

General Terms and Conditions of Sale of Unirubber sp. z o.o.

1. Definitions:

- 1.1 **Seller** – Unirubber sp. z o.o. with the registered office in Zielonka. The term “Seller” shall refer to any sales or delivery contracts or any other contracts (including innominate ones) of similar type.
- 1.2 **Buyer** – an entity (a natural person, legal person or organisational unit not having the status of a legal person who pursuant to the act is granted legal capacity) concluding a sales or delivery contract or any other contract (including innominate one) of similar type with the Seller.
- 1.3 **Order** – a written or electronic (e-mail, fax, etc.) statement of the Buyer declaring the will to conclude a contract and setting forth its material provisions.
- 1.4 **Contract** – includes a written or electronic (e-mail, fax, etc.) order of the Buyer accepted by the Seller in the order confirmation.
- 1.5 **GTCS** – these General Terms and Conditions of Sale
- 1.6 **Defect** – clearly visible or latent inconformity of the contract subject to the Contract.

2. Terms of Contractual Relationship

- 2.1 The GTCS shall apply to contractual relationships between the Buyer and the Seller consisting at least partially in:
 - 2.1.1 undertaking by the Seller to transfer to the Buyer the property of goods and to release them which corresponds with undertaking of the Buyer to collect the goods and pay the price to the Seller;
 - 2.1.2 undertaking by the Seller to manufacture the goods of individual grade only and to deliver them in parts or periodically which corresponds with the undertaking of the Buyer to collect the goods and pay the price to the Seller.
- 2.2 The contractual relationship between the Parties shall be governed by valid legal regulations, the Contract and the GTCS.
- 2.3 Any contractual provisions shall prevail over the GTCS. Any departures from the GTCS shall be valid provided they are executed in writing or electronic (e-mail, fax, etc.).
- 2.4 The GTCS shall apply only in contacts with entrepreneurs as well as public or state entities.
- 2.5 The Contract shall be considered concluded only following confirmation of the Buyer’s order by the Seller in writing or electronic (e-mail, fax, etc.). A reply to the Order subject to modifications or supplementations shall be binding upon the Buyer unless the Buyer has excluded the possibility of modifications or supplementations in writing or electronic (e-mail, fax, etc.) or has immediately objected them.

3. Payment of Price

- 3.1 Unless otherwise expressly agreed, the price specified in the order confirmation shall apply to “ex works” increased with VAT and shall not include delivery of the goods. It shall not be valid in the case of any extra orders.

- 3.2 Should any material change in economic conditions, in particular any material change in prices for raw materials or amounts of remuneration, occur in a period between the conclusion of the Contract and its execution, the Seller shall be entitled within a period of eight weeks from the change in the conditions to modify the terms, adjust the price proportionally to their increased costs compared to the costs as of the date of conclusion of the Contract. Upon request of the Buyer the Seller shall submit a statement of the changes in the aforementioned costs.
- 3.3 The aforementioned clause shall apply also to any changes in customs duties, compensation costs, excise duty, taxes and other administrative or public fees regarding the contract subject.
- 3.4 The price calculation shall be based on quantity, weight or volume of the contract subject as of the moment of leaving the factory of the Seller.
- 3.5 The provision of the Buyer with regard to the payment of the price shall be adjusted following the execution of the Contract by the Seller unless the Buyer is in arrears towards the Seller with the payment of any receivables resulting from any legal relationship.
- 3.5.1 In the case of Contracts executed in parts or periodically the obligation to pay the price shall be adjusted following the execution of the Contract within the scope of individual part or batch, subject to Section (ii) below.
- 3.5.2 In the case when the Buyer is in arrears towards the Seller with the payment of any receivables resulting from any legal relationship the Seller shall be entitled to refrain from the execution of the Contract till the Buyer offers the outstanding provision or the payment of the price regarding the current Contract, at the option of the Seller.
- 3.6 Unless otherwise agreed, the net price without any reductions (discounts) shall be due within 10 days from delivery of a correctly issued invoice to the Buyer.
- 3.7 The Seller shall be entitled to apply the payment of the Buyer towards any debt selected by them unless the Buyer has reserved the payment of a specific financial obligation.
- 3.8 The payment by bills of exchange or cheques shall be permitted only by mutual agreement of the Parties and shall be regarded as provision in lieu of fulfilment of the obligation. In the case of payment by bills of exchange the discount costs shall be borne by the Buyer and they shall be payable immediately without a possibility of deduction. Handing over a bill of exchange of the Seller shall not mean accomplishment of the provision which shall occur only following the complete satisfaction of the claim.
- 3.9 The reductions (discounts) shall not apply if the Buyer is in arrears towards the Seller with the payment of any receivables resulting from any legal relationship.
- 3.10 The Buyer may recognise their receivables against the claim of the Seller for the payment of the price only when they have been recognised by the Seller, are not disputed or have been awarded with a judgement in force.
- 3.11 The Buyer shall not be entitled to right of retention on the basis of any disputed claims.

