

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY OF 3D AG

1. Definitions

1.1 In these General Terms and Conditions:

3D: shall mean 3D AG a company limited by shares under Swiss law of Baar, Switzerland;

CUSTOMER: shall mean every individual or body corporate with whom 3D concludes or is negotiating any CONTRACT;

CONTRACT: shall mean every agreement made between 3D and any CUSTOMER, any modification or addition to such agreement and all (legal) acts for the preparation and performance of such agreement;

ORDER: any order in respect of PRODUCTS passed to 3D in any form;

PRODUCTS: shall mean holographic and/or diffraction products including labels and foils, patterns, nickel embossing matrixes (shims), (custommade) machinery and equipment and all other goods, rights and services being the subject of any CONTRACT;

DELIVERY: is defined in Paragraph 10.1.;

FORCE MAJEURE: is defined in Paragraph 11.1.;

SUBMITTAL MATERIAL: is defined in Paragraph 12.3.;

EXPLOITATION: is defined in Paragraph 12.3.;

2. Applicability

2.1 These General Terms and Conditions form part of all commercial CONTRACTs and shall apply to all related (legal) acts of 3D and the CUSTOMER, like quotations, orders, etc.

2.2 These General Terms and Conditions apply in any case, provided that nothing to the contrary is stated in the quotation or in the order acknowledgment.

2.3 Alterations in and supplements and additions to any provision in a CONTRACT and/or these General Terms and Conditions shall be valid only if made by 3D in writing and shall relate only to the individual CONTRACT concerned.

2.4 Agreements made verbally and/or on the telephone are only valid if they are confirmed by 3D in writing.

2.5 Conditions of purchase of the CUSTOMER are without obligation for 3D as long as they have not been accepted by 3D in writing.

3. Offers, Quotations, Documentation and Drawings

3.1 Unless expressly stated otherwise, offers and/or (price) quotations shall not be binding, and shall merely serve as an invitation to the CUSTOMER to place an ORDER.

3.2 Documents, Documentation and drawings related to an offer and/or a quotation remain property of 3D and may not be passed on to any third persons, and in particular not to the competition. The copyright and intellectual property of such offers, quotations and related documents must be protected. Violations result in liability for damages.

4. Conclusion of a CONTRACT, Additional Work

4.1 CONTRACT shall be concluded only if and when 3D accepts an ORDER in writing, actually executes an ORDER or if and when the CUSTOMER declares acceptance of 3D's unaltered quotation in due time and in writing.

4.2 Whether or not a CONTRACT is concluded, 3D shall be entitled to charge to the CUSTOMER any and all costs incidental to any PRODUCTS specifically requested by the CUSTOMER in connection with an offer in respect of PRODUCTS.

4.3 If the CUSTOMER requests alterations in or additions to any aspect of 3D's performance of a CONTRACT as a result of which, in 3D's view, 3D's obligations are increased, 3D shall be entitled to charge the CUSTOMER for such additional work, even if a fixed price had been agreed upon. 3D shall inform the CUSTOMER as soon as possible of any such increase and the term within which 3D shall be capable of discharging all of its other obligations under the CONTRACT. The CUSTOMER shall be deemed to agree to the performance of additional work and the relative costs and consequences, unless he informs 3D in writing forthwith after 3D's communication.

5. Technical descriptions, designs, samples and drawings

5.1 All statements made by 3D of figures, dimensions, weights and other references and technical descriptions of the PRODUCTS shall be made with care. However, 3D cannot guarantee that no deviations will occur in this respect.

5.2 Designs, samples and drawings shown or submitted shall be indications only of the PRODUCTS concerned. Any samples supplied to the CUSTOMER are supplied solely for information and in no way import any express or implied conditions or warranties as to quality, description, fitness for purpose or merchantable quality and the CUSTOMER shall be deemed to have satisfied itself as to such matters prior to ordering the PRODUCTS.

6. Pricing

6.1 Unless agreed otherwise all prices of 3D shall be expressed in Swiss Francs and exclusive of value added tax and the CUSTOMER shall bear the packing costs, freight, import and export duties, excise duties, insurance, installation, commissioning and subsequent application support costs, as well as all other charges or taxes imposed or levied with regard to the PRODUCTS and transport of the PRODUCTS.

