shall not apply, however, in the event of a mandatory statutory liability (in particular under the Product Liability Act) and for the assumption of a guarantee.
- 9.3 Clauses 9.1 - 9.2 are applicable to all claims for damages, irrespective of their legal ground, in particular also to those resulting from tort.
- 9.4 The customer shall be obliged to take adequate measures to avoid damages or to mitigate damages.
- 10. Retention of Title**
- 10.1 The delivered products shall remain the property of Sonopress until full payment is made of all of Sonopress' receivables arising under its business relationship with the customer.
- 10.2 In the event of a current account the retention of title shall serve to secure the claim to the balance to which Sonopress is entitled.
- 10.3 The customer shall only be entitled to sell the products subject to the retention of title within the scope of normal business transactions. The customer is not entitled to pledge, provide chattel mortgages on or otherwise dispose of the products subject to retention of title in a manner endangering Sonopress' ownership. The customer hereby assigns his claims for the proceeds under the resale of the products to Sonopress, which accepts such assignment.
- In the event that the customer disposes of the products subject to the retention of title after having processed, remodeled or merged them with other goods, the amount of such part only which corresponds to the price agreed to by Sonopress and the customer plus 10 % of such price as a security premium shall be assigned.
- Subject to revocation of this right, the customer is authorized to collect in trust and on behalf of Sonopress the receivables assigned to Sonopress in his own name. Sonopress may revoke this authorization and the entitlement to resell the products if the customer is in default of material obligations to Sonopress such as his payment obligations.
- 10.4 In the event that products subject to the retention of title are merged, processed or remodeled with other goods, Sonopress becomes co-owner of the new goods according to the quota to which the products subject to the retention of title contribute to the value of the new goods. In the event that by the merger, processing or remodeling the goods of the customer are to be regarded as the main goods, it shall be deemed to be agreed that the customer shall transfer joint ownership to Sonopress according to Sonopress' quota of the total value of the new goods. The subject of such joint ownership shall be kept safe by the customer for Sonopress.
- 10.5 The customer shall provide Sonopress at all times with the requested information concerning the products sold under retention of title or claims which have been assigned to Sonopress hereunder. Attachments of or claims against the products sold under retention of title by third parties must be reported immediately by the customer to Sonopress and the necessary documentation be made available. The customer shall simultaneously inform the third party of Sonopress' retention of title. The costs of averting such attachments and claims shall be borne by the customer.
- 10.6 The customer is obligated to treat the products sold under the retention of title with care for the duration of such retention of title.
- 10.7 Should the realizable value of the collateral exceed the total amount of Sonopress' receivables to be secured by more than 10 %, the customer shall be entitled to demand a release of collateral to such extent.
- 10.8 Should the customer be in default of a material obligation such as payment to Sonopress, Sonopress may take back any products sold under the retention of title without prejudice to any other rights it may have. In this case the customer shall provide Sonopress or its representatives immediate access to the products sold under retention of title and surrender the same.
- Should Sonopress demand a surrender of goods under the provisions of this clause, this shall be deemed to be a cancellation of the contract. Only after cancellation of the contract, Sonopress will be entitled to realize the product sold under retention of title.
- 10.9 In the event of deliveries to other jurisdictions in which the foregoing arrangements governing the retention of title do not have the same effect of securing rights as in Germany, the customer shall do everything to create corresponding rights of security for the benefit of Sonopress. The customer shall co-operate, for example, in the registrations, public notices and the like required for and expedient to effectuating and enforcing such rights of security.
- 10.10 On Sonopress' demand the customer is obligated to reasonably insure the products sold under retention of title, provide Sonopress with equivalent insurance certificates and assign the claims under the insurance contract to Sonopress.
- 11. Product Liability**
- Should the customer sell the subject of delivery unaltered or following processing, merging, mixing or confusion with other goods, he shall indemnify Sonopress within his internal relationship with Sonopress against product liability claims of third parties to the extent he is responsible for the fault causing such liability.
- 12. Raw Materials**
- 12.1 Raw materials to be provided by the customer, in particular master tapes and lithofilms, have to be delivered free of charge and in faultless condition to Sonopress.
- 12.2 If Sonopress has concerns about the ability to use a master tape, the customer shall immediately provide a new one or shall order a new one from Sonopress. Sonopress shall not be liable for normal wear and tear of master tapes and litho films or other production goods that shall be used repeatedly.
- 12.3 In case of fire or burglary and resulting damage or loss the customer will only receive a pro rata amount of Sonopress' insurance amount. Such pro rata amount will be determined by the relationship between the value of materials belonging to the customer and the total damage suffered by Sonopress.
- 12.4 All raw materials stored at Sonopress that have not been used for twelve months will be returned to the customer or destroyed after prior consultation. The customer shall bear all arising costs.
- 12.5 Sonopress shall not be responsible for ordered products. Sonopress is not obliged to use raw materials (master tapes, CD-R, litho films, electronic data, etc.) in particular raw materials of racial, violent, pornographic or otherwise illegal contents. In such cases Sonopress is entitled to cancel the contract in whole; the customer shall bear all arising costs. In case Sonopress is liable for damages to third parties concerning any aforementioned contents, Sonopress is entitled to demand indemnification and compensation from the customer.
- 13. Third Party Rights**
- 13.1 The customer warrants that he is the owner of all necessary proprietary rights for the purposes of duplicating and using the raw materials (master tapes, CD-R, litho films, electronic data, etc.) he has to provide in order to perform the contract. This applies especially to the rights administered by the GEMA. The customer will provide to Sonopress the necessary data for the so called "GEMA-Notification" and give Sonopress notice of any use of released or unreleased own or licensed proprietary rights and notification of proprietary rights concerning the provided raw material. In case third parties (including the GEMA) make a claim against Sonopress for alleged infringement of third party rights, the customer will indemnify Sonopress upon first demand in full and reimburse Sonopress the arising costs of the legal actions in full.
- 13.2 Should the customer not be in a position to supply the agreed evidence in adequate form, as stated in 13.1 above, regarding his proprietary rights for the purposes of duplicating, Sonopress is authorized to retain all the products and paperwork received from the customer, including potentially produced goods and to inform third party organisations (for example BSA or IFPI) and if requested, to surrender for inspection the products and paperwork belonging to the customer.
- 14. General Terms and Conditions**
- 14.1 Changes and supplements to the contract and/or these Terms of Delivery, as well as any side agreement, shall require written form. This shall also apply for the modification of this written form requirement.
- 14.2 If a term of the contract and/or these Terms of Delivery are fully or partially invalid, the other provisions shall remain unaffected. The parties undertake in such case to replace the invalid provision by such valid provision which may come closest to the commercial purpose of the invalid provision.
- 14.3 If the customer is a merchant, legal entity under public law or a special fund under public law, the exclusive place of jurisdiction for all disputes arising under the parties' contractual relationship shall be Bielefeld. This shall also apply if the customer does not have any general place of jurisdiction in the Federal Republic of Germany or has moved his habitual residence to a foreign country following the conclusion of contract. Sonopress is entitled, however, to enter actions against the customer at any other statutory court of jurisdiction.
- 14.4 The law of the Federal Republic of Germany shall apply with the exception of the UN Convention on the International Sale of Goods (CISG).