

**ifw kunststofftechnik GmbH**  
General Terms & Conditions (GTCs)

(VERSION dated August 2012)

## I. APPLICABILITY

Deliveries, services and offers by our Company that are undertaken within the scope of business relations with a merchant as defined in the Austrian Commercial Code [*Unternehmensgesetzbuch*] are effected solely based on these "General Terms & Conditions", referred to hereinafter as GTCs. These GTCs also apply as a global agreement for all future legal transactions between the Contracting Parties, even if no explicit reference is made to these GTCs. We do not accept the Ordering Party's Purchasing Terms and Conditions that deviate from or supplement our Terms and Conditions, unless we have expressly agreed to their applicability in written form. We herewith expressly reject any counter-confirmations by the Ordering Party that refer to the Ordering Party's General and/or Purchasing Terms & Conditions.

## II. OFFERS AND CONCLUSION OF THE CONTRACT

Our offers are always subject to change without notice. Information regarding the content of the offer may not be shared with third parties without the approval of the Offering Party, nor may the offer be improperly used in any way. If an offer does not result in an order being placed, the Offering Party reserves the right to demand return of the offer, together with all appurtenant attachments, annexes and samples. Any samples or drawings supplied by the Enquiring Party shall be returned only upon request. If an order is not placed, the Offering Party is entitled to destroy the documentation accompanying the offer (drawings, samples, etc.) after the end of the offer's period of validity (three months after the date of the offer). In the case of stock goods, we reserve the right to sell the offered delivery items in the interim. The order confirmation provided in written form shall prevail with regard to the scope and execution of the delivery. Only orders placed in written form (mail), by fax or telex or by e-mail are binding for us, whereby orders placed by way of electronic data processing (e-mail) without a signature shall be deemed legally binding. Shipment of the goods ordered by the Customer shall also effect conclusion of the contract. For global contracts, a term of one year shall fundamentally apply. A longer duration of the contract shall be agreed upon separately and must be made in written form to be effective. If offers are directed to us, the Offering Party shall be deemed bound to this offer for a reasonable period of time from the date of receipt of the offer, however, no less than 14 days.

## III. DATA AND DOCUMENTATION

Technical documentation, such as drawings, plans, sketches, descriptions, catalogues, brochures, illustrations, as well as measurement, property or weight specifications, as well as any sample pieces or models provided by us, shall remain our intellectual property and is made available for informational purpose only and does not warrant certain

properties unless explicit reference is made thereto in written form. ifw kunststofftechnik GmbH reserves the right to make appropriate changes where this is deemed to serve the purposes of technical progress.

All technical documentation shall remain the intellectual property of ifw kunststofftechnik GmbH and may be used only for the agreed upon purposes.

All information exchanged within the scope of the business relationship shall be handled confidentially as business or company secrets and may not be shared with third parties without our consent. Legal proceedings shall be instituted in the event of violations of the above.

## IV. PRICES AND TERMS OF PAYMENT

In the absence of any agreement to the contrary, prices are understood to be exclusive of VAT, ex works or ex warehouse of ifw, including standard packaging and are given in € (EUROS). All ancillary costs, such as costs for freight or insurance, shall be borne by the Ordering Party. The Ordering Party shall also bear any taxes, fees, dues and custom duties.

At the time of the conclusion of the contract, the prices stipulated in our most current gross price list and in the agreed currency shall apply.

We reserve the right to adjust prices accordingly after conclusion of the contract in the event of changes in labour costs due to new collective agreements for our industry or company-internal agreements or for other cost centres that are relevant for our price calculations, as well as changes in the costs necessary for the provision of our services and/or deliverables, such as costs for materials, energy, transport, work by third parties, financing or any other surcharges, etc.

Additional work or effort shall be charged in accordance with the actual labour and material costs. Dues and costs associated with the fulfilment of official requirements at the place of installation / assembly or associated with delivery and performance of goods and services, respectively, shall be borne exclusively by the Ordering Party.

In the absence of an agreement to the contrary, the net amount stipulated in our invoices is payable no later than 14 days after the date of the invoice.

