

# General Terms and Conditions of Sales and Contracts

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## **(1) Scope of Application**

(a) Our sales, deliveries and services are subject exclusively to the following General Terms and Conditions of Sale and Order (hereinafter: GCSEs). Hereinafter, hpg plastics GmbH is referred to as "hpg", and the client, buyer or ordering party is referred to as "customer".

(b) We do not recognize any terms and conditions of the customer that deviate from or contradict these General Terms and Conditions unless we have expressly agreed to their validity in writing. By accepting these General Terms and Conditions without objection, or at the latest upon receipt of the goods, the customer agrees to their exclusive validity for the respective delivery and for all subsequent transactions. Our General Terms and Conditions also apply if we execute the delivery to the customer without reservation, even if we are aware of conflicting or deviating terms and conditions of the customer.

(c) We reserve the right to amend our General Terms and Conditions from time to time. The customer declares his agreement to the exclusive application of the amended terms and conditions if he does not object to their application in writing within one week of receipt and he has been specifically informed by us of the significance of his conduct when the amended terms and conditions were announced.

## **(2) Offers, Samples, Guarantees, Conclusion of Contract**

(a) Our offers are non-binding and subject to change with regard to price, quantity, delivery period and availability, unless a specific period of validity has been agreed upon in writing. Offers can only be accepted within 30 days.

(b) The application, use, and processing of our goods are beyond our control; the suitability of our products for the intended purpose must be verified by the customer. All information in data sheets, brochures, and other advertising and informational materials is therefore only approximate, but determined to the best of our ability, and is not binding on us. It does not constitute a guarantee of quality or durability and only becomes binding contractual content if we have expressly agreed to it in writing.

(c) We reserve all proprietary and copyright rights to illustrations, drawings, calculations, and other documents. This applies in particular to written documents marked "confidential." The customer requires our express written consent before disclosing them to third parties.

(d) The characteristics of samples and specimens are only binding if this has been expressly agreed in writing. Statements regarding quality and durability are only considered guarantees if they are expressly designated as such (guarantee). The same applies to the assumption of a procurement risk.

(e) The contract is only binding for us once we have issued a written order confirmation. Oral agreements require our written confirmation.

### **(3) Prices, terms of payment**

(a) Our prices are generally ex works, plus value added tax, which will be shown separately on the invoice at the statutory rate on the date of invoicing, unless otherwise stated in the order confirmation.

(b) Unless otherwise stated in the order confirmation, our invoices are due no later than 30 days from the invoice date. Third-party bank charges are generally to be borne by the customer. Checks and bills of exchange are accepted only as conditional payment; only the final and irrevocable credit to one of our business accounts is considered a payment that discharges the debt.

(c) Our employees, agents or distributors are not authorized to accept payments on our behalf; exceptions require our written approval.

(d) Any costs/expenses incurred for unloading, clearing and other purposes shall be borne by the customer, even in the case of carriage-free delivery.

(e) We are not obliged to perform the contract as long as the customer fails to comply with his obligations under other contracts with us as agreed, in particular failing to pay due invoices and outstanding fees.

(f) The customer may only offset or withhold payment on account of claims that have been legally established, are undisputed or have been acknowledged by us in writing.

(g) If the customer defaults on agreed payment terms even after a reasonable grace period has expired, or if circumstances exist that give rise to legitimate doubts about the customer's solvency, we are entitled to make outstanding deliveries only against prepayment or to make them contingent upon the provision of adequate security. Furthermore, we are entitled to declare all claims against the customer arising from the business relationship immediately due and payable.

### **(4) Delivery**

(a) The type and scope of delivery shall be governed by our written order confirmation. hpg is entitled to make partial deliveries.

(b) Delivery dates are only approximate unless they have been expressly agreed to in writing as binding. The delivery period begins upon dispatch of our order confirmation, but not before all issues essential for the performance of the contract relating to actions to be taken by the customer have been clarified. In particular, the delivery period does not begin until we have received from the customer or their representative all information necessary for delivery, or until the customer has demonstrated that, where required, they have opened a letter of credit or made an advance payment or provided security in accordance with the contract.

(c) If the customer requests delivery at a later date than originally agreed, we may invoice the contractual service on the agreed delivery date, store the goods at the customer's expense and charge a storage fee of 2.5% of the net order value for each commenced month of storage.

(d) The delivery period shall be deemed to have been met if, before its expiry, the object of performance has left our factory or we have notified the customer of our readiness to deliver.

(e) Operational disruptions, war, strikes, lockouts, insufficient supply of materials, raw materials or energy, lack of transport, all cases of force majeure, and other similar events or causes beyond our control release us from our obligation to perform the contract for the duration and extent of such impediments. This also applies if these circumstances occur at our suppliers. We are not responsible for the aforementioned circumstances even if they occur during an existing delay. We will inform the customer in writing of the beginning and end of such impediments as soon as possible.

(f) If delivery of a total quantity in several installments is agreed upon, the customer must distribute the individual deliveries evenly over the delivery period. If 15% or more of the average monthly delivery volume is to be called off in a calendar month, this requires our prior written consent. The call-off is deemed to have taken place no later than six months after the order date, unless a different agreement has been made in writing.

