

General Terms and Conditions on the Distribution of Goods

1. Scope of Validity of these Terms and Conditions

1.1 All order and delivery transactions of CaPlast Kunststoffverarbeitings GmbH (hereinafter: „CaPlast“) shall be exclusively subject to the following general terms and conditions on the distribution of goods (hereinafter: “General Terms”) and to the provisions of the respective contract.

1.2 Entering into a contract based on these General Terms substantiates the applicability thereof to all other (delivery) transactions with the customer (hereinafter: “Customer”) within the scope of a current business relationship, even if CaPlast does not make explicit reference thereto in future. This also applies if Customer received knowledge of these General Terms after the first conclusion of a contract between the Parties.

1.3 Agreements deviating from these General Terms, especially conflicting general terms of Customer, shall require CaPlast’s explicit written consent to become valid and have to be accepted separately by CaPlast in writing for every individual contract. Such conditions shall not be binding upon CaPlast, even if CaPlast fails to explicitly contradict them, or if CaPlast, being fully aware of such conditions, delivers to Customer without reservations.

1.4 CaPlast shall be entitled to amend a provision in the contract, including these GTC, if this appears necessary and the Customer is not disadvantaged thereby contrary to good faith. This applies in particular in the event that a) after the conclusion of the contract unforeseeable or uncontrollable changes have occurred (e.g. due to a change in supreme court rulings) or loopholes become apparent and b) as a result the relationship between performance and consideration is significantly disturbed. CaPlast shall notify the Customer of any amendments to these GTC in text form no later than four weeks prior to their effective date. The Customer shall be deemed to have given his consent if he has not notified CaPlast in text form of his refusal by the time the changes become effective. CaPlast shall specifically draw the Client’s attention to this effect of acceptance in its notification of the amendment to these GTC.

1.5 These GTC only apply to entrepreneurs pursuant to sec. 310 Para. 1 BGB German Civil Code (“Bürgerliches Gesetzbuch”, “BGB”).

2. Offers and Conclusion of Contract; Order of Validity

2.1 Offers of CaPlast shall not be binding unless expressly indicated or confirmed otherwise by CaPlast in written form. Drawings, depictions, dimensions, weights or other performance data shall only be binding if explicitly agreed upon in writing.

2.2 Insofar Customer places an order, this shall be considered a binding offer pursuant to Sec. 145 BGB. Customer’s order shall comply with CaPlast’s offer. Unless agreed otherwise in writing, CaPlast may accept this offer within a period of two (2) weeks by sending Customer an order confirmation.

2.3 Contracts with CaPlast come into existence upon CaPlast’s acceptance of Customer’s order in textform, e.g. email, fax (sec. 126b German Civil Code), in the form of an order confirmation, the latest at CaPlast’s provision of its performance.

2.4 Unless otherwise agreed in the individual contract, in case of conflicting provisions the following order applies:

- a. the individual contract including additional agreements
- b. these General Terms
- c. – if applicable – performance description as arranged with Customer
- d. – if applicable – technical specification as arranged with Customer
- e. the essential contractual parts of CaPlast’s offer (e.g. price, amount).

2.5 CaPlast reserves rights of ownership and copyrights with respect to the documents mentioned in 2.1 above.

3. Customer's Duties and Obligations; Material Provided by Customer

3.1 Customer shall ensure that CaPlast is provided with all necessary cooperation and provision performances in good time, to the necessary extent, and without charge. If Customer does not, not in time, or not in the agreed manner provide necessary cooperation performance, he solely has to bear the consequences resulting therefrom (e.g. delays, additional expenditures).

3.2 If Customer provides goods for processing by CaPlast, CaPlast shall check whether the processing of the provided goods as requested by the customer is technically possible. CaPlast shall be obliged to check the suitability of the goods provided and/or their processing for the purpose intended by the customer only to the extent that this is evident to CaPlast. CaPlast shall, if necessary, provide the customer with a corresponding note.

3.3 The contents and technical condition of data carriers provided by the Customer must be fault-free, in particular free from malware and viruses, etc. If this is not the case, Customer shall reimburse CaPlast for all damages resulting from the use of these data carriers and shall hold CaPlast harmless against all third party claims, unless the cause of the damage does not originate from Customer's field of control or organization.

