

## 1. General Application area

- 1.1.** The present Terms and Conditions of Sale and Delivery of Silver Plastics GmbH & Co KG (hereinafter referred to as „Terms and Conditions of Sale“) apply to all sales and deliveries (including services) of Silver Plastics GmbH & Co KG (hereinafter referred to as „Silver Plastics“).
- 1.2.** The buyer expressly acknowledges the terms of sale upon receipt of the order confirmation. Deviating or additional terms and conditions of the Purchaser shall apply only in the event of Silver Plastics' prior express written consent, otherwise such terms and conditions are hereby expressly rejected. Counter-confirmations of the purchaser with reference to his terms and conditions of business or purchase are herewith also contradicted.
- 1.3.** If Silver Plastics agrees in writing to a deviation from the terms of sale or additional conditions, these are only valid for the respective order. They have no retroactive effect and do not apply to further orders and deliveries unless these changes have again been confirmed in writing by Silver Plastics.
- 1.4.** (3) The goods manufactured by Silver Plastics comply with the requirements of the German Commodity Ordinance (BedGstV) in the respectively valid version. The relevant declarations of no objection under food law are available for all products in the current version and will be handed over to the purchaser on request.

## 52. Offers, deliveries, force majeure, withdrawal

- 2.1.** All offers from Silver Plastics® are always and in all parts non-binding and subject to confirmation.
- Declarations of acceptance as well as all orders require the express prior written confirmation of Silver Plastics to be legally effective. The same applies to additions, changes or side agreements.
- 2.2.** Forms, dimensions, weights or other performance data are only binding for Silver Plastics if these properties are expressly agreed in writing.
- 2.3.** Oral collateral agreements are not effective. If oral assurances are given that go beyond the content of the written contract, these additional agreements must be agreed in writing.
- 2.4.** All delivery dates or delivery periods must be submitted in writing. Delivery periods shall commence upon conclusion of the contract, unless otherwise contractually agreed. If amendments to the contract are agreed subsequently, a new delivery date or delivery period must be agreed in writing at the same time if necessary.
- 2.5.** The delivery times are automatically extended in case of unforeseen events that are outside the sphere of influence of Silver Plastics or have occurred at subcontractors, as far as such an event is demonstrably of considerable influence on the delivery.
- 2.6.** Silver Plastics is not responsible for delays in delivery and performance due to force majeure or due to events which make delivery by Silver Plastics significantly more difficult or impossible - such as subsequently occurring material procurement difficulties, operational breakdowns, strike, lock-out, official requirements etc., even if they occur at suppliers of Silver Plastics or their subcontractors - even in case of bindingly agreed deadlines and dates. They entitle Silver Plastics to postpone the delivery or performance by the duration of the hindrance plus an appropriate start-up time - also in case of (relative) fixed deals - or to withdraw from the contract completely or partly because of the not yet fulfilled part. Silver Plastics will inform the purchaser immediately. The rights from the following paragraph (8) remain unaffected.
- 2.7.** Silver Plastics is entitled to reasonable partial deliveries and partial services at any time.
- 2.8.** Silver Plastics is entitled to withdraw from the contract, if it does not receive the delivery item or does not receive it in time despite the conclusion of a corresponding purchase contract. The responsibility of Silver Plastics for intent or negligence remains unaffected. Silver Plastics will inform the purchaser immediately about the untimely availability of the delivery item and, if Silver Plastics wants to withdraw, will exercise the right of withdrawal immediately. In case of withdrawal Silver Plastics will immediately refund the corresponding consideration to the purchaser. The rights according to clause 2.6. remain unaffected.

## 3. Transfer of risk

- 3.1.** The risk is transferred to the purchaser as soon as the delivery of goods has been handed over to the person carrying out the transport or has left the warehouse of Silver Plastics® for the purpose of shipment.
- 3.2.** If the shipment becomes impossible without fault of Silver Plastics®, the risk is transferred to the purchaser with the notification of readiness for dispatch to the buyer.

