



ALPLA ITALIA S.r.l. Unipersonale  
Società soggetta all'attività di direzione e  
coordinamento della  
ALPLA WERKE LEHNER GmbH & Co KG  
Sede legale: S.S. per Alessandria, 8/b  
15057 Tortona (AL)  
Codice Fiscale e Partita  
IVA IT 07874720159

## **General Terms and Conditions of Sales**

### **§ 1 Scope of application**

- (1) The following conditions shall apply to all supplies and services (e.g. installation, design) by Alpla. These conditions shall also apply to future business.
- (2) Contrary terms and conditions, in particular Terms and Conditions of Purchase of the customer, are not accepted and shall not apply. No objection is required on the part of Alpla.
- (3) Any amendment to these conditions must be in writing. Submission of an order or acceptance of delivery shall constitute acceptance of these conditions in every case.

### **§ 2 Quotation, acceptance, order confirmation**

- (1) Alpla's quotations are subject to a time limit, the length of which shall be stated on the quotation.
- (2) Alpla accepts orders by confirmation of the order in writing. Should Alpla's order confirmation deviate from the conditions of an order, the legal transaction shall be performed under Alpla's conditions, unless the customer objects in writing immediately after receipt of the order confirmation.

### **§ 3 Price**

- (1) All prices are quoted net ex works in the currency of the country in which the supplying factory of Alpla is located. Unless otherwise agreed, the prices valid on the day of delivery shall apply.
- (2) If prices have been agreed and the costs on which these prices were based change, Alpla is entitled to adjust the prices in accordance with the change in costs.
- (3) If delivery is carried out at a later date due to circumstances within the customer's control, Alpla shall be entitled to offset the resulting higher costs with

correspondingly higher prices. This shall not affect Alpla's right to compensation for loss due to other causes.

- (4) The customer shall bear all taxes, customs duties and other charges which it has to pay upon receipt of the delivery, unless Alpla has undertaken in writing to assume these charges.

#### **§ 4 Place of performance, delivery**

- (1) The place of performance is the respective supplying factory of Alpla.
- (2) Dispatch and transport take place for the account and at the risk of the customer. As soon as delivery has been made at the place of performance, the risk passes to the customer. Should the customer not accept the delivery, it is in default of acceptance. Furthermore, Alpla's delivery is deemed to have been made in this case and Alpla is entitled to store the goods at the customer's expense. The storage costs incurred shall be immediately refunded to Alpla.
- (3) Alpla is entitled to partial deliveries, subject to these conditions in their entirety.
- (4) Should Alpla be unable to deliver on the agreed date due to unforeseen circumstances beyond its control (force majeure, suppliers' delivery delays, operating defects or interruptions through no fault of its own, transport delays, shortage of raw materials or energy through no fault of its own, etc.), Alpla shall be entitled to deliver on the earliest possible date, provided the customer is able to accept delivery on this date. Otherwise, Alpla shall be entitled to withdraw from the contract. In other cases of delayed delivery, Alpla shall only be liable in the event of its own gross negligence and intent.
- (5) If the customer is not granted an import licence, this shall not discharge him from performance.

#### **§ 5 Warranty and liability**

- (1) Alpla guarantees that the goods conform to the agreed specifications. The customary tolerances shall apply.
- (2) The customer shall inspect the goods carefully on receipt and shall notify any defects in writing within ten days of handover by submitting a sample of the faulty goods; otherwise any claims, including claims for consequential loss, shall be excluded. If a defect is notified in due time, Alpla shall, at its discretion, provide a remedy by improving, replacing or taking back the faulty goods and crediting the purchase price or reducing the price. The customer shall have no other rights.

- (3) The warranty period is 6 months and begins as soon as the goods are tendered for delivery to the customer at the place of performance.
- (4) The customer is not entitled to withhold payment against warranty or other claims, of whatever kind.
- (5) Alpla is liable for damages only in the event of intent or qualified gross negligence. Alpla shall not be liable for consequential loss, particularly lost profit and return costs. Alpla's liability shall be limited to EUR 5 million, depending on the amount. Alpla shall meet contractor's product liability claims (for damages) up to the sum of EUR 5 million.
- (6) Returning faulty goods requires the prior explicit consent of Alpla. If goods are returned without prior consent, Alpla is entitled to refuse acceptance of the goods returned and to return them to the customer at the latter's expense.
- (7) Samples may differ in quality, properties, shape, design and functionality from the delivery.