4. Delivery and Time of Delivery; Sub-contractors

4.1 As long as Customer does not fulfill its cooperation and provision duties, such as especially the provision of goods for processing or treatment, of printing templates and/or information material for the goods to be manufactured, etc., a delay in delivery of CaPlast is excluded.

4.2 A delay in delivery by CaPlast is also excluded if CaPlast itself is not supplied correctly or on time by its suppliers.

4.3 If the delivery item is an item of sale, deliveries shall be effected "Free Carrier" (that is, "Free Carrier Magdheide 7, 59394 Nordkirchen", resp. "FCA Magdheide 7, 59394 Nordkirchen" according to Incoterms 2020), unless explicitly agreed otherwise in writing.

4.4 Following the completion of FCA orders as mentioned above, Customer is required to pick up his goods at the delivery destination pursuant to sec. 4.3 within five (5) days (Mondays through Fridays, legal holidays excluded) from receiving notice of completion (delivery date), unless indicated otherwise by CaPlast. Upon Pick-up, Customer is obliged to settle any transport and/or all other costs concerning the goods which arose after their completion and provision by CaPlast.

4.5 Form, modality and scope of packaging are in the sole discretion of CaPlast. If CaPlast committed itself, in an individual case, beyond FCA Magdheide 7, 59394 Nordkirchen pursuant to Incoterms 2020, to send goods to Customer, the modality of dispatch is in the sole discretion of CaPlast.

4.6 Indicated delivery and performance dates are only binding if CaPlast declared or confirmed them to be binding. If an agreed delivery date is overdue, Customer shall be entitled to set CaPlast an adequate subsequent period of time for delivery. If CaPlast does not deliver within the subsequent period of time, Customer shall be entitled to withdraw from the contract. Withdrawal shall be declared in writing.

The above shall not apply if the individual contract is a transaction at a fixed date within the meaning of sec. 286 Para. 2 No. 4 BGB or § 376 HGB ("Fixgeschäft"), or if the customer is entitled to assert that he is no longer interested in the further performance of the contract.

If Customer chooses compensation for damages in lieu of performance, CaPlast's liability is subject to the limitations as stipulated in provision 10 below.

4.7 For the period of the existence of circumstances outside of the control of CaPlast ("Force Majeure"), such as inability to source raw materials and transportation means, stoppages in production, strikes and lock-outs, fire and natural catastrophes, CaPlast shall be discharged from its delivery obligation. Delivery deadlines agreed shall be extended by the period of the existence of the circumstances of Force Majeure, but by no longer than six (6) months. If the circumstances of Force Majeure end within this period, Customer shall only have the right to reject the deliveries if it is unreasonable to expect from Customer taking delivery after such lapse of time. If the circumstances of Force Majeure end following the lapse of six (6) months, this shall be regarded as ultimate impediment to performance; Customer shall be entitled to withdraw from the contract (sec. 323 BGB). The same applies, if and when it is foreseeable that the circumstances of Force Majeure will be permanent.

4.8 CaPlast shall be entitled to effect partial deliveries and services, if (i) the partial delivery is usable for Customer within the intended purpose of the contract, (ii) the delivery of the remaining ordered goods is secured and (iii) no substantial additional expenses occur for Customer hereby (unless CaPlast agrees in writing to bear these expenses).

4.9 In case CaPlast delivers or sends the goods to a location outside Germany upon Customer's request and expense, Customer shall, within five (5) working days of receipt of the goods at the destination, provide CaPlast with a confirmation of receipt ("Gelangensbestätigung") or comparable alternative documentation in written form as proof of shipment abroad. If Customer does not provide such proof, Customer shall be liable internally to CaPlast to the extent that CaPlast is therefore required to pay Value Added Tax (VAT) on the delivery in question, unless CaPlast is responsible accordingly.

4.10 CaPlast is entitled to perform by subcontracting third parties (subcontractors), unless this contradicts Customer's justified interests. CaPlast is liable for the performance of subcontractors to the same extent as it is liable for its own actions.

