

## General Conditions of Purchase of Gummiwerk KRAIBURG Elastik GmbH & Co. KG

### § 1 Field of application

- (1) Our General Conditions of Purchase shall apply exclusively; we do not accept adverse conditions or those deviating from our General Conditions of Purchase of the supplier, unless we agreed to their application expressly in writing. Our General Conditions of Purchase shall also apply, if we unconditionally accept the delivery of the supplier, although we know of his adverse conditions or those deviating from our General Conditions of Purchase.
- (2) Our General Conditions of Purchase shall exclusively apply as against enterprises according to § 310 German Civil Code, paragraph 1.
- (3) Any agreements made between the supplier and our company for the execution of the contract, must be confirmed in writing by our company to become effective.
- (4) Our General Conditions of Purchase shall also apply for any future business relations with the supplier.

### § 2 Deliveries

- (1) The delivery date specified in the purchase order (date of receipt) is binding. The supplier shall be obliged to inform us immediately in writing, if circumstances arise or become foreseeable which will have the consequence that the stipulated delivery date cannot be met.
- (2) If the delivery is made earlier than agreed, we reserve the right to return the goods at the expense of the contractor. If in case of a premature delivery the goods are not returned, the delivered item will be stored in our company at the cost and risk of the supplier until the agreed delivery date. In case of a premature delivery, we reserve the right not to pay before the agreed time of payment. We will not accept partial deliveries, unless agreed upon expressly.
- (3) For a default in delivery, we shall have the statutory claims. We shall especially be entitled to demand damages instead of the performance and to cancel the contract after a reasonable time has expired unsuccessfully.
- (4) Unless agreed otherwise, we shall have the choice to get all the deliveries either "free domicile" (in case of imports "DDP Incoterms 2010") or to the plant in Tittmoning, or directly to the place of destination in case of transfer orders.

### § 3 Prices and terms of payment

- (1) The price stated in the purchase order is binding and does not include statutory VAT for domestic suppliers. Unless agreed otherwise, the price shall include the delivery "free domicile" (in case of imports "DDP Incoterms 2010") or to the plant in Tittmoning, or directly to the place of destination in case of transfer orders, packing, transport and insurance.
- (2) Claims based on additional deliveries and/or performances cannot be asserted unless the additional deliveries and/or performances have been agreed and ordered in advance by the contracting parties in writing. Otherwise, additional charges exceeding the agreed price shall be excluded.
- (3) The supplier commits himself to raise an invoice for every purchase order within 5 days after delivery of the ordered goods. We can only process invoices, if they – according to the statements in our purchase order – indicate the specified order number and are addressed to the correct recipient; the supplier shall be responsible for all the consequences arising from the non-compliance with this duty, unless he can prove that he is not liable for them.

- (4) Payment of the invoice does not mean a waiver of claims for defects in connection with the delivered goods and does not exclude a later notice of defects.
- (5) Unless agreed otherwise, we will pay invoices within 14 days after delivery and receipt of the invoice, with 3 % cash discount or net within 30 days after the receipt of the invoice.

### § 4 Claims for defects

- (1) The supplier guarantees that the delivered goods correspond to the agreed specifications and product data sheets and/or the descriptions in the purchase order, are made from the agreed material, are free from defects of material, production and/or construction according to the latest technologies and are free from defects which would destroy or reduce the suitability for the common or contractually agreed use or would destroy or reduce the value of the delivered goods and he guarantees that they comply with all the statutory provisions applicable in Germany. The supplier has to coordinate any changes of the product data with KRAIBURG prior to the actual delivery.
- (2) We are committed to inspect the goods for possible deviations in quality or quantity within a reasonable period, unless provided otherwise. We have to inform the supplier of apparent defects within 7 working days – of machines and machine parts within 14 working days – after receipt of the goods, and of hidden defects immediately after their discovery.
- (3) We shall have an unrestricted right to use the statutory claims for defects; in any case we shall have the option to demand from the supplier either the correction of the defects or the delivery of a new item. In this case, the supplier shall be obliged to take over all the expenditures necessary to correct or replace the defect. We expressly reserve the right to claim damages, especially to claim damages instead of performance.
- (4) We shall be entitled to remove the defects ourselves at the expense of the supplier in case of an imminent danger or a special urgency.
- (5) Claims for defects – no matter which legal reason – shall become statute-barred 36 months after the actual delivery. Longer statutory periods of limitation shall remain unaffected.
- (6) Notices of defect shall suspend all the periods of limitation until the removal of the defects.

