

#### **1. General – scope of application**

- (1) Our general conditions of purchase shall apply exclusively; any terms and conditions of supplier in contrast to or deviating from our general conditions of purchase shall not be applicable, unless we have expressly approved them in writing. Our general conditions of purchase shall also be applicable if we accept supplier's delivery without reservation in full knowledge of terms and conditions of supplier in contrast to or deviating from our general conditions of purchase. The processing of the order shall be deemed to constitute acceptance of these general conditions of purchase.
- (2) All agreements between us and supplier shall be made in writing.
- (3) Any transfer of the contractual obligations supplier has to us in whole or in part to third parties shall only be permissible upon our express written consent.

#### **2. Offer – offer documents**

- (1) All our enquiries shall be subject to change without notice. Offers and quotations prepared by supplier shall be free of charge and supplier shall guarantee their accuracy. If in doubt, all enquiries made by us to potential suppliers shall only be invitations for suppliers to prepare offers.
- (2) We shall reserve the industrial property rights and copyrights to illustrations, drawings, calculations, and other documents; they may not be made available to third parties without our express written consent. They shall be used solely for manufacturing on the basis of our order and returned to us without being asked after processing the order. They shall not be disclosed to third parties; the regulation of item 10 para. (4) shall insofar apply in addition.

#### **3. Prices – terms of payment**

- (1) The price indicated in the order shall be binding. In the absence of an agreement in writing, the price shall include delivery "free to place of delivery" including packaging. A special agreement shall be made for the disposal of the packaging. Unless otherwise agreed, supplier shall be obliged to collect the packaging at the place of delivery indicated in the order and properly dispose of it at their expense.
- (2) The statutory value-added tax shall be included in the price.
- (3) We can only process invoices that provide the order number indicated in our order in accordance with the provisions in our order. Supplier shall be responsible for all consequences resulting from non-compliance with this obligation, unless they prove that they are not responsible for this non-compliance.
- (4) Invoices shall always be sent separately from the delivery of goods to the address Sonderhoff Polymer-Services Austria GmbH with registered office in Dornbirn.
- (5) Unless otherwise agreed in writing, we shall pay the purchase price within 10 days from delivery and receipt of invoice with 3% cash discount or within 30 days after receipt of invoice net. If the receipt of invoice is delayed, the date of receipt of the invoice shall apply for the start of the cash discount period.
- (6) We shall be entitled to rights of set-off and retention within the limits of the statutory regulations.

#### **4. Delivery time**

- (1) The delivery time indicated in the order shall be binding. Delivery times shall commence upon receipt of the order and shall be reconfirmed to us by prompt confirmations of order. The contract shall only become effective after the confirmation of order has been received.
- (2) Supplier shall be obliged to immediately inform us in writing if circumstances arise or if the supplier becomes aware of circumstances which lead to the fact that the stipulated delivery time cannot be complied with.

- (3) If delivery is delayed, we shall be entitled to the statutory claims. The acceptance of delayed deliveries shall not constitute any waiver of claims for compensation. We shall especially be entitled to demand damages instead of performance of and withdrawal from the contract upon expiry of a reasonable grace period. If we demand damages, supplier shall be entitled to prove that they are not responsible for the breach of duty. Irrespective of aforementioned provisions and regardless of fault, Sonderhoff Polymer-Services Austria GmbH shall be entitled in case of default to charge a contractual penalty in the amount of 0.2% of the net value of the goods of the delayed delivery per working day; however, not more than 5%. The right to assert further claims for damages shall remain unaffected.

#### **5. Transfer of risk – documents**

- (1) Unless otherwise agreed in writing, delivery shall be made free to our place of delivery. The risk shall be transferred to us upon handover of the goods.
- (2) We shall only be obliged to accept delivery during the times for acceptance of goods, namely Mon - Thu 7.30a.m. - 12.00p.m. and 1.00p.m. - 4.00p.m., and Fri 7.30a.m. - 12.00p.m.
- (3) Supplier shall be obliged to correctly indicate our order number on all shipping documents and delivery notes; if they fail to do so, we shall not be responsible for any delays in processing.

#### **6. Safety instructions - environmental impact**

- (1) Supplier shall guarantee that the goods delivered and services rendered are in compliance with the applicable statutory provisions in Austria regarding their use as well as with the current state of the art, especially the relevant provisions concerning safety of equipment and products, health and safety and accident prevention. Compliance with these provisions shall be proven to us on demand. Supplier shall be liable for all damages incurred by us from non-compliance.
- (2) Supplier shall be responsible for their employees' safety equipment.
- (3) Supplier shall be obliged to inform us if the goods delivered by them or the services rendered by them include hazardous substances in accordance with statutory provisions. In such case, supplier shall inform us about the type of hazardous substance and provide us with safety data sheets.

