

DRÄXLMAIER Group General Terms and Conditions of Purchase for Equipment and Operating Materials (EMEA)

Revision 1, dated Jan. 01, 2022

1. Operative provisions

- 1.1 **Scope of application:** These General Terms and Conditions of Purchase for Equipment and Operating Materials (EMEA) (“**Terms for Equipment and Operating Materials (EMEA)**”) apply to all legal relationships between Fritz Dräxlmaier GmbH & Co. KG and its affiliates based in the EMEA region (hereinafter “DRÄXLMAIER” or collectively the “DRÄXLMAIER Group”) that have as their subject the commissioning, production, use, maintenance and service, disposal over, and new procurement of tools, tool elements, molds, gauges, templates, models, matrices and other means of production that are required in order to produce specific products for DRÄXLMAIER (hereinafter “Equipment and Operating Materials”). “Affiliates” means all companies that are majority owned or involve majority shareholdings or equity interests in relation to each other, dependent and controlling companies, companies under the uniform management of a single controlling company, and companies that hold shares or equity interests in each other as well as, with regard to the DRÄXLMAIER Group, the companies that are part of the larger DRÄXLMAIER Group alliance pursuant to Annex 1.
- 1.2 **Exclusivity:** General terms and conditions of the Supplier that conflict with or deviate from these Terms for Equipment and Operating Materials (EMEA) do not apply, even if they have not been expressly rejected or deliveries have been accepted without reservation while knowing of terms and conditions of the Supplier that conflict with or deviate from these Terms for Equipment and Operating Materials (EMEA).
- 1.3 **Parties:** Unless otherwise agreed, “Supplier” for the purposes of these Terms for Equipment and Operating Materials (EMEA) means the company from which DRÄXLMAIER orders Equipment and Operating Materials. These Terms for Equipment and Operating Materials (EMEA) must moreover be observed by all Affiliates of the Supplier to the extent that these are involved in the purchasing process. The party on the side of the DRÄXLMAIER Group is the company that places the order.
- 1.4 **Order of precedence:** Written agreements entered into by mutual agreement for the individual case shall take precedence over these Terms for Equipment and Operating Materials (EMEA).

2. Entry into agreement; amendments

- 2.1 **Form of entry into agreement:** Agreements and orders as well as declarations relating thereto must be made in written form unless otherwise provided hereinafter. The written form requirement is also deemed to be met if the relevant declarations are transmitted via SAP or via an e-sourcing portal provided by DRÄXLMAIER. To the extent that, in an individual case, the agreement is not entered into through the signing of the agreement regarding the production and supply of Equipment and Operating Materials, orders are deemed to have been confirmed by the Supplier if it does not object to the order in question in written form within three working days after receiving it. In case of doubt regarding the content of a declaration, the agreement comes into effect no later than when the Supplier begins executing the order.
- 2.2 **Oral agreements; contractual amendments and addenda:** Amendments and addenda to the Equipment and Operating Materials or these Terms for Equipment and Operating Materials (EMEA) as well as agreements concerning the Equipment and Operating Materials are valid only if they meet the written form requirement pursuant to Sec. 2.1. Oral agreements are not valid unless and until they have been confirmed in written form in accordance with Sec. 2.1.

3. Ownership and possession of the Equipment and Operating Materials

- 3.1 **Transfer of ownership in case of production by Supplier:** To the extent that the Supplier produces the Equipment and Operating Materials itself, the Parties agree as follows on the unconditional transfer of ownership to DRÄXLMAIER:

3.1.1 Ownership of raw materials and production materials: Existing and future ownership, co-ownership, and expectant rights [*Anwartschaftsrechte*] with regard to raw materials and other production materials that have been or are later purchased or provided by the Supplier to produce the Equipment and Operating Materials (“**Raw Materials and Production Materials**”) shall pass to DRÄXLMAIER upon receipt of the first payment pursuant to the payment plan.

Further processing of the Raw Materials and Production Materials: The Supplier is entitled to process, mix, or combine the Raw Materials and Production Materials at its own or third-party plants in the ordinary course of business (“**Further Processing**”). The Further Processing shall take place on DRÄXLMAIER’s behalf (without any further remuneration) as the producer in such manner that DRÄXLMAIER retains or acquires, at all times and at every stage of Further Processing ownership, co-ownership, and expectant rights with regard to the Raw Materials and Production Materials, even if these must be viewed as new items.

3.1.2 Ownership of blanks and documentation: Existing and future ownership, co-ownership, and expectant rights with regard to (i) blanks that have been or are later provided or produced in order to produce the Equipment and Operating Materials (“**Blanks**”), and (ii) all documents, including tool drawings and data, etc., containing the development performance, specifications, etc., that have been or are later developed or produced in order to produce the Equipment and Operating Materials (“**Documentation**”) shall pass to DRÄXLMAIER upon provision thereof.

