

# PURUS PLASTICS GmbH General Terms and Conditions of Sale and Delivery

(as of October 2014)

## Section 1 Validity

(1) The following terms and conditions apply to all business transactions conducted by PURUS PLASTICS GmbH (hereinafter referred to as: the Seller) with our customers (hereinafter: the Buyer). We hereby object to any of our contractual partners' terms and conditions. Deviating agreements, in particular contradictory general terms and conditions for our contractual partners and collateral agreements, require written confirmation from us. Employees who are not authorized to represent the company are not authorized to make agreements that contradict these conditions.

## Section 2 Quotations and orders

(2) Quotations issued by the Seller are subject to change. Orders shall only become binding upon written confirmation or upon performance by the Seller. Supplements, amendments or collateral agreements require written confirmation from the Seller to be effective.

## Section 3 Prices, due dates and payments

(3) All prices are net prices in EURO ex Seller's warehouse, excluding packaging, other ancillary costs plus the statutory value added tax on the day on which the contract is concluded or the order is placed.

(4) Invoices shall be issued for deliveries, which shall be due for payment immediately upon receipt without any discount. If the Buyer fails to take delivery of the goods on the day of the agreed collection date, the purchase price shall be due for payment at the end of that day.

(5) Retention and offsetting by the Buyer shall only be permissible if their claim has been legally established or is undisputed. The Buyer's rights of retention are excluded unless they are based on the same contractual relationship. We shall be entitled to assert claims against buyers belonging to a group of companies that are directed against another company in the same group by offsetting or retention.

(6) If the Buyer defaults on a payment obligation, the Seller shall be entitled to charge interest in the amount of the interest rate charged by their principal bank for open overdraft facilities, as well as any further dunning costs, but at least interest in the amount of 9% above the European Central Bank's interest rate for the main refinancing transactions valid at the time. We reserve the right to claim further damages.

(7) In the event of default on payment or other apparent credit unworthiness on the Buyer's part, all further claims against them shall be due immediately. The Seller shall then be entitled to revoke the agreed payment terms and to demand advance payment or other appropriate security for forthcoming deliveries. A buyer shall be deemed to be unworthy of credit in particular if an application has been filed for the opening of settlement or insolvency proceedings, or if the Seller's credit insurer has removed the Buyer from the group of insured customers.

(8) If payment in installments has been agreed and the Buyer defaults on the payment of an installment, the remaining amount shall become fully and immediately due and payable.

(9) The Seller may require payment in advance. Complaints about the invoice must be made in writing within 8 working days from the invoice date.

## Section 4 Call orders

(10) For contracts with agreed partial deliveries (call orders) the Buyer's call obligation constitutes a main contractual obligation. Two weeks after expiry of the latest date for the respective call-off, the Buyer shall be in default of acceptance and payment without the need for a special reminder. After expiry of at least three call periods, the Seller may withdraw from the contract as a whole and claim damages instead of implementing the entire contract.

## Section 5 Delivery time and transfer of risk

(11) Even without an express agreement, the Seller shall be entitled to make partial deliveries. Short and excess deliveries of up to 10% of the contractual quantity are permissible. In the event of an impediment to performance for which the Seller is not responsible, the delivery deadline shall be extended by the duration of such impediment. In the event of all delivery deadlines being exceeded, the Buyer must first set us a reasonable grace period of at least 12 working days.

(12) If collection of the goods by the Buyer has been agreed, the Buyer shall take delivery of the goods within four weeks from the date of the order confirmation, unless otherwise agreed in writing. The date and time of collection as well as the license plates of the vehicles intended for this purpose shall be communicated by the Buyer in writing no later than three working days in advance. The date of collection shall be confirmed by the Seller in writing in a timely manner. If the Buyer arrives to collect the goods more than three hours before or after the agreed time, they have to pay the Seller a lump sum of €200.- gross for the resulting additional expenses. The additional expenses are incurred by the Seller due to the additional use of material resources and personnel for the provision of the goods deviating from the agreed collection time. The Buyer is free to provide evidence to the contrary for a lower additional expense.

