

General Terms and Conditions of badgepoint® GmbH, An der Strusbek 50a - 52a, 22926 Ahrensburg, Germany

1. General Remarks and Scope of Application

The following General Terms and Conditions only apply to entrepreneurs or companies, i.e. natural and legal persons or partnerships with legal personality which engage in commercial trade or self-employed professional activities, corporate entities under public law or public law special funds (hereinafter referred to as „Customers“ or „Purchasers“). Contracts for deliveries shall be entered into exclusively on the basis of the following General Terms and Conditions.

Any conditions to the contrary or differing from these General Terms and Conditions put forward by the Customer shall not be accepted by badgepoint® GmbH (hereinafter referred to as „badgepoint®“) unless badgepoint® would have expressly agreed to the validity of such in writing. These General Terms and Conditions shall also apply if badgepoint®, knowing of any conditions put forward by the Customer contrary to or differing from these General Terms and Conditions, performs the delivery or the service to the Customer without reservation.

Subsidiary agreements and alternative agreements require written confirmation by badgepoint® in order to be valid. These General Terms and Conditions apply to all current and future transactions between badgepoint® and the Customer.

2. Description of Services, Offer and Order, Conclusion of Contract

Our offers are non-binding. We reserve the right to make reasonable technical modifications and reasonable alterations to the form, color, price and / or weight.

Electronic, written or oral offers made by badgepoint® do not constitute an offer in the legal sense but are merely deemed to be invitations to the Customer to place an order.

By placing an order, the Customer declares a binding intention to purchase the ordered products.

A simple order acknowledgment sent to the Customer shall not constitute a binding acceptance of the order. However, the order acknowledgment may be sent together with acceptance of the order. Acceptance shall take place in writing or by delivering the goods to the Customer. In any event, the Customer shall not have any legal entitlement to delivery before we have given our binding acceptance. We are entitled to refuse to accept an order, e.g. after checking the Customer's creditworthiness. We are entitled to limit the order to standard domestic quantities.

3. Duty of Cooperation

The Customer is obliged, in accordance with the contract or with the principle of good faith, to cooperate in a timely manner, particularly obtaining any necessary permits and logos and / or other documents required for production in good time. Clause 8 is referred to in relation to authorizations. badgepoint® is entitled to set the Customer a reasonable period for provision of cooperation. Following fruitless expiry of the deadline, badgepoint® is entitled to rescind the contract. If necessary licenses and permits have not been provided within three months of conclusion of the contract at the latest, badgepoint® shall be entitled to rescind the contract.

Any films, final artwork and manuscripts provided by the Purchaser shall be binding; the consequences of any errors contained therein shall be the responsibility of the Purchaser. The Purchaser is obliged to check proofs and samples and return them endorsed for production. The Purchaser shall be responsible for any remaining errors. Costs incurred as a result of post-contractual amendments at the request of the Purchaser shall be charged

to the Purchaser. Post-contractual amendments shall also be deemed to include repeated proofs requested by the Purchaser as a result of minor deviations from the template. Sketches, drafts, specimen typesetting, proofs, samples and similar preliminary works requested by the Purchaser shall be charged even if the order is not fulfilled.

4. Delivery / Time of Delivery

Delivery shall take place ex stock Germany unless otherwise agreed. If delivery is made from an external warehouse, freight shall be charged from the factory. Shipment shall be at the Customer's cost and risk. The risk of accidental loss and deterioration of the goods shall pass to the Purchaser at the time of transfer. In the event of consignment orders, the risk passes to the Purchaser upon delivery of the goods to the forwarding agent, the carrier or the other person or organization charged with dispatch. This also applies if badgepoint® has agreed freight-paid delivery. The goods shall be dispatched uninsured unless otherwise agreed. If no specific written agreement has been made, badgepoint® shall be free to decide the means of transport and the transport route.

The delivery period specified by badgepoint® shall only commence after all matters arising from the Customer's duty of cooperation under clause 3 above have been clarified. Specified delivery periods are generally not binding unless badgepoint® expressly confirms the binding nature of the specified period in writing. Approximate deadlines do not constitute a specific delivery time. Shipment ex works or stock or, if the goods are not shipped on time through no fault of badgepoint®, notification that the goods are ready for dispatch, shall be authoritative for the delivery time. The delivery time will be interrupted whilst the final artwork, advance samples, printing plates etc. are being checked by the Customer, from the date of dispatch to the Customer until receiving the Customer's response.

If the Customer requests any changes to execution of the work after confirmation of order, the delivery period shall recommence from receipt of confirmation of such changes.