6.2 The prices shall at all times be based on the circumstances as they apply to 3D at the time when the CONTRACT is entered into such as (without limitation) exchange rates, purchase prices, freight rates, import and export duties, excise duties and other charges and taxes directly or indirectly levied on 3D and/or charged to 3D by third parties. If these circumstances change after the CONTRACT has been made but before DELIVERY of the PRODUCTS, 3D shall have the right to charge such additional costs to the CUSTOMER.

7. Payment terms

7.1 The CUSTOMER shall pay to 3D the amounts charged to him within 30 days after the invoice date in the currency mentioned in the invoice. All payments shall be made to a bank account to be designated by 3D.

7.2 All amounts charged to the CUSTOMER shall be paid without any discount or deduction. The CUSTOMER shall not be entitled to apply any set-off or to suspend any payment obligation.

7.3 Retention or payment deduction on the grounds of complaints or the offsetting of counterclaims are inadmissible.

7.4 In respect of any ORDERS in excess of CHF 15'000 (or the equivalent thereof in foreign currency at the time such ORDER is placed) the CUSTOMER shall pay one third of the agreed price as advance payment. Until receipt of such payment, 3D shall not be under any obligation to execute the ORDER or ORDERS in whole or in part.

7.5 If at any time 3D have reasonable doubt about the CUSTOMER's solvency, then before performing (or continuing to perform) the CONTRACT 3D may require the CUSTOMER either to make (part) advance payment of the agreed price or, at 3D's discretion, to put-up proper security for payment of the amounts, whether or not due and payable, to which the CUSTOMER is or shall become indebted to 3D.

7.6 The mere expiration of a due date for payment shall constitute an event of default. In that event all amounts to which the CUSTOMER is indebted to 3D on any account whatsoever shall be immediately payable in full.

7.7 On all amounts, not paid on the due date for payment thereof the CUSTOMER shall be charged as from that date interest at one twelfth per month or part of a month of the official discount rate of the Zuger Kantonalbank plus 2% or at least 7%, whichever is higher.

7.8 If the CUSTOMER is in default towards 3D, the CUSTOMER shall be liable to compensate 3D all costs in and out of court in full. The out of court costs to be paid by the CUSTOMER shall be not less than 10% of the amount remaining unpaid, with a minimum of CHF 400.--, to be increased by the value added tax, owing on that amount. Any payment received from the CUSTOMER shall first be applied in or towards discharge of the CUSTOMER's debts to 3D for PRODUCTS supplied in respect of which 3D have not stipulated retention of title and/or a pledge under Article 8 Thereafter any amount received from the CUSTOMER shall first be applied in or towards payment of the interest and costs due, if any, as referred to in Paragraphs 7.6. and 7.7..

8. Pledge and Retention of Title

- 8.1 Notwithstanding that DELIVERY has taken place, the property in the PRODUCTS shall pass to the CUSTOMER only after he has paid to 3D in full all amounts which are or shall become due to 3D under any CONTRACT.
- 8.2 Until such time as the property in the PRODUCTS has passed to him the CUSTOMER shall not have the right to hire out or give third parties the use of the PRODUCTS or to pledge or otherwise create any encumbrance upon the PRODUCTS. The PRODUCTS, the property in which remains in 3D may be sold, supplied or delivered by the CUSTOMER to third parties only to the extent necessary in the CUSTOMER's normal course of business.
- 8.3 If and as long as the property in the PRODUCTS remains in 3D the CUSTOMER shall immediately notify 3D in writing if and when any attachment of the PRODUCTS occurs or is imminent or any other claim or action is (about to be) brought in respect of the PRODUCTS (or any part thereof). Further, immediately when so requested by 3D, the CUSTOMER shall disclose to 3D the location of these PRODUCTS.
- 8.4 In the event of attachment of the PRODUCTS and in the event that the CUSTOMER is granted a (provisional) moratorium or is adjudged bankrupt or goes into involuntary liquidation the CUSTOMER shall immediately apprise the bailiff serving the attachment ORDER or, as the case may be, the administrator or trustee or liquidator, of 3D's (property) rights. The CUSTOMER warrants that in the event of an attachment of the PRODUCTS he shall immediately take every measure to have the attachment lifted.
- 8.5 If the CUSTOMER has not paid or not fully paid the agreed price for the PRODUCTS delivered to him, then immediately when so requested by 3D the CUSTOMER shall give all necessary cooperation in the creation of a pledge to 3D of such goods or, at 3D's option, accounts receivable by the CUSTOMER from third parties, so as to put-up adequate security for the payment of the aggregate outstanding amounts plus interests and costs, entirely without prejudice to 3D's other contractual or statutory rights.
- 8.6 Notwithstanding any other of 3D's rights, including but not limited to its rights pursuant to this Article 8, 3D shall, if it reasonably considers the CUSTOMER unable to meet its financial or other obligations under any CONTRACT, be entitled to regain possession at any time of any PRODUCTS the property in which is vested in 3D and to enter for this purpose the CUSTOMER's premises or other place where any of the PRODUCTS may be located.

