

## General terms and conditions of the cocos-promotions GmbH

per January 2018

Please note: This English translation is only provided for informational purposes. We tried to reflect our German business terms as accurately as possible, but only the German version shall be legally binding.

### 1. General

- 1.1 These general terms of sale only apply to enterprises in terms of § 14 of the German Civil Code ("BGB"), legal person under public law and special fund assets regulated under the public law.
- 1.2 These general terms of sale apply exclusively; we hereby reject any purchaser's terms and conditions, which conflict with or differ from our terms of sale, unless we have expressly agreed to accept them in writing. Our terms of sale shall apply, even if we have knowledge that the purchaser's terms and conditions conflict with or differ from our terms of sale, and we nevertheless carry out the delivery to the purchaser without any reservation.

### 2. Orders, contract conclusion, electronic business transactions

- 2.1 All information (e.g. notifications, product descriptions and prices) on our website, in brochures and other means of promotion regarding the goods we offer are not binding and without engagement.
- 2.2 Incoming orders represent an offer to us for the conclusion of the contract (§ 145 German Civil Code), which we can accept within two weeks through order confirmation or execution of the order.
- 2.3 For orders in the electronic business, placing an article in the shopping cart is not considered a binding order. The purchaser is able to correct the content of the shopping cart until the order is sent.
- 2.4 We shall not be obligated to immediately confirm an incoming order.

### 3. Prices; terms of payment

- 3.1 Unless stipulated otherwise in the order confirmation, our prices do not include shipping and handling; shipping and handling costs will be charged separately.
- 3.2 All prices are exclusive of VAT. Taxes go with the purchased goods, that means, if the goods remain in Germany, they are liable to tax., even if the accounting office is based in a foreign country.
- 3.3 Deduction of cash discounts requires a formal agreement.
- 3.4 Our invoices are payable due net immediately on receipt (advance payment). Different payment methods need a special agreement.
- 3.5 We are not obligated to accept checks. Acceptance shall only be given on account of payment. All expenses shall be credited to the purchaser.
- 3.6 The purchaser is only entitled to set-off rights, if his counterclaims are declared legally binding, are beyond controversy or are recognized by us. Furthermore, he is only entitled to exercise a right of retention, if his counterclaim is based on the same contractual relationship.
- 3.7 We reserve the right to change our prices accordingly, if there is an increase or decrease in costs after a contract was concluded, especially if the material prices have changed. We will prove it, if this is requested by the purchaser.

**4. Terms of delivery; time of delivery**

- 4.1** For orders with advertising applications, due to technical reasons, we reserve the right for over-respectively short-delivery of 5%.
- 4.2** We reserve the right to deliver goods, equal in quality and price, in case of unavailability of the ordered goods specified in the contract. If a delivery of goods, equal in quality and price, is not possible, then we shall be entitled to withdraw from the contract. This only applies, if we are not responsible for the unavailability of the promised goods and if we did not guarantee the delivery to the purchaser. We commit ourselves to inform the purchaser immediately if the ordered goods are not available, and to immediately return all contributions, already received from the purchaser, in case of withdrawal from the contract.
- 4.3** Partial deliveries are acceptable and we can charge them separately, if the purchaser is not charged with additional expenses for shipping and handling.
- 4.4** Delivery times, which were not expressly agreed upon as binding, are non-binding statements. Commencement of a binding delivery time requires, that all technical questions have been settled. Adherence to the time limit further demands that the purchaser has performed his obligations in proper form and on time. We shall retain the right to object to an unfulfilled contract.
- 4.5** If the purchaser defaults of acceptance or culpably violates any other obligation to co-operate, then we shall be entitled to demand compensation for any damages arising insofar, including possible additional expenditures, without prejudice. We reserve the right to further claims.
- 4.6** Provided that the conditions of paragraph 5 are existent, the risk of accidental loss or incidental deterioration of the purchased goods shall be passed to the purchaser, from the time when the purchaser defaults of acceptance or debtor-default begins.
- 4.7** We shall become legally liable, if the underlying sales contract is a firm deal, in terms of § 286 section 2 No. 4 German Civil Code (BGB) or § 376 German Commercial Code (HGB). We shall also become legally liable, in case the purchaser is authorized to claim a discontinuance of interest in the further execution of the contract, as a result of a default in delivery that we are entirely responsible for.
- 4.8** We shall further become legally liable, if the delay in delivery is based on deliberate or grossly negligent violation of contract we are responsible for; default of our representatives or vicarious agents shall be attributed to us. Provided that the delay in delivery is not based upon a deliberate violation of contract committed by us, our liability for compensation is limited to the predictable, thus typically occurring damage.
- 4.9** We shall also be legally liable, if the delay in delivery is based upon the culpable violation of a fundamental contractual obligation we are responsible for; but in this contract, the liability for compensation is limited to the predictable, thus typically occurring damage.
- 4.10** In case of delay in delivery, we shall incidentally be liable for every completed week of delay, and we shall pay, as indemnity, a lump-sum of 2 % of the delivery value, however, not more than 10 % of the delivery value.
- 4.11** Additional legal claims and legal rights of the purchaser remain reserved.

**5. Passing of risk**

- 5.1** Unless stipulated otherwise in the order confirmation, it is agreed upon delivery ex official location of our company.
- 5.2** Transport packaging and other packaging in accordance with the German packaging regulations will not be taken back; except for pallets. The purchaser is obligated to care for a proper disposal of the packaging at his own expense.
- 5.3** On request of the purchaser, we will cover the delivery of the purchased goods with a transport insurance; the costs incurred insofar, will be paid by the purchaser.

