

# IROPLASCTICS Gesellschaft m.b.H.

## GENERAL SALES CONDITIONS

### 1. Definitions

**1.1** The following terms are defined as:

„Buyer“: contractual partner of the company.

„Company“: Iroplastics Inc., Ort 57, 4843 Ampflwang, AUSTRIA

„Sales conditions“ / „Terms of sale“: These general sales conditions include, where relevant, written individual agreements between buyer and company. In the event of an inconsistency between the general sales conditions and individual agreements, the latter shall take precedence.

„Contract“ / „Agreement“: the contract completed on the basis of these sales conditions for the delivery of goods.

„Goods“ / „Merchandise“: the goods (including partial deliveries, parts or pieces) to be delivered by the company pursuant to the sales conditions.

„Incoterms“: the international rules for the interpretation of commercial trade conditions by the International Chamber of Commerce, in the version valid at the time of contractual conclusion.

“Purchase price“: the price for the goods specified in the cost estimate subject to any price increases in accordance with Article 4.1 of the sales conditions.

„In writing“: written form as defined by § 886 of the Austrian Civil Code (ABGB); Email meets the written form requirement.

**1.2** The headings in the sales conditions are used strictly for the sake of convenience and are irrelevant for the interpretation of the terms of sale.

**1.3** Subject to any contrary issues that require further interpretation, terminology defined by Incoterms is equivalent to that found in the sales conditions; in the event of an inconsistency between Incoterms and the sales conditions, the latter shall take precedence.

### 2. Conclusion of Contract

**2.1** The cost estimate, submitted by the company to the buyer, constitutes a non-binding proposal for the buyer to submit an offer within 30 days of the issue of the cost estimate. Each buy order constitutes an offer to purchase the goods in accordance with the terms of sale. The contract is only effective should the company accept this offer in writing within a period of 30 days from receipt. If the company does not respond within that period, the buy offer shall be deemed rejected.

**2.2** Each order is deemed submitted according to the validity of the sales conditions. Acceptance of any order is subject to the company's relevant minimum purchase requirements, which have been passed on to the buyer along with the cost estimate. The company reserves the right to accept advance payments for raw material, provided the minimum purchase quantities are not met.

**2.3** Execution of the contract is in strict accordance with the sales conditions, which take precedence over any other provisions, even if (i) the buyer seeks to impose such other provisions at a later time and/or under exclusion of contradictory sales conditions, or (ii) such other provisions have been included as part of other contract acceptance agreements or in a new offer by the buyer.

**2.4** The buyer shall be liable to the company for the information contained in the order, including product descriptions, as well as the complete and timely transfer of product information needed by the company for the proper execution of the contract.

**2.5** In the absence of written confirmation by the company, advice by the company, its employees or its authorized agents with regard to storage, processing or use of goods is non-binding and the buyer acts solely at the buyer's own discretion. The company is in no way liable for advice not confirmed in writing.

**2.6** The company reserves the right to change the specifications of goods when relevant legal provisions necessitate and the quality and usability of the goods are not thereby affected.

**2.7** The conditions of sale can be modified or amended only with the written consent of a duly authorized representative of the company.

### 3. Returns

Goods delivered in accordance with the contract shall only be returned with the prior written consent of the company. In the absence of such consent, the return of the merchandise shall be refused, and in such a case, the company shall not be held liable for the returned merchandise. Duly authorized returns are to be made to the company's business establishment at the buyer's expense.

### 4. Purchase Price

**4.1** At any time prior to the delivery of goods, the company reserves the right to change the purchase price if, and to the extent that, the necessary price adjustment reflects an increase in the general cost of raw materials, personnel or other services, currency fluctuations affecting import or other price relevant circumstances outside company influence. This does not apply to goods delivered within 1 month of contract conclusion.

**4.2** Unless subject to a contrary agreement, all stated prices are EXW, i.e. ex-works: delivery is made to the company's business establishment. Should delivery to another location be required, such as the buyer's business establishment in Austria, the buyer will be charged additionally for all costs related to packing, loading, unloading, transport and insurance of the goods. These additional charges are payable together with the purchase price. The stated purchase price is subject to VAT.

**4.3** In addition to the original price listed on the invoice, the buyer will be charged for pallets and containers; return of undamaged items prior to the payment due date will result in a credit to the buyer.

