

## **Terms and Conditions of Delivery and Payment for Minger Kunststofftechnik AG Appenzell**

The terms and conditions below apply for all our deliveries and services. Any conflicting business conditions shall only be deemed as agreed if their validity has been confirmed by us in writing. Our conditions shall be considered as accepted at the latest with the unconditional acceptance of our delivery.

### **1. Conclusion of Contract**

- a) The purchasing contract shall not come into effect until we have confirmed the order in writing. The applicable date for the conclusion of the contract is the date of the order confirmation. Our invoice shall also be deemed as order confirmation, whereby the invoice date shall replace the date of order confirmation.
- b) Should the Buyer withdraw from the contract and is responsible for this withdrawal, we shall be entitled to charge compensation to the amount of 20% of the order value as flat-rate damages, in addition to the statutory sales tax if applicable. Should we prove that the damage is greater or the Buyer proves that it is lesser, the flat-rate compensation fee shall be replaced by the actually incurred damage.

### **2. Our Offers and Prices**

- a) Our offers are subject to change and non-binding, unless otherwise expressly agreed in writing on a case-by-case basis.
- b) Our prices are fundamentally ex works and exclude the statutory sales tax. The Buyer shall be responsible for unloading delivered goods, even if these have been delivered carriage paid.
- c) We shall be bound to contractually agreed prices and conditions for three months from the conclusion of the contract. Should the delivery not take place until after three months following conclusion of the contract, we shall reserve the right to raise prices accordingly in the event that our purchase prices increase or the production or sales becomes more expensive due to circumstances beyond our control.

### **3. Delivery, Acceptance**

- a) Delivery periods shall only be binding for us if we have confirmed these in writing. The delivery period shall begin with the date of the order confirmation. If the Buyer is required to make an advance deposit, the delivery period shall not begin until we have received the payment.
- b) The delivery period shall be deemed met by us if readiness for dispatch has been notified or the transport order has been issued by its expiry. Unless the Buyer has stipulated a particular method of delivery, we shall choose the method of delivery at our own discretion, without responsibility for the cheapest or fastest route.
- c) Force majeure, riots, strikes, lockouts, sovereign measures and unintentional major operational disruptions with us or our suppliers shall release the affected party from the delivery obligation for the duration of the disruption and to the extent of their effects. If we are unable to perform delivery for longer than one month in these cases, we shall reserve the right to withdraw entirely or partially from the contract without the Buyer having the right to claim compensation.

- d) If we have agreed with the Buyer in writing that we shall only deliver the goods at their request, the Buyer must request all goods within 3 months after conclusion of contract. After expiry of 3 months and the written request, we shall be entitled to deliver and charge the Buyer for the goods stored with us.
- e) If the delivery is delayed for reasons within the Buyer's area of responsibility, we can set the Buyer a deadline of one week in default of acceptance. Afterwards, without prejudice of other claims, we can charge the Buyer for the costs accrued from storage; if stored in our own premises, this shall be at least 1% of the invoice amount for every commenced month. Should we prove that storage costs are greater or the Buyer proves that these are lesser, these shall be replaced by the actually accrued storage costs. After expiry of an initial deadline of two weeks set by us, we can withdraw from the contract and make other arrangements for the goods.
- f) Partial deliveries shall be permitted at any time; partial acceptance shall only be permitted per written agreement.

#### **4. Payment**

- a) Payment shall be made within 10 days from the invoice date or within 30 days without deduction, unless any other written agreements exist.
- b) In the event that the payment date mentioned under a) is exceeded, the Buyer shall automatically be in default, without further reminder. They shall be obligated to pay default interest of 9% of the invoice amount from the point of delay. Any discount rates shall not apply. Payment by cheque shall not be deemed valid until our account has been credited with the cheque amount.
- c) If the Buyer is in default of a due invoice amount, all remaining, outstanding invoices for the Buyer shall be immediately due for payment, even if the term of payment has not yet expired for these. If we become aware of an unfavourable financial situation on the part of the Buyer before or after delivery, we shall be entitled to demand immediate payment of all outstanding invoices or corresponding security.
- d) The Buyer may only offset counter-claims that are undisputed by us or which have been legally established. This also applies for refusal of service – and rights of retention.
- e) Any discounts we grant shall only apply if the Buyer adheres to the terms of payment that we have set. Otherwise, we shall be entitled to reclaim discounts and to pursue the claim in its full amount.