Payments by the Ordering Party shall be deemed made only as at the date they have been credited to one of our business accounts. In the event of late payment, penalty interest and late payment reminder fees shall always be charged unless there is a written agreement with the Supplier that discharges the Customer of these liabilities. Ifw kunststofftechnik GmbH is entitled to charge penalty interest in the amount of 6 % p.a. above the currently prevailing bank rate of the Österreichische Nationalbank, however, no less than 12 % interest p.a.. Furthermore, any discount agreements shall then cease to be effective. The assertion of further damages caused by late payment shall remain unaffected by the above provisions.

If the Ordering Party's agreed instalment payments are delayed by more than ten days or if a bill of exchange or a cheque is refused for payment, the full purchase price becomes payable immediately.

Reasonable charges for late payment reminder or collection fees or as per official tariffs shall be reimbursed by the Ordering Party. In the event that, due to non-fulfilment of the

agreed payment obligations by the Ordering Party, economic damages are incurred by ifw, the ifw reserves the right to freely dispose of the manufactured forms, tools, devices and semi-finished and finished components.

The Ordering Party cannot withhold payment based on any counterclaims whatsoever or set off the liability against our outstanding accounts regardless of the legal basis thereof.

Bills of exchange and cheques shall be accepted, if agreed, only in lieu of payment. Any bank costs and fees that accrue, as well as fees for the processing of foreign payments shall be borne by the Ordering Party. Compliance with the terms of payment and payment deadlines are an integral part of the execution of the work and the deliveries.

#### V. TERM OF DELIVERY

We are obligated to execute performance only after the Ordering Party has fulfilled all of its obligations accordingly that are necessary to enable proper performance. The term of delivery shall commence only after all final commercial and technical specifications necessary to complete the order have been received in an orderly manner and after the terms of payment have been separately agreed upon.

In the absence of an agreement in writing to the contrary, terms of delivery indicated in offers or order confirmations are approximate and not binding and can never be considered as the final term of delivery. We are entitled to exceed the agreed dates and terms of delivery by no more than ten business days. The Customer can withdraw from the agreement only after this period of time has expired and if, after a reasonable grace period has been granted, the goods have not been delivered.

Once the production of moulds has been launched, both parties may withdraw from the contract only if the term of delivery confirmed by ifw has been exceeded by more than two months. There is, however, no right of rescission if within this term of delivery, which has been confirmed as non-binding, notification is made that the goods are ready for delivery or have been shipped, but shipment is impossible or has been frustrated without any fault on our part.

Adherence to the term of delivery depends on unimpeded supply by our upstream suppliers and furthermore depends on possible internal or external disruptions or force majeure (strikes, serious damage to machinery, fire, flood, threat of war, etc.). In the event of such effects, we are released from our obligation either wholly or in accordance with the circumstances. Partial deliveries are permitted, may not be refused provided that the delivery is found to be otherwise without defects and entitle ifw kunststofftechnik GmbH to invoice each partial delivery separately.

#### VI. ORDERS, PURCHASE OBLIGATION, RETURN DELIVERY

Orders shall become binding for the Supplier only after the Supplier has confirmed it in writing. Orders must contain the address for delivery and the shipping method. Additional specifications, such as item number or item designation in accordance with our documentation are absolutely necessary in order to avoid misunderstandings and to ensure expeditious handling of the order. The Supplier has the right to over or under deliver the quantity ordered by up to 5 % when delivering so-called bulk goods.

If the amount of the order is lower than our minimum order amount of € 250.00, we must charge a small order surcharge of € 19.00 in addition to the order amount.

If the amount of the order is lower than our minimum order amount, which has been defined as item-related for management- and production-related reasons, a small order surcharge that depends on the item shall be agreed with the Customer.

Once the order confirmation has been sent, the Supplier is entitled to begin production at any time, regardless of the agreed upon term of delivery. After the goods have been produced, the Customer is obligated to pay for and accept delivery of/purchase the already produced goods. Should production be managed in accordance with a minimum/maximum inventory level agreed with the Customer, the Customer is obligated to accept delivery of/purchase the defined maximum quantity.

This purchase obligation also applies for global orders and for orders managed by way of e-commerce systems. The volumes agreed upon in the offer shall be produced for make-to-stock inventory and the Ordering Party shall accept delivery of/purchase all items without exception, even if some items are changed or if an item is discontinued.