Further Processing of the Blanks and Documentation: The Supplier is entitled to process, mix, or combine the Blanks and Documentation at its own [or third-party] plants in the ordinary course of business (“**Further Processing**”). The Further Processing shall take place on DRÄXLMAIER’s behalf (without any further remuneration) as the producer in such manner that DRÄXLMAIER retains or acquires, at all times and at every stage of Further Processing, ownership, co-ownership, and expectant rights with regard to the Blanks and Documentation, even if these must be viewed as new items.

3.1.3 Ownership of Equipment and Operating Materials: Unless DRÄXLMAIER is already the sole owner thereof, existing and future ownership, co-ownership, and expectant rights with regard to the Equipment and Operating Materials shall pass to DRÄXLMAIER upon (i) completion of the Equipment and Operating Materials, (ii) production of the first parts using the tools, (iii) yellow sampling pursuant to the production process and product approval planning, or (iv) payment in full, whichever occurs first.

This applies regardless of whether DRÄXLMAIER has already remitted all payments agreed for the production of the Equipment and Operating Materials at that time.

3.1.4 The Supplier represents and warrants that there are no third-party rights to the Documentation or the Equipment and Operating Materials.

3.2 Transfer of ownership in case of production by third parties: To the extent that the Supplier has commissioned a third party to produce the Equipment and Operating Materials, ownership shall pass to DRÄXLMAIER as soon as the Equipment and Operating Materials are in the Supplier’s direct or indirect possession. If the third party has supplied the Equipment and Operating Materials to the Supplier subject to retention of title, the corresponding expectant right shall pass to DRÄXLMAIER. The Supplier is obligated to enter into all necessary agreements with the third party in due time to ensure the later transfer of ownership in full to DRÄXLMAIER. The Supplier represents and warrants that it is entitled to dispose of the Equipment and Operating Materials without limitation and to collect on any claims that may have been assigned to the third party if an extended retention of title has been agreed between the Supplier and the third party. The Supplier shall assign to DRÄXLMAIER any claims to surrender against the third party. DRÄXLMAIER accepts the assignment.

3.3 Right of assumption toward third parties: To the extent that payments to third parties concerning the Equipment and Operating Materials are still open, DRÄXLMAIER has the right, in the event of termination of the agreement, performance disruptions, or the filing of an application for opening of insolvency proceedings concerning the Supplier’s assets, to remit payment to the third party instead of paying sums still outstanding to the Supplier, with simultaneous assignment of all existing and future claims of the Supplier

against the third party concerning the Equipment and Operating Materials. The Supplier hereby consents to such an assignment in this case.

- 3.4 Delivery of the Equipment and Operating Materials: The delivery of the existing and future Raw Materials and Production Materials, Blanks, Documentation, and Equipment and Operating Materials in the Supplier's possession to DRÄXLMAIER is replaced by DRÄXLMAIER providing the use thereof to the Supplier, free of charge, to produce the Equipment and Operating Materials and/or products of DRÄXLMAIER and by an indirect possession relationship (e.g., loan) being established accordingly. If third parties are in possession of the Equipment and Operating Materials, the Supplier assigns to DRÄXLMAIER its existing and future claims to surrender against such third parties. DRÄXLMAIER accepts the assignment. Where the law applicable in the concrete situation requires a further agreement or stipulation for a valid transfer of ownership, such agreement or stipulation is hereby deemed to be agreed. The Parties undertake, to the extent necessary, to document this accordingly in supplementary form.
- 3.5 Surrender of Equipment and Operating Materials that have already been completed: DRÄXLMAIER is permitted to terminate the indirect possession relationship/loan at any time and demand that the Equipment and Operating Materials be surrendered. In this regard, the Supplier waives the right to assert rights of retention or other opposing rights unless it has counterclaims that are undisputed or have been determined with final, binding legal force and arise from the same contractual relationship.
- 3.6 Surrender of Equipment and Operating Materials that have not yet been completed: The provisions of Sec. 3.5 apply accordingly to Raw Materials and Production Materials, Blanks, Documentation, and Equipment and Operating Materials that have not yet been produced in full to the extent that the Supplier has received the share of the costs that have been incurred up until this as yet incomplete stage.
- 3.7 Right of purchase in case of premature termination of agreement: If the underlying supply agreement between DRÄXLMAIER and the Supplier is terminated or dissolved before the Equipment and Operating Materials have been paid for in full or the parts price has been amortized, the provisions of Sec. 3.5 and 3.6 apply accordingly as soon as DRÄXLMAIER has paid the amount still outstanding to the Supplier.
- 3.8 Resale: DRÄXLMAIER is entitled to resell the Equipment and Operating Materials in the ordinary course of business, particularly to customers. This applies regardless of whether DRÄXLMAIER has already remitted all payments agreed for the production of the Equipment and Operating Materials at that time. In the event that the Equipment and Operating Materials are resold to third parties, the Supplier undertakes to comply with the obligations to be observed toward DRÄXLMAIER as stipulated in these Terms for Equipment and Operating Materials (EMEA) that serve to maintain ownership and the existence of the Equipment and Operating Materials, including for the benefit of third parties designated by DRÄXLMAIER.

