

General terms and conditions (GTCs)

For deliveries and services (date: January 2025)

1. General terms

These terms and conditions shall apply exclusively to all deliveries from Bayka Color Farbkonzentrate GmbH to the customer, even if no explicit reference is made to them in future business transactions or the customer uses different delivery terms. Any deviating conditions of the customer or side agreements shall only be binding if they have been confirmed in writing by the supplier.

Partial deliveries are permitted. The return of delivered goods to the supplier, regardless of the reason, is only permitted upon prior agreement.

The ownership and intellectual property rights to all documents and materials (e.g., product information sheets, data sheets) issued by the supplier remain fully with the supplier. These may only be made available to third parties with the prior written consent of the supplier and must be returned to the supplier immediately upon request.

2. Offer / Order Confirmation

Offers are generally made without obligation. The order is considered concluded when the supplier is able to confirm the order regarding quantity, type, delivery time, and similar details in a binding manner. If no sourcing option exists for the raw materials required to execute the order, the supplier is entitled to withdraw from the contract.

The supplier generally confirms clarified orders in the form of an order confirmation. Only then are the price and performance details as well as any other declarations or assurances binding for the supplier.

3. Prices

The prices are based on the calculated cost values of the IT system.

Prices are agreed in EURO and are exclusive of VAT. VAT will be charged separately at the applicable rate in accordance with the prevailing tax regulations.

The agreed prices are used as the basis for price calculation. Deliveries apply by the respective delivery conditions agreed with the customer.

4. Terms of payment

The payment period shall commence on the day of delivery or notification of readiness for dispatch.

Unless otherwise agreed, the payment period is 30 days net. The supplier reserves the right to demand advance payments and immediate payments at any time, as well as to make the delivery dependent on securities in case of doubts about the creditworthiness of the customer.

If the customer is in default with his payment obligation in whole or in part, he shall - without prejudice to all other rights of the supplier - pay default interest from this point in time at an annual rate of 9% above the respective prime rate of the European Central Bank, unless the supplier can prove higher damages. In the event of default of payment, we reserve the right to process further orders/deliveries only via advance payment.

If the customer suspends payment, is over-indebted or if insolvency proceedings are applied for, the supplier's total claim shall become due immediately. The same shall apply in the event of a significant deterioration in the financial circumstances of the customer. In such cases, the Supplier shall be entitled to demand sufficient security or to withdraw from the contract.

5. Packaging

Goods packaging (paper, film, cardboard boxes, etc.) for standard products is included in the product prices.

Euro lattice boxes and Euro pallets are delivered in exchange. Pallets specified as disposable pallets are not exchanged and remain with the recipient.

All Euro lattice boxes and Euro pallets remain the property of the supplier. They are provided on loan. The customer is liable for loss or damage. The Euro pallet cages are to be exchanged with the delivering forwarding agent in good exchangeable condition once they have been released. Euro mesh boxes that have not been exchanged after two requests will be invoiced. A separate agreement must be made for export.

6. Reservation of title

The goods (goods subject to retention of title) shall remain the property of the Supplier until all claims to which the Supplier is entitled against the Purchaser have been satisfied, even if the individual goods have been paid for. If the value of the security exceeds the Supplier's claims against the Purchaser from the current business relationship by more than 25% in total, the Supplier shall release a corresponding part of the security rights at the Purchaser's request. Pledging or transfer by way of security of the reserved goods is not permitted.

In the event of the resale or leasing of the goods subject to retention of title - which is permissible in the ordinary course of business - the Purchaser hereby assigns to the Supplier by way of security all future claims against its customers arising from the resale or leasing until all of the Supplier's claims have been settled, without the need for any further special declarations. The assignment shall also extend to balance claims arising within the framework of existing current account relationships or upon termination of such relationships between the purchaser and his customer.

If a justified interest is substantiated, the purchaser must provide the supplier with the information required to assert his rights against the customer and hand over the necessary documents.

If the goods subject to retention of title are resold or leased together with other items without an individual price having been agreed for the goods subject to retention of title, the Purchaser shall assign to the Supplier, with priority over the remaining claim, that part of the total price claim or the total interest which corresponds to the value of the goods subject to retention of title invoiced by the Supplier. Until revoked, the purchaser is authorized to collect the assigned claims from the resale or rental. All costs of collection and any interventions shall be borne by the Purchaser. In the event of an important reason, in particular default of payment, suspension of payment, opening of insolvency proceedings or if there are comparable justified indications suggesting the Purchaser's inability to pay, the Supplier shall be entitled to revoke the Purchaser's authorization to collect. In addition, the Supplier may, after threatening to disclose the assignment by way of security or the realization of the assigned claims, disclose

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the assignment by way of security, realize the assigned claims and demand disclosure of the assignment by way of security by the Purchaser to the Customer within a reasonable period of time. In the event that the equivalent value of the claims assigned to the Supplier should be received by the Purchaser or by a financial institution of the Purchaser, the Purchaser shall be obliged to notify the Supplier immediately of such receipt and to transfer the funds.