(g) We determine the type of packaging and shipping.

(h) The risk of loss or damage to the goods passes to the customer no later than when the goods leave our company premises, even if we have undertaken additional services such as loading, transport, or unloading. At the customer's request, we will insure the respective shipment at their expense against theft, breakage, transport damage, fire, and water damage.

(i) The customer must immediately raise any complaints regarding transport delays, incorrect reports or transport damage with our forwarding agent and carrier and inform us of this without delay.

(j) We are not obliged to deliver to third parties at the customer's request.

#### **(5) Retention of title**

(a) We retain title to all delivered goods until the customer has fully complied with all obligations arising from the contract with us.

(b) Processing and transformation of the goods subject to retention of title (hereinafter: goods subject to retention of title) are carried out for us as the manufacturer within the meaning of Section 950 of the German Civil Code (BGB), without creating any obligation for us. The processed and transformed goods are considered goods subject to retention of title within the meaning of these terms and conditions. If the VbW (Vehicle Manufactured by Us) is processed or inseparably mixed/combined with other items not belonging to us, we acquire co-ownership of the new item in proportion to the invoice value of the VbW relative to the invoice value of the other items used at the time of processing or mixing/combining. If the VbW is combined or inseparably mixed with other items not belonging to us to form a single item, and this item is considered the principal item, the customer hereby transfers proportionate co-ownership to us to the extent that the principal item belongs to them. The customer shall hold the resulting ownership in trust for us free of charge.

(c) Until we revoke this authorization, which we may do at any time and without giving reasons, the customer is entitled to resell, process, or transform the VbW in the ordinary course of business. Resale in this sense also includes installation in land or buildings, or use for the fulfillment of other contracts. In the event of resale, the customer hereby assigns to us its claim for the purchase price against its customer arising from such resale. If the VbW is resold by the customer together with other goods not supplied by us, the assignment shall have priority and shall only apply to the value of the VbW sold as stated in our invoice. In the case of resale of items in which we have a co-ownership share pursuant to clause (5)b, the assignment shall apply to the extent of this co-ownership share. The assigned claims serve as security to the same extent as the VbW. Until we revoke this authorization, which we may do at any time and without giving reasons, the customer is entitled to collect the claim assigned to us. At our request, the customer is obligated to notify their own customers of the advance assignment to us and to provide us with the information and documents necessary to enforce the claim.

(d) The customer is not entitled to make any other dispositions of the VbW (pledging, transfer of ownership as security) or other assignments of the claims referred to in clause (5)(c). In the event of attachment or seizure of the VbW, the customer must indicate our ownership and inform us immediately.

(e) The customer is obligated to adequately mark the VbW (Virtual Protective Equipment), to insure it appropriately at their own expense against all usual risks, in particular against fire, burglary, and water damage, to handle it with care, and to store it properly. The customer hereby assigns to hpg the corresponding claims for reimbursement in the amount of the respective outstanding invoice, and hpg accepts this assignment. The customer must inform us immediately of the loss, damage, or destruction of the VbW and provide us immediately with all information that we require to assert our rights against third parties.

(f) If the customer is in default of payment of at least two installments of the purchase price, we are entitled to take back the VbW after the unsuccessful expiry of a grace period set by us, even if we have not withdrawn from the contract.

(g) The assertion of our rights of retention of title shall not be deemed a withdrawal from the contract.

## **(6) Claims for defects**

(a) The customer's warranty claims are conditional upon the customer having properly complied with their statutory obligations to inspect and report defects. In the case of obvious defects or incompleteness of the goods, complaints must be reported to us in writing within two weeks of the delivery's arrival at the destination, specifying the defect precisely and including the order or invoice number. At our request, the customer must return to us all documents, samples, and/or the defective goods relating to the delivery. The customer's claims due to defects or incompleteness of the delivery are excluded if they fail to comply with this obligation.

(b) If the goods are defective, we may, at our discretion, remedy the defects or provide a replacement free of defects. Only if this repeatedly fails or is unreasonable, and the defects are not merely insignificant, is the customer entitled to withdraw from the contract or reduce the purchase price in accordance with statutory provisions. A limitation period of 3 months from delivery or completion applies to any replacement deliveries and remedial work, but this period runs at least until the expiry of the limitation period for claims relating to defects in our original performance (see clause (6)(i)). We do not assume any costs associated with removal/installation and other expenses (in particular transport, travel, labor, and material costs) if these arise because the customer resold, processed, or installed the goods despite the defects being apparent.

(c) The customer must inform us immediately of any defect notification from their customer regarding our delivered goods. If the customer fails to comply with this obligation, they have no claims for defects against us, including no claim for reimbursement of expenses pursuant to Section 478 of the German Civil Code (BGB). The customer must also secure evidence in a suitable form and, upon request, give us the opportunity to inspect the goods.

(d) Any advertising statements made by the customer in his advertising materials or to his customers that have not been authorized by us in advance shall not give rise to any claims for defects against us.

(e) Claims for defects do not exist in the case of only minor deviations from the agreed quality and/or in the case of only minor impairment of usability. We are not liable for the suitability of the goods for the purposes intended by the customer, unless the intended purpose is part of the written contract.

