

## General Terms and Conditions of Purchasing of aluplast GmbH

As of: 01.01.2020

### § 1 Applicability

(1) These General Terms and Conditions of Purchasing (Terms and Conditions) apply for all business relationships with our business partners, suppliers and service providers, hereinafter referred to together as "Supplier". The Terms and Conditions only apply if the Supplier is a business owner (Section 14 BGB - Civil Code), a legal entity under public law or a special fund under public law.

(2) The Terms and Conditions apply particularly for agreements concerning the sale and/or the delivery of movable objects ("Goods") regardless of whether the Seller manufactures the Goods itself or purchases them from suppliers (Sections 433, 650 BGB). Unless otherwise agreed, the Terms and Conditions in the version valid at the time of the buyer's order or most recent text version sent shall apply as a framework agreement for similar future agreements, without our having to refer to this in each individual case.

(3) These Terms and Conditions shall apply exclusively. Deviating, contradictory or supplemental General Terms and Conditions of the Supplier shall only become a contractual component if and to the extent that we have expressly agreed in writing to their validity. This consent requirement shall apply in every case, for example even if we accept deliveries without reservation in the knowledge of the General Terms and Conditions of the Supplier.

(4) In individual cases, individual agreements made with the Supplier (including ancillary agreements, supplements and amendments) shall take precedence over these Terms and Conditions in every case. Subject to counter-evidence, a written agreement or our written confirmation shall be decisive for the content of such agreements.

(5) Legal declarations and notices of the Supplier in relation to the Agreement (e.g., setting deadlines, reminders, withdrawal) are to be submitted in writing or text form (e.g., letter, e-mail, fax). Statutory form provisions and additional proof about the legitimacy of the declaring party, particularly in cases of doubt, shall remain unaffected.

(6) References to the validity of the statutory provisions shall only have clarifying significance. Even without this type of clarification, the statutory provisions shall apply if they are not directly amended or expressly excluded in these Terms and Conditions.

(7) The current **Guidelines on Delivery of Goods** (AA-478\_EN) retrievable on our homepage, as well as the **General Packaging Instructions of Merchandise for Suppliers of aluplast GmbH** (AA-434\_EN) shall apply for delivery of Goods. We are certified according to DIN EN ISO 9001 (**Quality Management System**) and trade in accordance with the principles of DIN EN ISO 50001 (**Energy Management System**). For this reason, the purchase decision for services be based in part on energy-related performance.

### § 2 Agreement

(1) Our order is considered binding on submission or confirmation in text form. Before acceptance, the Supplier must indicate to us obvious errors (e.g. typing errors and miscalculations) and

incompleteness of orders, including the order documents, for the purpose of correction or completion; otherwise the Agreement shall be regarded as not concluded.

(2) The Supplier shall confirm our order in writing within the deadline set in the order form or shall perform the service without reservation (acceptance). A delayed acceptance or discrepancy of the order confirmation or of the service from the order shall be considered a new offer and shall require express acceptance by us in text form at least. This applies particularly in the case of technical changes to the delivery and the implications of this on prices, delivery time or other conditions.

(3) Acceptance of the service or payment for it does not imply approval.

### **§ 3 Prices, Terms of Payment and Invoicing**

(1) The price disclosed in the order is binding. All prices include statutory VAT, unless they are expressly identified as net price.

(2) Unless otherwise agreed in the individual case, the price includes all services and ancillary services of the Supplier (e.g. assembly, installation) as well as all additional expenses (e.g. proper packaging, transport costs including transport and liability insurance) at the address of the recipient.

(3) The Supplier shall provide proper invoices in accordance with the statutory provisions. The invoices are to be sent either by mail or electronically, quoting the order number, supplier number, delivery note number and order data as well as order numbers, item numbers, the calculated quantities and individual prices, as well as quoting the name of the ordering employee separately from the delivery of goods according to the Agreement.