The fulfillment of delivery obligations by badgepoint® shall be subject to timely and proper delivery to us and shall also be dependent on timely and proper fulfillment of obligations by the Customer. We reserve the right to plead non-fulfillment of the contract. If badgepoint® is in default with a service, then badgepoint® must initially be granted in writing an appropriate period of grace. badgepoint® is entitled to make reasonable partial deliveries and to invoice such partial deliveries. If the Customer is in default of acceptance or if it culpably breaches any other duty of cooperation, badgepoint® shall be entitled to demand compensation for any losses incurred by badgepoint® in this regard, including any additional expenses. badgepoint® reserves the right to make further claims. If the conditions of sub-paragraph 3 above are met, the risk of any accidental loss or accidental deterioration of the purchased goods shall transfer to the Customer at the time when the latter becomes in default of acceptance or payment. Furthermore, badgepoint® shall be liable in accordance with the statutory provisions if the delay is attributable to an intentional or grossly negligent breach of contract by badgepoint®; any fault on the part of the representatives or agents of badgepoint® shall be attributable to badgepoint®. If the delay is not attributable to an intentional breach of contract by badgepoint®, badgepoint®'s liability for compensation shall be limited to the foreseeable loss that would typically occur.

badgepoint® shall also be liable in accordance with the statutory provisions if the delay attributable to badgepoint® relates to the culpable breach of a material contractual obligation; in this case any liability for compensation shall be limited to the foreseeable loss that would typically occur. Orders on demand must be accepted by the Purchaser within the agreed time. There must be a reasonable period of at least three weeks between the order on demand and the requested delivery time.

5. Prices

Unless otherwise stated in the order confirmation, **badgepoint®** prices shall be ex stock Germany excluding packaging, shipping costs and customs duties. The exact costs can be found in our schedule of shipping costs at www.badgepoint.com and in the order confirmation.

Any bank charges for international bank transfers shall be borne by the Customer.

Statutory value added tax is not included in **badgepoint®**'s prices; this is shown separately on the invoice at the statutory rate applicable on the invoice date. Orders for which no fixed price has been expressly agreed shall be charged at the valid price on the date of delivery. If there is any significant change to specific costs factors, particularly such as the costs of wages, preliminary materials and freight, the agreed price may be adjusted to a reasonable extent in accordance with the relevant cost factors.

The prices shall be based on the US dollar exchange rate valid at the time of confirmation of order and shall be adjusted in the event of fluctuations in the US dollar exchange rate.

As printing of our items sometimes involves various printing processes, the printing plates and lithography costs are not included in the prices. These costs can only be quoted after provision of a layout or final artwork. Reproducible final artwork with color prints or films must be provided. We shall charge for any color prints, montages and films that need to be prepared by us. Any lithographs, printing plates, films, drawings, embossing stamps, screens, templates, concepts, drafts, illustrations, photos, layouts, molds and tools made by us shall remain our property as only partial costs are passed on. We also reserve the rights of ownership, copyright and other industrial property rights. These may not be made accessible to third parties.

6. Payment Conditions / Methods of Payment / Setoff / Retention

We refer to our current overview of payment methods and payment conditions, which can be found at www.badgepoint.com or the current applicable version of our printed price list. Early payment discounts shall only be granted subject to no older invoices being outstanding. Any unauthorized discount deduction shall be charged retrospectively. We reserve the right to make deliveries to new or unknown Customers subject to advance payments. Checks and bills of exchange shall not be accepted. Interest shall be charged for default periods at the same rate as we have to pay on unsecured overdraft facilities with our house bank.

The Purchaser's credit card account shall be charged upon completion of the order. Payments using PayPal, giro pay and amazon payments are also advance payments. The money will be transferred to us before delivery of the goods if you choose such payment methods.

If the Customer is in default of payment or if we become aware of circumstances which would call the Customer's creditworthiness into question (e.g. bills of exchange or checks not being cleared), then all debts will become payable immediately. We shall then be entitled to carry out any outstanding deliveries only against advance payment or on provision of collateral. Under retention of title we are further entitled to repossess any goods delivered, without automatically invoking the right to rescind the contract. We shall also be entitled to this right if, despite being sent a reminder due to the default, the Purchaser fails to make payment. This shall not affect the assertion of any further claims. Setoff and rights of retention in relation to counterclaims are excluded, unless such counterclaims are admitted or judicially established. Rights of retention shall always be excluded unless they relate to the same contractual relationship.

