

## GENERAL CONDITIONS OF PURCHASE

PLÜMAT Plate und Lübeck GmbH & Co KG,  
PLÜMAT Maschinenbau Vertriebs GmbH,  
PLÜMAT Engineering GmbH,  
PLÜMAT Packaging Systems GmbH,  
PLÜMAT Asia/Pacific GmbH,  
S.-D. David Plate + F. Lübeck GbR,  
Arthur Plate GbR,  
Pluemat Machinery Trading (Beijing) Co. Ltd.,  
Colpitt B. V.

### § 1 General, Scope

(1) The present General Conditions of Purchase (GCP) shall apply to all business relations with our business partners and suppliers ("Sellers"). The GCP shall apply only if Seller is an enterprise in accordance with Section 14 German Civil Code, a corporate entity under public law or a special fund under public law.

(2) The GCP shall apply in particular to contracts concerning the sale and/or supply of movables ("Goods"), regardless of whether Seller produces the Goods itself or buys from external suppliers (Sections 433, 651 German Civil Code). Unless otherwise agreed, the GCP in the version valid at the time of customer's order or alternatively in the version last communicated to the customer shall constitute a framework agreement for similar future contracts without any obligation on our part to refer to the GCP in each individual case.

(3) These GCP shall apply exclusively. Any deviating or opposing or supplementary general terms and conditions of Seller shall become an integral part of the contract only if and when we expressly confirm their validity in writing. The foregoing requirement shall apply in each and every case, for example even if we accept Seller's deliveries without reservation, although we are aware of Seller's general terms and conditions.

(4) Individual agreements made with Seller in individual cases (including subsidiary agreements, supplements, and amendments) shall always take precedence over these GCP. A written contract or, respectively, our written confirmation shall be binding with regard to the content of such agreements, unless there is evidence to the contrary.

(5) Material representations and notifications required to be made to us by Seller after conclusion of contract (e.g. setting of deadlines, payment reminders, or notice of rescission of contract) must be submitted in writing in order to be valid.

(6) Any reference to the applicability of statutory provisions is made for the avoidance of doubt only and statutory provisions shall apply even without such clarification unless these GCP directly modify or expressly exclude application of the statutory provisions.

### § 2 Conclusion of Contract

(1) Our order shall be deemed binding no sooner than three days from receipt of the order confirmation. Seller shall notify us of any obvious errors (e.g. spelling mistakes and miscalculations) and missing data in the order and/or the order documents for the purpose of correction or completion; the contract shall otherwise be deemed not to have been concluded.

(2) Seller is obliged to confirm our order in writing within five (5) days or to execute the order without reservation by dispatching the Goods (acceptance). Delayed acceptance shall be deemed to constitute a new offer requiring acceptance by us.

(3) Supplier shall notify us forthwith of any necessary changes and/or supplements to the scope of delivery and services which prove necessary during the contract term. Any changes and/or supplements to the scope of delivery and services shall require our prior written consent.

(4) We are entitled to demand changes to the Goods even after conclusion of contract, provided this is not unreasonable for Supplier. Supplier shall assess a request for change within ten (10) days as to possible consequences, including any effect on the technical execution, costs and time schedule, and shall inform us in writing forthwith of the result of its assessment. If we decide to implement the change, the Parties shall amend the contract as appropriate.

(5) Supplier shall not assign the implementation of orders or material parts thereof to third parties unless it has obtained our prior written consent.

### § 3 Delivery Time and Default in Delivery

(1) The delivery time stipulated by us on the order shall be binding. If the delivery time is neither stated on the order nor otherwise agreed, it shall be five (5) weeks from conclusion of contract. Seller undertakes to notify us immediately in writing if, for whatever reason, it assumes it will be unable to meet the agreed delivery time.

(2) If Seller does not deliver performance, does not deliver performance within the agreed period or is in default, our rights shall be governed by the statutory provisions, in particular the right of rescission and compensation for damages. This shall not affect the provisions of the following §3 (3).

(3) If Seller is in default, we shall be permitted to demand a penalty for breach of contract amounting to one per cent of the net price for each full calendar week, the sum total of which, however, shall not exceed five per cent of the net price of the delayed Goods. We shall be entitled to demand the contractual penalty over and above performance and as the minimum sum of the damages owed by Seller in accordance with the statutory provisions; this shall not affect our right to assert a further claim for damages. If we accept the delayed performance, we shall claim the contractual penalty no later than at the time of the final payment.

### § 4 Performance, Delivery, Passing of Risk, Default of Acceptance

(1) Seller shall not be entitled to have third parties (e.g. subcontractors) deliver any performance that Seller is obligated to deliver without our prior written consent. The procurement risk for the performance shall be Seller's responsibility, unless otherwise agreed in any given case (e.g. limitation to goods in stock).