5. Prices and Payment Conditions

5.1 If the delivery item is an item of sale, prices are "Free Carrier" (that is, "Free Carrier Magdheide 7, 59394 Nordkirchen", resp. "FCA Magdheide 7, 59394 Nordkirchen" according to Incoterms 2020) and do not include freight, customs, import duties, ancillary levies; they are net prices plus statutory value added tax (VAT).

5.2 In the event that during the period between conclusion of the contract and delivery cost decreases or cost increases occur, unforeseen and uninfluencable by CaPlast, especially due to changes in the raw material prices by more than 10 % (ten percent), CaPlast and Customer are entitled to request of the respective other party an adjustment of the agreed prices by renegotiation. The validity of the remaining provisions shall not be affected by such renegotiations. If no agreement can be reached by the renegotiations, both CaPlast and Customer are entitled to withdraw from the contract.

The same applies in case that between conclusion of the contract and delivery the consumer costs index, as established for all of the Federal republic of Germany by the German Federal Statistics Office in Wiesbaden, changes, unforeseen and uninfluencable by CaPlast, by more than 5 % (five percent) compared to the index as established at the time of Customer's order. The consumer costs index by the German Federal Statistics Office is visible to Customer anytime via their homepage under www.destatis.de

If desired, Customer may request the percentaged price development of the basic raw materials used by CaPlast as an overview (source: branch paper information for plastics (KI) – www.kiweb.de; Independent Chemical Information Service (ICIS) – www.icis.com). Calculation base for price

changes are the prices as shown in the aforementioned KI raw materials price index at the time of Customer's order.

In case that price increases or price decreases are due to price changes of special raw materials not shown in the KI raw material price index, CaPlast will in each individual case prove towards Customer such price changes.

5.3 Invoices of CaPlast are due immediately upon receipt and shall be paid without deductions and within ten (10) days to the account indicated on the invoice, unless other terms of payment are agreed between the parties in writing or indicated on CaPlast's invoice. They are to be paid in EUR. Timeliness of payment shall be determined by the date the whole amount is credited to one of CaPlast's business accounts. In the event of default in payment, CaPlast is entitled to charge default interest in the amount of nine (9) percentage points above the base interest rate.

5.4 If Customer deducts a cash discount from its payment which is unjustified due to non-execution of a payment within a set payment period, absence of a complaint by CaPlast does not constitute a tacit acknowledgement of the deducted cash discount. Until expiration of the limitation period, CaPlast is entitled to demand payment of the partial amount not paid by Customer due to the cash discount or to settle this partial amount with outstanding claims of other orders of Customer resp. to book it on Customer's receivables account.

5.5 If Customer delays on payment with respect to carried out deliveries CaPlast is, at its option, entitled to either withhold not yet carried out deliveries until Customer has performed advance payment accordingly, or to withdraw from the contract about the not yet carried out deliveries.

5.6 For each debit balance not realized or returned unpaid, Customer shall, to the extent he is liable for the event which triggered the costs, reimburse CaPlast the costs incurred, including costs for the collection of the outstanding payments.

5.7 Bills of exchange and checks are only accepted on account of performance and the debt shall only be cleared upon receipt of full payment. If bills of exchange are not negotiated within 14 (fourteen) calendar days after the term agreed upon, immediate payment in cash may be demanded. CaPlast shall assume no liability for correct and timely presentation and protesting with regard to the negotiated check or bill of exchange. Discount charges (2 % above the discount rate charged by CaPlast's bank, minimum € 50.-), and all expenditure and costs in connection with the honoring of bill of exchange and check amounts shall be borne by Customer

5.8 Any complaints against the level of CaPlast's remuneration charged to Customer shall be addressed to CaPlast immediately after receipt of invoice. Complaints have to reach CaPlast within eight (8) weeks after receipt of invoice. Omission of timely complaints is deemed as approval of the amount of the invoice. Customer's legal claims concerning complaints after expiration of the deadline remain unaffected.

5.9 If, after the conclusion of a contract, there are reasonable doubts as to the solvency or credit standing of Customer or, if such circumstances are prevailing at the conclusion of the contract but become known at a later date, CaPlast shall be entitled to demand advance payment or the posting of collateral prior to delivery, as well as to revoke payment terms granted and render all credited receivables immediately due for payment.

