

General terms and conditions of Ecoplast Kunststoffrecycling GmbH, A-8410 Wildon, effective from 1.1.2011

1. SCOPE

Only these general terms and conditions are regarded as the subject terms of contract, even if they oppose the general terms and conditions of the buyer, unless otherwise agreed upon explicitly in writing.

2. CONCLUSION OF CONTRACT

2.1 The contract shall be considered to have been entered into once the vendor, after receipt of the order, has dispatched a written confirmation of the order.

2.2 The offers of the vendor are subject to change.

3. TRANSFER OF RISK

3.1 The date of transfer of risk shall be determined in the following circumstances as follows:

- a) In the event of sales „ex works“, the risk passes from the vendor to the buyer once the goods are placed at the disposal of the buyer. The vendor is obliged to inform the buyer of the date from which the goods are to be made available to the buyer. This information must be provided with enough due time so that the buyer is able to take any of the relevant necessary precautions;
- b) In the event of sales „Frontier“ or “Destination” or in the event of sales “Carriage Paid To”, the risk passes from the vendor to the buyer from the moment the means of transportation laden with the goods is taken over by the first carrier;
- c) In the event of sales „FOB“ or “CIF” or “C&F”, the risk passes from the vendor to the buyer once the goods have effectively been transferred beyond the ship railing at the agreed-upon port of shipment;

3.2 Unless otherwise agreed upon, the goods are considered sold as „ex works“.

4. TERMS OF DELIVERY

4.1 In the absence of any deviating agreements, the period of delivery begins with the latest of the following dates:

- a) Date of order confirmation
- b) At the moment the technical, commercial and financial prerequisites to be established by the buyer are made available.
- c) Arrival of the down payment to be made by the buyer.

4.2 The vendor has the right to carry out partial and advance deliveries.

4.3 The period of delivery shall extend itself appropriately in cases of Art. 8.1, however, the vendor shall also be entitled to the right to rescind from the contract at her discretion.

4.4 Should the buyer accept the goods provided according to the contract not at the contractually agreed-upon location or not on the contractually agreed-upon date, and should the vendor not be responsible for delay by any act or failure to act, then the vendor can either demand performance or rescind from the contract by setting a deadline for acceptance. If the goods were ascertained, then the vendor can undertake the storage of the goods at the cost and risk of the buyer. The vendor is additionally entitled to demand reimbursement for all expenses incurred in the performance of the contract and which are not included in the purchase price as such.

5. PRICE

5.1 Unless otherwise agreed upon, the prices are ex works from the vendor incl. packaging.

6. PAYMENT

6.1 Payments are to be rendered according to the agreed-upon payment conditions. The purchase money is due 14 days after delivery has occurred without any deduction, unless deviating payment dates or conditions have been agreed upon in accordance with the written order confirmation from the vendor.

6.2 The buyer is under no circumstances entitled to retain or offset payment on account of purported counterclaims for whatever legal reason or warranty or other claims.

6.3 Should the buyer be in arrears of an agreed-upon payment, then the vendor reserves the right

- a) to defer her own obligations or other services until the payments in arrears are rendered,
- b) to make the entire remaining purchase price due,
- c) to apply interest from the due date in the amount of 8% above the current bank rate of the National Bank of Austria, so long as no exonerating reason within the scope of Art. 8 is present on the side of the buyer,
- d) to rescind from the contract after granting a 14-day grace period.

6.3 The delivered goods shall remain the property of the vendor until the complete payment of all claims of the vendor against the buyer is rendered. The right of ownership also covers the products which are created from the goods delivered by the vendor. The buyer is obliged to take all necessary precautions to protect the property of the vendor and to refrain from any action which could infringe upon the rights of the vendor. The vendor is to be notified immediately of property damages.

7. WARRANTY AND PRODUCT LIABILITY

7.1 The buyer is obliged to promptly inspect the delivered goods and to make known any ascertained flaws to the vendor immediately and in writing, failure to do so shall exclude any warranty and damage claims. The buyer is also especially obliged to carry out the necessary tests and to inspect the delivered goods for the agreed-upon quality and quantity features. Notices of defects are to be reported in writing. In addition, the buyer is obliged to send the vendor all necessary documents, specimens etc. for the assessment of the defects.

7.2 In the case of justifiable defects, instead of the buyer's rescission from the contract, the vendor optionally has the right to deliver the buyer similar or comparable goods as replacement for the flawed goods within the accepted delivery period.

7.3 The vendor is not liable for damages which result from the defectiveness of the delivered goods. The liability for consequential damages of any kind due to defects is expressly excluded, except where the damaging event is attributable to gross negligence or intent on the side of the vendor.

8. GROUNDS FOR EXONERATION

8.1 The following circumstances are considered grounds for exoneration if they occur after conclusion of the contract and stand in the way of its performance: labour disputes and all circumstances beyond the control of the parties such as fire, mobilisation, confiscation, embargo, ban on foreign currency transfers, insurgency, lack of transportation means, general shortage of supplies, production-related modifications, restrictions on energy consumption.

8.2 The consequences of these circumstances with regards to party obligations are determined in Article 4.

9. PLACE OF JURISDICTION, PERFORMANCE

9.1 The place of jurisdiction for all disputes arising directly or indirectly out of the contract or about the contract, irrespective of the amount in dispute, is the court in A-8430 Leibnitz.

9.2 The parties may also agree upon the jurisdiction of an arbitration tribunal.

9.3 Should individual points of these general terms and conditions be in violation of compelling law, then the remaining contractual provisions shall remain valid in their entirety.

9.4 The place of performance for delivery and payment is the headquarters of the vendor, even if the agreed-upon handover takes place at a different location.

9.5 The contractual relationship is subject exclusively to Austrian law.