(2) Delivery throughout Germany shall be effected carriage free to the place stated on the order. If no destination is stated and nothing else is agreed, delivery shall be made to our registered office in Espelkamp, Germany. The place of destination shall also be the place of performance for delivery and for any supplementary performance (obligation to be performed by debtor at creditor's address).

(3) The delivery shall be accompanied by a delivery note, which states the date (issue and dispatch), content of the delivery (article number and quantity), as well as our order data (date and number) and the item number. We cannot be held responsible for any delays in processing or paying for deliveries if the delivery note is missing or incomplete.

(4) The risk of accidental destruction and accidental degradation of the Goods shall pass to us on delivery at the place of performance. If an acceptance procedure has been agreed, this shall be decisive for the passing of risk. The statutory provisions in respect of contracts for work shall also apply to acceptance. If we are in default of acceptance, this shall be deemed equivalent to transfer and/or acceptance.

(5) The statutory provisions shall apply to the occurrence of default of acceptance on our part. However, Seller shall be obliged to expressly offer its services even if a defined or definable calendar period has been agreed for any act or collaboration on our part (e.g. furnishing of material). If we are in default of acceptance, Seller shall be entitled to claim compensation for additional expenditure in accordance with the statutory provisions (Section 304 German Civil Code). If the contract relates to a non-fungible article to be produced by Seller (custom-made

item), Seller shall have further rights only if we have agreed to collaborate and are responsible for failing to collaborate.

## § 5 Prices and Terms of Payment

(1) The price stated on the order shall be binding. All prices are net and are exclusive of VAT unless VAT is shown separately.

(2) Unless otherwise agreed in individual cases the price shall be inclusive of all deliveries, performance and ancillary services provided by Seller (e.g. assembly and installation), and all additional costs (e.g. proper packaging, transport costs including any transport and liability insurance).

(3) Payment of the agreed price is due within thirty (30) calendar days from complete delivery and performance (including any acceptance procedure that may have been agreed) and delivery of a proper invoice. If we pay within fourteen (14) calendar days, Seller shall grant us a discount of 3 per cent on the net invoice amount. If payment is made by bank transfer, it shall be deemed punctual if our remittance order is received by our bank prior to expiry of the payment deadline; we cannot be held responsible for any delays caused by the banks involved in the payment process.

(4) We do not owe any interest on overdue payments. The statutory provisions shall apply in respect of default in payment.

(5) We shall be entitled to the rights of setoff and retention and the right to plead the defence of non-fulfilment of contract to the extent permitted by law. In particular, we shall be entitled to retain any due payments as long as we are still entitled to claims against Seller for incomplete or defective deliveries.

(6) Seller shall have the right to setoff or retention only for legally established or undisputed counterclaims.

## § 6 Services

(1) Deliveries and services shall be provided according to the state of the art. Supplier shall comply with the laws, regulations and legal restraints applicable in the Federal Republic of Germany as well as with the technical rules, standards and guidelines in the version applicable at the respective contract date.

(2) Supplier shall notify us forthwith and in writing if it has any reservations regarding our specifications, our drawings, other documents pertaining to the order and/or the envisaged type of implementation.

(3) Quantities, weights and measures shall be as determined by our incoming goods inspection, unless proven otherwise.

(4) We are entitled to specify the carrier to be used for deliveries effected ex works.

## § 7 Items provided by Plümat / Reservation of Title

(1) We reserve title to any items provided to Supplier. Any processing or conversion of items shall be effected by Supplier in our name. If the Goods subject to our retention of title (hereinafter: Retained Goods) are processed together with other goods owned by third parties, we shall acquire co-ownership in the new item in proportion of the value of the Retained Goods (purchase price plus VAT) to the other goods at the time of processing.

(2) If the Retained Goods are inseparably combined with other goods owned by third parties, we shall acquire co-ownership in the new item in proportion of the value of the other components to the value of the Retained Goods (purchase price plus VAT) at the time of combination. If the other components used for the combination constitute the major part of the new item, the Parties herewith agree that Supplier shall confer upon us

co-ownership in the Goods on a pro-rata basis; Supplier shall keep the Goods owned or partially owned by us in its custody on our behalf.

(3) We retain ownership in our tools; Supplier shall use the tools for no purpose other than manufacturing the Goods ordered by us. Supplier shall, at its own expense, take out insurance cover for these tools at the full replacement value against the risk of damage caused by fire, water or theft. Supplier shall carry out any necessary maintenance and inspection work on our tools as well as any repairs in due time and at its own expense. Supplier shall notify us forthwith of any disturbances; culpable failure to do so by Supplier shall not affect any claims for damages.