### 5. Other Costs

The buyer is obligated to compensate all costs, damages or other losses incurred by the company either (i) due to insufficient or incorrect instructions from the buyer effecting delivery by the company as per contract or due to buyer negligence or delay in the acquisition of goods delivered in accordance with the contract, or (ii) due to a change of delivery date, quantity or specification of goods by the buyer, or (iii) due to any other oversight by the buyer, officers, agents or staff in the buyer's employ.

### 6. Payment Terms and Conditions

**6.1** Unless otherwise stipulated in written negotiation between buyer and company, the total amount of the purchase price is payable within thirty days of the invoice date as per the sales conditions. For payment made within 14 days of the invoice date, a rebate of 2% of the invoice amount (excluding VAT) will be granted to the buyer.

**6.2** The buyer may only charge for claims that are indisputable and have been found to be final by a court of law.

**6.3** In line with Article 10.8, should the buyer file bankruptcy prior to fulfilling company purchase requirements, the buyer will be expressing intent to waive the contract.

**6.4** Prior to the execution of an order or delivery (including partial deliveries), the company shall be entitled to demand payment security at its discretion.

**6.5** Should installments for the payment of the purchase price have been negotiated or installments for the delivery of specified quantities of goods at determined intervals have been stipulated, the total outstanding purchase price will be due immediately should the buyer default on a payment or fail to give adequate delivery instructions.

**6.6** Overdue payments will be charged interest at a rate of 5% above the base lending rate of the Austrian Central Bank. The effective base rate at the close of the preceding half-year shall be decisive. We are not obligated to make initial or further deliveries before outstanding payments, including default interest, have been paid in full.

### 7. Delivery

**7.1** Pending any other written agreement with the company, delivery shall be deemed effective: -

**7.1.1** once goods have been provisioned at the company's business establishment provided the transport of said goods has been assumed by the buyer; or

**7.1.2** upon delivery of goods at the buyer's business establishment, or other location agreed upon between company and buyer, provided the company is responsible for the transport.

**7.2** If delivery is not carried out at the business establishment of the company, the buyer must inform the company as to the delivery address and provide the necessary loading equipment and manpower at the buyer's own cost. In such a case, the buyer also assumes the full responsibility for proper loading of goods in the correct storage area.

**7.3** The delivery dates are not binding and serve only as a reference; the company shall only be liable for the willful or grossly negligent delay of delivery. The timely delivery of goods does not constitute a material contractual company obligation. Goods will be delivered within a period of 4 weeks after the specified delivery date. The company is entitled to early deliveries once the buyer has been given notice and deems it appropriate.

**7.4** The buyer is obliged to accept partial deliveries when appropriate. The company can provide separate invoices for the respective partial deliveries.

**7.5** The buyer is obligated to pay the contractually negotiated price pro rata for the quantity of merchandise actually delivered. Variations between the amount of merchandise delivered and the amount of merchandise indicated in the order (surplus or short deliveries), not exceeding 10% of the value of the merchandise, deemed tolerable by general commercial practice and, therefore, reasonable on behalf of the buyer, do not authorize the buyer to refuse merchandise or to treat surplus as compensation for an incurred loss.

**7.6** The quantity of merchandise recorded by the company at the time of dispatch is deemed consigned to the buyer pending buyer evidence to the contrary.

**7.7** Should delivery be refused by the buyer, be delayed at the buyer's request or be impossible due to reasons not attributable to the company, the company shall notify the buyer of its willingness to deliver and subsequently be entitled: -

**7.7.1** to treat the contract as fulfilled and to shelve the goods. For the purposes of billing and transfer of risk, the delivery shall be deemed complete. The buyer shall assume all storage and insurance costs where appropriate, or

**7.7.2** to sell the goods at the currently attainable market price and to deduct the surplus (after withholding reasonable storage and selling expenses) from the amount of the purchase price owed by the buyer or to charge the buyer for losses incurred relative to the purchase price.

**7.8** The company shall promptly inform the buyer if delivery is impossible or behind schedule. In cases of non-delivery, the liability of the company is limited to a replacement delivery within a reasonable timeframe or to an invoice credit for non-delivered goods. The buyer is entitled to withdraw from the contract should the replacement delivery not be made within a reasonable timeframe.

### 8. Export Terms and Conditions

**8.1** Zusätzlich zu den sonstigen Regelungen in den Verkaufsbedingungen und vorbehaltlich eventueller Individualan addition to provisions in the terms of sale and subject to any individual negotiations between buyer and company, the provisions of Article 8 apply to deliveries intended for export from Austria.

