

**General Standard Terms and Conditions of Sale and Delivery of  
RSH POLYMERE  
GmbH**

**1. General Information**

- 1.1. These General Standard Terms and Conditions of Sale and Delivery shall apply exclusively to all, including future, deliveries, services or offers. Any deviating terms and conditions of sale on the part of the supplier or ancillary agreements shall only become effective if we have acknowledged them in writing. These General Standard Terms and Conditions of Sale and Delivery shall apply even if we provide delivery without reservation in the knowledge of deviating terms and conditions on the part of the customer.
- 1.2. These General Standard Terms and Conditions of Sale and Delivery shall apply only to entrepreneurs within the meaning of Section 14 of the German Civil Code [BGB], legal entities under public law and special funds under public law.

**2. Offers and Purchase Orders**

- 2.1. Offers shall be nonbinding. Technical modifications as well as changes in form, color or weight shall remain reserved within a reasonable scope. Proper merchandise availability shall be reserved. The agreement shall be concluded only with written confirmation of the order and – if no order confirmation has been dispatched – in any case with delivery with the contents of the invoice.
- 2.2. If the customer's purchase order is to be qualified as an offer in accordance with Section 145 of the German Civil Code [BGB], then we may accept such within two weeks after receipt.

**3. Prices, Terms of Payment**

- 3.1. Prices shall apply ex factory unless otherwise indicated in the order confirmation.
- 3.2. Prices shall also include our standard packaging, unless specified otherwise. The customer shall be responsible for any and all other additional expenses, in particular additional packaging, freight charges and transport insurance unless otherwise agreed.
- 3.3. The weights determined by us upon delivery shall be determining for invoices.
- 3.4. The legally valid value added tax is not included in the prices; it shall be shown separately on the invoice in the statutory amount on the day of invoicing.
- 3.5. Payment shall be made without deduction immediately upon receipt of the invoice unless otherwise indicated in the order confirmation. Receipt of the payment shall determine the timeliness of the payment.

- 3.6. We shall be entitled to suspend delivery or make all existing claims immediately due in the case of delay of payment as well as justified concern about a substantial degradation in assets that puts our claim at risk or inability to pay on the part of the customer. If the customer fails to satisfy our claims within an appropriate period prescribed by us, then we shall be entitled to cancel all agreements.
- 3.7. The customer shall be entitled to rights to setoff and retention only if the customer's counterclaims are the subject of declaratory judgment, undisputed or acknowledged by us. Furthermore, the customer may only exercise a right of retention insofar as the customer's counterclaim is based on the same contractual relationship.

#### **4. Delivery, Passing of Risk**

- 4.1. Dates of delivery shall be nonbinding if they are not expressly designated as "period of delivery."
- 4.2. Deliveries shall be ex factory unless otherwise agreed.
- 4.3. If the customer is in default of acceptance or culpably violates other duties to cooperate, then we shall be entitled to require replacement of any additional expenditures. Furthermore, in the case of culpable default of acceptance or culpable violation of other duties to cooperate, insofar as a violation of duty within the meaning of Section 280 Paragraph 1 of the German Civil Code [BGB] is to be seen therein, we may require replacement of the damage incurred as a result. Other claims shall remain reserved.
- 4.4. Any events of force majeure or any other hindrances to performance for which we may not be held responsible in accordance with Section 276 of the German Civil Code [BGB] shall relieve us from fulfillment of the assumed contractual obligations for the duration of these events. We shall be obliged to immediately inform the customer if such an event occurs; at the same time we shall be obliged to communicate how long such an event will presumably last. If such event permanently prevents our performance, then we or the customer may withdraw from the agreement. This shall also apply if such an event persists for more than three months. The consideration is immediately returned in this case.
- 4.5. If delivery occurs by the use of returnable PRS-pallets, the customer has to make sure that the pallets will be made available for collection by PRS in a clean and good condition. The term PRS-pallets includes all pallets identified as PRS-property, with the PRS-logo or indicated as such in the seller's invoice.
- 4.6. The packaging used for the purpose of delivering the product will only be taken back at the customer's prior request, by appointment and in accordance with the provisions of the German Packaging Act [Verpackungsgesetz].