(4) To the extent that any collateral granted to us pursuant to the above § 7 (1) and/or § 7 (2) exceeds the purchase price of all unpaid Retained Goods by more than 10 %, Supplier shall be entitled to demand that we release collateral at our discretion.

## § 8 Packaging

(1) Supplier shall package all Goods at its own expense, properly and appropriate to their nature, the mode of transport, and in accordance with German regulations.

(2) Unless otherwise agreed, Supplier shall take back packing materials at the place of destination free of charge. Should we release Supplier from the above obligation, packing materials and containers will become our property, in which case Supplier shall not be entitled to any compensation.

## § 9 Nondisclosure and Retention of Title

(1) We retain the right of ownership and copyright in all images, plans, drawings, calculations, execution instructions, product descriptions and other documentation. Such documents shall be used only for the contractual performance and shall be returned to us on completion of the contract. Supplier shall impose the same obligation on any subcontractors commissioned with our permission. The documents shall not be disclosed to any other third parties, even after termination of the contract. The obligation to secrecy will expire only if and insofar as the knowledge contained in the documents supplied by us has become common knowledge.

(2) The above provision shall likewise apply to substances and materials (e.g. software, finished and semi-finished products), and to tools, templates, samples, and other items that we provide to Seller for the production. As long as they are not used in production, such items shall be stored separately and sufficiently insured against destruction and loss at Seller's expense.

(3) Processing, mixing, or combining (further processing) of items provided by Seller is carried out on our behalf. The same applies if we process supplied Goods, so that we are deemed to be the manufacturers and acquire ownership in the product in accordance with the statutory provisions during the processing at the latest.

(4) The transfer of ownership of the Goods to us shall be unconditional and regardless of payment of the price. However, if, in individual cases, we accept Seller's offer of transfer of ownership induced by payment of the purchase price, Seller's retention of ownership shall terminate no later than on payment of the purchase price for the delivered Goods. We shall be entitled to resell the Goods in the ordinary course of business even before payment of the purchase price subject to advance assignment of the relevant receivables (alternatively, simple extended retention of ownership to apply to resale of the Goods. Any other type of retention of ownership shall be excluded, particularly extended or transferred retention of ownership or any extension to cover processing of the Goods.

(5) The contractor shall be permitted to refer to our mutual business relations in advertising materials only with our express written consent. This shall also apply to product images showing machines and machine parts or similar.

## § 10 Defective Delivery

(1) Unless otherwise specified below, the statutory requirements shall apply to our rights with regard to material defects and defects in title of the Goods (including wrong and short delivery, improper assembly or installation, inadequate installation or operating instructions), and in case of other breaches of duty on the part of Seller.

(2) In accordance with the statutory regulations, Seller shall be particularly liable for the Goods having the agreed properties at the time of passing of risk. The agreement on the properties of the Goods shall be deemed to be the product descriptions that are the subject of the relevant contract, particularly through designation or reference on our order, or which are incorporated into the contract in the same way as these GCP. It is irrelevant whether the product description comes from us, from Seller, or from the manufacturer.

(3) Notwithstanding Section 442 (1) Sentence 2 German Civil Code, we shall be entitled without limitation to claims for defects if we were unaware of the defect at the time of conclusion of contract as a result of gross negligence.

(4) The commercial duty to inspect the Goods and notify Seller of any defects shall be governed by the statutory provisions of Sections 377, 381 German Commercial Code, save that our duty to inspect shall be limited to defects that are obvious from a visual inspection during our incoming goods inspection, including inspection of the delivery notes, and/or our quality control during random sample testing (e.g. damage in transit, wrong and short delivery). Insofar as an acceptance procedure has been agreed, there shall be no inspection obligation. Apart from that, it will depend on the extent to which an inspection would be expedient in accordance with proper business practice, taking into account the circumstances of the individual case.

Our obligation to give notice of any subsequently discovered defects shall remain unaffected. In all cases our complaint (notice of defect) shall be deemed to be without delay and in due time if it is received by Seller within twenty-one (21) days.

(5) If Seller fails to honour its obligation to supplementary performance – at our discretion either by rectifying the defect (repair) or by supplying a non-defective item (substitute delivery) – within a reasonable period of time set by us, we shall be entitled to rectify the defect ourselves and demand from Seller reimbursement of the costs required or an appropriate advance payment. If supplementary performance by Seller has failed or is unacceptable to us (e.g. because of particular urgency, risk to operational safety, or imminent occurrence of disproportionate damages), we shall not be obliged to set a deadline; we shall notify Seller of such circumstances immediately and, if possible, in advance.