(4) The agreed price is due for payment within 30 calendar days from complete delivery and performance including any agreed acceptance as well as receipt of a proper invoice.

(5) If we make a payment within 14 days from receipt of the invoice, the Supplier shall grant us a 3% discount on the net amount of the invoice.

(6) In the case of a bank transfer, the payment is considered on time if our transfer order is received by our bank on time before the end of the payment deadline so that the transfer is received on time by the creditor in the normal course of business. We are not responsible for delays by the banks involved in the payment process.

(7) Offsetting rights and rights of retention as well as the defense of the unfulfilled agreement are due to us to the extent permitted by law. We are entitled in particular to withhold due payments as long as claims against the Suppliers from incomplete or defective services are still due to us.

(8) A right of retention as well as the right to offset are only due to the Supplier as a result of legally established or undisputed counterclaims. The assignment of claims against us requires our written consent. Section 354a HGB (Commercial Code) shall remain unaffected by this. We are entitled to assign rights from this Agreement to third parties.

### **§ 4 Performance, Delivery, Transfer of Risk, Default of Acceptance**

(1) Without our written consent, the Supplier is not entitled to have the service owed by the Supplier provided by third parties (e.g. by subcontractors) in whole or in part, or to change the production site. If we grant consent, the Supplier remains responsible for fulfilment of the Agreement. The Seller shall bear the procurement risk for its services unless otherwise agreed in the individual case (e.g. limit of stock).

(2) In the event of partial performance or early performance, we reserve the right to refuse acceptance and to return the goods at the cost of the Supplier or only to pay on the due date agreed.

(3) A delivery note is to be attached to the delivery stating the supplier number, order number, order and delivery date, contents of the delivery (item numbers and quantity). If there is no delivery note or if it is incomplete, we are not responsible for resulting delays in processing or payment. A corresponding shipping notice is to be sent to us separately from the delivery note with the same content.

(4) Furthermore, as a component of the service owed, the agreed documentation and the statutorily prescribed documentation in the agreed language is to be attached, particularly licenses, test certificates, certificates of conformity, DIN or EN safety data sheets, operating and maintenance instructions, spare parts lists, user handbooks as well as the documents required under the provisions for foreign trade.

(5) In the event of drop shipment deliveries by the Supplier directly to our customers, at our request the Supplier shall use shipping documents that do not identify the Supplier or identify aluplast as the supplier to the customer. aluplast shall provide the Supplier with templates for aluplast delivery notes if needed. The Supplier is obliged to store the shipping documents in accordance with the statutory provisions and to surrender them to us immediately at our request.

(6) Unless otherwise agreed in writing, the service must occur at the location specified in the order, DAP specified destination in accordance with ICC Incoterms® 2020 ("DAP (delivery at place) to delivery address in accordance with ICC Incoterms® 2020"). If the destination is not specified and unless otherwise agreed, delivery must occur to our registered office in Karlsruhe.

(7) The respective destination is also the place of performance for the delivery and any supplementary performance (debt payable to the creditor).

(8) The risk of accidental loss and accidental deterioration of the item shall transfer to us upon handover at the place of performance. If an acceptance procedure is agreed, this shall be decisive for the transfer of risk. Otherwise, the statutory provisions of the law on contracts for work and services shall apply accordingly for an acceptance procedure. The same applies to the handover or acceptance procedure if we are in default of acceptance.

(9) In our operations and at our work premises, the Supplier is obliged to monitor employees and other third parties used and to maintain compliance with the special statutory, official and company provisions applicable for such operations, particularly with regard to occupational safety and proper notification of the persons appointed by the Supplier.

(10) The statutory provisions shall apply in the event of default of acceptance on our part. However, the Supplier must also expressly offer its service to us if a specified or specifiable calendar time is agreed for an action or participation on our part (e.g. provision of material). If we fall into default of acceptance, the seller can request compensation for its additional expenses in accordance with the statutory provisions (Section 304 BGB). If the Agreement pertains to an unreasonable item to be produced by the Supplier (customized production), additional rights are only due to the Supplier if we have committed to participation and are responsible for the participation not occurring. In the absence of documents, data, provisions etc. to be delivered by us, the Supplier can only appeal if it has sent a reminder about this in text form at least and has not received them within a reasonable period.