## 4. Liability for defects, notification of defects, consequential damages, limitation period

- 4.1.** In case of justified notice of defects Silver Plastics will, at its own discretion, replace or repair the goods by way of exchange. The purchaser is obliged to give Silver Plastics within an appropriate period of time after prior consultation the opportunity to repair or replace the goods within the normal working hours. Multiple exchanges or multiple rectifications of defects are permitted.
- 4.2.** The buyer must inspect the goods immediately upon receipt and report any visible defects and to notify Silver Plastics in writing of a possible shortage immediately, at the latest within one week after receipt of the goods; in order to comply with the deadline, it is sufficient to send the notification within the deadline. The defects are to be described as detailed as possible to the purchaser. If the buyer fails to give this written notice, the goods are considered as approved. If such a defect appears later, it must be reported in writing immediately after its discovery, otherwise the goods are deemed to have been approved at the latest after one week, even in consideration of this defect.
- 4.3.** Without prejudice to further claims of Silver Plastics, in case of an unjustified notice of defect, the purchaser has to reimburse Silver Plastics for the expenses for examination and - if requested - for the removal of the condition complained about as defect.
- 4.4.** The obligation of the customer to examine and give notice of defects also exists if a different product or a different quantity of goods has been delivered than the one agreed upon, unless the delivered goods obviously deviate so significantly from the order that Silver Plastics had to consider the approval of the purchaser as excluded.
- 4.5.** The Buyer is not entitled to assert claims and rights due to defects if he has not made due payments and if the amount due (including any payments made payments) is in reasonable proportion to the value of the - defective - delivery. The liability for defects expires if the goods are not modified, treated or processed according to technical specifications or improperly. The technical specifications must be requested separately for each product. The purchaser is not entitled to make returns without prior agreement with Silver Plastics. Nevertheless, Silver Plastics will not accept returns. Return shipments must be loaded freight prepaid.
- 4.6.** Any legal warranty claims against Silver Plastics are only available to the direct purchaser and are not transferable.
- 4.7.** If Silver Plastics does not perform a service (sales or delivery) owed by Silver Plastics or does not perform it in accordance with the contract and if the purchaser has therefore set a reasonable deadline for performance or subsequent performance, the purchaser has to declare immediately after expiration of this deadline upon request by Silver Plastics whether he still demands performance or subsequent performance or whether he refuses it. If the purchaser does not respond to the letter of request of Silver Plastics within one week after receipt, it is to be assumed that Silver Plastics is still entitled to performance or supplementary performance. Silver Plastics will inform the purchaser about this legal consequence in the letter of request.
- 4.8.** Unless otherwise provided, the general limitation period for material defects and defects of title shall be one year from the passing of risk. This limitation period shall also apply to contractual and non-contractual claims for damages by the Buyer which are based on a defect in the goods.
- 4.9.** The statutory periods of limitation, even if they are based on a defect, shall apply to (i) claims for damages arising from injury to life, body or health, (ii) for liability under the Product Liability Act, (iii) insofar as Silver Plastics has fraudulently concealed a defect (iv) insofar as Silver Plastics has assumed a guarantee and (v) for claims in supplier recourse in the case of final delivery to a consumer (§ 479 BGB).

## 5. Limitation of liability

- 5.1** Silver Plastics is liable for intent and gross negligence according to the legal regulations. At gross negligence of simple vicarious agents, liability shall be limited to the amount of the foreseeable damage that can typically be expected to occur, unless it is a matter of damage to life, body or health.
- 5.2.** Silver Plastics is only liable for slight negligence in case of violation of an essential contractual obligation, the fulfillment of which makes the proper execution of the contract possible in the first place and on the observance of which the contractual partner may regularly rely, as well as for damages resulting from injury to life, body or health. In case of breach of essential contractual obligations and in case of slight negligence, the liability is limited to the amount of the foreseeable damage, the occurrence of which must typically be expected.
- 5.3** The liability for defects in case of fraudulent concealment of the defect by Silver Plastics® or in case of a guarantee assumed by Silver Plastics® for the quality of the delivery item according to the

legal regulations remains unaffected.

- 5.4.** The liability of Silver Plastics according to the product liability law also remains unaffected.
- 5.5.** The above provisions do not imply a change in the burden of proof to the disadvantage of the customer.

## § 6 Refusal of acceptance

- 6.1.** If the purchaser remains in arrears with the acceptance of the object of purchase for more than 14 days after receipt of the notification of readiness, Silver Plastics can set the purchaser a grace period of 14 days in writing, with the declaration that Silver Plastics will refuse acceptance after expiry of this period. After unsuccessful expiration of the grace period Silver Plastics is entitled to withdraw from the purchase contract by written statement and/or to claim damages.
- 6.2.** The setting of a grace period shall not be required if the Buyer seriously and finally accepts the acceptance.
- 6.3.** If Silver Plastics demands compensation for non-acceptance, this will be 15% of the purchase price. The damage amount is to be set higher or lower, if Silver Plastics or the purchaser proves a higher or lower damage. Silver Plastics reserves the right to assert further claims for damages.

## 7. Prices and payments

- 7.1.** Prices are not considered to be fixed prices (flat-rate prices) unless these have been expressly agreed in writing as fixed prices. Invoices are payable within 30 days of the invoice date without any deduction (net cash).
- 7.2.** Silver Plastics is entitled, despite any other provisions of the purchaser, to set off payments first against the purchaser's older debts. Silver Plastics will inform the purchaser about the kind of the settlement. If costs and interest have already been incurred, Silver Plastics is entitled to set off the payment first against the costs, then against the interest and finally against the main claim.
- 7.3.** Payment is only considered to have been made when Silver Plastics can dispose of the amount. In the case of checks, payment is considered made when the check is cashed.
- 7.4** If the purchaser is in default of payment, Silver Plastics is entitled to charge interest on arrears from the relevant date at a rate of 8 percentage points above the prime rate applicable under § 247 BGB. If higher interest can be demanded for another legal reason, Silver Plastics reserves the right to do so.
- 7.5.** If the purchaser does not meet his payment obligations, or if Silver Plastics other circumstances become known which call into question the creditworthiness of the purchaser, Silver Plastics is entitled to demand payment of the remaining debt. In this case Silver Plastics is also entitled to demand advance payments or security payments.
- 7.6.** The Buyer shall only be entitled to set-off, retention or reduction, even if claims for defects or counterclaims are asserted, if the counterclaims have been legally established or are undisputed.
- 7.7.** Silver Plastics checks the inflation or deflation to the previous year once a year at the turn of the year on the basis of the November value to the previous month (source: Destatis) and adjusts the prices with a lead time of one month.

