Terms of sale and delivery for AGO-plast A/S

1. The Scope
These terms of sale and delivery apply to all offers, sales and deliveries made by AGO Plast A/S (AGO) to the Customer. The terms can only be derogated from in writing.

2. Delivery
2.1 Transfer of Risk
Delivery shall be ex works.
The risk for accidental destruction or damage of the goods is transferred to the Customer on delivery. This applies irrespective of whether AGO has accepted to pay the costs of delivery, cf. section 2.2.

2.2 Costs of Delivery
AGO shall pay all costs of delivery including payment for transportation and insurance. It may be agreed in writing that AGO undertakes to pay some of the costs of delivery. Such agreements shall appear from the order confirmation to have a binding effect on AGO.

2.3 Installments
AGO reserves the right to deliver by installments. The Customer shall pay any extra costs of delivery in connection with the installments.

2.4 Delivery Spreads
For production reasons, AGO reserves the right to deliver a number of goods departing from the agreed number by up to 10%.

2.5 Time of delivery
The time of delivery appear from the order confirmation.

2.6 Packaging
AGO is responsible for sufficient packaging of the goods on delivery.
The Customer shall pay any costs in respect of special packaging in accordance with the assessment of AGO.

3. Payment
3.1 Matutiny
Payment shall take place within not 30 days.

3.2 Default Interest
If the Customer fails to pay when due, default interest will be added from the date of maturity, cf. section 3(1) of the Danish Interest Act. The default interest rate is determined pursuant to section 5 of the Danish Interest Rate Act.

3.3 Set-off
The Customer is not entitled to make claims against AGO for set off against the purchase price or for retaining payment of the purchase price as a consequence of counterclaims, unless the counterclaim is proved by fact and conclusive enforceable judgment.

3.4 Minimum Price
AGO Plast A/S has a minimum invoicing basis for each order line. The minimum price is DKK 350 for intermediate products and DKK 450 for processed items.

4. Breach
4.1 Defaults
4.1.1 AGO's liability
AGO is liable only for defective goods provided the defects are due to defects or omissions that are the fault of AGO or its gross negligence or deliberate activity.

4.1.2 Remedies for Breach concerning Defaults
4.1.2.1 Remedy or Replacement
When reasonable and practical default notice has taken place, AGO in its own option undertakes to effect replacement or to remedy the defect provided AGO is liable hereunder within a reasonable time, cf. section 4.1.1. Provided AGO fails to remedy the defect or replacement thereof, the Customer shall not be entitled to claim any other remedies for breach, AGO is not liable for any delay as a consequence of the remedial action. Any transport in connection with the remedy or replacement shall be at the Customer's own risk.

4.1.2.2 Pro Rata Reduction
Provided AGO assesses that remedy cannot be made, the Customer is entitled to a pro rata reduction of the price. The reduction is based on the relation between the value of the defective product and a non-defective product and may not exceed 15% of the purchase price.

4.1.3 Termination
Provided AGO is responsible for the defect, cf. section 4.1.1, and the defect is not due to one of the factors mentioned in sections 4.4, 4.5 or 8, and the Customer chooses to terminate the purchase, cf. section 4.1.3, the Customer is entitled to claim damages for his loss from AGO in accordance with Danish law. However, with the limitations set out in sections 4.4, 4.5 and 8.
Damages may not exceed 15% of the purchase price.

4.1.4 Forfeiting Remedies for Breach
The Customer forfeits the right to give notice of non-conformity if the time-limits in section 4.1.2 are not complied with.

4.2 Delay
4.2.1 AGO's Liability
AGO is totally liable for the delay provided the delay is due to acts or omissions following gross negligence or prioritization of AGO's Remedies.

4.2.2 Remedies for breach by delay
4.2.2.1 Termination
Provided AGO is liable for the delay, cf. section 4.2.1, and the delay is not caused by any of the factors mentioned in sections 4.4, 4.5 or 8, and the Customer chooses to terminate the purchase, cf. section 4.1.3, the Customer is entitled to claim damages for his loss from AGO in accordance with Danish law, however, with the limitations set out in sections 4.4, 4.5 and 8. Damages may not exceed 15% of the purchase price.

4.2.2.2 Damages
Provided AGO is liable for the delay, cf. section 4.2.1, and the defect is not due to one of the factors mentioned in sections 4.4, 4.5 or 8, and the Customer chooses to terminate the purchase, cf. section 4.1.3, the Customer is entitled to claim damages for his loss from AGO in accordance with Danish law, however, with the limitations set out in sections 4.4, 4.5 and 8. Damages may not exceed 15% of the purchase price.

4.3 Right of Retention
If the Customer fails to pay an overdue amount to AGO, AGO is entitled to retain title to all orders in progress, including the material delivered by the Customer until full and complete payment including interest and costs has taken place.