**8.2** The buyer is fully responsible for compliance with all relevant legislation regarding the import of goods into the country of destination and for the payment of all arising duties and fees in connection therewith.

**8.3** Subject to any contrary written agreement between buyer and company, goods will be delivered FOB air or sea freight.

**8.4** The purchase price for delivered goods intended for export from Austria shall be settled by an irrevocable and confirmed letter of credit from a bank and in a form acceptable to the company. Subject to a written waiver provided by the company prior to or during the receipt of the buy order, payment may also be made by other equivalent payment methods.

### 9. Inspection of Goods / Short Deliveries

**9.1** The buyer shall inspect the goods immediately after delivery. As long as transport has been organized by the buyer in accordance with Article 7.1.1, the goods, being the responsibility of the buyer, are to be inspected at the company's business establishment prior to loading. Once loading has been completed, any and all claims against the company are excluded regarding shortages evident at the time of inspection or damage as a result of transport.

**9.2** The company shall be liable for non-delivery, partial loss, goods damaged prior to delivery or contractual deficiency of merchandise strictly on the condition that the buyer asserts such claims in writing; in case of non-delivery, partial loss or damaged goods, a copy of the claim notification shall also be sent to the transport firm, provided this is not the responsibility of the company. Claim notifications are to be made: -

**9.2.1** promptly following the inspection of goods in the case of partial loss, discernible damages, shortages or other apparent contractual deficiency of merchandise; latent or hidden defects must be reported as soon as they have become objectively recognizable and identifiable; or

**9.2.2** either on or after the contractual delivery date or on the day of invoice receipt, whichever occurs first, in the case of non-delivery.

**9.3** Legitimate claims of non-delivery, partial loss or damaged goods will either be rectified or replaced by the company at its own discretion and expense; except in the case of gross negligence, any and all other liability is excluded. The buyer is entitled to withdraw from the contract provided rectification or replacement is not made within a reasonable timeframe.

**9.4** In the absence of a proper claim notice from the buyer, pursuant to Article 9.2, the goods shall be deemed to be fully compliant with the contractual delivery agreement. Accordingly, the buyer is obligated to accept the goods and to settle the purchase price.

### 10. Transfer of Risk and Ownership / ROT

**10.1** The risk of damage to or loss of goods passes to the buyer: -

**10.1.1** once the company has indicated to the buyer its willingness to make delivery to the company's business establishment, or

**10.1.2** at the time of delivery to another location; or, should the buyer be in default of acceptance, at the time delivery is offered to the buyer by the company.

**10.2** Despite successful delivery and transfer of risk to the buyer, and subject to any contrary provisions in the terms of sale, ownership of goods shall pass to the buyer once the purchase price has been paid in full to the company (retention of title). Retention of title shall also apply to the manufacture of the goods by the buyer with other goods, in which case the company will own the thereby resulting product as a whole. A purchase price payment can be deemed complete once all potentially outstanding interest payments or other costs relating to the supply of goods have been settled in accordance with the terms of sale or other agreements between company and buyer.

**10.3** Until the time of transfer of ownership to the buyer, the buyer shall: -

**10.3.1** handle the goods as the company's fiduciary agent;

**10.3.2** properly protect and label the goods as property of the company and store the goods apart from other property including that of third parties;

**10.3.3** refrain from damaging or obscuring the identification and packaging of the goods; and

**10.3.4** keep the goods in a satisfactory and proper condition, insured in the company's interest against any and all risks at the full value of the purchase price and in accordance with the requirements appropriated by the company. The buyer shall submit the insurance policy upon company request.

**10.4** Subject to the provisions of Article 10.3, the buyer is entitled to use the goods in the standard course of business, i.e. to process the goods with other goods and to resell the goods at full market value; the ownership of the income generated from such a resale shall be transferred directly to the company (extended retention of title).

**10.5** Should the buyer default on a payment before ownership has been transferred to the buyer, the company may require the buyer to relinquish the goods at any time as long as the goods are still on hand and have not been sold; should the buyer not comply, the company is entitled to repossess the goods during normal business hours at the buyer's business establishment.

**10.6** As long as the company retains legal ownership of the goods, the buyer may not mortgage or otherwise encumber the goods as a means of obtaining payment security. In the case of noncompliance, all payments owed to the company by the buyer shall be due immediately. All further company claims shall remain unaffected.