(13) If the delivery/collection of the goods by the Seller or a third party is delayed as a result of circumstances for which the Buyer is responsible, the Buyer shall be charged the storage costs incurred as of the 1<sup>st</sup> day, calculated from the day the goods were ready for dispatch, and 10% of the invoice amount for each month or part thereof in the case of storage by the supplier.

(14) If the Buyer incurs damages exceeding the damages for storage pursuant to (13) due to a delay for which the Seller is responsible, in particular with regard to a delivery or collection date firmly agreed with the Buyer, the Buyer shall be entitled to claim compensation in accordance with the following provision. In the event of negligence, a penalty of 2.5% for each full week of exceeding the deadline shall be applied, but in total not more than 10% of the partial or total net order that cannot be delivered on time due to the delay. Any further claims for compensation due to culpable delay are excluded.

(15) The Seller shall be entitled to otherwise dispose of the delivery item after granting a fruitless time extension and to give the Buyer a reasonable time extension.

(16) The risk shall pass to the Buyer upon handover to the transport person. This also applies if the Seller pays the shipping costs. If collection of the goods by the Buyer has been agreed, the risk shall pass to the Buyer if the goods are not collected on the agreed collection date.

(17) Goods not accepted or collected in due time shall be stored on account and at the risk of the Buyer.

(18) As a matter of principle, the Seller shall take back reusable packaging, but shall only take away disposable packaging based on a written agreement.

## Section 6 Retention of title

(19) The delivered goods shall remain the property of the Seller until full payment of all claims against the Buyer arising from the business relationship. The Seller shall be entitled to demand the return of the reserved goods from the Buyer without granting a grace period and without prior rescission if the Buyer has defaulted on any of their obligations to the Seller under the current business relationship. Such withdrawal shall only constitute a rescission if expressly declared in writing. The Buyer has to bear the costs of the rescissions.

The Seller shall be entitled to sell any goods subject to retention of title taken back after fruitless warning and to set off the proceeds against their claim.

# PURUS PLASTICS GmbH General Terms and Conditions of Sale and Delivery

(as of October 2014)

(20) In the event that the reserved goods are processed, the Seller shall acquire ownership of the resulting products. If the goods subject to retention of title are processed, combined or mixed and are the property of third parties, the Seller shall acquire co-ownership of the resulting products in proportion to the respective invoice values. If the goods subject to retention of title are combined or mixed with a main item owned by the Buyer, the Buyer hereby assigns their ownership rights to the new item to the Seller.

(21) All claims arising from the sale of goods owned or co-owned by the Seller are hereby assigned by the Buyer to the extent of the Seller's share of ownership by way of security with all ancillary agreements and priority over the rest. In this respect, any assignment to third parties, including within the scope of a factoring transaction, is inadmissible. The Seller accepts the assignment.

(22) The Seller shall be authorized to collect these claims even after assignment. The Seller's authority to collect the claim themselves shall remain unaffected, but the Seller undertakes not to collect the claim as long as the Buyer fulfils their payment and other obligations. The Seller can demand that the Buyer informs them of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors of the assignment.

(23) The Buyer shall insure the retained goods at their own expense against the usual storage risks and hereby assigns their claims under the insurance contracts to the Seller. At our request, the Buyer shall hand over the insurance policy to the supplier for the purpose of claiming insurance benefits. If there are any indications that the Seller's enforcement is at risk, the Buyer shall, upon request, notify their customers of the assignment and provide the Seller with all necessary information and documents. The Buyer shall notify us of any access by third parties to the goods subject to retention of title immediately upon becoming aware of such access. The Buyer shall be liable for all costs incurred for cancelling such accesses, in particular by filing a third-party action, unless they can be obtained from the third party concerned.