(11) Force majeure, strikes or other circumstances for which the Supplier is not responsible, which make it impossible for the Supplier to fulfil the Agreement in whole or in part within the agreed performance period, shall entitle us to withdraw from the Agreement in whole or in part or to defer its implementation without claims resulting for the Supplier against us.

## **§ 5 Delivery Time and Delay in Delivery**

(1) Timely and acceptable performance is an essential contractual duty. The performance period specified in our order is binding. It shall begin on receipt of the order by the Supplier. If the performance period is not specified in the order and is not otherwise agreed, it must occur immediately after conclusion of the Agreement. Receipt of the service at the place of receipt indicated by us shall be decisive for compliance with the performance period and deadline. The

Supplier shall be in default after expiry of the performance period without the necessity of a reminder. The Supplier is obliged to inform us in writing immediately if it is likely that it will not be able to comply with the agreed delivery times for whatever reason.

(2) Reservation of self-delivery by the Supplier is excluded.

(3) Timely service assumes the handover of complete documentation. Concerning the details, reference is made to paragraph 4 section 4 of the Terms and Conditions.

(4) If the Supplier does not perform its service or does not perform the service within the agreed delivery time and thereby is in default, our rights - particularly the right to withdrawal and compensation - shall be determined according to the statutory provisions. We are entitled to perform any service not yet rendered ourselves or to have it performed by a third party at the Supplier's expense after unsuccessful expiry of an appropriate grace period. We reserve the right to charge the Supplier for all damages and costs that occur as a result of delayed service (in particular: loss of production by us and/or our customers, contractual penalties etc.). The regulations in section (5) remain unaffected. The acceptance of a delayed service by us shall not imply waiver of claims for compensation.

(5) If the Supplier is in default, we can request a lump-sum compensation for the damage incurred by us due to the delay in the amount of 0.5% of the net price per completed calendar week in addition to additional statutory claims, but not more than 5% in total of the net price of the delayed delivery. We reserve the right to prove that greater damage occurred. The Supplier reserves the right to prove that no damage at all or significantly less damage occurred.

## **§ 6 Liability for Defects**

(1) The statutory provisions, unless otherwise specified below, shall apply for our rights in the case of material defects and defects of title of the Goods (including wrong delivery and shortfall in delivery as well as improper installation, operating or instruction manual) and in the case of other breaches of duty by the Supplier.

(2) In accordance with the statutory provisions, the Supplier is liable in particular for ensuring that, on transfer of risk to us, the Goods have the agreed quality in absolute consistency with the specimens, samples and descriptions provided by the Supplier. Those product descriptions that are the subject matter of the respective agreement, particularly through indication or reference in our order, or that were included in the Agreement in the same way as these Terms and Conditions shall be considered the agreement with regard to quality in any case. It makes no difference whether the product description originates from us, from the Supplier or from the manufacturer.

(3) The Supplier guarantees that the service corresponds in design and production to the recognized state of the art (DIN or EN standards, certifications and quality standards) and the production rules at the operation sites known to it. Relevant safety and environmental law standards are to be observed invariably.

(4) The Supplier is also liable for the environmental sustainability of the service and of the packaging materials as well as for compliance with the statutory waste disposal obligations.

(5) On request, the Supplier shall prove, free of charge, compliance with the provisions mentioned previously under (3) and (4); quality certificates and safety data sheets are to be submitted in particular. If a deviation from these provisions and regulations is required in an individual case, this requires our prior consent.

