

## **TERMS AND CONDITIONS OF SALE**

### **I. General Conditions**

1. The present Terms of Sale apply in the European Plastics Converters Association (EuPC)\* member countries.
2. Orders, in respect of type and scope of delivery, only become legally valid contracts through the order confirmation sent by Supplier. Any changes or alterations thereto must be in written form.
3. In the case of regular business relationships, these conditions are also valid for any future agreements in which no explicit reference is made thereto, provided they have been agreed by the parties in a previous contract. Any deviating terms and conditions of either Customer or Supplier intended to replace the present General Terms and Conditions of Sale must be expressly consented to by the parties. If individual provisions are declared invalid, those provisions will not affect the validity of the remaining stipulations.
4. Customer's Conditions of Purchase are only binding for Supplier if expressly accepted by the latter.
5. If individual provisions are or will become invalid, the validity of the other provisions shall not be affected by this.

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Belgium, Denmark, Germany, Finland, France, Greece, Great Britain, Ireland, Italy, the Netherlands, Norway, Austria, Poland, Portugal, Sweden, Switzerland, Slovakia, Spain, Czech Republic, Hungary, Cyprus.

### **II. Prices**

1. Unless otherwise agreed, the prices shall apply ex works exclusive of packaging, but plus statutory VAT/turnover tax.
2. If prices are agreed to be dependent on component weight, the final price shall be determined by the weight of the approved outturn samples.
3. The price of the moulds also includes all sampling costs, but not the costs of testing and processing devices or of modifications requested by Customer.

### **III. Obligations to deliver/accept delivery**

1. Delivery deadlines shall begin after receipt of all documents which are necessary for executing the order, of all advance payments agreed and of the timely orders for materials. The date of readiness for dispatch or shipment shall be considered the delivery date.
2. If an agreed delivery time is not adhered to due to a fault on the part of Supplier, Customer shall, with exclusion of further claims and after the lapse of a reasonable

grace period, be entitled to claim default compensation or withdraw from contract provided notification of rejection of delivery was given when the grace period was agreed. Compensation for delayed delivery shall amount to ½ % for each full week of delay, up to a maximum total of 5 % of the value of that part of the delivery not delivered in accordance with the contract.

3. Adequate partial deliveries as well as deviations of up to ± 10 % from the ordered quantities are permissible.

4. Supplier shall be obliged to accept follow-up orders with reasonable delivery deadlines provided Supplier holds property rights to Customer's moulds and/or is obliged to keep its own Customer-related moulds. This obligation entails no commitment to earlier price agreements. The same applies to running orders if cost factors (e.g. raw material prices, exchange rates etc.) change significantly.

5. For call orders without an agreement on term, lot production sizes and purchase deadlines, Supplier may demand a binding specification of such three months after order confirmation, at the latest. If Customer fails to comply with this request within three weeks, Supplier shall have the right to set a two-week grace period and withdraw from contract after such period has lapsed, or refuse to accept delivery and claim damages.

6. Events of force majeure on the part of Supplier or its sub-suppliers shall reasonably extend the delivery time.

The same applies to governmental interventions, difficulties in energy and raw materials supply, strikes, lock-outs and unforeseeable obstacles to delivery provided Supplier is not responsible for them.

Supplier shall promptly notify Customer thereof. Supplier shall be required to minimize any inconvenience to Customer as far as possible, where appropriate by releasing moulds for the duration of the obstruction.

#### **IV. Provision of material**

1. If Customer provides materials, such materials shall be delivered in a timely manner and in perfect condition at the cost and risk of Customer with an adequate volume surcharge of at least 10%.

2. In case this condition is not fulfilled, the delivery period shall be accordingly extended. Except in cases of force majeure, Customer shall bear any additional costs arising thereby including those arising from interruptions of production.

3. We cannot be held responsible for rejects created in the production process, except in case of intent or gross negligence.