4. Obligation of Seller

- 4.1 Unless the Parties have specified in the Contract a Party responsible for delivery of the contract subject, the obligation to arrange delivery shall rest with the Buyer. In such a case the Contract shall be considered executed by the Seller on time and at location when and where the contract subject is left at disposal of the Buyer.
- 4.1.1 Upon the execution of the Contract by the Seller the benefits and burdens related to the goods as well as risk of accidental loss or damage to the goods shall be transferred to the Buyer.
- 4.1.2 The Seller shall be obliged to notify the Buyer about location where the contract subject is left at the disposal of the Buyer unless the Parties have specified it in the Contract.
- 4.1.3 The Buyer shall be obliged to collect the goods from the place where the contract subject has been left at the disposal of the Buyer within a time limit specified by the Seller.

- 4.1.4 If despite the aforementioned notification the Buyer has not collected the contract subject within the time limit specified by the Seller from the location where it has been left at the disposal of the Buyer the Seller shall be entitled at their own option to:
- (i) withdraw from the Contract within a period of 30 days from expiry of the time limit set for collection,
 - (ii) have the contract subject stored at the expense and risk of the Buyer.
- 4.2 If pursuant to the Contract the obligation to deliver the contract subject rests with the Seller:
- 4.2.1 It shall be assumed that the place of fulfilment of obligation of the Seller shall be the place where the registered office of the Seller is situated.
- 4.2.2 Upon release of the contract subject by the Seller to a carrier the benefits and burdens related to the goods as well as risk of accidental loss or damage to the goods shall be transferred to the Buyer.
- 4.2.3 Both the time and date of delivery to the place of destination shall be binding on the Seller only following their confirmation in writing or electronic (e-mail, fax, etc.) by the Seller.
- 4.2.4 The date of delivery of the contract subject resulting from the Contract shall run from a day following the day of the order confirmation by the Seller; however, it shall be extended by any period of delay of the Buyer in taking any actions resulting from the cooperation obligation, in particular paying any possibly agreed advance or down payment or providing the Seller with any information necessary to determine the possibility of delivering the contract subject on time.
- 4.3 If through no fault of the Seller the Contract cannot be executed on time the deadline shall be considered met upon the moment of declaring by the Seller of being ready to execute the Contract. The deadline for the execution of the Contract shall be extended by any periods in which the Seller is entitled to refrain from the execution of the Contract.
- 4.4 Any occurrence of force majeure – including also those during time of delay of the Seller – shall entitle the Seller to extend the deadline for the execution of the Contract (including delay in delivery) by the duration of the impediment to the execution of the Contract (or delivery).
- 4.5 Should the execution of the Contract (or delivery) be impossible or unprofitable as a result of force majeure, the Seller shall be entitled to withdraw from the Contract in part or in total within a period of 30 days from the occurrence of force majeure unless the impediment has ceased within that period and the Buyer is still interested in the execution of the Contract. In such a case any claims for damages shall be excluded unless the Seller bears the blame for the resultant damage.
- 4.6 Force majeure shall include also strike, legal lockout, ban on entries and departures, lack of raw materials and power, fire, significant stoppages in the operation of factory or transport as well as any other circumstances not attributable to the Seller which materially impede or render it impossible to execute the delivery or the Contract, irrespective of whether they occur at the Seller, forwarding agents, sub-suppliers or any of further sub-suppliers.
- 4.7 The proper execution of the Contract by the Seller depends on timely receipt of supplies by the Seller. The Seller shall be entitled to divide the provision into parts without being in delay with the other parts if it is not contrary to the reasonable interest of the Buyer, in particular if the execution of only a part of the delivery at a given time does not result in any damage to the Buyer.
- 4.8 The sale on demand of the Buyer:
- 4.8.1 In the case of conclusion of the Contract executed on demand of the Buyer the demand for execution of the Contract regarding any agreed quantity of the contract subject needs to be made within an agreed time limit.
- 4.8.2 If the demand is not made or if it is made after expiry of the agreed time limit or if it regards a different quantity of the contract subject than the agreed one, the Seller shall be entitled to request the Buyer to take any actions necessary to satisfy the demand. The time limit specified by the Seller shall be binding upon the Buyer. The Seller may request repair of the damage resulting