Goods that cannot be used for any application as a result of technical changes or for other reasons shall be disposed of by us, subject to a fee to be paid by the Customer.

#### VII. DELIVERY, PACKAGING, SHIPMENT, DELAY IN ACCEPTANCE OF DELIVERY

Title to all goods delivered shall be retained by ifw kunststofftechnik GmbH until all they are fully paid for, including any ancillary costs. Any processing of goods delivered by us, title to which has been retained by us, does not obligate us in any way and does not affect our retention of title.

The Customer shall keep our property in safe custody, shall process it on our behalf, if applicable, and shall promptly notify us if third parties have access to it. The Customer may dispose of our property within the scope of regular business dealings as long as the Customer fulfils its obligations to us.

As at today's date, the Customer assigns to us by way of security all of its receivables that accrue vis-à-vis third parties from any re-sale of the goods delivered by us until such time as all of our receivables arising from our business relationship – including any future receivables and any unpaid balances on current accounts – have been paid.

To the extent that this has been agreed and confirmed in written form, our goods shall be packaged at our discretion either in accordance with customary commercial practises or according to Customer specifications (individual packaging, special colours, etc.), however, in any case, at the Customer's expense. Costs for packaging according to Customer specifications shall be invoiced separately.

In order to facilitate deliveries, it is possible for us to only ship orders in packaging units.

For small series that deviate from our standard packaging units, we must charge a packaging surcharge of € 19.00 per order. To the extent that the goods are packaged by us using packaging provided by the Customer, complaints that result from alleged defects in the packaging cannot be asserted against us.

In the absence of an agreement to the contrary, the goods shall be shipped by the means of transport that we consider most suitable and shall always be at the recipient's risk.

Delivery shall be deemed executed when the objects of delivery are ready for shipment in the plant of ifw kunststofftechnik GmbH and the Ordering Party has been notified of their readiness for shipment or if they have been handed over to a forwarding agent for shipment.

Transport insurance shall be concluded only upon the Customer's request and for the Customer's account. We shall not undertake any responsibility for delays or breakdowns during transport. When the Customer receives the delivery, its condition must be examined, as the goods were made available for shipment properly prepared for transport.

In the event of shortfalls in quantity and / or damages, the following items must be examined: damages to the pallet or our packing shrink wrap, examination of the cartons to check for the number thereof and any deformation, destroyed and/or damaged products.

Any claims in this regard must be made in written form within five days of receipt of the goods in order to be accepted.

If delivery of the ordered goods is not accepted as agreed, the Supplier can assert compensation for damages due to non-fulfilment after granting a reasonable grace period. In the event that the goods are returned or not accepted by the Ordering Party or if the Ordering Party withdraws from the contract, we shall charge a flat fee of 15 % of the amount of the order to cover administrative costs and loss of earnings if the goods delivered are deemed fungible goods. If the Ordering Party exchanges series items or other unspecific goods within our program, assuming that the amount of the order remains the same, we shall charge a surcharge of 5 % in addition to the purchase price for the additional efforts required of the Supplier. In the event of an exchange of goods that are not fungible, the Ordering Party shall, in addition to the flat fee, also bear in full any losses or effort possibly incurred by ifw kunststofftechnik GmbH within the scope of re-use of the goods.

#### VIII. RETENTION

Except in the case of a reversal of the contract, in the event of justified claims, the Ordering Party is not entitled to retain the entire gross amount of the invoice but only a reasonable portion thereof.

#### IX. RESCISSION OF THE CONTRACT

In the event of delay in acceptance of delivery (Item VII) or other important reasons, including but not limited to rejection of insolvency proceedings due to insufficient assets, delayed payment or occurrence of natural disasters, we are entitled to rescind the contract to the extent that it has not yet been fully fulfilled. In the event of a rescission of the contract and if the Customer is at fault, we have the choice of demanding lump sum compensation for damages in the amount of 15 % of the gross invoice amount or reimbursement of the damages actually incurred by this rescission and release from all agreed obligations to perform services or deliveries. We are entitled to withhold any still outstanding deliveries and services and to demand advance payments and / or

guarantees or to rescind the contract after granting a reasonable grace period. If the Customer rescinds the contract or demands its rescission – without being entitled to do so – we have the choice of insisting on fulfilment of the contract or agreeing to its rescission. In the latter case, the Customer is obligated to pay at our discretion a lump sum compensation for damages in the amount of 15 % of the gross invoice amount or to reimburse the damages actually incurred by this rescission.