(6) The Supplier guarantees that it shall fulfil its duties in accordance with the REACH Regulation. It is also liable for compliance with the standards for import and export and the customs regulations as well as the export control provisions of the USA. It shall inform us in advance in writing at least if deliveries are subject to export restrictions in whole or in part. The Supplier also undertakes to inform us with legally binding effect about any permit requirements under German, European or US American export and customs provisions, as well as the export and customs provisions of the country of origin, for (re-)exporting its goods. For this purpose, the Supplier shall hand over the required documents and information to us.

(7) On request, the Supplier shall indicate to us a contact person in its company to clarify any queries on technical details and questions of export control.

(8) The statutory provisions (Sections 377, 381 ff. HGB) shall apply for the commercial duties of inspection and notification of defects with the following stipulation: Our duty of inspection is limited to defects that become evident during our incoming goods inspection by an external examination including of the delivery papers as well as during our quality control in sample checks (e.g. transport damage, wrong delivery and shortfall in delivery). Otherwise, it depends to what extent an inspection is feasible in the ordinary course of business, taking into account the individual circumstances.

(9) Our duty of notification of defects remains unaffected for defects discovered later. Contrary to Section 442 paragraph 1 clause 2 BGB, claims for defects are also due to us without restriction if the defect remains unknown to us at conclusion of the Agreement as a result of gross negligence.

(10) If an acceptance procedure is agreed, there shall be no duty of inspection.

(11) Payment does not imply acknowledgment of the service as per the Agreement and is not a waiver of warranty claims. The same applies for the acceptance or approval of documents submitted (drawing, drafts, models, samples, specimens, including interim service etc.). The statutory warranty claims shall be due to us without restriction at our discretion. Moreover, we shall have claim to compensation and reimbursement of expenses in accordance with the statutory provisions.

(12) Supplementary performance includes removal of the defective goods and re-installation if the Goods were installed in another item according to their type and purpose or another item was brought, as well as all other necessary expenses (particularly removal and installation costs, transport, work materials, costs of expert reports). Our statutory claim to reimbursement of relevant expenses remains unaffected. The seller shall also bear the expenses necessary for the purposes of inspection and supplementary performance if it appears that there is in fact no defect. Our liability for damages in the event of an unjustified request for rectification of a defect shall remain unaffected, but we shall be liable only if we realized, or failed to realize due to gross negligence, that there was in fact no defect.

(13) Regardless of our statutory rights and these regulations, the following shall apply: If the Seller does not fulfil its obligation to supplementary performance by eliminating the defect (rectification) or by supplying a non-defective item (replacement delivery) at our discretion within a reasonable period as specified by us, we may remedy the defect ourselves and request reimbursement from the Supplier for the expenses incurred or an appropriate advance payment. If the supplementary performance by the seller fails or is unreasonable for us (e.g. due to special urgency, danger to industrial safety or the threat of excessive losses), we do not have to set a deadline for remedy; in such a case, however, we shall inform the seller without delay, if possible in advance.

(14) Otherwise, in the event of a material defect or defect of title, we are entitled to reduction of the purchase price or to withdraw from the Agreement in accordance with the statutory provisions. Moreover, we shall have claim to compensation and reimbursement of expenses in accordance with the statutory provisions.

## **§ 7 Supplier Recourse**

(1) Our statutorily determined recourse claims within the supply chain (supplier recourse in accordance with Sections 445a, 445b, 478 BGB) shall be due to us without restriction in addition to the claims for defects. We are particularly entitled to request from the Supplier precisely the type of supplementary performance (rectification or replacement delivery) that we owe our customer in the individual case. Our statutory right to choose (Section 439 paragraph 1 BGB) is not restricted by this.

(2) Before we accept or fulfil a claim for defects asserted by our customer (including reimbursement of expenses in accordance with Section 445a paragraph 1, 439 paragraphs 2 and 3 BGB), we shall notify the Supplier, giving a brief account of the facts, and request a written comment. If a substantiated comment is not given within a reasonable period and if no mutual solution is brought about, the claim for defects actually granted by us shall be considered owed to our customer. In this case, the Supplier shall be required to provide counterevidence.