**6. Condition of sales item(s); Liability for defects**

- 6.1** All stated dimensions in our print catalogues and in our webshop are circa-dimensions. Regarding the typographical and web technical reproduction, slight colour variations from the product are possible. Such variations shall not be regarded as a defect.
- 6.2** For advertising applications on textiles, cotton bags and leather respectively artificial leather, slight variations of colour and surface conditions are unavoidable and shall not be regarded as a defect.
- 6.3** The purchaser's claims for defect require a proper fulfillment of the purchaser's legal obligations, according to § 377 German Commercial Code (HGB), regarding inspection and punctual notification about defects.
- 6.4** For defects of the purchased item, based on electronic data provided by the purchaser or caused by such data, as well as claims resulting herefrom, we are – subject to paragraphs 7 to 9 – not liable. We reserve the right for claims on our part against the purchaser.
- 6.5** If an apparent defect of the purchased item exists, then we shall be entitled to supplementary performance in form of removal of any defects or delivery of a new item without defects. In case of removal of the defects, we shall be obligated to pay all expenses necessary for this purpose, especially costs for transport, travel, labour and material, as long as these costs are not increased due to the item being delivered to a different place than place of fulfillment.
- 6.6** In case of failure of supplementary performance, the purchaser shall be entitled to choose between withdrawal or price-reduction.
- 6.7** We shall be legally liable, if the purchaser asserts a claim for damages, based on intention or gross negligence, also committed by our representatives or vicarious agents. If we can not be charged with an intentional violation of contract, the liability of compensation is limited to the predictable, thus typically occurring damage.
- 6.8** We shall be legally liable, if we violate culpably a fundamental contractual obligation; but, in this case, the liability of compensation shall be limited to the predictable, thus typically occurring damage.
- 6.9** Liability for culpable injury of life, body or health shall remain unaffected; this shall also be effective for the mandatory liability according to the Product Liability Act.
- 6.10** Unless not regulated differently above, liability shall be excluded.
- 6.11** The statute of limitations for defect-claims shall be 12 months, starting with the passing of the risk. The statute of limitations in case of a delivery regress, according to §§ 478, 479 of the German Civil Code (BGB) shall remain unaffected.

**7. Damage compensation**

- 7.1** Any further liability for damage compensation, as stated in § 6, shall be excluded – regardless of the legal nature of the asserted claim. This shall be particularly effective for claims for damage based on default on conclusion of the contract, based on other violation of duties or tortious claims for compensation of damage to property, according to § 823 German Civil Code (BGB).
- 7.2** The limitation according to paragraph 1 shall also be effective, if the purchaser demands useless expenses as compensation, instead of the performance of damage compensation.
- 7.3** As far as there is a limitation or exclusion of liability regarding damage compensation through us, the same shall also be effective for the personal liability regarding damage compensation of our employees, workers, members of staff, representatives, assistants and vicarious agents.

**8. Retention of title**

- 8.1** We reserve the right to keep the ownership of the purchased item until we received all payments resulting from the business connection with the purchaser. If the purchaser acts contrary to the contract, especially for delayed payment, we shall be entitled to retract the purchased item. A retraction of the purchased item represents the cancellation of the contract. After retraction of the purchased item, we shall be entitled for its usage, the proceeds of the usage shall be credited to the dept of the purchaser – less adequate usage-expenses.
- 8.2** The purchaser shall be obligated to handle the purchased item with care. As far as maintenance work or inspection work is required, then the purchaser shall have to take care of it on time and at his own expenses.
- 8.3** In case of distraint or other interferences of a third party, the purchaser shall be obligated to inform us, in writing, immediately.
- 8.4** The purchaser shall be entitled to resell the purchased item in the regular course of business; however, the purchaser hereby agrees to already assign all claims to us in the amount stated in the final invoice (incl. value added tax) of our requested payment, that the purchaser shall be entitled to collect from its customers by reselling the purchased item. Even after the assignment, the purchaser shall remain entitled to collect all claims. Our authorization to collect all claims ourselves, shall remain unaffected hereof. However, we shall commit ourselves not to collect any claims, as long as the purchaser fulfills his payment obligations with the proceeds of the sale, if there is no delay in payment and especially, if there is no petition filed in order to start insolvency proceedings. But if this is the case, then we shall be entitled to demand, that the purchaser informs us about the assigned book account and its debtor, gives us all necessary information in order to collect the claim, delivers all corresponding documents and informs the debtor of the assignation.
- 8.5** On request of the purchaser, we commit ourselves to release all securities we are entitled to insofar, if the marketable value of our securities exceeds the claims to be secured by more than 10 %; however, we shall be obligated to select the securities that are to be released.

**9. Jurisdiction; Place of Fulfillment**

- 9.1** Provided that the purchaser is a merchant, a legal person under public law or special fund assets regulated under the public law, then the place of jurisdiction shall be our official company location.; this shall also apply, if the purchaser does not have a place of general jurisdiction in the Federal Republic of Germany. However, we shall be entitled to start proceedings against the purchaser at the court of the purchaser's business location or residence.
- 9.2** Only the law of the Federal Republic of Germany shall be effective; United Nations Convention on Contracts for the International Sale of Goods – CISG – shall not be effective at any time.
- 9.3** The place of fulfillment shall be our official company location.

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