4.4 Force Majeure
The following factors result in exclusion of liability if they prevent performance of the agreement or makes the performance unreasonably onerous: Industrial conflicts and any other circumstance which is beyond the control of the present party such as accidents, shipping perils, acts of terrorism, war, embargo, strikes, lockouts, insufficient or defective raw materials, packages or components, material, equipment, machinery, obligations, requisitions, confiscations, exchange control regulations, revocations and disturbances, lack of means of transportation, general scarcity of goods, restrictions in delivery forces and defects in or delay of delivery from sub-contractors which are due to any of the circumstances mentioned herein. The party that wishes to rely on exclusion of liability shall without undue delay notify the other party of its accrual and termination in writing. In case of force majeure AGO will charge the Customer shall charge the customer for the losses that are not due to the force majeure to assure and secure the protection. Notwithstanding what is stipulated in the general terms of delivery, the party that has not been affected by the force majeure is entitled to terminate the agreement by written notice to AGO. The party that has been charged the performance of the agreement is prevented for more than 6 months by one of the above circumstances.

4.5 Exclusion of Liability
4.5.1 Use
If the product is used more intensely than agreed or may be deemed predetermined on formation of contract, AGO's liability period will be shortened proportionately.
AGO controls the goods subject to the following conditions: 30 months, 45 - 60 lbs.
AGO is not liable for the condition of the goods under any other conditions unless otherwise agreed in writing.

4.5.2 Tending, Tolerance and Surface Roughness/Profile
The tolerances which are applicable to the goods pertaining to tending, tolerance and surface roughness/profile:
- Tolerance "class A" in accordance with ISO 7206,
- Tolerance "medium" (m) in accordance with ISO 7206
Surface roughness/profile Ra 1.6 in accordance with ISO 4287/19
AGO is not liable for better tending, tolerance and surface roughness/profile than those mentioned unless otherwise agreed in writing.

4.5.3 Maintenance
AGO is not liable for remedying defects due to inadequate maintenance or incorrect mounting on the part of the Customer, contrary to AGO's instructions made without AGO's approval or repairs that the Customer has carried out erroneously. Furthermore, AGO is not liable for remediating ordinary wear or tear or damages as a consequence of unusual use or damage.

4.5.4 Indirect loss
AGO is under no circumstances liable to product loss, lost earnings, or any other consequential damages or inter alia.

5. Product Liability
5.1 The Danish Products Liability Act
The provisions of the Act apply to damages that are mandatory subject to Act no 372 of 7 June 1969 regarding product liability.

5.2 Liabilities not covered by the Danish Products Liability Act
AGO's only liable for damages on real estate and merchandise and personal injury that not by covered by the provisions of the above Act if it can be proven that the damage is due to factors caused by AGO's gross negligence or deliberation.

5.3 Interactions between AGO and the Customer
If AGO is not liable for damages occurring while the goods are in the possession of the Customer, AGO is not responsible for damages on the product itself, products manufactured by the Customer, or products which are the object of any form of purchase contract, or any of its decrees for damages. AGO shall not extend DKK 200,000 and shall under no circumstances be claimed later than 1 year after the time of delivery. AGO is under no circumstances liable for import duties, lost earnings or other indirect losses. To the extent that product liability is supplied by Act towards third parties, the buyer is entitled to indemnify AGO to the same extent that AGO liability is limited in accordance with the above provisions. If third parties make claims, damages are of the party's own product liability provisions, this party shall immediately notify the other party. After notice from AGO, the Customer is obliged to accept being sued at the same suit that deals with claims for damages made against AGO based on damages alleged to be caused by the goods.

The incompatibility between the Customer and AGO is governed by Danish law.

5.4 Retention of Title
The goods shall remain the property of AGO until payment is effected in full so the extent that each retention of title may be agreed according to Danish law.

7. Designs, other Technical Documents, Tools and Test Tools
All drawings, other technical documents, tools and test tools relating to the goods or the manufacturing thereof that we delivered into one party to the other before or after the formation of the agreement are the property of the party delivering them. Received designs, other technical documents or technical information shall without the consent of the other party be used for any other purpose than that agreed for the delivery. Without the consent of the other party, the mentioned material shall not be copied, reproduced, disclosed to or otherwise brought to the knowledge of third parties, unless it is necessary for AGO's procurement of it for the benefit of the Customer.

The Customer indemnifies AGO provided that the material delivered by the Customer is used in contravention of third parties' intellectual property rights to the material.

8. The Customer's Own Material
8.1 Keeping
The Customer is liable for the destruction or damage of the material which the Customer has delivered to AGO for the purpose of use in the manufacturing unless it can be proven by final and conclusive unsupported declaration that AGO or its subcontractor has committed negligent conduct with the keeping of the material. In case of the loss or in respect of the destruction of the material is covered by insurance taken out by AGO, the Customer is entitled to the part of the insurance insurance pertaining to the Customer's material.

8.2 Use of the material
Provided that AGO demonstrates that the Customer's own material cannot be used for the contemplated manufactures, AGO is not obliged to indemnify the Customer for the material used in connection with contemplated manufactures or test manufacture. AGO is not obliged to use AGO's own material if the Customer's own material cannot be used in the contemplated manufacture.

8.3 Venue and governing law
9.1 Venue
Any dispute between the parties in connection with the sales agreement, the terms of sale and delivery thereof, or secondary legal matters thereof shall be brought before the court in Esbjerg or the Danish Eastern High Court.

9.2 Governing Law
Legal matters between the parties are governed by Danish law.

10. Amendment of general terms
These terms of sale and delivery shall replace and replace the former terms of sale and delivery in force. AGO may at any time make new terms of sale and delivery and when that notification will apply between the parties.