In the event of payments due on a specified date, the Customer shall be in default on expiry of the relevant date, or from the 4th day following receipt of our first written warning.

Proportional advance payments may be requested in the event of the provision of unusually large quantities of special materials or preliminary work.

7. Retention of Title

badgepoint® shall retain title to the purchased goods until all payments under the supply contract have been received. In the event of any conduct by the Customer which is contrary to the contract, particularly default of payment, **badgepoint®** shall be entitled to demand that the purchased goods be returned. Repossession of the purchased goods by **badgepoint®** shall constitute cancellation of the contract.

badgepoint® shall be entitled to realize the purchased goods after repossessing them and to offset any proceeds - less reasonable realization costs - against the Customer's liabilities.

The Customer is obliged to treat the purchased goods with care until the full purchase price has been paid; it is particularly obliged to adequately insure at its expense such goods against fire, water damage and theft for their replacement value. The Customer must immediately inform **badgepoint®** in writing in the event of any attachment or other interventions by third parties so that **badgepoint®** is able to bring a claim pursuant to section 771 of the German Code of Civil Procedure (ZPO). If the third party is not in a position to refund **badgepoint®** the judicial and extra-judicial costs of a claim pursuant to section 771 ZPO, the Customer shall be liable for any loss incurred by **badgepoint®**.

The Customer is entitled to resell the purchased goods in the ordinary course of business; however it hereby assigns to **badgepoint®** all claims in the sum of the final invoice amount of **badgepoint®**'s claim (including value added tax) to which it shall become entitled as a result of the resale to its customers or third parties, irrespective of whether the purchased goods are resold without being processed or following processing. **badgepoint®** shall accept the assignment.

The Customer shall remain entitled to collect this debt even after assignment. **badgepoint®**'s authority to collect the debt itself shall remain unaffected by this. However, **badgepoint®** undertakes not to collect the debt if the Customer fulfills its payment obligations from the proceeds received, is not in default of payment and particularly no application for composition or insolvency proceedings has been made or suspension of payments has taken effect. However, if this is the case, **badgepoint®** may request that the Customer inform **badgepoint®** of the assigned claims and the respective debtors, provide us with all necessary details and documents for collecting the debt and inform the debtors (third parties) about the assignment.

Processing or transformation of the purchased goods by the Customer shall always be carried out for **badgepoint®**. If the purchased goods are processed with objects not belonging to **badgepoint®**, then **badgepoint®** shall acquire joint ownership in the new object as a proportion of the purchased goods' value (final invoice amount including value added tax) compared to that of the other processed objects at the time the goods are processed. The same shall apply to the object created by such processing as to the purchased goods delivered subject to reservations.

If the purchased goods are inseparably mixed with objects not belonging to **badgepoint®**, then **badgepoint®** shall acquire joint ownership in the new object as a proportion of the purchased goods' value (final invoice amount including value added tax) compared to that of the other mixed objects at the time the goods are mixed. If the goods are mixed in such a way that the Customer's object is to be seen as the main object, it shall be deemed to be agreed that the Customer shall transfer joint ownership proportionally to **badgepoint®**. The Customer shall retain the sole ownership or joint ownership of the goods created in this way on behalf of **badgepoint®**.

8. Bespoke products

In the event of contracts for bespoke products, without exception all details regarding the design, dimensions etc. must be confirmed in writing. Unless otherwise agreed, **badgepoint®** shall be responsible for the design for in-house contracts based on templates of any kind. Minor differences, even for subsequent orders, may be due to production reasons and shall be

accepted by the Customer.

The drawings, samples or templates produced by **badgepoint®** may only be reproduced, copied or disclosed with **badgepoint®**'s express permission. In the event of production according to the Customer's samples, drawings or information, the Customer shall be liable for any breach of third-party intellectual property rights and any laws about which **badgepoint®** cannot have any knowledge. Any samples, photos, montages or drafts requested by the Customer shall be produced at the Customer's expense: Production must be authorized without delay. If it is not, the agreed delivery time shall be extended accordingly. The production of the specified item shall be suspended until the written authorization has been given. The Customer confirms that it agrees with the release of digital images. The risk for any errors shall transfer to the Customer upon authorization of the release unless this relates to major errors that could have been detected by **badgepoint®**, or which did not occur until subsequent production at the factory. **badgepoint®** reserves the right to make production-related excess or short deliveries to the extent usual for the industry up to 10% of the quantities ordered. Such deviations shall be reflected in the invoice. The Customer shall not have right or claims to tools or development models, even if the Customer contributed to the costs of such.

badgepoint® is entitled to demand the return of these parts within 14 days. In the event that the development models are not returned, the outstanding parts shall be charged together with **badgepoint®**'s expenses. Agreement to depict bespoke orders is assumed and requires no additional authorization. No liability shall be assumed for the loss of any films or other templates.

