

## General Terms of Sale (GTS) of Texplast GmbH

### 1. General

1.1 These General Terms of Sale alone shall apply in contracts with businesses within the meaning of Section 14 of the German Civil Code [BGB], that is, with natural persons or legal entities or partnerships having legal capacity, which are exercising their commercial or independent professional work when dealing with us in business transactions. If a written or written form is required, compliance with the text form according to § 126b BGB is sufficient.

1.2 We shall only accept deliveries and orders of all types in accordance with these terms of sale which shall be agreed when entering into a contract for all future business relationships as well without further reference having to be made to them. Terms of business shall not become an integral part of the contract, even if we are aware of them, unless we have specifically agreed to them. In addition to this, when the corresponding clauses are used in these General Terms of Sale or contractual agreements with us – not only for international, but national contracts too - INCOTERMS 2020 of the International Chamber of Commerce in Paris shall apply.

1.3 All agreements including side agreements concerning the content of the contract and its execution, in particular guarantees, or promises of all types, are, unless subsequent amendments could be considered, only valid if they have been entered in the contract in writing. Payment reminders, time limits set and other statements made to us shall only be valid if they have been made in writing.

### 2. Conclusion of contract

2.1 Our offers are, as a matter of principle, subject to change without notice and non-binding. Cost estimates, drawings, specifications and other documents belonging to our offer serve only for the Buyer's guidance and are not to be regarded as an agreement of features or the furnishing of a legal warranty with regard to the goods or service described. We shall reserve full title rights as well as the rights of sale to the copyright. Third parties may only be allowed access to the documents after we have granted our prior written consent thereto. Documents are to be returned to us straightaway at our request if an order is not placed. An order placed by the Buyer shall be regarded as a binding offer to enter into a contract to which the Buyer shall be tied for two weeks after we have received it, unless the order states otherwise.

2.2 A contract shall only materialise with our written order confirmation showing the scope and content of the order. Verbal statements made by our representatives and agents shall only be valid if they have been confirmed in writing.

### 3. Prices

3.1 Prices shall be in Euro ex works Texplast GmbH in Bitterfeld-Wolfen, and to be more precise, in contracts with outer parties based in Germany the terms of delivery shall be EXW (ex works) from the place of delivery at the works at Texplast GmbH in Bitterfeld-Wolfen in accordance with INCOTERMS 2020, in international contracts, in which the other party is based outside Germany, the terms of delivery shall be FCA (free carrier) likewise from the place of delivery at the works at Texplast GmbH in Bitterfeld-Wolfen in accordance with

INCOTERMS 2020. Insofar as a specific price has not been agreed, the price list in force on the delivery day shall apply. The agreed prices are fixed prices plus VAT as applicable.

3.2 It shall be the weights, unit quantities and volumes worked out by us in goods outward that shall count for invoicing purposes, unless the Buyer raises an objection straightaway. Minor deviations in weight arising as a result of transportation or storage shall be ignored.

3.3 If after accepting an order our right to payment appears to be at risk as a result of the Customer's poor credit rating (e.g. as a result of a significant financial collapse) we shall reserve our rights in Section 321 of the BGB.

3.4 Payments made by drafts shall not be accepted. We shall only accept cheques and assignments as a conditional payment, subject to all charges being paid by the Buyer. Our entitlement to be paid in cash shall not be affected.

#### **4. Offsetting, Right of Retention**

4.1 The Buyer may not offset or exercise retention on account of counter-claims, regardless of whatever type they are, unless the counter-claim or adverse right is not contested by us or has been adjudicated.

4.2 We shall also be entitled to offset against those claims which the Buyer has against companies associated with us (in particular, parent companies, sister companies or subsidiaries), notably Fromm Packaging GmbH and Fromm Plastics GmbH. We can also offset against claims asserted by those buyers with claims of our Group businesses, notably Fromm Packaging GmbH and Fromm Plastics GmbH. The same shall apply for retention rights.

#### **5. Time for Payment**

5.1 The purchase price the Buyer owes us or the remuneration for our other services shall be payable and is to be paid within 14 days from the presentation of invoice and delivery or acceptance of the goods, unless an agreement has been made otherwise in an individual case.

5.2 The Buyer shall find himself in default if he does not pay the purchase price within 30 days from the receipt of invoice. If the receipt of the invoice is uncertain, the Buyer shall find himself in default no later than 30 days after taking delivery of the goods (in accordance with Section 433 (2) BGB). We shall reserve the right to assert a claim for default interest and default damages.