## **5. Warranty**

- 5.1. As a rule deliveries shall be made in accordance with our standard specifications unless otherwise agreed. The customer shall be responsible for examining the suitability of the products for the respective intended purpose. We shall not be liable for any intended use deviating from our specifications and further processing as well as the existence of any possible industrial property rights to this end.
- 5.2. The customer's claims based on defects presuppose that the customer has properly complied with the customer's obligations to inspect and report in accordance with Section 377 of the German Commercial Code [HGB]. As a rule the customer shall be obliged to report obvious defects without undue delay, at the latest within five days as of receipt of the merchandise; hidden defects without undue delay, at the latest within two days as of discovery.
- 5.3. If a defect is present in the purchase item and has been reported in time, then we shall have the option of eliminating the defect or delivery of a new item free of defects. Alternatively we may assign the customer our warranty claims against our supplier insofar as these do not fall short of the rights provided for in these General Standard Terms and Conditions of Sale and Delivery. When it comes to the removal of defects we shall be responsible for all of the expenditures required in order to remove the defect, in particular transport, labour and material costs. This shall not apply to such additional expenditures that result from the fact that the purchase item has been brought to a location other than the customer's commercial address and the shipment does not correspond to its intended use. We shall have the right to refuse subsequent performance altogether if both types of subsequent performance are only possible with disproportionately high costs.
- 5.4. If subsequent performance ultimately fails or if we refuse to provide such, then the customer shall have the option of rescission or requiring a reduction. No right of rescission shall be obtained in the case of only slight defects.
- 5.5. The period of limitation for claims based on defects shall amount to one year as of delivery. However, this shall not apply in the cases of Subclauses 6.1 and 6.2. Sections 478 and 479 of the German Civil Code [BGB] shall remain unaffected.

## **6. Liability**

- 6.1. In accordance with statutory provisions we shall be liable without restriction for intent and gross negligence. In the case of violation of a substantial contract obligation we shall also be liable for ordinary negligence. However, our liability in the case of ordinary negligence shall be limited to the typically occurring damage foreseeable upon conclusion of contract and shall not exceed the sales price of the products concerned. Substantial shall be all contract obligations whose fulfillment make proper execution of the agreement at all possible and compliance with which the contracting party may routinely rely on. The above provisions shall also apply

in the case of culpability on the part of our legal representatives or vicarious agents.

- 6.2. The above limitations of liability shall not apply to physical injury and damage to health as well as loss of life. Claims arising out of product liability shall also not be affected by the above limitations of liability. Furthermore, the above limitations of liability shall not apply in the case of fraudulent concealment of a defect and insofar as we have assumed a warranty for the quality of the purchase item. Insofar as liability for the payment of damages is excluded or limited, then this shall also apply with regard to personal liability for the payment of damages on the part of our staff, employees, coworkers, representatives and vicarious agents.

## **7. Retention of Title, Collateral Rights, Insurance Obligation**

- 7.1. We reserve the right to ownership of the purchase item until satisfaction of any and all claims arising out of the business relationship with the customer. If a current account relationship exists with the customer, then the retention of title shall also refer to the respectively recognized balance; the same applies insofar as a balance is not recognized, but rather a "causal" balance is drawn because, for example, of insolvency or liquidation on the part of the customer. The retention of title shall lapse with settlement of the claim for the outstanding balance.
- 7.2. The customer shall be obliged to handle the purchase item (conditional commodity) subject to retention of title with care and to store it in such a way that its quality does not deteriorate and the packaging is not impaired. In particular the customer shall be obliged to sufficiently insure same for the replacement value at the customer's own expense against damage caused by fire, water and theft. The customer shall already now assign us the claims against the insurance company to which the customer is entitled in the event of a claim and be obliged to notify the insurance company of such assignment.
- 7.3. Pledge or assignment of the conditional commodity as security shall be prohibited. The customer shall be entitled to resell the conditional commodity in the normal course of business; however, the customer shall hereby assign us any and all claims in the amount of the final invoice amount (including the value added tax) for our claim, which accrue to the customer from the latter's customers or third parties from resale, independently of whether the conditional commodity has been resold without or after processing. The customer shall remain authorized to collect the claim even after such assignment. Our power to collect the claim shall remain unaffected. However, we shall be obliged to refrain from collection of the claim as long as the customer meets the customer's payment obligations arising out of the collected proceeds, is not in delay of payment and in particular no request for institution of insolvency proceedings has been submitted and there is no suspension of payment. However, if this is the case, then we may require that the customer discloses the assigned claims and their debtors, provide any and all information required for collection, surrender the pertinent documents, while notifying the respective the debtors (third parties) of assignment.