4. If the customer is in default of acceptance, the supplier is authorized to store the goods at the expense of the customer. In case the supplier stores the goods he is entitled to invoice storage costs amounting to 0.5% of the invoiced amount of the stored goods per commenced calendar week. Supplier reserves the right to furnish evidence and put forward claims for higher storage costs.

## **V. Packaging, shipment, passage of risk**

1. Unless otherwise agreed, Supplier chooses the kind of packaging and shipping at his discretion.
2. Even in case of freight paid deliveries, risk shall pass to Customer as soon as the goods leave Supplier's factory. In case of dispatch delays on the part of Customer, the risk shall pass already upon notification of the readiness for shipment.
3. If requested in writing by Customer, the goods may be insured at his expense against damage in warehouse, in transit, damage by breakage and fire.

## **VI. Reservation of title**

1. The delivered goods continue to be the property of Supplier until all claims Supplier may have against Customer have been met, even if the purchase price for specially designated claims has been paid. In the case of current accounts, the retained property on the delivered goods (goods supplied under reservation of title) shall be deemed to be the security for Supplier's balance invoice.
2. Any treatment or processing by Customer is carried out under exclusion of acquisition of ownership according to section 954 of the German Civil Code on behalf of Supplier; Supplier remains the owner of the resulting item which, being a reserved item, serves to secure Supplier's claims pursuant to clause 1 above.
3. In the event Customer processes (joins, mixes) the goods with other goods not owned by Supplier, the stipulations of §§ 947, 948 of the German Civil Code shall apply with the result that the co-ownership share of Supplier in the new object is henceforth considered a retained object for the purpose of such conditions.
4. Customer may resell the conditional goods only in the normal course of business and under the proviso that Customer agrees a corresponding reservation of title pursuant to clauses 1 to 3 with its customers. Customer is not authorized to dispose of the reserved goods in any other way, in particular assign such goods as security or pawning.
5. In the case of resale, and until all claims of Supplier are satisfied, Customer shall hereby assign to Supplier all accounts receivables arising from such resale and all other claims against its customers together with all ancillary rights. Upon Supplier's request Customer shall be obliged to provide Supplier with all information and documents necessary to enforce Supplier's rights against Customer's customers.
6. If the reserved goods are resold by Customer after treatment according to para. 2 and/or 3, or together with other goods not belonging to Supplier, the assignment of the purchase-money claim according to para. 5 is only valid to the amount of the invoice value of Supplier's reserved goods.
7. Should the value of the securities held by Supplier exceed Supplier's total claims by more than 10%, Supplier shall, upon Customer's request, be obliged to release such securities to a commensurate value; Supplier may nominate the securities to be released.

8. Supplier shall immediately be notified if the goods subject to reservation of title are seized or confiscated by third parties. Intervention costs arising thereby are in any case for Customer's account.

9. In case Supplier makes use of his reservation of title to the conditions above by taking back such reserved goods, Supplier shall be entitled to sell the goods in the open market or by public auction. The reserved goods shall be returned at the price achieved, however at no more than their agreed delivery prices. Further claims for compensation of damages, especially the loss of profit incurred, remain reserved.

## **VII. Terms of payment**

1. All payments have to be made in Euro and exclusively to Supplier.

2. Unless otherwise agreed upon, a) 50% net of tool costs shall be due and payable upon order confirmation and a further 50% net shall be due and payable immediately upon submission of outturn samples. Upon confirmation of order changes requested by Customer prior to completion of moulds, all costs incurred up to that time shall be reimbursed insofar as they exceed the advance payment made, b) the purchase price for partial deliveries or other services shall be due and payable with a 2% discount within 10 days, or net within 30 days from invoice date. Discounts will only be granted if all previous invoices due have already been settled.

3. Checks and rediscountable bills of exchange are accepted only in payment of debt, and Customer shall pay all costs associated therewith. Offset and enforcement of a right of retention due to any counterclaims of Supplier disputed by Supplier shall not be permitted.

