

## GENERAL TERMS AND CONDITIONS FOR DELIVERY AND FACTORY SERVICES BY PROTEC

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### 1. RELEVANT REGULATIONS

1.1 If we, ("Protec"), perform work for the customer or if we supply the customer with an object of purchase (jointly "performance"), the legal relationship between us and the customer shall be governed by these terms and conditions if the customer is not a consumer. Consumers are natural persons who enter into a relationship with us outside of a commercial or independent professional activity.

1.2 General terms and conditions of the customer deviating from these terms and conditions shall only apply if expressly acknowledged by us.

1.3 These terms and conditions shall also apply to all individual transactions resulting from the conclusion of a framework agreement, even if they are not agreed separately in each case.

### 2. CONCLUSION OF CONTRACT, CONTENTS OF CONTRACT

2.1 Offers, contracts and other declarations and agreements or amendments thereto must be made in writing in order to be binding, whereby fax or e-mail shall suffice. Verbal agreements only become effective with such a written confirmation.

2.2 Our general product documentation or price lists do not constitute a binding offer per se.

2.3 We shall be bound by an offer submitted by us as binding for 30 days, unless otherwise stipulated in the offer.

2.4 We shall only accept a binding offer from the customer by means of a separate confirmation which corresponds to the written form of Article 2.1.

2.5 We keep our property rights and copyrights to samples, drawings and similar information provided by us, also electronically. This information may only be used for the contractual purpose and may not be made accessible to third parties without our consent.

2.6 The execution of the contract is subject to the condition that the applicable export regulations are complied with, in particular that necessary permits are granted and that no embargo is in place.

### 3. COOPERATION OF THE CUSTOMER; PURCHASE ABROAD

3.1 The customer shall provide information and specifications of the customer relating to the contract, e.g. technical drawings, free of charge and in good time. They are binding for Protec and are the responsibility of the customer. However, Protec shall inform the customer immediately of any obvious discrepancies and incompleteness.

3.2 If Protec renders the service or parts thereof, e.g. the final assembly, at a location determined by the customer, the customer shall, to the extent necessary and at its own expense, sufficiently and in a timely manner,

- ensure that Protec is able to perform the work without hindrance;
- take the measures necessary for the protection of persons and property, to provide the necessary protective clothing and to inform us in good time of the protective and safety regulations;
- provide suitable, dry rooms for the storage of tools and material;
- provide the necessary materials and to carry out any actions that may be required for acceptance, commissioning of the service or an agreed test run;
- provide suitable building ground, necessary tools, sufficient storage space for material and tools, if necessary heating, lighting, energy, connections and water, as well as
- name suitable contact persons.

If the customer does not comply with these obligations, Protec can carry them out itself at the customer's expense. Further claims remain unaffected.

3.3 If the place of performance is in Germany, our performance shall comply with the laws and regulations applicable in Germany. We cannot guarantee that the service will also comply with

the legislation of other countries; this therefore requires a separate agreement. If the legal requirements of other countries have to be complied with, the customer must inform us in good time and free of charge of the legal requirements applicable there. If the place of performance is outside Germany, this Article 3.3 shall also apply unless otherwise agreed.

### 4. DELIVERY AND PERFORMANCE

4.1 Place of performance is the Protec plant; performance and transfer of risk shall therefore be EXW (Incoterms 2010) Stubenwald-Allee 9, Bensheim.

4.2 A dispatch of a work performance takes place at the risk of the customer, irrespective of whether the customer or Protec carries out the dispatch; the risk is transferred with the delivery of the work performance to the person designated to carry out the dispatch. This does not apply if the place of performance is agreed to be at the customer's premises and Protec carries out the dispatch there.

4.3 If our performance is divisible, we shall be entitled to partial performance unless this is unreasonable for the customer.

4.4 If for the achievement a delivery or completion date is agreed upon, Protec is in debtor's delay only after its expiration and expiration of a further appropriate period set by the customer, if a fixed date was not agreed upon.

4.5 If the delivery or completion date is delayed due to circumstances within the customer's risk area or due to its fault, the date shall be extended accordingly. The extension shall be calculated on the basis of the duration of the delay with a surcharge for the resumption of work. In the event of force majeure, Article 10 shall also apply.

4.6 The customer may only demand a possible contractual penalty if he has reserved this right upon acceptance of the work performance or acceptance of the object of purchase.

4.7 The return and disposal of old equipment in the sense of the Electrical and Electronic Equipment Act (ElektroG) is not included in the contract prices and services. These activities, including a cost allocation arrangement, can be agreed separately.

4.8 Any disposal or return transport of the packaging shall be organised by the customer itself at its own expense.

### 5. SOFTWARE

5.1 Insofar as a contract between us includes the use of software, the customer shall be granted a non-exclusive, non-transferable right of use insofar as this is necessary for the contractual use of the agreed service.

5.2 The scope of the software shall be determined by the time the contract is concluded; the customer has no claim to updates.

5.3 The customer has no claim to inspection, transfer or modification of the source code.

5.4 The customer is not entitled to grant third parties a sub-utilization right to the software.

5.5 The customer may only make changes to the software to the extent permitted by law.

5.6 Insofar as software from third parties is included in the contract, their general terms and conditions shall also apply. We make these available to customers at their request.