- 7.4. In the event that the purchaser engages in behavior contrary to the terms of the agreement, in particular in the case of delay of payment, we shall be entitled to repossess the conditional commodity without first withdrawing from the agreement. Given these prerequisites the customer shall already now permit us to enter the customer's business premises during normal office hours and to repossess the conditional commodity. We shall be entitled to exploit the conditional commodity following repossession of same, while the proceeds of any exploitation shall be set off with the customer's liabilities less reasonable exploitation costs. In addition we shall be entitled to withdraw from the agreement following specification of a deadline.
- 7.5. The customer shall be obliged to immediately notify us in writing in the event of attachment or any other interference by third parties so that we may file a complaint in accordance with Section 771 of the German Code of Civil Procedure [ZPO]. If the third party is unable to reimburse us for the court and out of court costs of a complaint in accordance with Section 771 ZPO, then the customer shall be liable for the loss.
- 7.6. Processing or reorganization of the conditional commodity by the customer shall always be performed for us. If the conditional commodity is processed with items that do not belong to us, then we shall acquire co-ownership of the new item in proportion to the value of the conditional commodity (final invoice amount including value added tax) to the other processed items at the time of processing. In all other respects the same shall apply for the item created through processing as in the case of the conditional commodity. If the conditional commodity is inseparably commixed with items that do not belong to us, then we shall acquire co-ownership of the new item in proportion to the value of the conditional commodity (final invoice amount including value added tax) to the other commixed items at the time of commixture. If commixture takes place in such a way that the item belonging to the customer is to be regarded as the principal item, then it shall be agreed that the customer assigns us proportionate co-ownership. The customer shall safeguard the sole possession or joint possession thus created for us.
- 7.7. The customer shall also assign us the claims to secure our claims against the customer which accrue from combination of the conditional commodity to real property against a third party.
- 7.8. At the customer's request we shall be obliged to release a corresponding share of the collateral to which the customer is entitled if the realizable value all of the customer's collateral exceeds the securable claims by more than 10%. We shall be entitled to select the releasable collateral.

## **8. Data Processing**

We hereby point out that we process the data of the buyer, which are in the context of the business, in the sense of the EU General Data Protection Regulation (EU-GDPR) and the federal data protection law (BDSG new). For further details and related rights,

please refer to our privacy policy.

## **9. Final Provisions**

- 9.1. Insofar as the supplier is a merchant our principal place of business shall be the exclusive place of jurisdiction. However, we shall be entitled to bring action against the supplier at every other legal place of jurisdiction.
- 9.2. Insofar as the supplier is a merchant our principal place of business shall be the place of performance unless stated otherwise in the order confirmation.
- 9.3. Should any of the provisions of these General Standard Terms and Conditions of Sale and Delivery be invalid either in part or as a whole, then the validity of the remaining provisions shall not be affected. A regulation which most closely approximates the economic purpose of the agreement while observing the respective mutual interests shall replace the partially or wholly invalid regulation.
- 9.4. The law prevailing in the Federal Republic of Germany shall apply exclusively with the exception of its international private law; the United Nations (Vienna) Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.
- 9.5. The German version of these terms and conditions shall be relevant. Versions in other languages are only translations.