

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. 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 PLÜMAT's Contractors. The GCP shall apply only if Contractor is an enterprise in accordance with §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 Contractor produces the Goods itself or buys from external suppliers (§§ 433, 650 German Civil Code). Unless otherwise agreed, the GCP in the version valid at the time of PLÜMAT's order or alternatively in the version last communicated to the Contractor shall constitute a framework agreement for similar future contracts without any obligation on PLÜMAT's 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 Contractor shall become an integral part of the contract only if and when PLÜMAT expressly confirm their validity in writing. The foregoing requirement shall apply in each and every case, for example even if PLÜMAT accept Contractor's deliveries without reservation, although PLÜMAT are aware of Contractor's general terms and conditions.

(4) Individual agreements made with Contractor in individual cases (including subsidiary agreements, supplements, and amendments) shall always take precedence over these GCP. A written contract or, respectively, PLÜMAT's 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 PLÜMAT by Contractor 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. Statutory formal requirements and further evidence, in particular in the event of doubts about the legitimacy of the person making the declaration, shall remain unaffected.

(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) PLÜMAT's order shall be deemed binding no sooner than three days from receipt of the written order confirmation issued by the Contractor. Contractor shall notify PLÜMAT 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) Contractor 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 PLÜMAT.

(3) Contractor shall notify PLÜMAT 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) PLÜMAT is entitled to demand changes to the Goods even after conclusion of contract, provided this is not unreasonable for Contractor. Contractor 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 PLÜMAT in writing forthwith of the result of its assessment. If PLÜMAT decide to implement the change, the Parties shall amend the contract as appropriate.

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

§ 3 Delivery Deadline and Default in Delivery

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

(2) If Contractor does not deliver performance, does not deliver performance until the agreed deadline or is in default, PLÜMAT's 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 para. (3) of the present GCP.

(3) If Contractor is in default, PLÜMAT may – in addition to further statutory claims – demand lump-sum compensation for the damage caused by the delay in the amount of one (1) % of the net price per completed calendar week, but in total not more than five (5) % of the net price of the Goods delivered late. PLÜMAT reserves the right to prove that higher damages have been incurred. The Contractor reserves the right to prove that no damage or significantly less damage has been incurred.

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

(1) Contractor shall not be entitled to have third parties (e.g. subcontractors) deliver any performance that Contractor is obligated to deliver without our prior written consent. The procurement risk for the performance shall be Contractor'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 PLÜMAT's order data (date and number) and the item number. PLÜMAT 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 PLÜMAT 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 PLÜMAT is 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 PLÜMAT's part. However, Contractor 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 PLÜMAT's part (e.g.

provision of material). If PLÜMAT is in default of acceptance, Contractor shall be entitled to claim compensation for additional expenditure in accordance with the statutory provisions (§ 304 German Civil Code). If the contract relates to a non-fungible article to be produced by Contractor (custom-made item), Contractor shall have further rights only if PLÜMAT has 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 Contractor (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 PLÜMAT pays within fourteen (14) calendar days, Contractor shall grant PLÜMAT a discount of 3 per cent on the net invoice amount. If payment is made by bank transfer, it shall be deemed punctual if PLÜMAT remittance order is received by PLÜMAT's bank prior to expiry of the payment deadline; PLÜMAT cannot be held responsible for any delays caused by the banks involved in the payment process.

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

(5) PLÜMAT 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, PLÜMAT shall be entitled to retain any due payments as long as PLÜMAT is still entitled to claims against Contractor for incomplete or defective deliveries.

(6) Contractor 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. Contractor 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) Contractor shall notify PLÜMAT 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 PLÜMAT's incoming goods inspection, unless proven otherwise.

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

§ 7 Packaging

(1) Contractor 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, Contractor shall take back packing materials at the place of destination free of charge. Should PLÜMAT releases Contractor from the above obligation, packing materials and containers will become PLÜMAT's property, in which case Contractor shall not be entitled to any compensation.

§ 8 Nondisclosure, Retention of Title and Provision of Material

(1) PLÜMAT retains 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 PLÜMAT on completion of the contract. Contractor shall impose the same obligation on any subcontractors commissioned with PLÜMAT's 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 PLÜMAT has become common knowledge. Special confidentiality agreements and statutory regulations on the protection of secrets shall remain unaffected.

(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 PLÜMAT provide to Contractor 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 Contractor's expense.

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

If PLÜMAT's reserved goods/provided goods are processed with other items not belonging to PLÜMAT, PLÜMAT shall acquire co-ownership of the new item in the ratio of the value of PLÜMAT's item (purchase price plus VAT) to the other processed items at the time of processing.

If the item provided by PLÜMAT is inseparably mixed with other items not belonging to PLÜMAT, PLÜMAT shall acquire co-ownership of the new item in the ratio of the value of the item subject to retention of title (purchase price plus VAT) to the other mixed items at the time of mixing. If the mixing is carried out in such a way that the Contractor's item is to be regarded as the main item, it is agreed that the Contractor shall transfer co-ownership to PLÜMAT on a pro rata basis; the Contractor shall keep the sole ownership or co-ownership for PLÜMAT.

If the security interests to which PLÜMAT is entitled under this paragraph exceed the purchase price of all reserved goods not yet paid for by PLÜMAT by more than 10%, PLÜMAT shall be obliged to release the security interests at PLÜMAT's discretion at the request of the Ordering Party.