#### **7. Guarantee – inspections for defects – liability for defects**

- (1) Supplier shall guarantee the contractual and due quality of the order as well as its compliance with the technical specifications and their usability for our operational purposes. Supplier shall particularly guarantee the continuity of the delivered products by means of the stipulated specifications.
- (2) We shall be obliged to inspect the goods for any variations in quality and quantity within a reasonable period of time; notification of defects shall be in good time if it is received by supplier within a period of 10 working days from the receipt of goods or, in case of hidden defects, from their discovery.
- (3) We shall be entitled in full to statutory claims based on defects; we shall in each case be entitled to demand remedying of defects or delivery of new goods from supplier at our option. If supplier fails to completely and properly remedy the defects and/or damages within 14 days, purchaser shall be entitled without any further announcement to remedy the defects or damages themselves or have them remedied by third parties at supplier's expense. The right to claim damages shall expressly remain reserved.
- (4) We shall be entitled to remedy the defects ourselves at supplier's expense in case of imminent danger or particular urgency.
- (5) The limitation period shall be 36 months from transfer of risk.

#### **8. Product liability – indemnity – liability insurance cover**

- (1) If supplier is responsible for product damage, they shall be obliged to

**Sonderhoff Polymer-Services Austria GmbH**  
**General Conditions of Purchase**

Page 2/2

indemnify us from any claims for damages of third parties on our first request, provided the cause is in their area of control and organization and they are liable themselves in relationships with third parties.

- (2) In the framework of their liability for events of loss or damage in terms of the Product Liability Act, supplier shall also be obliged to reimburse any expenses incurred from or in connection with a recall made by us. We shall inform supplier about content and extent of the recall measures to be taken – to the extent possible and reasonable – and give them the opportunity to give a statement. Other statutory claims shall remain unaffected.
- (3) Supplier shall be obliged to maintain product liability insurance with an overall insured sum of 10 M per personal injury/property damage; if we are entitled to further claims for damages, they shall remain unaffected.

**9. Proprietary rights**

- (1) Supplier shall be responsible to make sure that no rights of third parties within Austria or the European Union are violated in connection with supplier's delivery.
- (2) If claims are made against us or against one of our customers by a third party for the reason stated in (1), supplier shall be obliged to indemnify us and our customer from these claims upon the first written request. We shall not be entitled to enter into any agreements or to effect a compromise with the third party without supplier's consent.
- (3) Supplier's duty to indemnify shall refer to all expenses, especially court and lawyer fees, reasonably incurred by us from or in connection with the claim made against us by a third party.
- (4) The limitation period shall be ten years from conclusion of the contract.

**10. Reservation of ownership – provision – tools – confidentiality**

- (1) If we provide supplier with parts, we shall retain the ownership of these parts. Processing or alteration by supplier shall be carried out for us. If our reserved goods are processed with other items that we do not own, we shall acquire co-ownership in the new item in proportion of the value of our item (purchase price plus VAT) to the other processed items at the time of processing.
- (2) If the item provided by us is inseparably mingled with other items that we do not own, we shall acquire co-ownership of the new item in proportion of the value of the reserved item (purchase price plus VAT) to the other mingled items at the time of mingling. If the mingling occurs in a way that supplier's item must be considered to be the main item, it shall be understood that supplier transfers co-ownership to us on a pro rata basis. Supplier shall store the wholly owned item or the co-owned item for us.
- (3) We shall reserve the ownership of tools; supplier shall be obliged to use the tools solely for the manufacturing of the goods ordered by us. Supplier shall be obliged to insure our tools at replacement value at their expense against loss and damage caused by fire, water, and theft. At the same time, supplier shall assign all claims for compensation based on this insurance to us at this time; we hereby accept the assignment. Supplier shall be obliged to promptly perform any service, inspection, maintenance or repair work required for our tools at their expense. They shall immediately inform us about any malfunctions; if they fail to do so intentionally or negligently, claims for damages shall remain unaffected.
- (4) Supplier shall be obliged to keep all illustrations, drawings, calculations, and other documents and information they receive strictly confidential. They may only be disclosed to third parties upon our express written consent. The confidentiality obligation shall continue to apply after execution of this contract; it shall expire if and when the manufacturing expertise included in the illustrations, drawings, calculations and other documents provided has become public knowledge.

**11. Place of jurisdiction – place of performance – choice of law – severability clause**

- (1) Place of performance shall be our company's registered office.
- (2) The court responsible for Feldkirch shall be solely authorised to decide on any disputes arising from or in connection with the present contract.
- (3) The contract shall be exclusively subject to the law of the Republic of Austria. The applicability of the United Nations Convention on Contracts for the International Sale of Goods shall be excluded.
- (4) Should individual provisions of these general conditions of purchase be invalid, this shall not affect the remaining provisions of these general conditions of purchase and of the contract. Any invalid provisions shall be replaced by regulations that come closest to the purpose of the invalid part and/or the intention of the parties in economic terms in a legally effective manner.

Dated: 2018-12-19