(3) Our claims from supplier recourse shall also apply if the defective goods were processed by us or another contractor, e.g. by installation in another product.

## **§ 8 Producer Liability**

(1) If the Supplier is responsible for product-related damage, it shall hold us free in this respect from any third-party claims on first request if the cause lay within the Supplier's sphere and organizational area and it is liable itself in relation to third parties.

(2) Within the scope of its indemnity obligation, the Supplier must, in accordance with Sections 683, 670 BGB, reimburse expenses that are incurred from or in connection with a third-party claim, including product recalls carried out by us. We shall inform the Supplier – to a reasonable and feasible extent – about the content and scope of any product recalls and shall provide it with the opportunity to comment. Further statutory claims remain unaffected.

(3) The Supplier must conclude and maintain product liability insurance with lump-sum coverage of at least 10 million euros per personal injury/material damage.

## **§ 9 Limitation**

(1) The mutual claims of the contracting parties shall come under the statute of limitations in accordance with the statutory provisions, unless otherwise stipulated hereinafter.

(2) Contrary to Section 438 paragraph 1 no. 3 BGB, the general statute of limitations for claims for defects shall be three years from transfer of risk unless longer statutory limitation periods apply, particularly in accordance with Section 438 paragraph 1 no. 2 (buildings and items used for buildings) and Section 634a paragraph 1 no. 2 (building defects) BGB. If an acceptance procedure is agreed, the statute of limitations shall begin with the acceptance procedure. The three-year statute of limitations shall apply accordingly for claims from defects of title where the statutory limitation period regarding third-party claims in rem for the restitution of property (Section 438 paragraph 1 no. 1 BGB) shall remain unaffected; claims from defects of title shall moreover not lapse in any circumstances so long as third parties can still assert the right against us, particularly in the absence of a limitation period.

(3) The limitation periods for the purchasing right, including the preceding extension, shall apply to the extent permitted by law for all contractual claims for defects. If extra-contractual claims for damages are also due to us on account of a defect, the regular statutory limitation period shall apply for this (Sections 195, 199 BGB), if the application of the limitation periods for the purchasing right does not lead to a longer limitation period in the individual case.

## **§ 10 Property Rights**

(1) The transfer of the delivery to us must occur unconditionally and regardless of payment. However, if we accept an offer of the Supplier for transfer conditional on payment of the purchase price in the individual case, the Supplier's right of retention shall lapse at the latest upon payment of the purchase price for the Goods delivered. In the proper course of business, we shall remain authorized to resell the goods by advance assignment of the resulting claim even before payment of the purchase price (alternatively, application of simple retention of title extended to resale). In any case, all other forms of retention of title are excluded, particularly extended and forwarded right of retention and that extended to further processing.

(2) Processing, mixing or connecting items provided shall be carried out for us by the Supplier. The same applies for further processing of the Goods delivered by us, so that we shall be considered the manufacturer and shall acquire ownership of the item at the latest upon further processing in accordance with the statutory provisions. If the processing or mixing occurs in such a way that the Supplier's item is to be considered the principal object, it is considered agreed that the Supplier shall transfer to us co-ownership proportionately; the Supplier shall maintain sole ownership or co-ownership for us.

## **§ 11 Secrecy/Data Protection**

(1) The Supplier shall maintain strict confidence about all confidential information that becomes known to it during the collaboration, and shall only use it for evaluation of tenders or contract performance. "Confidential information" in this case is economically, legally, tax-related or technically sensitive or beneficial information of the principal that becomes known to the agent. All information that is clearly identified as confidential or statutorily protected in any way or whose confidential or sensitive content is obvious is considered "confidential". This includes in particular commercial business information such as prices, sales and customer base, as well as confidential know-how and other business secrets, such as production processes and procedures, formulae, specifications, technical drawings and samples. The term "confidential information" includes in particular stored data or data assigned for the purposes of further processing on the systems of the agent, as well as any other visual material such as documents, papers and photographs, but also written documents and verbal communications.