- from non-execution of the obligation in total. The amounts paid by the Buyer towards the price shall not be refundable.
- 4.8.3 If the Buyer has been obliged to take the necessary actions the Seller shall be entitled to withdraw from the Contract within a period of one week following ineffective expiry of the time limit for taking them.
- 4.9 The Seller shall be entitled to withdraw from the Contract within a period of 30 days from becoming informed about one of the following circumstances:
- 4.9.1 a bankruptcy petition has been filed or any other similar insolvency proceedings have been initiated against the Buyer or any of their partners or any other related entity or against the Buyer's guarantor (if any guarantee has been effected).
- 4.9.2 one of the parties specified in Section 4.9.1 has withheld its payments permanently or temporarily or their financial situation has deteriorated to such a degree that the payment of the receivables under the Contract will be at risk.
- 4.9.3 the Buyer has not delivered their performance in total nor have they submitted relevant security or they have otherwise violated the provisions of the Contract.
- 4.10 Should the Seller withdraw from the Contract pursuant to Section 4.9 or should the circumstances specified in Sections 4.9.1 - 4.9.3 occur:
- 4.10.1 the Seller shall not be obliged to pay the Buyer any damages or incur any other costs related to withdrawal from the Contract and the claims of the Seller against the Buyer resulting from any legal relationship shall be immediately due and payable.
- 4.10.2 the Seller shall be entitled to refrain from performing their own obligations towards the Buyer resulting from any legal relationship till their claims are satisfied or the Buyer submits relevant security.
- 4.10.3 any reductions and discounts provided for shall be lost.
- 4.10.4 any other rights to which the Seller is entitled shall remain unaffected.

5. Securing of receivables of Seller:

- 5.1 The reservation of ownership of the goods sold:
- 5.1.1 the Seller shall reserve the ownership of the contract subject till the moment of payment of the price by the Buyer (Reserved Goods).
- (i) In the case of acceptance of a bill of exchange or cheque the goods shall remain property of the Seller till the moment of receiving full satisfaction.
- 5.1.2 Should the Buyer sell the contract subject to any third person or should the contract subject be lost, damaged or worn out before the price payment, the Buyer shall be obliged to hand over to the Seller everything they have received for the contract subject or as compensation.
- 5.1.3 The receivables to which the Buyer shall be entitled as a result of wear, loss or sale of the contract subject due to the insurance policy taken out shall be assigned by the Buyer to the Seller in order to secure the receivables of the Seller related to the price payment or damage repair whereas the Seller shall accept the assignment.
- (i) The assignment of future receivables of the Buyer shall refer also to a balance recognised by the Buyer's contractor and in the case of bankruptcy of the Buyer's contractor also to a balance of claims to which the Buyer is entitled with regard to the estate in bankruptcy.
- (ii) As soon as the claim arises the Buyer shall be obliged to immediately notify the debtor about the assignment.
- (iii) Upon request of the Seller, the Buyer shall be obliged to disclose all the information about any assigned receivables and persons being debtors as well as any data necessary to enforce the receivables and to release any necessary documents.