### 6. ACCEPTANCE

6.1 The following acceptance rules shall apply to work performed.

6.2 Unless otherwise agreed, formal acceptance shall take place. A record of the acceptance shall be drawn up and signed by the parties.

6.3 Acceptance may also be requested for self-contained parts of the service.

6.4 If the customer has used the service as intended, acceptance shall be deemed to have taken place ten working days after commencement of use. The use of the service or parts thereof by the customer in order to complete the service shall not yet be deemed acceptance in the sense of sentence 1.

## 7. REMUNERATION, TERMS OF PAYMENT, PACKAGING

7.1 The agreed remuneration is quoted in Euro plus statutory VAT.

7.2 Unless otherwise agreed, payment shall be made in the following instalments due to our high advance performance costs:

- 40 % after conclusion of the contract and receipt of a corresponding invoice, payable immediately;
- 55 % after Protec has notified the customer of completion of the work performance or readiness for delivery of the object of purchase and receipt of a corresponding invoice, payable immediately;
- 5 % after acceptance of the work performance or delivery of the object of purchase and receipt of the final invoice with a period of 30 days;

Payable each time without deduction.

7.3 Remuneration does not include packaging. Their costs will be shown separately and invoiced.

7.4 Objections to invoices must be sent to Protec in text form or in writing. If these objections are not raised within three months of receipt of the invoice, the invoice shall be deemed approved (declaratory acknowledgement of debt). The timely dispatch of the objection is sufficient to comply with the deadline. Protec shall inform the customer of these consequences separately in the respective invoice. The mere payment of the respective invoice amount by the customer shall not be deemed an acknowledgement.

7.5 If the customer demands drawings, documentation, calculations or other documents which are not owed by Protec, it must pay for them.

7.6 A set-off or the assertion of a right of retention by the customer is only possible with undisputed or legally binding claims.

7.7 If the customer is in default with the payment of the remuneration from a contract concluded with us in whole or in part, we shall be entitled to withhold an appropriate portion of our services from this or another contract already concluded with the customer until payment of the remuneration has been made in full.

## 8. TITLE RETENTION

8.1 If sales law is applicable, the following rules apply to retention of title.

8.2 Protec retains ownership of the service (hereinafter in this Article 8.: "**reserved goods**") until full payment of all outstanding remuneration claims arising from the business relationship with the customer.

8.3 The customer is entitled to resell reserved goods in the ordinary course of business before transfer of ownership; however, it hereby assigns to Protec all its claims resulting from the resale in the amount of the remuneration claim from the relevant contract with Protec, irrespective of whether the service was resold without or after processing. The customer remains authorised to collect these claims even after the assignment. Protec undertakes not to collect the claim itself as long as the customer meets its payment obligations from the business relationship with Protec and is not in default of payment. Otherwise, Protec can demand that the customer informs discloses the assigned claims and their debtors, provides all information necessary for collection by Protec, hands over the relevant documents and informs the debtor of the assignment and the collection authority of Protec.

8.4 The customer shall treat the reserved goods with care as long as ownership has not yet passed to the customer.

8.5 The customer may not pledge or assign by way of security the reserved goods prior to the transfer of ownership. It must inform Protec immediately in writing if goods subject to retention of title are seized or subjected to other interventions by third parties.

8.6 The treatment and processing or transformation of the reserved goods shall be carried out in the name of and on behalf of Protec. In this case, the customer's expectant right to the reserved goods shall continue to apply to the transformed item.

8.7 Insofar as the reserved goods are processed, combined or mixed with objects which are not our property, Protec becomes co-owner of the new object in the ratio of the objective value of

the reserved goods to the other objects at the time of processing, combination or mixing.

8.8 In order to secure Protec's claims against the customer, the customer also assigns such claims to Protec accepting this, which accrue to the customer against a third party through the connection of the reserved goods with a property.

8.9 Protec undertakes to release the securities to which it is entitled in accordance with this Article 8 at the customer's request insofar as their value exceeds the claims to be secured by more than ten percent. Protec makes the decision as to which security is to be released at its dutiful discretion.

## 9. RIGHTS ARISING FROM PRODUCT DEFECTS, WARRANTY PERIOD

9.1 The warranty period is

- one year for the delivery of an object of purchase or a work performance the success of which consists in the manufacture, maintenance or modification of an object or in the provision of planning or monitoring services for this purpose, unless the following coating is relevant,
- five years in the case of a building, an object which has been used for a building in accordance with its usual use and which has caused its defectiveness, or a work the success of which consists in the provision of planning or monitoring services for a building, and
- otherwise two years, with the time limit in this case being set in accordance with §§ 195 ff. of the German Civil Code.

9.2 The warranty is excluded for used movable purchase objects. This does not apply if Article 9.1, second coat or 9.3, 9.4 or 9.5 is relevant.

9.3 The statutory warranty period shall apply in any case,

- if Protec maliciously concealed a defect,
- in the cases of § 438, Section 1, No. 1, German Civil Code.