## Section 7 Technical and chemical data

(24) The Seller shall provide technical and chemical information about the purchased item and advice on their use to the best of their knowledge and belief, but only as non-binding information, which does not release the Buyer from their own duties of care and independent compliance with statutory and official regulations. Information provided by the Seller shall only be deemed to be a guarantee or warranted quality if it is expressly designated as such in writing.

## Section 8 Warranty for material defects

(25) Claims for material defects — irrespective of the legal grounds — shall become statute-barred 12 months after the transfer of risk. Notwithstanding clause 1, the statutory time limits shall also apply in the case of claims under the Product Liability Act and in the case of intentional or fraudulent conduct.

(26) Recognizable defects, in particular incorrect or faulty deliveries, must be reported in writing at the latest within 7 working days after handover to the transport person before the goods are processed. The Buyer bears the burden of proof for the defects occurred at the time of the transfer of risk. The Buyer's obligation to inspect the goods extends to the entire delivery. Hidden defects are to be reported in the same way immediately, at the latest 2 working days after discovery. The Seller shall be given the opportunity to inspect the rejected goods before they have been modified, further processed or redelivered.

If a defect is proven, the Seller shall, at their discretion, either repair the defect or deliver defect-free goods against return of the goods to which the complaint pertains. In the event of a failed repair or replacement delivery, the Buyer has the right to reduce the purchase price or to demand reimbursement of the purchase price concurrently with the return of the goods. The Seller does not guarantee that the goods delivered by them are free of third-party industrial property rights.

(27) No liability is assumed for damages caused by the following reasons:

- o unsuitable and improper use
- o faulty or negligent handling of the delivery item
- o excessive use

(28) Used delivery items or "off-spec" or "second choice" delivery items are sold under exclusion of any warranty.

## Section 9 Liability

(29) The statutory provisions shall apply to the right of rescission with the proviso that a right of rescission due to a breach of duty not consisting in a defect shall only be considered if the Buyer is responsible for the breach of duty. Liability for breach of duty exists in the case of intent and gross negligence and, in the case of breach of a material contractual obligation (cardinal obligation), also for simple negligence. Otherwise, claims for damages are excluded. This limitation of liability does not apply if the Seller has assumed a guarantee for damage that must be compensated under the Product Liability Act, and for damage to life, limb or health.

(30) If the Seller is liable due to gross negligence of their employees or agents who are not directors or officers, or due to simple negligence, the Seller's liability shall be limited to the damage that it could typically expect to occur under the circumstances known at the time of concluding the contract, but not more than twice the purchase price. Compensation for indirect damages, consequential damages or loss of profit is excluded.

## Section 10 Place of jurisdiction, applicable law and miscellaneous

(31) The place of performance for payments is Arzberg and/or Marktredwitz; for deliveries the place of dispatch applies. Any disputes arising from the business relationship in which the Seller acts as plaintiff or claimant shall be decided at the Seller's discretion either by the state courts in Hof/Saale or another elective court. The language of procedure and contract is German. If an action is to be brought against the Seller, they shall be given the opportunity in writing beforehand to exercise their right to choose between the aforementioned state courts. If the Seller does not decide or decides belatedly, the jurisdiction of the state court at their registered office shall be deemed as agreed.

(32) The law of the Federal Republic of Germany shall apply; application of the UN Convention on Contracts for the International Sale of Goods (CISG) is excluded. If payment against documentary credit has been agreed upon, the respective valid provisions of the International Chamber of Commerce (ICC) in Paris shall additionally apply.

(33) The Buyer agrees that the Seller shall store and process their personal data in connection with the business relationship and that they will not be notified in individual cases.

(34) If one of the above conditions proves to be invalid or incomplete, this shall not affect the validity of the remaining provisions. In order to eliminate the ineffectiveness or to close the loophole, the parties undertake to agree on a new provision which comes closest in terms of content to what was economically intended between the parties.