If the customer processes the reserved goods, transforms them or combines them with other items, the processing, transformation or combination shall be carried out for the supplier. The latter shall become the direct owner of the item produced by the processing, transformation or combination. If this is not possible for legal reasons, the Supplier and the Customer agree that the Supplier shall become the owner of the new item at all times during processing, transformation or combination. The Purchaser shall store the new item for the Supplier with the care of a prudent businessman. The item created by processing, alteration or combination shall be deemed to be reserved goods.

In the event of processing, transformation or combination with other items not belonging to the Supplier, the Supplier shall be entitled to co-ownership of the new item in the amount of the share resulting from the ratio of the value of the agreed, transformed or combined reserved goods to the value of the new item. In the event that the new item is sold or leased, the Purchaser hereby assigns to the Supplier by way of security its claim against its customer arising from the sale or lease, together with all ancillary rights, without the need for any subsequent special declarations. If the goods subject to retention of title are combined with real estate or movable property by the Purchaser, the Purchaser hereby assigns to the Supplier by way of security its claim to which it is entitled as remuneration for the combination, together with all ancillary rights, without any further special declarations being required.

If the purchaser is the owner of the property or is entitled to rent from this property for other legal reasons, he shall also assign this rent to the supplier. The assignment shall only apply to the amount corresponding to the value invoiced by the Supplier for the processed, transformed or combined goods subject to retention of title. The portion of the claim assigned to the supplier shall have priority over the remaining claim.

In the event of seizure, confiscation or other dispositions or interventions by third parties, the Purchaser must inform the Supplier immediately.

In the event of breaches of duty by the customer, in particular in the event of default in payment, the supplier shall be entitled to take back the goods. The Purchaser is obliged to surrender the goods. The taking back or assertion of the retention of title by the Supplier does not require the Supplier to withdraw from the contract; these actions or the seizure of the reserved goods by the Supplier do not constitute a withdrawal from the contract unless the Supplier has expressly declared this. After prior warning, the supplier shall be entitled to utilize the goods subject to retention of title elsewhere and to satisfy its claims from the proceeds thereof, taking into account the outstanding claims.

7. Delivery

Delivery periods are only binding if they have been expressly confirmed as binding by the supplier. The delivery period shall commence on the day on which the order has been clarified and an order confirmation has been issued. The delivery deadline shall be deemed to have been met if the goods have left the factory or warehouse within the deadline. If dispatch or collection is delayed for reasons for which the supplier is not responsible, the deadline shall be deemed to have been met upon notification of readiness for dispatch within the agreed deadline.

If non-compliance with the deadline is due to force majeure, e.g. bad weather, mobilization, war, riot or strike, lockout, incorrect or late delivery from suppliers or the occurrence of unforeseen obstacles beyond the control of the supplier or his supplier, the deadline shall be extended accordingly.

If the Supplier is in default, the Purchaser may - provided it can credibly demonstrate that it has suffered damage as a result of the delay - demand compensation for the delay. Other claims for damages on the part of the Purchaser due to delayed delivery and in lieu of performance that go beyond this are excluded in all cases of delayed delivery, even after the expiry of any grace period granted to the Supplier. This shall not apply to the extent that liability is mandatory in cases of intent, gross negligence, injury to life, limb or health. This does not imply

a change in the burden of proof to the detriment of the customer.

Otherwise, the right of the Purchaser to withdraw from the contract after the fruitless expiry of a reasonable grace period granted to the Supplier shall remain unaffected.

At the Supplier's request, the Purchaser is obliged to declare within a reasonable period of time whether it will withdraw from the contract due to the delay in delivery and/or demand compensation instead of performance or insist on delivery.

If the Purchaser causes a delay in the shipment or delivery of the delivery items, the Supplier shall be entitled to charge the Purchaser for the additional costs incurred.

8. Transfer of risk/Incoterms

The Incoterms as amended from time to time shall apply.

9. Material defects

a) The buyer must inspect the goods for defects immediately upon receipt. Obvious defects must be reported in writing within 7 days of delivery at the latest. Hidden defects must be reported in writing immediately after discovery, but at the latest within 12 months of the transfer of risk. In the case of international deliveries subject to the UN Convention on Contracts for the International Sale of Goods (CISG), the obligations to inspect and give notice of defects pursuant to Art. 38 and 39 CISG shall also apply. For deliveries to Switzerland, the provisions of Art. 201 of the Swiss Code of Obligations (OR) shall also apply.

b) If there is a demonstrable material defect, we shall be obliged, at our discretion, to repair or replace the goods. If the subsequent performance fails or is unreasonably delayed, the buyer may demand a reduction in the purchase price or - in the case of significant defects - withdraw from the contract. The provisions of the CISG shall apply to international deliveries, unless this has been expressly excluded. For deliveries to Switzerland, the warranty rights are governed by Art. 205 ff. OR, unless otherwise agreed by contract.