9.4 Article 10.4 remains unaffected.

9.5 For claims for damages against us and their limitation period, Article 10 remains unaffected.

9.6 The warranty period shall commence in accordance with the statutory provisions.

9.7 Protec shall have the right to choose whether it wishes to rectify the defect or deliver a defect-free service.

9.8 No new limitation period shall commence for the subsequent performance.

9.9 The customer's warranty right is limited to the right to subsequent performance. However, it expressly reserves the right to reduce the price if subsequent performance fails or, if a construction service is not the subject of the liability for defects, to withdraw from the contract at its discretion; Article 8.4 remains unaffected.

9.10 If the law on works and services applies, the customer must claim defects from us within a reasonable period of time after discovery; otherwise the work performance regarding this defect shall be deemed to have been approved. In the case of the application of sales law, the statutory provisions governing the customer's obligation to give notice of defects shall apply.

9.11 If the customer complains about a defect without such a defect being present, it shall be obliged to compensate us for the damage resulting from the complaint.

9.12 Place and costs of subsequent performance shall be determined by the place where the service is to be used in accordance with the contract between Protec and the customer.

9.13 Any necessary travel expenses incurred by us in the course of subsequent performance from the place of performance to the location of the performance shall always be reimbursed to us.

9.14 If a defect is based on a performance or action of the customer which is improper or that the customer is otherwise responsible for, e.g. in the context of the assembly or commissioning, no customer rights arising from product defects exist.

9.15 Warranty claims are excluded if we are not responsible for them, e.g. in the event of normal wear and tear, inappropriate changes and interventions in the performance, unsuitable building ground or chemical, electrochemical or electrical influences for which we are not responsible.

9.16 The customer shall grant us the time and opportunity required for subsequent performance, otherwise we shall not be liable for the consequences.

## 10. LIABILITY

10.1 Protec's liability is unlimited

- in case of intent or gross negligence,
- in the case of deliberate concealment of a defect,
- in the event of intentional or negligent injury to life, limb or health,
- due to mandatory liability, e.g. under the Product Liability Act,
- on the basis of a guarantee promise, unless otherwise agreed.

10.2 If Protec culpably breaches an essential contractual obligation (i.e. an obligation which makes it possible to achieve the purpose of the contract in the first place and on the observance of which the customer may regularly rely), its liability shall be limited to the foreseeable damage typical for the contract, unless unlimited liability is assumed in accordance with Article 10.1.

10.3 Otherwise the liability of Protec is excluded.

10.4 The statutory limitation period shall apply to claims under Article 10.

10.5 The liability rules listed under Article 10 also apply to vicarious agents and legal representatives of Protec.

## 11. FORCE MAJEURE

11.1 Events of force majeure (war events, riots, labour disputes, strikes, operational disruptions over which the affected party has no influence and other unforeseeable events which cannot be averted with reasonable care, which affect the parties externally and which are serious) shall release the parties from their performance obligations for the duration of the disruption and to the extent of their effect. The parties are obliged, within reason, to provide the necessary information without delay and to adjust their obligations to the changed circumstances in good faith.

11.2 If the event lasts longer than three months or if performance becomes permanently impossible as a result of the event, each party shall be entitled to withdraw from the contract for this reason if a purchase contract exists.

11.3 In the case of a contract for work and services or a contract for work and materials, either party may terminate the contract without notice for the reasons set out in Article 11.2. Protec may demand a part of the remuneration corresponding to the work performed and reimbursement of expenses not included in the remuneration. The customer may demand the surrender of the service, insofar as this is available and the surrender is reasonable.

11.4 Further legal claims remain unaffected.

11.5 In all other respects the law shall apply.

## 12. TERMINATION FOR CAUSE

12.1 In the case of a contract for work and services or a contract for work and materials, Protec may terminate the contract concluded with the customer in particular for good cause,

- if the customer is in debtor's default and an additional reasonable payment period set by Protec elapses.
- if a significant deterioration occurs or threatens to occur in the financial circumstances of the customer.

12.2 In the cases of Article 12.1 and in cases in which the agreement concluded between the customer and us is terminated for good cause and the customer is responsible for this, the services performed up to that point shall be invoiced in accordance with the contract. Protec is also entitled to demand the agreed remuneration for the service not rendered due to the termination; Protec must, however, take into account the portion it saves in expenses as a result of the termination of the contract or which it acquires or maliciously refrains from acquiring through other use of its labour. It is assumed that Protec will then be entitled to 5 per cent of the agreed remuneration for the part of the work not yet performed.

12.3 Any further claims shall remain unaffected.

## 13. PLACE OF JURISDICTION, APPLICABLE LAW

13.1 The laws of the Federal Republic of Germany shall apply exclusively to these General Terms and Conditions and the legal relationships associated therewith, including the agreement on the place of jurisdiction pursuant to Article 13.2, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

13.2 For all disputes arising from these General Terms and

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ProTec Polymer Processing GmbH  
Stubenwald-Allee 9  
64625 Bensheim  
Germany

T....+49 6251 77061- 0

F +49 6251 77061- 500

info@sp-protec.com

www.sp-protec.com