(2) Confidential information may only be made accessible to third parties with express written consent. Third parties are to be referred to our right of ownership and copyright, and obligated to secrecy. The secrecy obligation shall also continue to apply after the end of the Agreement. The secrecy obligation shall only lapse if and to the extent that the knowledge contained in the documents surrendered has become public knowledge. "Public information" is that which was already verifiably available to the agent or its bodies, employees and authorized representatives (hereinafter "Representatives") before its disclosure on the occasion of the collaboration of the parties, or which became known to the public during the period of validity of this Agreement through no fault of the agent.

(3) After the end of the Agreement or if no agreement is concluded, all documents, including copies, are to be returned to us immediately, or destroyed and stored data deleted, provided that there is no statutory retention obligation. In this case, destruction or deletion shall take place after the end of the retention period. The Supplier has no right of retention to these documents or data. The Supplier must treat the conclusion of the Agreement with us as confidential. Reference may not be made to the business relationship with us, particularly for advertising purposes, without prior written consent.

(4) The processing of personal data that the Supplier passes on to us about employees engaged by it (e.g. name, position and email address of employees) for the purpose of executing an order shall take place in compliance with the relevant provisions under data protection law and shall only be used for our own business; personal data shall not be made available or forwarded to third parties. Details are regulated in the separate document, "Privacy Statement".

(5) In the case of disclosure of the personal data of its employees to us, the Supplier is obliged to inform the employees concerned in good time in accordance with Article 14 GDPR (EU) No. 2016/679 about the data processing by us, which is described in the preceding section 4; we shall refrain from informing the employee concerned.

## **§ 12 Industrial Property Rights / Supplies / Tools**

(1) We reserve our right of ownership and copyright to plans, images, drawings, calculations and other documents and data. These documents and data are to be used exclusively for contractual service provision and returned to us after completion of the Agreement. We reserve the rights of ownership and/or copyrights to technical and commercial documents, substances and materials, particularly construction plans, data sheets, calculations, instructions, sketches and samples, and

software (including source code) produced according to our specifications. They are to be used exclusively for the contractual service and returned to us after completion of an order. They are not to be made available to third parties without our prior written consent. Commercial use for the benefit of third parties is excluded.

(2) All production materials, tools, templates, installation equipment, substances and materials (e.g. software, finished products and semi-finished products), machines, pallets, resources or transportation shall remain in our ownership with the understanding that we are considered the manufacturer and property rights owner. Their use is only permitted for execution of a commissioned order and may not be used for service to third parties without our consent. They are to be kept separate for us, by specifically identifying them and are to be insured appropriately against destruction and loss. The Supplier hereby assigns to us all rights to compensation from this insurance; we hereby accept this assignment. In the event of non-return, we reserve the right to charge these to the Supplier at the replacement value and, if necessary, to offset with outstanding debts.

(3) The Supplier is obliged to carry out in good time any required maintenance and inspection work on our tools, as well as all servicing and repair works at its own cost. It must inform us immediately of any accidents; if it fails to do so culpably, claims for damages shall remain unaffected. In the event of a depreciation in value or loss, the Supplier is to effect a replacement.

### **§ 13 Choice of Law, Place of Jurisdiction, Other**

(1) The law of the Federal Republic of Germany shall apply for these Terms and Conditions and for the contractual relationship between us and the Supplier, to the exclusion of international uniform law, particularly the UN Convention on Contracts for the International Sale of Goods (CISG).

(2) The place of jurisdiction (including international place of jurisdiction) for all disputes arising from the contractual relationship is our registered office in Karlsruhe. However, we are also entitled in all cases to bring an action at the place of performance of the delivery obligation under these Terms and Conditions or at the general place of jurisdiction of the Supplier. Overriding statutory provisions, particularly on exclusive responsibilities, remain unaffected.

Karlsruhe, January 1, 2020