



## **General Terms and Conditions of Export Sale of the company egeplast international GmbH**

### **1. Application of the General Terms and Conditions of Export Sale**

#### **1.1**

Our supplies and services are performed exclusively under these present Terms and Conditions of Export Sale. They shall consequently also apply to all future business relationships even if they are not expressly agreed upon again. These present Terms and Conditions of Export Sale shall be deemed accepted no later than upon taking delivery of the goods and/or services. We herewith object to any counter-confirmations of the buyer that make reference to the buyer's general terms and conditions of business and/or purchase. Deviations from these present Terms and Conditions of Export Sale shall only be valid if expressly confirmed by us in writing.

#### **1.2**

These General Terms and Conditions of Export Sale shall apply exclusively vis-à-vis companies, legal persons under public law, and special public law funds, as defined by Sect. 310 (I) BGB (German Civil Code).

### **2. Offers and conclusion of contract, documents**

#### **2.1**

Our offers are not binding; they shall be considered as an invitation to the buyer to make an offer to us. In the case that an order must be qualified as a binding offer, the contract is concluded upon our written confirmation of the order. If our confirmation of the order differs from the order this shall be deemed a binding offer made by us.

#### **2.2**

We reserve all proprietary rights, copyrights, and all other industrial property rights to any drawings, illustrations, calculations, and any other documents drafted and created by us. The buyer may only pass them on to third parties subject to our prior written approval, regardless of whether we marked them as confidential.

### **3. Delivery, delay**

#### **3.1**

Any dates and periods of time set by us shall be non-binding, unless expressly agreed otherwise in writing. We assume no risks connected with procurement, whatsoever.

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### 3.2

Delivery shall be considered performed within the due time if, by the end of the delivery period or date, the goods have left the works/store or, in the case that collection by the buyer is agreed, the buyer has been given notice that the goods are ready for consignment.

### 3.3

Delays in delivery and performance caused by force majeure or events that render delivery by us impossible or excessively difficult (e.g. strike, lock-out, extreme weather conditions, etc.), we shall be entitled to postpone delivery and/or performance by the term of the obstruction plus a reasonable start-up period. The same shall apply if the above-said obstructions occur at our suppliers or their sub-suppliers. If the disturbance leads to a postponement of performance exceeding a term of 4 months the buyer may declare the contract avoided. Other rights of avoidance or termination shall not be affected.

### 3.4

The performance of our obligations is subject to the timely and proper delivery of required materials. This shall apply only if we are not at fault for non-delivery.

### 3.5

We shall be entitled to deliver and perform in parts, at any time, if reasonable to the buyer.

### 3.6

For production reasons, it is possible that quantities are produced exceeding or falling below those provided for in the contract by +/- 10%. Any excessive or undershipment within said range of tolerance shall constitute due and proper performance of the contract. The buyer must pay the price of the quantity actually delivered.

### 3.7

If we fail to perform any due obligation under the contract, or fail to perform it as provided for under the contract, the buyer may, after fixing an additional period of time, declare the contract avoided, unless we perform previously. This shall only apply if our breach of duty is fundamental. If the buyer claims damages instead of performance in addition to declaring the contract avoided, this claim shall be limited to 25% of the agreed purchase price in cases of slight negligence.

### 3.8

In the case of a delay in performance, we shall be liable under No. 8 for any damage caused by the delay and evidenced by the buyer. In the case of slight negligence, we shall be liable only in the amount of 5% of the agreed purchase price.

## 4. Passing of risk

Unless otherwise provided for in the order confirmation, delivery "ex works" (EXW-Incoterms) is agreed.

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## **5. Prices, payment, set-off, retention right**

### 5.1

Our prices are plus the current statutory value added tax, as amended. In the case of deliveries and performance carried out within the EU, the buyer shall notify us of his VAT tax ID no. under which he is subject to turnover tax in the EU. For deliveries and performance from the Federal Republic of Germany to countries outside the EU, which are not carried out or occasioned by us, the buyer shall provide us with the export certificate required by the fiscal authorities. If such certificate is not provided he shall, in addition, pay the value added tax levied on the purchase price for the performance within Germany.

### 5.2

Additional deliveries and services shall be charged separately.

### 5.3.

If no fixed price is agreed we reserve the right to reasonably alter the prices if, after the conclusion of contract, costs are reduced or increased on the grounds of collective agreements or changes in the price of materials. Upon request, proof of such changes shall be provided to the buyer.

### 5.4

Unless otherwise agreed, prices are exclusive of packaging, shipment and customs.

### 5.5

Unless otherwise expressly agreed, the full invoice amount shall be due payable 10 days from the date of issuing the invoice.

### 5.6

In case of using a SEPA Direct Debit Mandate a shortened period to the prior notice of one day applies. The buyer assures sufficient funds. Costs due to dishonor or reverse entry of the debits shall be borne by the buyer.