c) Due to the peculiarities of plastics processing, the following applies: Minor deviations in color, material homogeneity or processing

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properties that are within the tolerances customary in the industry do not constitute a material defect. It is the buyer's responsibility to ensure the suitability of the goods for the intended use by carrying out suitable tests before processing. Claims for defects are excluded if the goods have been: improperly stored, processed or mixed after the transfer of risk, altered by external influences (e.g. UV radiation, moisture, temperature fluctuations or chemical effects), or if the buyer has made unauthorized changes to the goods.

d) The limitation period for claims for defects shall be 12 months from the transfer of risk, unless mandatory statutory provisions provide for a longer period. For international deliveries subject to the UN Convention on Contracts for the International Sale of Goods (CISG), the limitation period for claims for defects is 2 years from delivery of the goods. For deliveries to Switzerland, a limitation period of 2 years from delivery of the goods applies in accordance with Art. 210 of the Swiss Code of Obligations. The statutory limitation periods shall apply to fraudulently concealed defects or intentionally defective deliveries.

e) Claims for damages due to material defects are excluded unless they are based on intentional or grossly negligent behavior on our part. In the event of a breach of material contractual obligations, we shall only be liable for foreseeable damage typical of the contract. Liability for indirect damages, loss of profit or loss of production is excluded, unless we have caused these damages intentionally or through gross negligence. Liability under mandatory statutory provisions, in particular under the Swiss Product Liability Act (PrHG), the Product Liability Act (ProdHaftG, Germany) or comparable international regulations, remains unaffected.

10. Industrial property rights

The Supplier shall assume liability vis-à-vis the Purchaser in Germany for ensuring that the delivery item is free from third-party industrial property rights.

However, this is subject to the condition that the Purchaser informs the Supplier immediately of any claims arising from industrial property rights asserted against it by third parties and proceeds in agreement with the Supplier when dealing with these claims and pursuing its rights. If one of these requirements is not met,

the Supplier shall be released from its obligation. If an infringement of third party industrial property rights for which the supplier is conditionally liable is discovered and the Purchaser is therefore prohibited from using a delivery item in whole or in part by a legally binding decision, the supplier shall, at its own expense, either:

- a) provide the Purchaser with the right to use the delivery item or
- b) design the delivery item free of industrial property rights or
- c) replace the delivery item with another item of equivalent performance which does not infringe any industrial property rights or
- d) take back the delivery item against reimbursement of the purchase price.

The Buyer shall not be entitled to any further or other claims due to the infringement of third-party property rights. In particular, the Supplier shall not compensate any consequential damages, such as loss of production or use, or loss of profit. This shall not apply if liability is mandatory in cases of intent or gross negligence.

11. Other claims for damages

Unless otherwise stipulated above, the Supplier and its vicarious agents shall be liable for claims for damages by the Purchaser arising from breaches of duty as follows:

- a) Liability for personal injury shall be governed by the statutory provisions.
- b) Liability for property damage is limited to 500,000 euros per damage event and to 1 million euros in total.
- c) Liability for financial losses is excluded.

The limitation of liability under b) and the exclusion of liability under c) shall not apply where liability is mandatory, e.g. under the Product Liability Act, in cases of intent, gross negligence, injury to life, limb or health, or breach of material contractual obligations. A change in the burden of proof to the detriment of the Purchaser is not associated with the above provisions.

Insofar as the Purchaser is entitled to claims for damages under this Article 11, these shall become time-barred upon expiry of the limitation

period applicable to material defects in accordance with Article 9e).

12. Place of performance, place of jurisdiction, Liability

The place of performance for all legal and contractual claims shall be the supplier's works or warehouse, at the supplier's discretion. The place of jurisdiction for all disputes is Schwabach.

Should individual provisions of these terms and conditions be invalid, this shall not affect the validity of the remaining provisions or the contract itself.

The contract is subject to the law of the Federal Republic of Germany. The law of the Federal Republic of Germany shall apply exclusively to all legal relationships with us. The application of the UN Convention on Contracts for the International Sale of Goods of April 11, 1980 (UN Convention on Contracts for the International Sale of Goods) is excluded.

13. Data processing and data protection

Bayka Color Farbkonzentrate GmbH is authorized to collect, store and process the customer's personal data required in the context of the business relationship. The requirements of the EU GDPR are complied with. Further details on data processing and data protection can be found in the data protection declaration published on our website.

14. Severability clause

Should individual provisions of these General Terms and Conditions of Sale be or become invalid or unenforceable, the validity of the remaining provisions shall remain unaffected. The parties undertake to replace the ineffective or unenforceable provision with an effective provision that comes closest to the economic purpose of the ineffective provision. The same applies in the event of a loophole.