4. Failure to comply with the conditions of payment or circumstances which give reason to serious doubts as to Customer's creditworthiness shall result in immediate maturity of all claims of Supplier. Supplier shall furthermore be entitled to require advance payments for deliveries not yet completed, and, following a reasonable period of grace, to withdraw from contract or claim compensation for non-fulfilment, and shall further be entitled to prohibit Customer from reselling the goods and to take back any unpaid goods at Customer's costs.

## **VIII. Moulds, tools and devices**

1. If Supplier is the owner of the moulds, tools and devices, these shall only be used for orders issued by Customer, provided Customer meets its payment and acceptance obligations. Supplier's obligation of safekeeping such moulds, tools and devices shall expire 2 years after the last delivery of parts and upon prior notification to Customer.

2. If Customer is the owner of the moulds, tools and devices, Supplier shall be entitled to withhold such moulds, tools and devices until Customer has fulfilled all conditions of the agreement. Delivery of such moulds, tools and devices to Customer is replaced by Supplier's obligation to keep safe such equipment. Independent of Customer's legal right to recover possession and of the service life of the moulds,

tools and devices, Supplier shall be entitled to their exclusive possession until an agreed minimum quantity has been purchased and/or a certain period of time has passed. Supplier shall mark the moulds, tools and devices as third-party property and insure them upon Customer's request at Customer's expenses. Supplier shall be entitled to appropriate compensation for the release of the moulds, tools and devices and the related knowledge transfer.

3. As for moulds, tools and devices owned by Customer according to para. 2 and/or moulds, tools and devices made available by Customer by way of lending, Supplier's liability shall be limited to the duty of care observed in his own affairs regarding safekeeping and care. Customer shall bear all costs for maintenance and insurance. Supplier's obligations shall expire if, upon completion of the contract and Supplier's corresponding request, Customer fails to pick up the moulds, tools and devices. In this event, Supplier shall be entitled to return the moulds, tools and devices to Customer at Customer's expenses. As long as Customer has not completely fulfilled its contractual obligations, Supplier shall, in any case, have the right to retain the moulds, tools and devices.

### **IX. Warranty, product liability**

1. Customer shall be solely responsible for the construction and functionality of the parts, even if he received advice on the development, unless Supplier gives a written guarantee in this regard.

2. Notifications of defects shall be reported in writing without delay, however, 2 weeks after receipt of delivery at the latest. In case of hidden defects, this term shall be extended to 1 week from their detection, but no longer than 6 months after receipt of the goods.

3. In case of a well-founded notification of defects Supplier shall, at his discretion, rectify or replace the defective part free of charge. If Supplier fails to fulfil its obligations within a reasonable time, Customer shall be entitled to demand price reduction or to withdraw from contract. Further claims are excluded. Defective parts that have been replaced shall be returned to Supplier at his request and costs.

4. Supplier shall only be liable for the compensation of damage and reimbursement of expenses as far as supplier, his executive officers or vicarious agents are guilty of willful intent, gross negligence or injury to life, limb or health. The fault liability according to the Product Liability Act and the liability for compliance with a quality guarantee will remain unaffected.

5. Unauthorized reworking or improper handling shall result in the loss of all claims based on defects. Merely for defence against unreasonably great damage Customer shall be entitled to repair the part after prior notification to Supplier and demand compensation for the appropriate costs.

## **X. Property rights**

1. Customer shall guarantee to Supplier that the ordered deliveries and services are free of property rights of third parties, indemnify Supplier against all corresponding claims and have liability for any damage which may arise from this.
2. Supplier's construction documents, models etc. remain his property and may only be used or forwarded with his permission. Where a delivery contract does not come into effect through the fault of Customer, Supplier shall have the right to claim reasonable compensation for his preparatory work.

## **XI. Place of fulfilment and of jurisdiction**

1. The place of fulfilment shall be the place of the supplying plant.
2. The place of jurisdiction, also for documents, bills of exchange and cheque proceedings, shall be Pößneck.
3. The applicable law shall be the law of the country in which the supplying plant is based.