- (iv) Should the Reserved Goods be processed, the ownership of the newly created goods shall be transferred to the Seller in order to secure the receivables resulting from the price unpaid.
- 5.1.4 Should the Reserved Goods be combined or mixed with other things which are not owned by the Seller and should the Buyer receive the right of property or co-property with regard to the Reserved Goods or any other combined or mixed thing, the Buyer undertakes to transfer the title to the thing to the Seller in order to secure the receivables resulting from the price unpaid (transfer of title by way of security).
- (i) Upon full payment of the price the title to the goods shall be regained by the Buyer.
- 5.1.5 In the case of circumstances referred to in Section 4.9.3 the Seller may demand the Reserved Goods returned. Within that scope:
- (i) The Buyer undertakes to leave the Reserved Goods at the disposal of the Seller,
- (ii) The Buyer shall be obliged to cover any expenses related to the collection of the Reserved Goods and its further sale. Moreover, they shall be obliged to send the Seller a detailed statement of the Reserved Goods in their possession.
- (iii) Irrespective of the foregoing, the Seller shall be entitled at any time to take proper actions aiming at protection of their rights, in particular with regard to entering facilities as well as storage and loading areas of the Buyer and to having access to any necessary documents and books.
- 5.1.6 The Buyer shall be obliged on the risk basis to maintain the Reserved Goods in a proper state, to store them in proper conditions, separate from other goods and to insure the Reserved Goods against fire and theft.
- 5.1.7 The Buyer shall be obliged to immediately notify the Seller about any initiated or threatened enforcement proceedings with regard to: the Reserved Goods, assignment of receivables or any other security of the Seller. Moreover, the Buyer shall be obliged to hand over to the Seller any documents necessary to protect the rights to which the Seller is entitled.
- (i) The costs of the Seller related to any court or out-of-court endeavours regarding return of the Reserved Goods, assigned receivables or any security or their exemption from enforcement proceedings shall be borne by the Buyer. The above shall refer also to any reasonable court intervention should the enforcement against third parties be ineffective.
- 5.1.8 Upon request of the Buyer, the Seller may release at their own discretion the security to which they are entitled, in particular if following the release the real value of the security exceeds the value of the receivables to which they are entitled by 20%.

6. Rights of Buyer.

- 6.1 Seller shall not be obliged to verify the fitness of the contract subject for purposes intended by the Buyer. The Seller shall be bound only by properties or parameters of the contract subject expressly specified in the Contract (conformity of the goods to the Contract).
- 6.1.1 The burden of verifying the fitness of the contract subject for needs and purposes of the Buyer shall be borne by the Buyer. By placing the Order the Buyer represents that the contract subject corresponds to the needs and purposes of the Buyer.
- 6.1.2 The Buyer shall be obliged to immediately verify the contract subject as for its conformity to the Contract within a maximum period of 21 days from the execution of the Contract by the Seller, subject to Sections 6.3 and 7.

6.2 Defect warranty:

- 6.2.1 The Parties shall limit the statutory rights of the Buyer due to defect warranty to rights and rules specified below. These GTCS shall fully and finally govern liability of the Seller due to defect warranty regarding the contract subject.
- 6.2.2 Following the receipt of the contract subject the Buyer shall be obliged to verify it as for any clearly visible or latent defects.
- (i) The Buyer shall be obliged to immediately notify the Seller about any clearly visible defects in writing, by fax or e-mail, within a maximum period of 7 days from receipt of the contract subject or else they shall lose a right to invoke inconformity of the contract subject to the Contract.
- (ii) Any latent defects shall be immediately reported in the manner specified above within a maximum period of 7 days from their detection or possibility of their detection; however, the Buyer shall be obliged to make a test as for the conformity of the contract subject to the Contract within a period of 30 days from the execution of the Contract by the Seller or else they shall lose a right to invoke inconformity of the contract subject to the Contract.
- 6.2.3 Should the Buyer not take the actions of verifying, notifying or testing referred to in Sections 6.2.2 or 6.3.2 (i), (ii) on time the contract subject shall be deemed verified and approved by the Buyer.
- 6.2.4 In the case of defect notification the Seller shall be entitled to request from the Buyer to send or hand over at their disposal the questioned goods or at least 1 kg of the questioned contract subject for their verification. In the case of unjustified refusal of the Buyer the Buyer shall lose a right to invoke inconformity of the contract subject to the Contract.
- 6.2.5 In the case of any justified defect notification the Seller shall be obliged to deliver the relevant quantity of the contract subject within a period of 30 days from acknowledgment of the complaint.
- (i) Any related expenses shall be borne by the Seller on their own.
- (ii) The Seller shall not incur any extra costs related with the fact that the Buyer has transported the contract subject to any other place than the place of the contract execution unless the transport has corresponded to its use known upon conclusion of the Contract to the both Parties.
- (iii) The Seller shall not be liable for the resultant damage if the contract subject has been used before the verification or tests.
- 6.2.6 Should the exchange not be completed within the specified time limit the Buyer may at their own option request a price reduction or withdraw from the Contract.
- (i) Should the Buyer withdraw from the Contract, they shall be entitled to claim for damages within the limits of negative interest of the Contract.
- (ii) Should only a part of the contract subject be defective, the Buyer may withdraw from the Contract in total only when they prove that they have not justified interest in keeping the remaining part of the contract subject.
- 6.2.7 The Buyer shall be entitled to any claims and rights resulting from inconformity of the contract subject to the Contract within a period of 12 months from the execution of the Contract by the Seller.