4. **Labeling obligation**

- 4.1 Labeling of the Equipment and Operating Materials: The Supplier undertakes to mark and label the Equipment and Operating Materials according to DRÄXLMAIER's specifications, permanently and adequately visibly (e.g., by means of tool signs), unless there are other specifications from the customers of DRÄXLMAIER. The Supplier must document the labeling in the agreed scope and transmit this to DRÄXLMAIER. Proof of corresponding labeling is a prerequisite for payment in accordance with the agreed payment stages.
- 4.2 Changes in labeling: DRÄXLMAIER is permitted to demand of the Supplier at any time that Equipment and Operating Materials labeled as the property of DRÄXLMAIER be declared otherwise at no charge, and particularly that a sign indicating that DRÄXLMAIER's customer is the owner be affixed.
- 4.3 Obligation to provide information and notification: If DRÄXLMAIER's property is jeopardized by enforcement measures, particularly attachment or distraint, seizure, or insolvency proceedings, the Supplier must notify DRÄXLMAIER thereof without delay. The Supplier must notify the body that is carrying out such measures, unsolicited, of the ownership rights of DRÄXLMAIER or the third party, in the case of resale.

5. **Confirmation of possession**

- 5.1 Inventory list: The Supplier is obligated to provide, at DRÄXLMAIER's request, what is known as confirmation of possession or an inventory list concerning all Equipment and Operating Materials of

DRÄXLMAIER or the customer to which DRÄXLMAIER has resold them that are in the Supplier's possession.

5.2 Confirmation of possession for tax purposes: Furthermore, the Supplier is obligated, upon a special request from DRÄXLMAIER for that purpose, to immediately provide separate confirmations of possession for tax purposes and provide to DRÄXLMAIER, free of charge, all documents requested by DRÄXLMAIER in this regard that are necessary for the purpose of refunding VAT.

5.3 Retention of payments: DRÄXLMAIER reserves the right to retain payments until such time as the confirmation of possession/inventory list requested by DRÄXLMAIER has been provided by the Supplier.

6. **Maintenance, service, insurance**

6.1 Maintenance of the Equipment and Operating Materials: The Supplier must treat the Equipment and Operating Materials with care, maintain them in due time and at its own expense in accordance with the necessary time intervals, and keep them operable at all times in accordance with the most recent drawing revisions (where applicable) during the term when they are provided.

6.2 Ensuring functionality: The Supplier is responsible for ensuring the dimensional accuracy of the Equipment and Operating Materials, particularly the gauges. In this regard, the Supplier is obligated to assess the deviations caused by wear accordingly and, to the extent necessary, correct these at its own expense in order to ensure the error-free functionality of the Equipment and Operating Materials.

6.3 Insurance: The Supplier is obligated to safeguard the Equipment and Operating Materials against destruction, damage, and environmental influences and to ensure suitable liability insurance coverage during the period when the Supplier has the Equipment and Operating Materials in its custody.

6.4 Storage costs: Any storage costs that may apply must be borne by the Supplier.

6.5 Audit: DRÄXLMAIER is entitled to check compliance with these obligations at any time during the Supplier's usual business and working hours in the location where the Equipment and Operating Materials are in use and to demand that the Supplier provide proof of liability insurance.

7. **Provision of the Equipment and Operating Materials**

7.1 Use of the Equipment and Operating Materials: The Supplier is entitled to use the Equipment and Operating Materials to fulfill the orders and delivery orders from DRÄXLMAIER with regard to both series and replacement parts. Any other use requires DRÄXLMAIER's prior written authorization.

7.2 End of use: The Supplier is not entitled to sell, scrap, or otherwise dispose of the Equipment and Operating Materials except where agreed prior in writing with DRÄXLMAIER. Pledging, transfer of title by way of security, or any other disposal by the Supplier of the Equipment and Operating Materials is not permitted.