## **§ 6 Retention of title**

- (1) Alpla shall retain title to the delivered object of the contract (goods subject to retention of title) until fulfilment of all duties incumbent upon the customer, in particular until payment of the purchase price in full.
- (2) The customer shall be entitled to resell the goods subject to retention of title. The entitlement shall cease if the customer defaults on payment or faces problems with being able to make the full payment to Alpla.
- (3) Should the reserved property be resold by the customer, it shall assign to Alpla all accounts receivable from resale or any other uses up to the amount of the purchase price demanded by Alpla. The customer undertakes to record this assignment in its books. The customer shall be authorised until further notice to collect these assigned accounts receivable in its own name on behalf of Alpla. The customer undertakes to retain title to the reserved property if it resells this on credit.
- (4) The customer shall assign to Alpla insurance or compensation claims arising from destruction or damage to the reserved property.
- (5) Pledging the reserved property and transferring the property by way of security is not permitted.
- (6) The parties explicitly agree that, as provided by the above-mentioned stipulation as to reservation of title, should the Customer be defaulting, ALPLA will have the right to sell to a third party the products under discussion in the stipulation and/or to put

them up for auction. Moreover, ALPLA can deduct the ensuing proceeds in order to have its credit paid off to the extent of the price originally agreed. Moreover, ALPLA binds itself to pay back the amount in excess of its residual credit. It being understood that in any case ALPLA is entitled to damages.

## **§ 7 Payment and default**

- (1) The place of performance for payment is the respective supplying factory of Alpla.
- (2) Bills of exchange and cheques are accepted only for the purposes of payment and on agreement in writing.
- (3) The purchase price shall be paid in full within 30 days of the date of the invoice.
- (4) In the event that the payment is not made when due, Alpla is entitled to:
  - delay performance of its obligations until the outstanding payment has been made,
  - claim an appropriate extension of the delivery or performance deadline,
  - demand payment of the entire outstanding amount,
  - offset all dunning and collection costs and the statutory default interest calculated at 7 percentage points above the three-month EURIBOR rate, or
  - in the case of non-compliance with an additional period of time of reasonable length, withdraw from the contract, whereby Alpla shall also be entitled to withdraw from the contract as a whole in the case of divisible delivery. Should Alpla withdraw, the customer shall pay Alpla an immediate cancellation charge of 10% of the price and reimburse any losses above this.
- (5) Should judicial execution be levied upon the customer's assets, or if Alpla is in doubt concerning the customer's ability to pay, Alpla shall be entitled to:
  - demand all accounts receivable immediately, regardless of their due date,
  - withhold all deliveries from contracts not yet fulfilled and make deliveries only against advance payment. Should the customer refuse to pay in advance, Alpla shall be able to withdraw from the contract and also claim compensation for damages.
- (6) Should the customer be in default of acceptance, payment is due immediately.
- (7) Even if originally allocated elsewhere, payments are always calculated on the basis of the oldest debt and the interest and costs incurred.

## **§ 8 (Moulding) tools**

- (1) Unless otherwise agreed, Alpla shall remain the owner of the moulds it has produced or which have been commissioned from a third party for the customer. Should the customer become the owner of the moulds, ownership shall be transferred to him only on full payment of the purchase price.
- (2) By express agreement and as long as the customer discharges its payment and acceptance obligations, moulds shall be used only for the customer's orders.
- (3) The price for moulds includes the costs of a one-off sampling process, but not the costs of testing and tooling fixtures or the costs of modifications initiated by the customer.
- (4) Alpla is obligated to replace moulds only if their initial design does not date back more than three years, the forms are required to fulfil a delivery volume warranted to the customer, and the customer discharges its payment and acceptance obligations.
- (5) Alpla shall keep moulds for two years beyond the last delivery from the moulds. Alpla shall inform the customer prior to disposal of a mould.
- (6) Should a contract end before the moulds are repaid, the customer shall pay the redemption amount still outstanding.
- (7) For damage to moulds owned by the customer, Alpla shall be liable only in the event of intent or qualified gross negligence, nor shall Alpla be liable for these moulds accidentally perishing. Alpla shall insure these moulds at the customer's request. The costs of doing so shall be borne by the customer, as are the costs of maintaining and servicing these moulds.
- (8) Should the customer not collect moulds belonging to him within a reasonable period of time after the contract ends, Alpla shall be entitled to store or dispose of the moulds at the customer's expense. Alpla shall be entitled irrespective of this to keep moulds owned by the customer until the customer discharges in full all obligations arising from the contract and incumbent upon it.