5.10 Despite possible conflicting or missing determinations of Customer, CaPlast shall be entitled to initially offset payments against older debts of Customer and shall notify Customer of the nature of any offset. If costs and interest have already accrued, CaPlast shall be entitled to offset payments against these costs first, then against interest and finally against the principal debt.

6. Transfer of risk; Examination for transport damages

6.1 The risk of accidental loss of goods shall pass over to Customer as soon as the consignment has been loaded onto the means of transport provided by Customer.

The same applies if the parties, in individual cases, agree on a commercial clause other than "FCA Magdheide 7, 59394 Nordkirchen" even if this deviates from the interpretation rule of this other commercial clause in this respect. In this case, the parties nevertheless already now agree that the interpretation rules of this other commercial clause will remain in effect.

6.2 Immediately after receiving the delivery, Customer shall examine its external condition, notify any transport damages to carrier, secure relevant evidence and immediately inform CaPlast and the carrier by phone and in text form (Sec. 126b BGB). In case of a delivery to a deviating debtor's address, Customer shall ensure that the examination for any transport damage is carried out in accordance with this section 6.

6.3 If dispatch cannot be carried out within the agreed delivery period for reasons for which CaPlast is not responsible, the risk of accidental loss of the goods shall pass over to the Customer upon lapse of the delivery date stipulated in section 4.4.

6.4 If the delivery item is a work performance, the risk of accidental destruction and loss as well as deterioration shall pass to Customer after acceptance in accordance with sec. 7.

7. Acceptance

7.1 If the delivery item is a work performance, Customer shall immediately accept the performance provided by CaPlast in accordance with the contract, at the latest 14 days after CaPlast has made it available, unless otherwise agreed with Customer in writing. Customer may not refuse acceptance on the grounds of insignificant defects.

7.2 If CaPlast sets Customer a reasonable deadline for acceptance after completion of the performance provided in accordance with the contract, and if Customer does not comply without refusing acceptance within this deadline stating at least one defect, acceptance shall be deemed to have taken place. The same applies if Customer takes over the service in his productive operation.

7.3 CaPlast is entitled to make partial deliveries or partial performances available for acceptance (partial acceptance) insofar as this is reasonable for Customer. Partial deliveries and partial acceptances are in particular reasonable and thus permissible for self-contained and functional partial deliveries, which do not cause Customer any considerable additional expenditure or costs, unless CaPlast declares in advance in writing (sec. 126 para. 1 BGB) that it is prepared to assume these costs.

Insofar as CaPlast is entitled to make partial deliveries or partial performances, Customer shall be obliged to accept the partial delivery or partial service provided in accordance with the contract; the provisions in the above sec. 7.1 and 7.2 shall apply accordingly.

8. Duty of Examination; Warranty; Period of Limitation

8.1 Obvious defects and defects noticeable upon proper inspection of the delivery including any transport damages (see section 6.2) shall be notified by Customer in written form immediately upon receipt of the goods. Defects that could not be discovered within this period, even upon proper inspection, shall be notified to CaPlast immediately in writing upon their discovery. The same applies to complaints because of wrong deliveries and discrepancies in quantities. If the period for notification is not observed, warranty claims shall be excluded.

8.2 Customer shall, prior to processing the goods delivered by him, be obliged to inspect them for their suitability for their purposes of use as intended by Customer, even if samples of goods have been supplied before.

CaPlast does not assume any warranty with regard to the suitability of such goods processed by CaPlast for a purpose of use as intended by Customer.

8.3 Minor discrepancies in dimensions and formats shall not entitle Customer to raise complaints for defects. Potential discrepancies listed in the relevant quality guidelines known to Customer are all in consistency with the contract.

8.4 Warranty rights may only be raised in respect of goods that are available for inspection or return. Without prior mutual agreement products may not be returned to CaPlast.

Taking back goods by CaPlast does in no case constitute an acknowledgement that the goods taken back are defective.