Regarding services, the implementation of which commences as agreed within seven business days of conclusion of the contract, a rescission is not possible.

#### X. FORCE MAJEURE

The Supplier is released from a timely fulfilment of the contract in whole or in part if the Supplier is prevented from doing so by force majeure. Force majeure refers exclusively to such events that are not foreseeable and preventable by an experienced supplier. Schedules and deadlines that cannot be adhered to due to the effects of force majeure are extended by the duration of the effects of force majeure.

#### XI. WARRANTY, GUARANTEE, DUTY TO INSPECT GOODS AND GIVE NOTICE OF DEFECTS

Upon request, agreements to the contrary can be made. However, they must be made in written form.

The warranty period is one year, beginning with the date of delivery ex works. ifw kunststofftechnik GmbH warrants that the products are free of manufacturing and material defects. The following are not covered by the warranty: damages resulting from wear and tear, defective maintenance, disregarding of operating instructions, excessive load/use/working conditions, unsuitable equipment, chemical or electrolytic action, faulty installation or assembly by the Ordering Party or by third parties, unauthorised re-working or subsequent machining and improper handling, as well as resulting from other reasons, which are not due to our fault or negligence.

We shall at our discretion fulfil all of the Customer's warranty claims either by way of replacement, repair within a reasonable period of time or reduction in price. The Customer can request that the contract be rescinded only if the defect is significant, cannot be remedied by way of replacement or repair and a reduction in price is not a reasonable solution for the Customer.

Customer's claims for compensatory damages, the objective of which is the remedy of the defect by way of improvement or replacement, can be asserted only if we are in arrears with the fulfilment of the warranty claims.

Warranty claims must be asserted before a court within one year of delivery of the item if moveable goods are involved.

If the Customer alleges that a defect is present, resulting claims, specifically, but not exclusively with regard to warranty, can be asserted only within the first year after delivery of the goods to the Customer, provided that the Customer can prove that the defect was present at the time of delivery/handover of the goods.

Our obligation to provide warranty shall expire if the Ordering Party or third parties make changes or repairs to the delivered items without our consent in writing, furthermore, if the Ordering Party fails to promptly take suitable measures

to limit the damages. In any case, with the expiry of the warranty period, any additional recourse by the Customer is excluded pursuant to Section 933b of the Austrian Civil Code [ABGB].

If the order is carried out based on design specifications, drawings, requirements stipulated by the Ordering Party regarding raw materials or models, our liability does not extend to the correctness of the design or choice of material, but solely to whether the order was carried out in accordance with the specifications of the Ordering Party. The Ordering Party shall indemnify us and hold us harmless for any violation of industrial property rights belonging to third parties.

As defined by Sections 377 et seq. of the Austrian Corporate Code [UGB], the Customer is obligated to promptly examine the goods after delivery, however, no later than within six days. We must be promptly notified in written form of any defects found during this examination, however, no later than within three business days of their having been found and indicating the type and extent of the defect.

Hidden defects shall be reported promptly as soon as they are discovered.

If notice of defect is not made or not made in a timely manner, the goods shall be deemed accepted. In such cases, the assertion of warranty claims, as well as the right to avoidance on the grounds of error due to defects is excluded.

## XII. COMPENSATION FOR DAMAGES AND PRODUCT LIABILITY

With the exception of personal damages, we are liable only if the injured party can prove gross negligence on our part. Claims for compensatory damages expire by limitation six months after the Customer became aware of the damage and of the liable party, in any case, within four years of performance of the service or delivery.

Claims of recourse within the meaning of Section 12 of the Product Liability Act [*Produkthaftungsgesetz*] are excluded, unless the claimant can prove that the defect and subsequently, the damages resulting from this defect and having a causal connection to it are within our sphere of influence and occurred due to gross negligence or intent on our part.