9. Terms of DELIVERY

- 9.1 Type, scope and execution of the DELIVERY are governed by the order acknowledgment. Performances not contained in the order acknowledgment must be agreed upon in writing and must be compensated separately.
- 9.2 The term of DELIVERY set by 3D shall be based on the circumstances as they apply to 3D at the time when the CONTRACT is concluded and, in so far as the time of DELIVERY may depend on acts to be performed by the CUSTOMER or third parties (such as procuring all data, equipment and (semi-finished) products), also on the date when such acts are performed by the CUSTOMER or third parties. 3D shall observe the term of DELIVERY to the best of their ability.
- 9.3 If the term of DELIVERY is exceeded 3D shall have an additional period of 15 days within which to effect the DELIVERY, unless 3D foresee that, under circumstances other than those referred to in Article 11 hereof, it shall not be able to effect DELIVERY within the additional term, in which event it shall promptly so advise the CUSTOMER.
- 9.4 At all times, the CUSTOMER shall not be entitled to any compensation nor to dissolve the CONTRACT unless the period by which the term of DELIVERY is exceeded is of such length that the CUSTOMER cannot reasonably be required to allow the CONTRACT, or the relevant part thereof, to continue to stand; in that event the CUSTOMER shall have the right to terminate the CONTRACT to the extent as strictly necessary.

10. Passage of Benefit and Risk

- 10.1 DELIVERY shall be effected ex works 3D ("DELIVERY") and the benefit and risk in the PRODUCTS shall pass to the CUSTOMER at DELIVERY.
- 10.2 If the CUSTOMER fails to take DELIVERY of the PRODUCTS or does not take DELIVERY on the agreed date he shall be in default without any notice of default being required and he shall be liable for all loss arising from that default. In that event 3D shall be entitled to store the PRODUCTS at the CUSTOMER's costs and risk and for the account of the CUSTOMER.

11. Force Majeure

- 11.1 FORCE MAJEURE shall mean any circumstance beyond 3D's control ("FORCE MAJEURE") as a result of which the fulfillment of its obligations to the CUSTOMER is completely or partly prevented or as a result of which 3D cannot reasonably be required to perform its obligations, regardless of whether such circumstance was foreseeable at the time when the CONTRACT was made. Circumstances as aforesaid shall include: strikes and lock-outs, embargos, riots, delays or other problems in production by 3D or their suppliers and/or transportation by 3D or third parties, currency devaluation, increases in import duty and/or excise and/or taxes, measures taken by government agencies, and the absence of any license or permit to be obtained from the authorities.
- 11.2 If as a result of FORCE MAJEURE 3D is prevented from fulfilling its obligations to the CUSTOMER, the performance of those obligations shall be suspended for the duration of the event of FORCE MAJEURE.
- 11.3 If the event of FORCE MAJEURE has continued for 3 months both parties shall have the right to rescind the CONTRACT or partly terminate it by written notice, if and to the extent that such rescission or termination in part is justified by the situation of FORCE MAJEURE.
- 11.4 In the event of FORCE MAJEURE the CUSTOMER shall not be entitled to any compensation, even if as a result of the FORCE MAJEURE 3D should obtain any benefit or advantage.