8.5 For defects notified in time pursuant to 7.1, CaPlast warrants delivery of new goods free from defects. In case the delivery of new goods by CaPlast turns out to be unsuccessful, Customer shall, at its option, be entitled to reduce the price or to withdraw from the contract. There are no claims for compensatory damages, except as provided for in section 9 below.

8.6 The warranty obligation shall expire if the goods delivered are changed, processed or improperly handled. Improper handling also includes an improper storage of the goods. Customer shall especially store goods UV-protected and comply with CaPlast's predefined temperature specifications during storage.

8.7 CaPlast is not liable for such products Customer provides CaPlast with for the purpose of processing or finishing. With respect to such goods there shall be no warranty rights for Customer, unless the defect is due to the processing or finishing by CaPlast.

8.8 The warranty statute of limitations amounts to 12 (twelve) months from transfer of risk, unless another statutory term is prescribed by law or unless the compulsory provisions of the purchase of consumer goods (Sec. 478, 479 BGB) apply. The aforementioned does not apply in cases CaPlast is liable for culpable violation of life, limb or health, and in cases CaPlast is liable for claims for damage based on intent or gross negligence, including intent or gross negligence of CaPlast's representatives or vicarious agents.

9. Retention of Title

9.1 If the delivery item is an item of sale, CaPlast shall remain title (ownership) to the purchased goods until such time as all receivables from the business relationship with Customer have been paid. To the extent CaPlast agrees with Customer on payment of the purchasing price on the basis of check / bills of exchange procedure, the retention of title shall also extend to the encashment as well as any claims against Customer in connection with a potential liability of CaPlast towards respective third parties holding rights in such bills and does not expire with the receipt of money from such check / bills of exchange procedure.

9.2 Processing or reshaping of delivered goods shall exclusively be made under maintenance of the security claims of CaPlast. The processed product shall secure at its full value the receivables mentioned above. To the extent that the goods delivered are being processed with other goods not owned by CaPlast, CaPlast shall acquire sole ownership in the new product. However, in the event that the Purchaser acquires sole ownership of the new item as a result of the processing of the goods subject to retention of title with other goods, the contracting parties agree that the Purchaser shall transfer this to CaPlast and shall store the newly produced item free of charge for CaPlast. In all other respects, the same shall apply to the item resulting from the processing as to the item delivered under reservation of title.

Insofar as the reserved goods are inseparably combined or mixed with goods of other suppliers, CaPlast shall acquire co-ownership of the new object in the ratio of the value of the reserved goods (final invoice amount plus value-added tax) to the other objects combined or mixed therewith at the time of the combination or mixing.

If the combination or mixing takes place in such a way that the goods subject to CaPlast's retention of title are to be regarded as a component of a main item of the Customer, the Customer shall grant CaPlast co-ownership of the main item in the above-mentioned proportion.

The Customer shall keep the co-ownership share for CaPlast in each case free of charge. In the event that no acquisition of ownership within the meaning of this paragraph should occur at CaPlast, the Customer shall already now transfer his future ownership or co-ownership in the above-mentioned proportion of the newly created object to CaPlast as security. CaPlast already now accepts this transfer.

9.3 Customer shall be entitled to sell the goods of CaPlast in the ordinary course of business. The receivables of Customer from selling or other receivables substituting the goods shall already now be assigned to CaPlast by way of security in their full amount with all ancillary rights irrespective whether the goods of CaPlast have been delivered with or without processing, reshaping, assembling or mixing and whether CaPlast's goods have been processed, reshaped, assembled or mixed with goods of other third party suppliers; CaPlast already now approves this assignment. If another supplier is entitled to lawfully claim extended retention of title concerning receivables of Customer, Customer shall assign to CaPlast the receivables concerned to the extent of the retention of title of CaPlast to the sold goods. CaPlast already now approves this assignment.

9.4 If the receivables of Customer from selling the goods of CaPlast under retention of title or of goods in which CaPlast holds co-ownership are put in a current account Customer already now shall assign to CaPlast its payment claim in the amount of the respectively acknowledged balance covering the amount of the claims of CaPlast. CaPlast already now approves this assignment.