### § 5 Product liability

- (1) If the supplier is responsible for a product defect, he shall be obliged to indemnify our company from claims for damages of third parties at the first request in so far as the reason for the defect is in his field of control and organisation and he himself is liable as against third parties.
- (2) Within the limitations of his liability for damages in the sense of item 1, the supplier shall also be obliged to reimburse any expenditures arising from or connected with a product recall made by our company. We will inform the supplier about the contents and the scope of the intended product recall measures – if possible and reasonable – and we will give him the opportunity to express his views. Other statutory claims shall remain unaffected.
- (3) The supplier commits himself to enter into a lump sum product liability insurance with an insured sum of 10 million Euro for any personal/material damage; if we are entitled to further claims for damages, they shall remain unaffected.

### § 6 Industrial property rights/secretcy

- (1) The supplier shall be obliged to keep any received illustrations, drawings, calculations and other documents and information strictly confidential. They may only be disclosed to third parties with the express approval of our company. The duty of secrecy also covers personal data. The duty of secrecy shall also remain effective after the completion or failure of this agreement; it expires if and as soon as the production know-how provided with the illustrations, drawings, calculations and other documents has become generally known. Sub-contractors must be informed accordingly.
- (2) The supplier guarantees that in connection with his delivery brands, patents, copyrights or other industrial property rights of third parties will not be infringing.
- (3) If a third party holds us liable because of the infringement of industrial property rights, the supplier shall be obliged to indemnify us from these claims upon the first written request.
- (4) The supplier's duty to indemnify shall refer to all the expenditures necessarily arising from or connected with the claims of a third party.

### § 7 Supplier's reservation of ownership

- (1) We do not accept any expanded or extended reservations of ownership. We will accept a common reservation of ownership only in so far as we are allowed to sell, process and mix the delivered goods in the course of an ordinary business.

### § 8 Models, drawings, patterns, submitted parts, etc.

- (1) Models, drawings, standard specification sheets, manuscripts, printed films, tools, gauges, profiles, patterns etc. submitted by our company shall remain our property. The supplier must keep them in safe custody, maintain them free of charge, renew them if necessary and return them after use in a condition ready for use. They and the goods produced with them may not be passed on to third parties or be used for them or for own purposes of the supplier without our written consent. This obligation shall remain also after the completion of this agreement. It expires if and as soon as the production know-how provided with the documents has become generally known. Non-compliances with this obligation make the supplier liable for damages.
- (2) The supplier shall be obliged to use the tools submitted by or made for our company exclusively for the production of the deliveries and performances ordered by our company. Further, he shall be obliged to insure our tools against fire, water, theft and other damages (e.g. caused by employees) for the replacement value at his own expense.
- (3) If the supplier has production difficulties, especially if he does not comply with his contractually agreed obligations or stops the production, we shall be entitled to demand the return of the patterns etc. he paid in full or partly against reasonable payment. The destruction of patterns which are no longer necessary is only permissible with a written approval.
- (4) If we store parts at the supplier's premises, we reserve the ownership of them. Processing or alterations made by the supplier shall be made for our company. If our goods under reservation are worked up with other goods which do not belong to us, we shall acquire co-ownership of the new product in proportion of the value of the goods under reservation to the other worked up products at the time of production.
- (5) If the goods submitted by us are mixed up indivisibly with other goods which do not belong to us, we shall acquire co-ownership of the new product in proportion of the value of the goods under

reservation to the other mixed up products at the time of the mixing up. If the mixing up is made in such a way that the item of the supplier has to be regarded as the principal product, it shall be agreed that the supplier will assign co-ownership to us proportionally and the supplier shall hold the sole ownership or the co-ownership for us.

- (6) If the security rights we are entitled to according to item 3 and 4 exceed the purchase price of all our not yet paid goods under reservation more than 10 %, we shall be obliged to release the security rights at our option on request of the supplier.
- (7) The supplier has to return submitted tools upon the first request, at latest at the end of the business relation.

### § 9 Miscellaneous

- (1) Contractually agreed rights and obligations of the parties may not be assigned without prior consent.
- (2) The supplier shall not be entitled to set off claims or to withhold property, unless they are undisputed or legally determined.

### § 10 Legal venue, place of performance, applicable law

- (1) Our place of business shall be the exclusive place of jurisdiction for any disputes arising from this contractual relationship or in connection with it. Irrespective of this agreement about the legal venue, we may also assert our claims against the supplier at any other court which is competent according to the applicable law.
- (2) If not provided otherwise in the purchase order, our place of business shall be the place of performance.
- (3) German law shall apply with the exclusion of the conflict of laws and the UN Convention on Contracts for the International Sale of Goods.
- (4) If one or several provisions of these contractually agreed terms or clauses be or become invalid in full or partly, or if there are gaps in this agreement, this shall have no influence on the validity of the remaining provisions and clauses. The parties agree to replace the invalid clause by one which comes nearest to the commercial purpose of the invalid or missing provision and which is valid itself.

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