(4) The transfer of ownership of the Goods to PLÜMAT shall be unconditional and regardless of payment of the price. However, if, in individual cases, PLÜMAT accepts Contractor's offer of transfer of ownership induced by payment of the purchase price, Contractor's retention of ownership shall terminate no later than on payment of the purchase price for the delivered Goods. PLÜMAT 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 PLÜMAT's mutual business relations in advertising materials only with PLÜMAT's express written consent. This shall also apply to product images showing machines and machine parts or similar.

§ 9 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 as well as improper assembly/installation, inadequate assembly or operating instructions or operation manual), and in case of other breaches of duty on the part of Contractor.

(2) In accordance with the statutory regulations, Contractor 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 PLÜMAT's order, or which are incorporated into the contract in the same way as these GCP. It is irrelevant whether the product description comes from PLÜMAT, from Contractor, or from the manufacturer.

(3) In the case of Goods with digital elements or other digital content, the Contractor shall owe the provision and updating of the digital content in any case to the extent that this results from a quality agreement (compare also § 9 para. GCP) or other product descriptions of the manufacturer or on its behalf, in particular on the Internet, in advertising or on the goods label.

(4) PLÜMAT shall not be obliged to inspect the goods or make any special enquiries about any defects at the time the contract is concluded. Notwithstanding § 442 para. 1 sentence 2 BGB, PLÜMAT shall therefore be entitled to claim for defects without restriction even if PLÜMAT was unaware of the defect at the time the contract was concluded as a result of gross negligence.

(5) The commercial duty to inspect the Goods and notify Contractor of any defects shall be governed by the statutory provisions of §§ 377, 381 German Commercial Code, save that PLÜMAT's 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.

PLÜMAT's obligation to give notice of any subsequently discovered defects shall remain unaffected. Notwithstanding PLÜMAT's duty to inspect, PLÜMAT's complaint (notification of defects) shall in any event be deemed to be prompt and timely if it is sent within 21 working days of discovery or, in the case of obvious defects, of delivery.

(6) Subsequent performance shall also include removal of the defective Goods and re-installation if the Goods were installed in another item or attached to another item in accordance with their type and intended use before the defect became apparent; PLÜMAT's statutory claim for reimbursement of corresponding expenses (removal and installation costs) shall remain unaffected. The expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs and, if applicable, removal and installation costs, shall be borne by the Contractor even if it turns out that there was actually no defect. PLÜMAT's liability for damages in the event of an unjustified request to remedy a defect shall remain unaffected; however, PLÜMAT shall only be liable in this respect if PLÜMAT recognized or was grossly negligent in not recognizing that there was no defect.

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

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

§ 10 Recourse against Supplier

1) PLÜMAT's statutory claims for expenses and recourse within a supply chain (supplier recourse pursuant to §§ 478, 445a, 445b or §§ 445c, 327 para. 5, 327u German Civil Code) shall accrue to PLÜMAT without restriction in addition to the claims for defects. In particular, PLÜMAT shall be entitled to demand from the Supplier exactly the type of subsequent performance (repair or replacement) that PLÜMAT owes its customer in the individual case; in the case of goods with digital elements or other digital content, this shall also apply with regard to the provision of any necessary updates. PLÜMAT's statutory right of choice (§ 439 (1) BGB) shall not be restricted hereby.

(2) Before PLÜMAT acknowledges or fulfills a claim for defects asserted by its Customer (including reimbursement of expenses pursuant to §§ 445a para. 1, 439 para. 2, 3, 6 sentence 2, 475 para. 4 German Civil Code), PLÜMAT shall notify the Supplier and request a written statement setting out the facts briefly. If a substantiated statement is not made within a reasonable period of time and no amicable solution is reached, the claim for defects actually granted by PLÜMAT shall be deemed to be owed to PLÜMAT's customer. In this case, the Contractor shall be responsible for proving the contrary.

(3) PLÜMAT's claims under supplier recourse shall also apply if the defective goods have been combined with another product or further processed in any other way by PLÜMAT, PLÜMAT's Customer or a third party, e.g. by incorporation, attachment or installation.

§ 11 Manufacturer's Liability

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

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

(3) The Contractor shall take out and maintain product liability insurance with a blanket coverage of at least five (5) million Euros per personal injury/property damage.

§ 12 Trade Mark and Industrial Property Rights

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

(2) If a claim is made against PLÜMAT in respect of a violation of property rights for which Contractor is responsible, Contractor shall compensate PLÜMAT for all costs incurred by PLÜMAT 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 PLÜMAT is impaired owing to existing third-party property rights, Contractor 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.

§ 13 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 § 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 (§ 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 PLÜMAT, 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 PLÜMAT is also entitled to non-contractual compensation, the regular statutory limitation period (§§ 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.

§ 14 Applicable Law and Place of Jurisdiction

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

(2) If Contractor 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 PLÜMAT's registered office in Espelkamp. The same shall apply if the Contractor is a company within the meaning of § 14 German Civil Code. However, PLÜMAT 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 Contractor's general place of jurisdiction. Overriding statutory provisions, in particular in respect of exclusive judicial competence, shall remain unaffected.

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