9.5 Until canceled, Customer is entitled to collect the assigned claims. CaPlast's right to collect the claims itself remains unaffected thereof. Out of legitimate reason, like defaults of payment or cessation of payment of Customer, filing for initiation of insolvency proceedings regarding the assets of Customer, or other jeopardy to the satisfaction of the claims of CaPlast against Customer, the authorization of the Customer to collect the receivables may be canceled by CaPlast. Until then, CaPlast commits itself not to collect the claim itself. In this case the Customer shall be obliged, among others, to immediately label the reserved goods as property of CaPlast in appropriate manner recognizable for each third party.

Customer shall provide CaPlast with a detailed list of any reserved goods also to the extent that they are processed as well as a list of assigned receivables with naming of the third party debtors. Irrespective thereof, representatives of CaPlast shall be entitled to conduct appropriate examinations at any time during normal business hours at the Customer and inspect the documents necessary in this connection.

9.6 Customer bears the risk for the goods delivered by CaPlast. He shall be obliged to keep the goods diligently in custody and sufficiently insure them against usual risks, like damage, loss, theft, fire etc. to usual terms and common extent. Customer herewith assigns to CaPlast any claim against the insurer for the case of damages namely a first ranking partial amount corresponding to the purchasing price of goods delivered under retention of title; CaPlast already now approves this assignment. To the extent that the insurer does not cover the total damage, CaPlast may not be referred to a proportionate compensation.

9.7 Pledging or transfer of title for security purposes are excluded. Customer has to inform CaPlast without delay of any event concerning the title of CaPlast and be obliged to use best efforts in particular to make all legal declarations towards CaPlast or a third party in order to render the agreed retention of title and the pre-assignment effective. Customer shall be liable for all cost of an intervention in court and / or out of court.

9.8 CaPlast is obliged to release collaterals in their dutiful discretion, if and to the extent that the estimated value of the collateral exceeds the total receivables of CaPlast to be secured respectively, permanently by 50 % (fifty percent).

10. Liability; Product Liability

10.1 CaPlast shall be liable under statutory regulations insofar as Customer raises claims based on intent or gross negligence, including intent or gross negligence of CaPlast's representatives or vicarious agents.

10.2 To the extent CaPlast is accused of the negligent breach of an essential contractual obligation the fulfilment of which enables the proper execution of this agreement at all, and the violation of which puts the achievement of the contractual purpose at risk, and the observance of which Customer may regularly rely on, liability for damages is limited to the foreseeable and typically occurring damage.

10.3 Liability for culpable violation of life, limb or health and CaPlast's liability according to other mandatory binding provisions, especially according to the German Product Liability Act, shall not be affected thereby. Likewise, CaPlast's liability for culpable violations in accordance with Art. 82 of the General Data Protection Regulation (GDPR) remains unaffected.

10.4 Customer shall, in the internal relationship to CaPlast, take the sole risk as (co-)producer in accordance with the German Product Liability Act, insofar as the cause of damage falls within his domain of responsibility and organization, and if he, in his external relationship to the claimant, is liable as producer. Customer shall in the abovementioned cases indemnify CaPlast explicitly from any third party claims and shall, when necessary, provide security insofar as his liability in the internal relationship is concerned. This applies especially, but not exclusively, in cases in which Customer delivered products to CaPlast.

The provision in this 10.4 does not apply insofar as, in cases Customer provided CaPlast with goods or products for the purpose of processing or finishing, the cause of damage is due to the processing or finishing by CaPlast, not even in cases CaPlast does not appear as producer towards third parties.

10.5 Insofar as CaPlast's liability for damages is restricted, this also applies to the personal liability for damages of CaPlast's staff, employees, personnel, representatives and vicarious agents.

10.6 Unless stipulated otherwise above, CaPlast's liability shall be excluded.

11. Right of Withdrawal in Case of Non-availability of Special Raw Materials

In the event that during the period between conclusion of the contract and delivery it turns out, unforeseeable to CaPlast, especially at the time of the conclusion of the contract, that CaPlast cannot be provided in sufficient amount with a raw material essential for CaPlast's fulfillment of the contract, and such non-availability is not contemporary and cannot be overcome by reasonable expenses, CaPlast is entitled to withdraw from the contract with Customer. This does not apply if CaPlast is liable for such non-availability. CaPlast will inform Customer about the non-availability without delay.