## **§ 9 Place of jurisdiction and applicable law**

- (1) All legal relations between Alpla and the customer are subject to the national substantive law applicable for Alpla's respective supplying factory. The UN Convention on Contracts for the International Sale of Goods shall not apply.
- (2) The exclusive place of jurisdiction for disputes within the scope of the Lugano Convention or of the European Jurisdiction and Enforcement Regulation is the court with jurisdiction over Alpla's respective supplying factory.

It is agreed that the international court of arbitration of the Chamber of Commerce of Austria in Vienna shall be responsible for all cases outside the scope of this jurisdiction. The place of arbitration shall be Vienna, Austria. The language of arbitration shall be German. If the contract is drawn up in a language other than German, English shall be the language of arbitration.

Alpla is, however, entitled in all cases to bring an action against the customer before another competent court.

## **§ 10 Reusable packaging**

- (1) Reusable packaging is and remains the property of Alpla. The customer shall be liable for any damage or loss to this. Alpla alone shall decide whether reusable packaging is damaged, at its own discretion.
- (2) The customer shall return the reusable packaging to Alpla without request after emptying it. Should insolvency proceedings be opened concerning the customer's assets or the business relationship end for any reason whatever, the customer shall likewise return the reusable packaging without request.
- (3) The customer shall be charged retro-actively each quarter for damaged and lost reusable packaging and reusable packaging not returned in due time. Should insolvency proceedings be opened concerning the customer's assets or the business relationship end for any reason whatever, the costs of damaged and lost reusable packaging and reusable packaging not returned in due time shall be settled immediately. Reusable packaging placed to account shall be paid for within 30 days of the date of invoice without any deductions.

## **§ 11 Final provisions**

- (1) The customer is not entitled to offset any claims against Alpla with claims for payment against it by Alpla. The customer has no right of retention.
- (2) The customer is not entitled to assign its accounts receivable on delivery of the object of the contract to another party.
- (3) Rescission of a contract on the grounds of error by the customer shall be excluded.
- (4) Documents or information concerning Alpla, its products, sales partners or other customers, which are made available to the customer or from which the customer gains other knowledge may not be passed on to third parties, in particular not to rival companies or be made public in any other way. This applies analogously to documents such as samples, drawings, drafts, cost estimates or advertising material

which are passed on to the customer or on the basis of which the customer acquires other information. Alpla retains all rights to such documents.

- (5) The customer shall guarantee that no third party rights pertain to the drawings, sketches, models, etc. which it provides. It shall indemnify Alpla and hold it harmless in respect of all claims arising from a breach of such rights and shall reimburse Alpla with all costs incurred in this regard. If such rights are asserted, Alpla is entitled to withdraw from the contract without setting a time extension and to immediately suspend deliveries, without checking the legal situation and without the customer being entitled to assert claims against Alpla.
- (6) Should any provisions of the contract be or become invalid or unenforceable, this shall not affect the validity of the rest of the contract. These invalid or unenforceable provisions shall be deemed to have been replaced with valid and enforceable provisions which most closely reflect the intended economic purpose (severability clause).
- (7) If the contract is also drawn up in English, the English text shall apply for the interpretation of the contract and its terms and conditions.

Customer

ALPLA

The customer declares to be familiar with the general terms of contract drafted by ALPLA S.r.l. after having previously received explicit communication of them, to accept and approve them in their entirety and in particular declares to specifically approve, as per articles 1341 and 1342 of the Italian Civil Code, the following clauses contained in them:

- § 4 Place of performance, delivery
- § 5 Warranty and liability
- § 7 Payment and default
- § 8 (Moulding) tools – clause 7
- § 9 Place of jurisdiction and applicable law
- § 11 Final provisions

Customer