9. Returns

Returns shall only be accepted subject to examination and approval by **badgepoint®**. Under no circumstances shall acceptance of a return constitute acknowledgment of a defect or any other complaint by the Customer. The goods shall be returned at the Customer's risk in any case. In the event of returns attributable to the Customer, particularly but not exclusively in the event of refusal of acceptance, **badgepoint®** shall charge a re-storage fee. Goods delivered by **badgepoint®** shall not be returned in exchange for a credit note unless **badgepoint®**'s written agreement has been obtained in advance and the delivered goods are standard stock items that can be used elsewhere. The amount of the credit note shall be calculated based on the value of the returned goods less trading costs incurred for the order and processing the return and any expenses for any repairs. The credit note amount shall be a maximum of the price applicable at the time of return. If the invoiced price is lower, such invoiced price shall be the maximum amount. In the event of return the Customer must pay 30% of the price applicable at the time of return for re-storing the goods. This amount shall also be deducted from the credit note.

10. Assignment

The assignment of any claim by the Customer against **badgepoint®** arising from the business relationship requires **badgepoint®**'s written agreement in order to be valid, which **badgepoint®** shall not unreasonably refuse in the event that the Customer has a legitimate interest.

11. Liability for Defects / Guarantee

The discovery of obvious defects must be notified to **badgepoint®** in writing within a period of seven days from delivery of the goods and latent defects must be notified immediately after discovery, stating the order date, the invoice number and shipment number. If the purchaser fails to make such notification, the goods shall be deemed to have been accepted. It is a prerequisite for any claim by the Customer for defects that the Customer has properly fulfilled its inspection and defect notification obligations pursuant to section 377 of the German Commercial Code (HGB). The risk of any remaining errors shall pass to the Purchaser upon the declaration of readiness for printing. The Purchaser's inspection obligation

extends to the entire delivery. If the Customer fails to inspect the goods then there shall be no liability for the supplier factory or for **badgepoint®**. If the goods are transported by rail, post, carrier or hauler, the Purchaser must only accept goods that have obviously been damaged in transit if the transport company acknowledges the damage. Defects in a part of the delivered goods do not entitle the Customer to reject the entire delivery. The Customer shall not be entitled to any right of cancellation in the event of a minor breach of contract, particularly for minor defects. Defects or damage attributable to culpable or improper handling and storage or improper installation and the use of inappropriate tools or modifications to original parts by the Customer or third parties not authorized by us, or normal wear and tear, are excluded from the guarantee. The Customer may request that the contract be rescinded if we allow a reasonable deadline we have been set with a non-performance penalty to lapse without rectifying the defect or performance of substitute delivery, if we refuse rectification or substitute delivery, if these courses of action are impossible or substitute delivery or two attempts at rectification have ultimately failed. If the investigation of a defect notification shows that there is no material defect, **badgepoint®** shall be entitled to charge the Customer a lump sum for costs or processing fee. In such a case the Customer shall be at liberty to provide evidence that the costs involved are lower than those invoiced.

Rights in relation to defects become time-barred 12 months from transfer of risk. In relation to the quality of the goods, only the manufacturer's product description shall be deemed to be agreed. Any public statements, promotions or advertisements by the manufacturer do not constitute a contractual indication as to the quality of the goods. The Customer shall not receive any guarantee from us in the legal sense. Manufacturers' guarantees shall remain unaffected by this.

Any processing by **badgepoint®** of a defect notification from the Customer shall not constitute an acknowledgment of any defect. Processing a defect notification shall only result in a suspension of time barring if the statutory requirements for this are met. The limitation period shall not recommence as a result. This shall also apply if **badgepoint®** carries out subsequent performance (rectification or substitute delivery) following notification of defect from the Customer. Rectification can only influence the limitation period for the defect giving rise to rectification and possibly any new defects caused by the rectification. If the goods form the object of a purchase of consumer goods, the Customer's rights pursuant to sections 478 and 479 of the German Civil Code (BGB) shall remain unaffected, provided that the Customer has fulfilled its inspection and complaint notification obligations pursuant to section 377 HGB. Liability is excluded for consequential damage or loss of profits.