(f) We are liable under the Product Liability Act, in cases of express assumption of a guarantee or a procurement risk, and for intentional or grossly negligent breaches of duty. We are also liable for intentional or negligent injury to life, body, or health. For property damage and financial losses caused by slight negligence, we are only liable in the event of a breach of such obligations, the fulfillment of which is essential for the proper performance of the contract and on which the customer may particularly rely ("essential contractual obligations"). In all cases, this liability is limited to damages foreseeable at the time of conclusion of the contract and typical for the contract and the use of the goods. Liability beyond the statutory scope is not agreed upon.

(g) Claims for compensation for damages of any kind resulting from improper handling, modification, assembly and/or operation of the delivered goods, or from faulty advice or instruction provided by the customer, are excluded, unless we are responsible for them. Claims for compensation for damages are generally excluded if recognized practices for testing the suitability of the goods for their intended purpose (e.g., for leak testing of pipes, in particular a pressure test for underfloor heating installations according to DIN EN 1264-4) have not been correctly carried out and documented. Furthermore, the customer bears full responsibility for the use of any design, trademark, or trade name appearing on the goods at their request.

(h) If the customer is entitled to claim damages in lieu of performance or to withdraw from the contract, he must, at our request and within a reasonable period, declare whether and how he will exercise these rights. If he fails to declare in due time or insists on performance, he is only entitled to exercise these rights after a further reasonable grace period has expired without result.

(i) Claims based on defects become time-barred 12 months after the transfer of risk. The same applies to defects of title. In cases of intentional breach of duty, claims arising from tort, the absence of warranted characteristics, the assumption of procurement risks, and personal injury, the statutory limitation periods apply. If the performance is intended for a building and has caused its defectiveness, the limitation period for claims based on defects is 5 years.

(j) If the customer incurs damages due to a delay for which we are responsible, he may claim a maximum of 0.5% for each full week of delay, but not exceeding a total of 5% of the invoice price of that part of the service which cannot be used in a timely manner or in accordance with the contract as a result of the delay.

(k) Any further liability for damages beyond that provided for in the preceding paragraphs is excluded, irrespective of the legal nature of the claim, unless mandatory law provides otherwise.

(l) The foregoing limitations of liability shall also apply in principle and amount in favor of our legal representatives, employees and other agents and/or vicarious agents.

#### **(7) Safety regulations**

(a) Unless otherwise agreed in individual cases, the customer is responsible for complying with statutory and regulatory provisions as well as recognized practices regarding the import, transport, storage, handling, use, installation and disposal of the goods.

(b) The customer is obligated to familiarize themselves with all product information provided by us, to give their employees, contractors, agencies and customers sufficient instructions on how to handle the goods, and to take appropriate measures to prevent harmful environmental impacts and other dangers to persons or property caused by our goods. The customer is liable to us for all damages resulting from their failure to comply with the safety regulations and shall indemnify us against any corresponding claims by third parties.

#### **(8) Transfer of rights, protected trademarks**

(a) The transfer of the Customer's rights arising from the contractual relationship is only permitted with our prior written consent.

(b) The customer may only use our protected trademarks in its advertising with our prior consent, according to our specifications, in the original design, and only for unaltered original goods. Our consent may be revoked at any time. The customer bears sole responsibility for the design of its advertising.

#### **(9) Confidentiality, Penalty Clause, Data Protection**

(a) The customer shall treat as strictly confidential all business and trade secrets disclosed to him within the scope of the contractual relationship, in particular the prices agreed with him. He shall only disclose them to third parties with our prior written consent. The customer shall instruct his employees of this confidentiality obligation. For each instance of a breach of this clause, the customer shall pay a contractual penalty of €10,000 per instance.

(b) We are entitled to process, store, or transfer data obtained in connection with the business relationship in compliance with legal requirements, insofar as this is necessary for the purpose of the contract or to protect our legitimate interests, and there is no reason to assume that an overriding, legitimate interest of the customer prohibits this. In this context, we may transfer the customer's personal data to companies affiliated with us as well as to third parties located in Germany and abroad who provide services for us. Some countries may have less stringent data protection regulations for personal data. We enter into appropriate contractual agreements with third parties, which oblige them to comply with data protection requirements, insofar as this is necessary.

**(10) Choice of law, jurisdiction, final provisions**

(a) The formal and substantive law of the Federal Republic of Germany shall apply without exception; the application of the UN Convention on Contracts for the International Sale of Goods of 11 April 1980 is excluded.

(b) For all disputes arising from the contractual relationship, if the customer is a merchant, a legal entity under public law, or a special fund under public law, or if the customer has no general place of jurisdiction in Germany, Ratingen is agreed as the place of jurisdiction. However, we are also entitled to bring legal action against the customer at their general place of jurisdiction.

(c) Should individual provisions of these General Terms and Conditions be invalid, the validity of the remaining provisions shall not be affected. The invalid provision shall be replaced by a valid provision that most closely approximates the economic purpose pursued by hpg.

(d) This aVAb repeals and replaces all previously applicable aVAb.