**10.7** The buyer's right to possess unpaid goods shall be terminated immediately upon:

**10.7.1** (i) insolvency of the buyer as defined by Austrian bankruptcy code, (ii) filing a bankruptcy petition either by the buyer or one of its creditor, or (iii) filing for deficiency adjustment or financial reorganization, or

**10.7.2** legal enforcement procedures against the buyer's financial assets, or violation of the sales conditions or other agreements between company and buyer, or

**10.7.3** the mortgage or encumbrance of unpaid goods.

**10.8** If the buyer is no longer entitled to possess the goods and the company is no longer in a position to identify the goods, all products of the same type, sold to the buyer by the company in accordance with the invoiced order, shall be deemed sold by the buyer.

### **11. Rescission of Contract**

**11.1** The company, at its sole discretion and without prejudice to any other claims, is entitled to rescind all existing contracts in writing, without notice, in part or in whole between company and buyer should (i) the buyer fail to accept goods or partial deliveries as per contract, or (ii) the buyer default on payment obligations to the company, or (iii) the performance of the company be jeopardized due to the buyer's initially poor or subsequently deteriorating financial circumstances, or due to a lack of credit insurance or limit reduction on the part of the buyer, or (iv) the company have reason to assume that the conditions described in Article 10.7 will occur thereby notifying the buyer to this effect; subsequent exercise of the aforementioned right of rescission notwithstanding, the company may, under exclusion of any liability, immediately suspend further deliveries to the buyer until the breached contract has been remedied or counter-performance has been enacted. If the goods have been delivered but not yet been paid for, the total purchase price is due immediately, regardless of any other prior arrangements.

**11.2** The company's justified legal claims shall not be affected or limited by the terms of sale; the company is entitled to fully exercise all of its statutory rights.

### **12. Guarantee Policy**

**12.1** The company warrants that it is the owner of the sole and unencumbered title to the goods at the time of delivery.

**12.2** The specifications of goods are based on the company's best knowledge and belief and on the average results of standard assessments. The company is not liable for insignificant variations in the specifications with regard to the true attributes of the delivered goods.

**12.3** The company shall not be liable for any express or implied information about the nature or purpose of the goods even after such a purpose, expressly or implied, has been brought to the attention of the company.

**12.4** The distribution of a sample product to the buyer does not constitute a sale item but is for the sole purpose of allowing the buyer to independently assess the quality of the merchandise, as long as the sample product does not vary significantly from the goods delivered and any variations are not attributable to gross negligence or willful misconduct by the company. With these constraints in mind, acceptance of the goods is at the buyer's own risk.

**12.5** Notwithstanding the preceding provisions in Article 12, the application, use and processing of the goods is the sole responsibility of the buyer; it is assumed that in the course of assessing the merchandise, the buyer has ensured the suitability of the goods with respect to their intended purpose and their further use.

### **13. Liability / Warranty**

**13.1** Despite the provisions in Article 13, the company is fully liable for willful misconduct or gross negligence in the performance of essential contractual obligations and claims arising from mandatory statutory provisions.

#### **13.2 Liability requirement and scope**

**13.2.1** Article 13.2 shall only apply to defects attributable to errors in the design, in the manufacture, in the material itself or manual processing. It shall be evident from this article that the company is not liable for goods with defects caused by acts, omissions, oversight on the part of the buyer's officers or agents, or buyer negligence including, but not limited to, buyer culpability with regard to company advice concerning storage, use or other handling of the goods.

**13.2.2** As long as a defect, as stipulated in Article 13.2, has been properly reported in accordance with the provisions of the above Article 9, the company will rectify the goods at their own expense (repair), exchange the goods (replacement) or refund the price of goods on a pro rata basis. Notwithstanding the disclosure obligations as laid out in Article 9 above, the buyer must pursue all warranty claims (irrespective of their legal grounds) by judicial process within twelve months of the delivery date; respective claims are otherwise precluded. Subject to company liability under provision 13.2.2, the company assumes no further liability for breach of warranty in accordance with Article 12.1. If the company fails to rectify or exchange the goods within a reasonable timeframe, the buyer is entitled to modify the contract.

**13.2.3** The buyer may appeal claims under Article 13.2 only on the condition that:

- (a) the buyer has provided the company written notice of the defect immediately upon discovery, and the company has been given an opportunity to examine the goods, and
- (b) the buyer has returned the goods to the company at the company's expense, and
- (c) the goods have been used exclusively for their contractual purpose.