7. Properties of contract subject.

- 7.1 Any information regarding the contract subject, in particular any parameters, properties or proportion of mixes shall be of approximate nature whereas the given method of use shall be the recommended one. The data shall not be any basis for vindication of claims resulting from defectiveness of the contract subject. The same refers to any results of chemical and physical analyses submitted to the Buyer.
- 7.2 Any product information, including that originating from the experience and knowledge of the Seller, shall not release the Buyer from verification of the product as for its fitness for the purpose intended by the Buyer. It shall refer also to the situation when the Seller has earlier provided any product samples.

7.3 During the use of the product the Buyer shall be responsible for complying with any valid regulations, rules of safety and personal health as well as for processing the contract subject in accordance with principles of technical and professional competence.

8. Contractual liability

8.1 In the case of violation by the Seller of any contractual obligations as a result of not maintaining due diligence the liability of the Seller shall be limited to compensation within the limits of negative interest of the Contract, however, to a maximum value of the amount covered by the Seller's civil liability insurance or civil insurance against material damage.

8.1.1 The liability of the Seller or any persons with assistance of whom the Seller performs the obligation or to whom they entrust the performance of the obligation shall include only results of actions or deliberate omission or gross negligence.

8.1.2 The Seller shall not be liable for any damages resulting from the use of any materials, components, instructions, recipes, etc., submitted by the Buyer.

8.2 The Buyer shall release the Seller from liability resulting directly or indirectly from invalidity of any provisions of the Contract and the Seller shall accept the release.

9. Other provisions

9.1 Confidentiality

9.1.1 The Buyer shall be obliged to keep in secret from any third persons any data, news, opinions and documents obtained from the Seller or regarding them, in particular technical and economic know-how (confidential information).

9.1.2 The Seller shall be obliged to keep in secret from any third persons any confidential information obtained from the Buyer or regarding them.

9.1.3 The Parties undertake not to use the confidential information for purposes other than the execution of the purpose of the Contract known to the both Parties.

9.2 Data Protection

9.2.1 Within the scope necessary for the execution of the Contract the Seller shall be entitled to process and store personal data of the Buyer pursuant to valid regulations regarding personal data protection.

9.3 Jurisdiction

9.3.1 The court competent for resolution of any disputes related to the Contract shall be any Polish common court in Wrocław Stare Miasto. The Seller shall be unilaterally entitled to submit the dispute for resolution to a court having jurisdiction over the registered office of the Buyer.

9.4 Governing law

9.4.1 The contractual relationship between the Seller and the Buyer shall be governed by the laws of Poland, without regard to the New York Convention on the Limitation Period in the International Sale of Goods.

9.5 Amendments to Contract

9.5.1 Neither extra oral decisions have been taken nor have any arrangements been made in writing or electronic (e-mail, fax, etc.) except for those specified in the GTCS. Any amendments and supplementations to the Contract shall be made in writing or electronic (e-mail, fax, etc.) or else shall be considered invalid.

9.6 Severability clause

9.6.1 Should any of the provisions of these GTCS or the Contract be or appear to be invalid, this shall not affect the application of the other provisions. In such a case the Seller in agreement with the Buyer shall replace the invalid provision with a valid one, the economic sense and purpose of which shall be as close to the previous one as possible.

Last change on 18-03-2010