5.3 Our right in accordance with Section 320 BGB to demand performance concurrently shall not be affected.

#### **6. Delivery, Place of fulfilment and Passing of risk**

6.1 We shall at all times endeavour to meet agreed delivery dates. Information about delivery periods shall only be binding in those cases in which this has been expressly agreed in writing. The delivery period shall begin on the day on which the order is confirmed. The delivery shall be subject to the reservation that we are supplied on time, with the correct quantity of the

correct goods by our supplier. Should dispatch have been agreed, the delivery period will have been met if the item to be supplied has left our works by the agreed delivery date.

6.2 Unless agreed otherwise, the place of fulfilment shall be our principal place of business and delivery shall be ex works from Texplast GmbH in Bitterfeld-Wolfen. Unless agreed otherwise, the terms of delivery shall be ex works. Any deliveries we agree to make shall be for the Buyer's account and risk. This shall apply regardless of the method of dispatch, even in those cases in which the cost of transportation are to be borne by us. Transport insurance shall only be taken out by us at the Buyer's written request and cost. Risk shall pass over to the Buyer when the goods are handed over to the haulier. If the Buyer finds himself in default with taking delivery of the goods, Texplast GmbH shall, after a subsequent period of time set for the Buyer has elapsed unsuccessfully, consequently be entitled to deliver the goods to the Buyer's principal place of business at his expense. In this case the risk shall pass over to the Buyer as soon as he is in default with taking delivery of the goods.

6.3 Should it become impossible to carry out the delivery as a result of unforeseen events beyond our control (e.g. epidemics, strikes, accidents, late or incorrect deliveries of the necessary raw materials), we, and the Buyer as well, shall, as we choose, be entitled to withdraw from part or all of the contract or for a delivery to be made within a reasonable period of time set by one of us. In this case, the Buyer shall not be able to assert a claim for compensation for damages or to cover his expenditure.

6.4 Insofar as we are responsible for delays in performance that have occurred, and we are in default with a delivery, the Buyer shall be entitled to the right to withdraw from the contract in accordance with statutory regulations. The right of withdrawal is to be exercised in writing. Given this, the Buyer is not entitled to assert compensation claims for damages or to cover his expenditure unless the claims concern death, personal injury or physical harm.

6.5 We shall be entitled to carry out part-deliveries within a reasonable extent.

6.6 Deliveries reported as being ready for dispatch are to be called off and collected by the Buyer within 8 days. After this period of time has elapsed, we may invoice the Buyer for the costs of delivery EXW and put them into store at the Buyer's cost and risk at our own discretion.

## 7. Reservation of title

7.1 We shall reserve the title to the sold goods until all our accounts, including those from earlier contracts and accounts materialising in the future under the business relationship, including subsidiary claims, compensation claims for damages and outstanding balance claims have been fulfilled and until any drafts and cheques which may have been received have been honoured as well.

7.2 Subject to a provision in the Buyer's terms of business stating otherwise, payments shall first of all be counted towards our oldest delivery, and, in doing so, first of all towards interest owed subsidiary claims, and then towards the account itself. Following withdrawal from the contract we may demand the return of the goods, sell them in the open market in satisfaction of our account and then we shall count the net proceeds to our accounts as described above. In the event that the Buyer acts in breach of contract, we may demand that the goods are handed over to us without us having to withdraw from the contract beforehand.

7.3 The Buyer is entitled to sell on or process the goods subject to the reservation of title in the course of an ordinary commercial transaction in his own name to an end customer subject to the reservation of title, provided that he assigns to us here and now all his claims against the end customer, including the securities furnished by him to end customers, to which the Buyer is entitled on the basis of the purchase contracts to be entered into and the title to be reserved in his business relationship with the end customer, and to be more precise, regardless of whether the purchased thing is sold with, or without, having been processed. We accept the assignment. The Buyer shall continue to be entitled to collect the account even after the account has been assigned to us. Our authority to collect the account ourselves shall not be affected by this. We shall, however, undertake not to collect the account for as long as the preconditions in No 7.4 have not been satisfied.

7.4 The Buyer's authority to resell the goods subject to the reservation of title in accordance with No 7.3 above shall end with revocation, to which we are entitled, if the Buyer falls into default with his payment obligations or if there is a permanent deterioration in his financial status, at the latest, however, when he stops making his payments, or if court or out-of-court insolvency proceedings are conducted on his assets. In these cases the Buyer must, moreover, not surrender his possession of the goods and not release any securities for the benefit of end customers. In these cases he shall no longer be entitled to collect the purchase price accounts against the end customer assigned to us.

7.5 If the Buyer is in default with making his payments to us, we shall be irrevocably entitled to notify the end customer that the Buyer's accounts have been assigned to us and to collect the assigned purchase price accounts.