12. Intellectual Property

- 12.1 Any intellectual property rights in respect of the PRODUCTS, Documentation, Drawings or Documents are and shall remain vested in 3D.
- 12.2 All shims, samples of holographic and diffractive patterns and other PRODUCTS are, unless expressly agreed otherwise, delivered solely for use by the CUSTOMER under the terms of the CONTRACT concerned. The CUSTOMER shall expressly refrain from transmitting shims or copies of shims to third parties and acknowledges that this would result in an unauthorized use of PRODUCTS originated by 3D. Upon the termination of any CONTRACT the further use of all copyrighted structures by the CUSTOMER is forbidden.
- 12.3 In respect of originations and embossing matrixes, or any other material provided to 3D in connection with any CONTRACT ("SUBMITTAL MATERIAL") the CUSTOMER warrants to have full right title and ownership and the right to undertake the purposes of any CONTRACT. The CUSTOMER shall be deemed to have granted to 3D the royalty-free right to reproduce, display, publish, affix, sell, distribute and create derivative works ("EXPLOITATION") of SUBMITTAL MATERIAL all for the purposes of the CONTRACT to which such SUBMITTAL MATERIAL pertains. The CUSTOMER specifically warrants to 3D and undertakes to hold 3D harmless from and against any liability and to indemnify 3D in respect of any (CUSTOMER and/or third parties') claims on account of such EXPLOITATION of the SUBMITTAL MATERIAL or on account of the same having been put into the stream of commerce. 3D shall be entitled to immediately cease EXPLOITATION upon demand of any third party and the CUSTOMER shall hold 3D harmless from and against and indemnify 3D against any losses incurred by such work interruption.

13. Inspection and Complaints

- 13.1 3D warrants to the CUSTOMER that upon DELIVERY, the PRODUCTS shall meet the agreed requirements.
- 13.1.1 3D warrants to the CUSTOMER a suitable storage for the Master Shim und Submaster Shim. WE can guarantee storage of 10 years. We recommend a new origination latest every 8 years.
- 13.2 The CUSTOMER shall be required to inspect (or have others inspect) the PRODUCTS carefully immediately upon DELIVERY. Complaints concerning the PRODUCTS must be reported to 3D in writing within 10 days from DELIVERY or, if and to the extent that the CUSTOMER receives the PRODUCTS after more than 5 days following DELIVERY and without prejudice to Paragraph 10.2. hereof, within 5 days following receipt of the PRODUCTS.
- 13.3 Defects which cannot reasonably be detected within the term set in Paragraph 13.2. must be reported to 3D in writing immediately after they have been found and in any case no later than 20 days after receipt.
- 13.4 Upon detecting any defect in the PRODUCTS the CUSTOMER shall immediately cease the sale, use, treatment, processing and/or installation of the PRODUCTS concerned and shall further be required to do or refrain from doing all such acts as shall reasonably be possible or necessary to be done or omitted to avoid (further) damage.
- 13.5 The CUSTOMER shall give all cooperation required in the investigation of the complaint. If the CUSTOMER fails to cooperate or if otherwise an investigation is not (or no longer) possible, the complaint shall not be considered and the CUSTOMER shall have no claims against 3D in respect thereof. If the complaint proves to be unfounded the cost of investigating the complaint shall be borne by the CUSTOMER.
- 13.6 The CUSTOMER cannot derive any rights from the fact that a complaint has been accepted for investigation.
- 13.7 The CUSTOMER shall not be permitted to return the PRODUCTS without 3D's prior approval. 3D shall pay the reasonable cost of returning PRODUCTS only if the CUSTOMER's complaint has been made timely, in the correct manner and has proven to be justified.
- 13.8 If a complaint about defects in any Product by the CUSTOMER is made timely and in the correct manner and is justified, 3D's liability arising therefrom shall be limited to the obligations defined in Article 13, subject to the other provisions of that Article.
- 13.9 The CUSTOMER cannot derive any rights in respect of allegedly defective PRODUCTS if and to the extent that the PRODUCTS have been mounted on a printing facility and 3D shall not be under any obligation to inspect a complaint in respect of such PRODUCTS or otherwise.
- 13.10 The CUSTOMER agrees at order of hologram labels that a made up to 10% or a sub-delivery of 5% can be made. This results from the production since the 3D needs a subsidy of material of 15% for the optimal production.