**13.2.4** The buyer assumes the risk of loss or damage to the goods during return consignment.

**13.2.5** In the event of negotiated partial deliveries, the buyer shall not be entitled to terminate the entire contract or to refuse further partial deliveries due to a deficient partial delivery.

**13.2.6** The company shall not be liable for defects attributable to inaccuracies on behalf of the buyer with regard to submitted drawings, documents, quantities or specifications.

**13.2.7** The company shall not be liable for any defects attributable to normal wear and tear, damage, negligence, abnormal working conditions, disregard for company operating instructions, incorrect use, modification or repair of goods provided these have been made without the consent of the company.

**13.3** Specifically, the company shall not be liable for any indirect or consequential damages including lost profits and loss of business opportunities. Likewise, any liability on the part of the company for recourse as per § 12 of the Austrian Product Liability Act (PHG) and § 933b of the Austrian Civil Code (ABGE) is excluded.

**13.4** Unless shorter time limits are applicable under Item 13 of this contract, the right to bring legal action expires if claims have not been judicially recognized no later than three years after the date of delivery (preclusion period).

### **14. Force Majeure**

The company is entitled to delay deliveries, to cancel the buyer's order, or to reduce the quantity of ordered goods should external factors beyond company control impact the production, receipt or delivery of goods using regular commercial channels or normal means of delivery including, but not limited to, strikes by employees of the company, of the buyer or of a third party, lockouts, accidents, war, fire, power or equipment failure or lack of available raw materials from any of the usual supply channels.

### **15. Promotional Material**

Catalogs, technical information, price lists and any other documentation related to the goods have been created by the company with great care. These documents are, nevertheless, only general information for the buyer, and the specifications contained therein do not constitute any declaration of liability by the company; they are not terms of the contract.

### **16. Intellectual Property Rights**

The buyer shall indemnify the company from and against all costs, claims or losses that threaten, or have arisen as a result of, the infringement of patents, trademarks, copyright or other intellectual property rights if such infringement occurs in connection with the manufacture or sale of goods as per their specifications or buyer requests. The buyer is responsible for ensuring that no third party patents or other intellectual property rights are violated due to the use of the goods.

### **17. Utensils and Tools**

All utensils, artwork, cutting boards or similar resources produced or acquired for the purpose of making the goods shall remain property of the company even if the buyer has been charged for the cost of these items.

### **18. Customer Service Post-Contract**

Subject to any contrary agreement, the company is not obligated to maintain inventory or to produce special products once the contract has ended. Delivery inquiries post-contract constitute new requests for merchandise for which the company will provide a new offer.

### **19. General Provisions**

**19.1** The company belongs to the Vita Cayman Limited holding group. The fulfillment of contractual obligations by the company and the assertion of company rights under this agreement may equally be made by the company or by any other subsidiary of Vita Cayman Limited. An act or omission by a subsidiary is considered in this context to be any act or omission by the company. In compliance with the terms of sale and the relevant statutory provisions, each subsidiary of Vita Cayman Limited is entitled to enforce the provisions of the contract to the benefit of the subsidiary.

**19.2** The contract is concluded exclusively with the identity of the buyer who, without the prior written consent

of the company, is not entitled to transfer rights to a third person or to appoint subcontractors for the purpose of fulfilling contractual obligations.

**19.3** Should any provision of these terms and conditions be invalid or become invalid, the validity of the remaining terms and conditions shall be unaffected. The nullified provision shall be replaced by a stipulation which reflects the commercial purpose intended by said provision.

**19.4** This agreement does not create any partnership, joint venture, corporation, agency relationship or authorized representation between the parties whatsoever.

**19.5** Subject to any other provision in the sales conditions, all contractual agreements reached by the parties shall be reproduced here and in the cost estimate. The application of other provisions is expressly excluded. The terms of sale and the information in the cost estimate supersede all opposing rules implied by law or trade practice, the application of which is expressly excluded. A party's conduct shall not be construed as approval of supplementary provisions submitted by the other party.

**19.6** The contract is subject to Austrian law. The application of provisions from the UN Sales Convention is excluded. The competent court of jurisdiction for all disputes arising in connection with this contract shall be the court in Wels, Austria having subject-matter jurisdiction.