## 8. Retention of title

- 8.1.** The delivery item remains the property of Silver Plastics until all claims against the purchaser arising from the business relationship have been fulfilled.
- 8.2.** The Buyer shall be permitted to process or transform the delivery item („Processing“). The processing is carried out for Silver Plastics. As far as Silver Plastics does not acquire ownership of the new goods according to the above, Silver Plastics and the Purchaser agree that the Purchaser grants Silver Plastics co-ownership of the new goods in the ratio of the value (gross invoice value) of the delivery item belonging to Silver Plastics to that of the other processed goods at the time of processing. The preceding sentence applies accordingly in case of inseparable mixing or combination of the delivery item with goods not belonging to Silver Plastics. As far as Silver Plastics acquires ownership or co-ownership of objects according to clause 8, the purchaser keeps them for Silver Plastics with the care of a prudent businessman.
- 8.3** In case of sale of the delivered goods or the new goods the purchaser herewith assigns his claim from the resale against his customer with all ancillary rights to Silver Plastics by way of security without the need for further special declarations. The assignment is valid including possible balance claims. However, the assignment is only valid to the amount which corresponds to the price of the delivery item invoiced by Silver Plastics. The part of the claim assigned to Silver Plastics is to be satisfied with priority.
- 8.4** Until revocation the purchaser is authorized to collect the claims assigned to Silver Plastics according to clause 8. The Purchaser will immediately forward payments made on the assigned claims up to the amount of the secured claim to Silver Plastics. In case of justified interests, especially in case of delay of payment, suspension of payments, opening of insolvency proceedings, protest of a bill of exchange or justified indications for an over-indebtedness or imminent insolvency of the Purchaser, Silver Plastics is entitled to revoke the Purchaser's authority to collect. Furthermore Silver Plastics can disclose the assignment of security after prior warning and under observance of an appropriate period of notice, realize the assigned claims and demand the disclosure of the assignment of security by the purchaser to the buyers.
- 8.5.** Upon request, the purchaser must provide Silver Plastics with the information necessary to assert its rights against the customers and hand over the necessary documents.
- 8.6.** During the existence of the reservation of title, the Buyer is prohibited from pledging or assigning the goods as security. In case of seizure, confiscation or other dispositions or interventions of third parties the purchaser has to inform Silver Plastics immediately. The resale of the delivery item or the new goods is only permitted to resellers in the ordinary course of business and only under the conditions that the payment of the equivalent value of the delivery item is made to the purchaser. The buyer must also agree with the purchaser that the purchaser only acquires ownership with this payment.
- 8.7.** Insofar as the realizable value of all security rights to which Silver Plastics is entitled, the amount of all secured claims by more than 10 %, Silver Plastics will release a corresponding part of the security rights on request of the purchaser. It is presumed that the conditions of the previous sentence are fulfilled, if the estimated value of the securities to which Silver Plastics is entitled reaches or exceeds 150 % of the value of the secured claims. Silver Plastics is entitled to choose between different security rights for release.
- 8.8.** In case of breaches of duty by the purchaser, especially in case of default of payment, Silver Plastics is entitled, even without setting a deadline, to demand the surrender of the delivery item or the new goods and/or - if necessary after setting a deadline - to withdraw from the contract. The purchaser is obliged to surrender the goods. The demand for return of the delivery item or the new goods does not constitute a declaration of withdrawal by Silver Plastics, unless this is expressly declared in writing.

## 9. Place of performance and jurisdiction

- 9.1.** Place of performance is Troisdorf.
- 9.2.** For all present and future claims arising from the business relationship with the Buyer, including claims arising from bills of exchange and cheques, Troisdorf shall be the exclusive place of jurisdiction.

## 10. applicable law

- 10.1.** For the present conditions and the entire legal relations between Silver Plastics and the purchaser, German law applies exclusively.
- 10.2.** The application of private international law and the UN Convention on Contracts for the International Sale of Goods are expressly excluded.

## 11. partial invalidity

- 11.1.** If one or more provisions in these terms and conditions or a provision be or become ineffective within the scope of other agreements, the effectiveness of all agreements other provisions or agreements are not affected.
- 11.2.** The legally invalid provisions shall then be replaced by such legally valid provisions which come closest to the economically intended purpose of the invalid provision.