The liability limitations / restriction of the limitation period regulated above do not apply to losses arising from damage to health, life or limb as a result of an intentional or negligent breach of duty by **badgepoint®** or an intentional or negligent breach of duty by a legal representative or agent of **badgepoint®**. The same applies to liability in accordance with the German Product Liability Act.

12. Total Liability

badgepoint® shall be liable in accordance with statutory provisions if the Customer makes any claim for compensation as a result of intent or gross negligence, including intent or gross negligence by the representatives or agents of **badgepoint®**. If **badgepoint®** is not accused of an intentional breach of contract, liability for damages shall be limited to the foreseeable loss that would typically occur.

badgepoint® shall be liable in accordance with statutory provisions if **badgepoint®** culpably breaches a material contractual duty; however, in such a case liability for damages shall be limited to the foreseeable loss that would typically occur. If the Customer is entitled to a claim for compensation for loss instead of performance, then **badgepoint®**'s liability shall also be limited to compensation for the foreseeable loss that would typically occur within the scope of clause 11 paragraph 3. Liability for culpable injury to life, limb or health shall remain unaffected; this also

applies to mandatory liability pursuant to the German Product Liability Act. Liability shall be excluded unless otherwise provided above. If delivery is impossible, the Customer shall be entitled to request compensation in accordance with the statutory provisions. However, any claim by the Customer for compensation in addition to or instead of performance and reimbursement of futile expenses shall be limited to 10% of the value of the part of the delivery that cannot be used as a result of the impossibility. Any further claims by the Customer relating to impossibility of the delivery are excluded. This restriction shall not apply if liability exists in the event of intent, gross negligence or for injury to life, limb or health. The Customer's right to rescind the contract shall remain unaffected. No change to the burden of proof to the disadvantage of the Customer is associated with the preceding provisions.

Any further liability to pay compensation is excluded, particularly strict liability. We shall therefore particularly not be liable for the functionality of the telecommunication lines to the server or in the event of a power failure or server breakdown (e.g. our website) which are not within our control.

13. Force Majeure

If deadlines are not met as a result of force majeure, e.g. mobilization, war, riot, or other similar events e.g. strike or lockout, breakdowns, lack of raw materials, lack of cargo space, official interventions or energy cuts, whether applicable to badgepoint® or its suppliers or subcontractors, the deadlines shall be extended accordingly. If events in the above sense occur where there is no delay and if delivery thereby becomes subsequently impossible or unreasonable for badgepoint®, we shall be entitled to rescind the contract.

14. Data Protection

We strictly observe the statutory provisions relating to data protection, particularly the German Federal Data Protection Act (BDSG) and the German Telemedia Act (TMG). Further information can be found in our data protection statement. Pursuant to section 28 BDSG, badgepoint® would like to state that any data necessary for the transaction shall be stored in compliance with the statutory requirements.

15. Copyright and Trademark Rights

Our product photographs and product description texts have been created by us with considerable effort and are subject to copyright protection. Our Customers and other third parties are not entitled to copy these and / or to use them or allow them to be used for their own Internet offerings. We shall take legal action in the event of any violation of our trademark, copyright or other intellectual property rights.

The terms aluline-plus®, amigo®, badgeclick®, badgecloud®, badgepoint®, badgeserver®, badgetec®, blindow®, caddy®, perfect CARD®, polar®, pollux®, REAP®, scout®, smag® and vista® are trademarks registered with the German Patent and Trademark Office or with the OHIM (Office for Harmonization in the Internal Market) or with the United States Patent and Trademark Office (USA) and are subject to trademark protection. Neither our Customers nor other third parties are authorized to use these.

16. Final Provisions / Jurisdiction and Place of Performance, Applicable Law

The place of performance for all obligations arising from this contractual relationship is our registered office or Düsseldorf. The place of jurisdiction for all legal disputes arising from the contractual relationship or the existence and validity of such is our registered office or Düsseldorf for businesses, although badgepoint® is entitled to bring actions against Customers at the place of their registered office. The entire contractual relationship is exclusively subject to the applicable law of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods (CISG). Amendments, additions and side agreements require

express written or verbal agreement. This also applies to any amendment to or removal of the clause requiring written form itself. Individual verbal agreements shall take precedence.

The General Terms and Conditions in the German language shall apply exclusively. If badgepoint® offers General Terms and Conditions translated into other languages, this is to be understood exclusively as a service for international business transactions. The translated texts shall not constitute valid General Terms and Conditions.

17. Miscellaneous Provisions

We reserve the right to include our company text or company logo on all types of deliveries.

Samples may only be delivered against fixed accounts. There is no right of return.

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