The Supplier undertakes to conclude an adequate liability insurance and to present it upon request. The object of delivery provides only that level of safety that can be expected based on the state of the art of standards, licencing regulations, descriptions in technical data sheets, instruction manuals, rules and regulations provided by the Supplier's plant regarding the handling and the area of application and / or application conditions, as well as maintenance and other information provided at the time the contract was concluded.

## XIII. TOOLS, SAMPLES, PLANS, DRAWINGS PROVIDED BY THE CUSTOMER

If within two years after the last order no subsequent order has been placed or other notification made, the Ordering Party shall be made aware of this circumstance and requested to provide a clear and conclusive statement about further action within a period of six months. If the Ordering

Party allows the deadline to pass without action, all documentation and objects (drawings, plans, testing specifications, boundary samples, models or other technical documentation) can be otherwise used by the Supplier at its discretion. Deliveries using available tools can be carried out without charging for service and repair costs for tools only as long as the condition of the tools enables them to be used properly for the required work. Repair costs for damages that occur due to natural wear and tear of the tools or devices shall be undertaken at the Ordering Party's expense; the Ordering Party shall also bear the cost of any changes in the tools that were implemented at its behest. The Ordering Party shall bear all costs that are incurred by the Supplier for the repair and maintenance of the provided tools; this applies to all types of tools that are provided to the Supplier by the Ordering Party.

## XIV. INDUSTRIAL PROPERTY RIGHTS

For objects of delivery that the Supplier manufactures in accordance with documentation that was provided by the Ordering Party or that the Supplier prepared on the Ordering Party's behalf and that was confirmed by the Ordering Party as the production documentation, the Ordering Party warrants that no industrial property rights of any kind belonging to third parties or any third party company secrets are violated by the production of these objects of delivery. If, notwithstanding, any industrial property rights belonging to third parties are asserted, the Supplier is not obligated to verify the correctness of these claims, but, excluding all claims for compensatory damages by the Ordering Party, is entitled to discontinue the production of the objects of delivery and to demand reimbursement of the costs incurred by it. The Ordering Party is fully liable for the direct and indirect damages incurred by the Supplier as a result of violations or assertion of industrial property rights and the Supplier is entitled to demand a reasonable advance payment of costs for the litigation costs that may arise. The Supplier may at will make public all objects of delivery or goods that Supplier has produced.

## XV. CHANGES WITH REGARD TO PERFORMANCE / ORDER CHANGES

Minor changes or other changes with regard to performance and/or delivery obligations that are reasonable for our Customers are deemed *a priori* approved. This includes but is not limited to deviations due to the nature of the goods (e.g. with regard to measurements, colours, changes in material, etc.). If, after conclusion of the contract, the Customer desires a change in the contractual performance, all costs incurred or to be incurred in the future by ifw kunststofftechnik GmbH in this regard shall be borne by the Contracting Party desiring the change.

ifw kunststofftechnik GmbH is obligated to carry out the changed order only after it has been agreed in writing and the other Contracting Party has paid all costs additionally incurred that are causally connected to the order change or if the costs can be considered paid.

#### XVI. CHOICE OF LAW, PLACE OF FULFILLMENT AND LEGAL VENUE

This contract is governed by the law of the Republic of Austria. The provisions of the UN Convention on Contracts for the International Sale of Goods do not apply. The governing language of this contract is German. The Contracting Parties have agreed on the jurisdiction of the Austrian courts. The place where delivery is accepted is expressly agreed as the place of fulfilment. The legal venue for all disputes arising from this contract is agreed to be the court that has material jurisdiction for the respective registered company office. The court that has material jurisdiction at the headquarters of our company has exclusive local jurisdiction for all disputes arising from this contract.

#### XVII. CONCLUDING PROVISIONS

The Customer gives its consent that the data provided, including personal data, is stored and processed by us using automated processes within the scope of the fulfilment of this contract. The Customer is obligated to notify us of changes in its residential and/or business address as long as the legal transaction that is the subject of this contract has not been completely fulfilled by both parties. If such notification is not made, declarations and information shall be deemed received if they are sent to the address most recently provided.

It is agreed as binding that all ancillary agreements or deviations from these General Terms & Conditions shall be made in written form.

All previous agreements or other understandings are irrelevant and invalid.

ifw kunststofftechnik GmbH