12. Confidentiality

12.1 To the extent that nothing deviating arises from a separate confidentiality agreement between the parties, parties undertake to keep confidentiality pursuant to this section 12.

The parties are obligated to maintain secrecy with regard to the information that becomes known or has become known in connection with the execution of the contract, is exchanged with each other and is made accessible to each other, as well as with regard to the information designated as confidential ("Confidential Information"), and to take and maintain appropriate security measures for the respective information.

Confidential Information in this sense, regardless of the medium in which they are contained, include in particular products, manufacturing processes, know-how, trade secrets, business relationships, business strategies, business plans, financial planning, personnel matters. Information is secret if it is not generally known or readily accessible, either as a whole or in the precise arrangement and composition of its components, to persons in the circles that usually handle this type of information.

Information publicly known at the time of transmission, or later becoming publicly known not resulting from a wrongdoing of the party concerned, is not deemed as Confidential Information. The same applies if an information, without a direct or indirect infringement of the concerned Party's duty to maintain confidentiality, becomes known to a third party other than by the party concerned or its affiliates.

A reproduction and dissemination of such secret information shall only be allowed within the scope of operational requirements. It may only be disclosed or made accessible to third parties upon prior express and written consent.

12.2 The aforesaid obligation to keep confidential shall survive the termination of the supply relationship, as long as the confidential information has not become common knowledge.

12.3 After termination of the supply relationship Customer undertakes to return to CaPlast all business secrets he has received, provided that they are in hard copy or saved on electronic media, unless they are included in the scope of delivery. All business secrets are to be removed from Customer's data processing equipment and storage media. Reproductions, regardless of their form, are to be destroyed in such way that reconstruction is impossible.

13. Offsetting; Right of Retention

13.1 Customer is only entitled to offset to the extent that its counterclaims are undisputed or have been legally established, or to the extent that Customer's counterclaim is based on a violation of a main obligation of CaPlast pursuant to sec. 320 BGB.

13.2 Customer shall have a right of retention only insofar as its counterclaim is connected with or arising from the same legal transaction as CaPlast's claim. Apart from that, Customer shall not have a right of retention.

14. Written Form

14.1 This agreement shall precede all prior agreements concerning its object, regardless of whether they were agreed in writing or verbally. No subsidiary verbal agreements exist.

14.2 Any amendments, addendums and the annulment of this agreement shall be in writing in order to be effective. This also applies for amendments of this written form clause. The aforementioned requirement of written form shall not apply to oral agreements made after the conclusion of this contract. Also, in this case parties agree on the necessity of a written confirmation concerning the content of the oral agreement.

14.3 Unless stipulated otherwise in these General Terms, to fulfill the written form requirement, text form pursuant to sec. 126b BGB, e.g. e-mail, fax, is sufficient.

15. Applicable law, Court of Venue

15.1 All contractual and non-contractual relationships between CaPlast and Customer shall be governed by the laws of the Federal Republic of Germany. The application of the consistent United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.

15.2 Exclusive – also international – venue for all disputes shall be CaPlast's seat, provided Customer is an entrepreneur pursuant to the German Commercial Code or a government entity or special governmental estate. However, CaPlast shall be entitled to also raise a claim at the Customer's seat. The aforementioned shall not apply if another exclusive jurisdiction is prescribed by a mandatory legal provision.

16. Final Provisions

16.1 Should particular provisions of these General Terms be or become invalid, the validity of the remaining provisions shall not be affected hereby. This does not apply if an adherence to the agreement would present an unreasonable hardship to a contracting party.

16.2 Customer may only assign rights and obligations arising from the agreement after prior written (sec. 126 para. 1 BGB) consent by CaPlast. CaPlast shall only refuse consent for important reason. Customer shall immediately inform CaPlast if Customer plans to assign rights and obligations arising from the agreement with CaPlast.

16.4 These General Terms shall be concluded in both German and English language. In case of any discrepancies between the German and English version, the German version shall prevail.