#### **5. Retention of Ownership**

- a) We shall retain ownership of all delivered goods; this shall also apply in the case of resale of goods.
- b) In the processing of our goods by the Buyer, we shall be considered the manufacturer and acquire ownership of the goods produced. If our goods are processed together with other materials, we shall acquire co-ownership in proportion to the invoice value of our goods to that of the other materials. If, in the case of joining or mixing our goods with materials from the Buyer, this is to be viewed as the main item, the co-ownership of the item shall be transferred to us in proportion to the calculated value of our goods to the invoice or market value of the main item. In these cases, the Buyer shall be regarded as custodian on our behalf.

- c) The Buyer shall be entitled to sell the goods subject to the retention of ownership in the course of normal business transactions as long as they fulfil their obligations to us in a timely manner. In the event that our goods or goods for which we have co-ownership rights are resold, the Buyer shall cede all claims arising from the resale to us already with our order confirmation. The Buyer shall be entitled to incorporate the claim as long as they fulfil their payment obligations to us. The entitlement to resale can be revoked by us without notice for good cause, especially in the case of defaults on payment by the Buyer or with justified doubt in their credibility. In this case, the Buyer shall name the third-party advertiser to us and inform these of the cession themselves. In these cases, we shall also hold the right to notification.
- d) If the value of the securities exceeds the claims by more than 20%, we shall release the excess of the securities at the Buyer's request or other urgently authorised persons of our choice.
- e) The Buyer shall store delivered goods subject to retention of ownership and goods for which we hold co-ownership rights properly and separately from other goods for the duration of our ownership rights.

## 6. Delivery Quality

- a) The quality of our products is dependent on the raw materials available to us. We shall therefore only be responsible for changes in quality, colour differences and weight deviations if these could have been avoided under the present conditions. Minor deviations, sample deliveries or patterns can, in principle, not be rejected.
- b) No guarantee shall be given for the suitability of the goods for a specific purpose.
- c) The Buyer shall examine received goods immediately for material defects, incorrect and missing deliveries. The Buyer shall only be entitled to make a complaint regarding material defects, incorrect and missing deliveries, as far as these can be identified by reasonable inspections, in writing within 8 days after receiving the goods, but in any case before processing.
- d) We shall assume the warranty for the delivered goods under exclusion of further claims as follows:
  - I) We shall make subsequent deliveries for timely notified defects, whereby the originally agreed delivery period shall be complied with. This shall also apply for incorrect deliveries.
  - II) We shall exchange faulty goods for flawless goods, whereby we shall comply with the originally agreed delivery period. If the replacement delivery is also faulty, the Buyer shall be entitled to change or reduce the delivery.
  - III) Technical specifications relating to dimensions, weight, performance and other details, especially regarding the properties of our goods, shall only be binding within the usual tolerance range if they have been expressly assured upon conclusion of the contract. Under no circumstances shall the Buyer be exempt from their own inspection and testing duties.
  - IV) We shall not be liable for any damages occurring from the processing our goods contrary to our instructions.

- e) All warranty claims by the Buyer shall be barred by limitation six months following the transfer of risk.
- f) The risk shall be transferred to the Buyer as soon as we have transferred the goods to the transport company or the goods have left our distribution warehouse. This shall also apply if we bear the transport costs.
- g) We shall not be liable for any transport damages, but rather the transport company. We shall cede all claims that we hold against the transport company to the Buyer in advance. The Buyer shall enforce these claims in a timely manner and take out their own transport insurance.
- h) Compensation claims by the Buyer due to delays or impossibility shall be limited to the purchase price of the delayed or absent part of our delivery, unless malicious damage or gross negligence can be identified on our part. Compensation claims by the Buyer due to gross negligence on our part shall be limited to the damages that are foreseeable as a result of our infringement of duty. Any further claims by the Buyer or third persons, especially claims for damages not occurring with the delivered goods themselves, are excluded.
- i) In so far as we advise our customers on technical applications, we do so to the best of our knowledge, however, we assume no liability for this advice.

### **7. Place of Fulfilment and Court of Jurisdiction**

- a) The place of fulfilment shall be the registered office of Minger Kunststofftechnik AG.
- b) The exclusive court of jurisdiction for all present and future claims from the business relationship with fully qualified merchants including bill-based and cheque claims shall be the registered office of our company.
- c) The same court of jurisdiction shall apply if the Buyer does not have any general court of jurisdiction in the country, moves their address or usual place of residence abroad following conclusion of the contract, or their address or usual place of residence is not known at the point in time that the complaint is filed.
- d) The business relationship is exclusively subject to Swiss law and jurisdiction. Should parts of these conditions be or become ineffective, the other agreements shall still remain effective.