7.6 If goods subject to reservation of title are processed by the Buyer to become a new movable thing, the processing shall consequently take place for us, without us accruing any obligations therefrom. The new thing shall become our property. The Buyer's expectant right to the new thing shall continue. If the goods subject to reservation of title are processed, mixed or blended with goods not belonging to us, we shall acquire co-ownership to the new thing in proportion to the value of the invoiced value of our goods subject to reservation of title to the total value of the new thing. The Buyer shall keep the sole or co-ownership created in such a way in safekeeping for us for us free of charge. He shall have to insure it against the normal risks, in particular loss or damage with a normal level of cover. He shall hereby assign to us those claims on the basis of a claim made against the insurance company or other party obliged to render compensation accounts claim for the amount of our invoiced sum for the goods supplied by us.

7.7 The Buyer must not pledge or assign the goods by bill of sale as a security. The Buyer must inform us immediately in writing of levies of execution or other third party interference in the goods, be it prior to, or following, processing, mixing or blending, or in assigned accounts and pass over to us all the information we need to be able to take legal action in accordance with Section 771 of the German Code of Civil Procedure [ZPO]. Insofar as the third party is unable to refund us the court or out-of-court costs of us taking legal action in accordance with Section 771 ZPO, the Buyer shall be liable to us for the shortfall occurring.

7.8 We shall undertake, at the Buyer's request, to release securities when their value exceeds the value of the account to be secured by more than 20%. The selection of the securities to be released shall be incumbent upon us.

## 8. Defects

8.1 The Buyer shall have to inspect the goods straightaway after taking delivery of them. Identifiable defects are to be notified to us within 3 working days by means of a written statement on a complaint form sent out by us. Insofar as defects cannot be identified by means of inspection immediately after delivery has been taken of them, complaints are to be sent to us within 10 working days from discovery by means of a written statement. If defects are not notified to us within the above-named periods of time, the goods shall be regarded as having been approved. Approved goods shall not be covered by a warranty.

If our goods are unsuitable, or not fit for the Buyer's intended use, this shall not constitute a defect.

8.2 Consignments about which a complaint has been made, or consignments which have been recognised as being defective, may only be processed after a cure has been carried out. Otherwise the Buyer shall bear the additional costs incurred for the cure, if we are not in default with the cure.

8.3 Insofar as the goods are defective and the defect was notified within the period of time named in No 8.1, our warranty shall initially be limited to a cure within a period of 12 months from the delivery of the goods. We shall be entitled to make the cure owed dependent upon the Buyer paying the purchase price due. The Buyer shall, however, be entitled to retain an appropriate part of the purchase price in relation to the defect. Moreover, with regard to our warranty, the statutory regulations shall apply, unless an agreement is made otherwise below.

8.4 In addition to the defect, we are to be allowed an opportunity for the purchased thing to be inspected for the stated defect. Up until then the consignment must not be processed or treated.

8.5 If no agreement is reached as to whether there is a defect or not, or about whether a cure would incur a disproportionate expense, or whether a reduction remuneration is to be offered, and if so how much, an assessment is to be obtained from a publically appointed expert nominated by the chamber of commerce and industry responsible. The result shall also determine the extent to which the costs of the assessment are to be borne by the Buyer or by us.

8.6 We shall be liable to pay compensation for damages on account of a breach of duty, fault when entering into the contract, unlawful acts, or for other legal reasons. We shall also be liable for damages arising from death, personal injury or physical harm, intent, or negligence of an owner, legal representative or assistants of our firm. For other damages we can only be held liable in the event of intent or gross negligence on the part of those persons. For ordinary negligence we can only be held liable if we are in breach of an important contractual duty and only for damages typical for the contract and reasonably foreseeable. In addition to this, liability is limited to the value of the contract. This shall also apply for the Buyer's claims under a right of recourse based on warranty rights fulfilled by him personally. An important contractual duty is one the fulfilment of which makes it possible for the contract to be carried out properly in the first place and upon compliance with which the Buyer may normally rely. These restrictions shall not apply for statutory liability regardless of whoever is to blame.

8.7 The period of limitation for warranty claims shall be 12 months from delivery. This period of time shall not apply for the Buyer's claims under a right of recourse in accordance with Section 478 BGB.

8.8 We shall also be liable in the event that a claim is asserted under a right of recourse in accordance with Section 478 BGB only within the limits stipulated above under 8.6 for compensation for damages. The Buyer's claims under a right of recourse shall not be admitted if the Buyer is acting thus to exercise goodwill towards his buyer.

8.9 We are to be informed straightaway on the complaint form handed out by us stating the specific thing and giving a precise description of the defects (Delivery date, item no) if a claim is asserted against the Buyer by his buyer on account of the thing being defective.

## 9. Applicable Law and Place of Jurisdiction

9.1 The law of the Federal Republic of Germany alone shall apply. The UN law on sales [CISG] and the rules governing the conflict of laws of German international private law shall not apply. The place of jurisdiction is Dessau.

Bitterfeld-Wolfen, dated 01.06.2020

Texplast GmbH