### 5.7

If the buyer is in arrears with payment, we shall be entitled to claim interest of 8 percentage points p.a. above the base rate of the Central European Bank.

### 5.8

If circumstances come to our knowledge that raise doubts as to the buyer's creditworthiness we may claim down payments or security, without prejudice to any additional statutory claims.

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5.9

Cheques and bills of exchange, the acceptance of which we reserve, shall be considered payment no earlier than upon encashment. Any discount or bank charges shall be borne by the buyer.

5.10

The buyer shall only be entitled to set-off claims if his counter-claims have been established by final judgment, are undisputed, or if we acknowledge them. Furthermore, he shall only be entitled to exercise a retention right if and inasmuch as his counter-claim is based on the same contractual relationship.

## **6. Reservation of title**

6.1

Ownership of the goods shall remain with us until full payment is made.

6.2

The buyer shall support us in all measures required to protect our property in the respective country. The buyer shall inform us without delay in the event that our property is put at risk. This shall apply particularly in the case of dispositions by third parties, or official measures (seizure, attachment, etc.).

## **7. Liability for the conformity of the goods**

7.1

The buyer shall examine the delivered goods immediately upon receipt. In any event, he shall lose the right to rely on a lack of conformity if he does not give written notice to us specifying the nature of the lack of conformity within a reasonable time after he has discovered it or ought to have discovered it.

7.2

The buyer bears the burden of proof that the delivered goods have been carefully handled and properly stored.

7.3

In the case of a lack of conformity of the goods with the contract, we shall be entitled, even in the case of a substantial lack of conformity, to remedy the lack of conformity at our discretion by repair or by delivery of substitute goods within a reasonable period of time upon the buyer's request. As far as reasonable, the buyer shall participate in repairing a lack of conformity against reimbursement of the costs and in accordance with our instructions.

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#### 7.4

In the event that we fail to remedy a lack of conformity in accordance with No. 7.3, the buyer may reasonably reduce the price. In the case of a fundamental lack of conformity, the buyer, after an additional period of time fixed according to No. 7.3 has expired without avail, may declare the contract avoided within reasonable time, unless we perform previously.

#### 7.5

Claims based on a lack of conformity shall not exist in the case that the goods differ only immaterially from the agreed quality and description, if their fitness for their purpose is impaired only immaterially, in the case of normal wear and tear, and/or in the case of damage caused after the passing of risk due to defective and/or negligent handling, excessive use, unsuitable operating means and/or on the grounds of special external impact and/or in the case of qualities not provided for under the contract.

#### 7.6

All and any claims of the buyer based on a lack of conformity shall expire after 12 months; the period of limitation shall commence upon the handing over of the goods. This shall not apply in cases of gross negligence, willful intent, injuries to life, the body, or health, in the case of a fraudulent concealment, and in cases of a lack of conformity of goods if they have been used according to their usual purpose for a building and have caused the lack of conformity thereof; in these cases the statutory periods of limitation applies.

### **8. Liability**

#### 8.1

Unless otherwise provided for in these present Terms and Conditions of Export Sale, we shall be liable for breaches of contractual or non-contractual obligations only in cases of willful intent or gross negligence and in the case that fundamental contractual obligations are breached. Damages claims for breaches of fundamental contractual obligations shall however be limited to the foreseeable damage that is typical for this type of contract, unless willful intent or gross negligence apply.

#### 8.2

The above-mentioned limitations of liability do not apply to claims based on injuries to life, the body, or health. Mandatory statutory liability provisions, such as, e.g. liability under the German Product Liability Act (Produkthaftungsgesetz) or for the assumption of a guarantee, shall not be affected.

#### 8.3

Where liability is excluded or limited by us, this shall also apply to the personal liability of employees, staff, workers, representatives, agents, and auxiliary persons.

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## **9. Observation of the law**

The buyer is responsible for observing and the implementing of the relevant foreign trade laws and other statutes and regulations of his country and the country of destination of the delivery. At the time of the conclusion of contract, the buyer shall advise us in writing of any particularities resulting from these statutes and regulations.

## **10. Place of performance, place of jurisdiction, applicable law**

### 10.1

The place of performance of all obligations under the contract is our place of business in Greven, Germany.

### 10.2

The place of jurisdiction for all present and future claims under the business relationship with legal persons and special funds under public law, including bills and notes receivable, is our place of business in Greven, Germany. In addition, we shall be entitled to institute proceedings against the buyer at his general place of jurisdiction.

### 10.3

These present Terms and Conditions of Export Sale and all and any legal relationships between us and the buyer shall be governed by the laws of the Federal Republic of Germany including the CISG (United Nations Convention of 11 April 1980 relating to contracts for the international sale of goods, BGBL 1989 II p. 588, ber. 1990 II, 1699).

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