14. Obligations of 3D

- 14.1 Provided that a complaint about the PRODUCTS has been made on time and in the correct manner in accordance with the provisions of Article 13 and provided that it is sufficiently proven that the complaint is justified, 3D shall have the following options:
- a) to replace the defective PRODUCTS by new PRODUCTS, against the return of the defective PRODUCTS, or
 - b) to properly repair the defective PRODUCTS, or
 - c) to refund (part of) the agreed price or to credit the CUSTOMER for the amount invoiced, or
 - d) to give the CUSTOMER a discount on the purchase price, such discount to be determined in mutual agreement between 3D and the CUSTOMER. The performance of one of the above-mentioned options shall constitute a full discharge of 3D's obligations.
- 14.2 If 3D delivers to the CUSTOMER PRODUCTS which 3D has received from its suppliers, 3D's warranty to the CUSTOMER shall in no event extend beyond the warranty which 3D shall be capable of invoking as against its suppliers.

15. Liability of 3D and Indemnity

- 15.1 3D shall not be liable for any damage to the PRODUCTS other than with due observance of the provisions of Article 14. At any event 3D's contractual and statutory liability shall at all times be limited to the amount of (that part of), the agreed price of the Product in respect of which that liability has arisen.
- 15.2 3D shall not be liable, either by virtue of the law or by virtue of any CONTRACT, for any consequential loss, including trading loss/loss of profits, environmental damage and non-material damage, which the CUSTOMER or any third party might suffer on account of (the use of) the products or the specifications of (semi-finished) products or materials supplied by the CUSTOMER.
- 15.3 The provisions of the preceding Paragraphs shall not prejudice 3D's statutory product liability.
- 15.4 3D shall not invoke the limitation of liability in Paragraphs 15.1. and 15.2. if and to the extent that any damage or loss is the immediate result of a willful act or gross negligence by 3D.
- 15.5 Unless damage or loss has been caused by a willful act or gross negligence by 3D, the CUSTOMER shall indemnify and hold 3D harmless from and against any claim or action by third parties directly or indirectly connected with (the use of) the PRODUCTS and the CUSTOMER shall reimburse 3D for all costs, including reasonable attorneys' fees, which 3D may incur as a result of such claim or action.

16. Default; Rescission/Termination

- 16.1 In the event that the CUSTOMER is in default and in any of the events defined in Paragraph 16.2. all sums to which the CUSTOMER shall be indebted to 3D on any account whatsoever shall be immediately payable in full and 3D shall have the right either to suspend performance of each and every CONTRACT or to rescind or partly terminate any CONTRACT made with the CUSTOMER.
- 16.2 In the event that the CUSTOMER is granted a (provisional) moratorium, is adjudged bankrupt, resolves upon or is put into (involuntary) liquidation or in the event of discontinuation of the CUSTOMER'S business, each and every CONTRACT with the CUSTOMER shall be rescinded, by operation of law, unless 3D gives the CUSTOMER notice within reasonable time after such event demanding specific performance of (part of) the CONTRACT.
- 16.3 The provisions of Paragraphs 16.1. and 16.2. shall not affect or diminish 3D's other contractual or statutory rights.
- 16.4 Upon the occurrence of any of the events referred to in Paragraph 16.1. or in Paragraph 16.2., 3D shall be entitled to regain possession of the PRODUCTS in question. In that case 3D and its agent(s) shall have the right to enter upon the CUSTOMER'S land and premises for the purpose of taking possession of the PRODUCTS. The CUSTOMER shall be required to take such measures as are necessary to enable 3D to enforce its rights.

17. Applicable law, Jurisdiction

- 17.1 These General Terms and Conditions and the CONTRACT shall be governed by **Swiss law** and any applicable international treaties; the place of performance of any CONTRACT shall be **Zug, Switzerland**.
- 17.2 The United Nations Convention on CONTRACTS for the International Sale of Goods (CISG) shall not apply.
- 17.3 Save unless otherwise provided by mandatory rules of the law, any dispute which might arise from the CONTRACT or these Terms and Conditions shall be decided by the Court of competent jurisdiction in the city of Zug, provided always that 3D shall have the right to bring action, concurrently or otherwise, against the CUSTOMER in any other court of law which has the power to hear and decide on the case.