(6) In the event of a defect in quality or title we shall additionally be entitled to a reduction of the purchase price or rescission from the contract in accordance with the statutory provisions. We shall furthermore be entitled to claim damages and reimbursement of expenses in accordance with the statutory provisions.

## § 11 Recourse against Supplier

(1) In addition to the claims for defects we shall be fully and unrestrictedly entitled to our statutory right of recourse within the supply chain (supplier recourse in accordance with Sections 478, 479 German Civil Code). In particular we shall be entitled to demand from Seller exactly the type of supplementary performance (remedy of defects or replacement) that we owe to our customer in the given case. This shall not restrict our statutory option (Section 439 (1) German Civil Code).

(2) Before we accept or meet a claim for defects made by our customer (including reimbursement of expenses in accordance with Sections 478 (2), 439 (2) German Civil Code), we shall contact Seller with a brief description of the circumstances of the case and ask for a written statement. If no such statement is received within a reasonable period of

time and no mutually acceptable solution is found, the claim for defects actually granted by us shall be deemed owed to our customer, in which case it shall be incumbent upon Seller to furnish proof to the contrary.

(3) Our claims from recourse against Supplier shall apply even if the Goods have been processed by us or by one of our customers, e.g. by way of incorporation into another product, prior to their sale to a consumer.

## § 12 Manufacturer's Liability

(1) If Seller is responsible for a product defect, Seller shall indemnify us for third-party claims insofar as the cause is within Seller's sphere of control and organisation and Seller itself is liable to third parties.

(2) As part of its obligation to indemnify, Seller shall reimburse any expenses in accordance with Sections 683, 670 German Civil Code that arise from or in connection with a third-party claim, including any product recall carried out by us. We shall notify Seller of the content and scope of any recall programme – as far as this is possible and reasonable – and give Seller the opportunity to comment. Any additional statutory claims shall remain unaffected.

## § 13 Trade Mark and Industrial Property Rights

(1) Supply of the Goods and their use by us must not violate any third-party property rights within the Federal Republic of Germany. We shall notify Supplier of any infringements alleged by third parties and coordinate with Supplier any subsequent steps in respect of judicial or extra-judicial disputes with the third party concerned.

(2) If a claim is made against us in respect of a violation of property rights for which Supplier is responsible, Supplier shall compensate us for all costs incurred by us in relation to third parties due to the violation of property rights (legal costs, penalties, damages, etc.)

(3) If the utilization of the delivery by us is impaired owing to existing third-party property rights, Supplier shall either acquire the required authorisation at its own expense or shall modify or replace the affected parts of the delivery in such a way that the utilization of the delivery no longer constitutes an infringement of third-party property rights, whilst at the same time complying with the provisions of the contract.

## § 14 Period of Limitation

(1) The mutual claims of the Parties to the contract shall become time-barred in accordance with the statutory provisions unless otherwise specified below.

(2) Notwithstanding Section 438 (1) No. 3 German Civil Code, the general limitation period for claims for defects shall be three (3) years as from passing of risk. Insofar as an acceptance procedure has been agreed, the limitation period shall commence upon acceptance. The three-year limitation period shall also apply mutatis mutandis to any claims for defects in title without affecting the statutory limitation period for material claims for the restitution of property of third parties (Section 438 (1) No. 1 German Civil Code); claims on the grounds of defects in title shall not become statute-barred as long as the third party is still entitled to assert the right against us, in particular in the absence of limitation.

(3) The limitation periods pursuant to the laws governing the sale of goods, including the aforementioned extension, shall apply to the extent permitted by law to all contractual claims for defects. Insofar as we are also entitled to non-contractual compensation, the regular statutory limitation period (Sections 195, 199 German Civil Code) shall apply unless the application of the limitation periods of the law governing the sale of goods results in a longer period of limitation in any individual case.

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**§ 15 Applicable Law and Place of Jurisdiction**

(1) These GCP and the contractual relationship between Plümat and Seller shall be governed by the law of the Federal Republic of Germany, including international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.

(2) If Seller is a merchant within the meaning of the German Commercial Code, a legal entity under public law, or a special fund under public law, the sole legal venue for any disputes, inclusive of any international disputes, arising from the contractual relationship shall be our registered office in Espelkamp. The same shall apply if the customer is a company within the meaning of Section 14 German Civil Code. However, we shall always be entitled to bring an action at the place of performance of the delivery obligation in accordance with these GCP or any overriding individual agreement, or at Seller's general place of jurisdiction. Overriding statutory provisions, in particular in respect of exclusive judicial competence, shall remain unaffected.

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