7.3 Return of the Equipment and Operating Materials: Unless otherwise agreed between the Supplier and DRÄXLMAIER, the Supplier must return the Equipment and Operating Materials to DRÄXLMAIER no later than upon the end of the supply arrangements. Nothing herein shall affect any claims for surrender arising from Sec. 3.

8. **Relocation; use of the Equipment and Operating Materials at the sites of subcontractors; passing along to third parties**

8.1 Relocation: The Supplier is not permitted to relocate the Equipment and Operating Materials to any production site other than that originally agreed except with DRÄXLMAIER's prior written consent and according to DRÄXLMAIER's specifications. The consent may be rendered dependent on successful approval/sampling by DRÄXLMAIER and/or its customer. The same applies in the case of Equipment and Operating Materials that are present at the locations of subcontractors of the Supplier.

8.2 Subcontractors: If the Supplier utilizes the Equipment and Operating Materials or parts thereof on site at the location(s) of one or more of its subcontractors, it must ensure through corresponding contractual provisions pursuant to Sec. 3.4 hereof with the relevant subcontractors that the present provisions and rights of DRÄXLMAIER are also ensured in relation to the relevant subcontractor.

8.3 Damage and/or losses: If DRÄXLMAIER suffers damages in violation of the obligation in Sec. 8.2, the Supplier must compensate DRÄXLMAIER therefor, and for expenses and costs incurred, in full.

9. **Liability; warranty**

9.1 Warranty with regard to produced Equipment and Operating Materials: The Supplier warrants that the Equipment and Operating Materials produced by the Supplier are free of material and legal defects and, in particular, meet the agreed specifications. Furthermore, the Supplier warrants that the Equipment and Operating Materials are suitable for the use stipulated by DRÄXLMAIER and for the production of the specified components and will produce the agreed minimum output volume.

9.2 Damages affecting the Equipment and Operating Materials: The Supplier is liable for defects arising in the Equipment and Operating Materials and for damages, changes or deterioration unless the Supplier is not responsible therefor. The Supplier is responsible for intent and negligence. The Supplier must permit the conduct of its employees and of the further subcontractors utilized by it to be imputed to it.

9.3 Damages affecting legal interests of third parties: If the Equipment and Operating Materials or the use thereof should cause damages affecting the legal interests of third parties and these third parties assert claims against DRÄXLMAIER as a result thereof, the Supplier must indemnify and hold harmless DRÄXLMAIER from and against these claims in this regard and must compensate DRÄXLMAIER for any damages, costs, and/or expenses incurred by DRÄXLMAIER as a result of assertion of such claims (including reasonable legal defense and legal costs).

9.4 Damages due to other breaches of obligation: The Supplier is moreover liable for damages due to breaches of agreement or the breach of other obligations unless it is not responsible therefor.

10. **Sampling and approval**

10.1 Performance of the component sampling: Unless otherwise agreed, the parts produced using the Equipment and Operating Materials must be sampled within the scope of the production process and product approval (PPF or PPAP) ("Component Sampling"). The time and place of the Component Sampling shall be stipulated separately. The costs of sampling are deemed to be fully settled and discharged upon payment of the agreed costs for the relevant Equipment and Operating Materials according to the order. The costs of any additional Component Sampling that may be necessary must be borne by the Party that is responsible therefor. The Supplier must transmit and provide all documents, data, and sample parts for Component Sampling in accordance with DRÄXLMAIER's specifications without delay.

10.2 Result of Component Sampling: The result of Component Sampling shall be set down in writing. Cure periods stipulated therein must be observed, and such cures must be effected by the Supplier without delay. Any and all fictions relating to Component Sampling, e.g., by means of delivery or installation of the parts originating from the Equipment and Operating Materials, are excluded. Warranty rights, if any, shall be unaffected by any Component Sampling performed.

10.3 Approval: If no Component Sampling is performed in the individual case, the Equipment and Operating Materials shall be approved by DRÄXLMAIER via other means.

11. **Changes to Equipment and Operating Materials**

11.1 Change offer: If changes to the Equipment and Operating Materials become necessary based on technical specifications of DRÄXLMAIER or its customer, the Supplier must issue a written offer that evaluates the consequences of the changes from the standpoint of time, price, and quality. Changes must not be made unless and until DRÄXLMAIER has commissioned them.

11.2 Absence of commissioning: If the Supplier makes changes to the Equipment and Operating Materials without DRÄXLMAIER having commissioned this in advance, DRÄXLMAIER shall assume no costs whatsoever therefor. Instead, the Supplier shall compensate DRÄXLMAIER for the damages arising as a result thereof, and particularly for the following costs: costs of change management, documentation, qualification, and sampling.

11.3 Commissioning of the change: If DRÄXLMAIER commissions the change to the Equipment and Operating Materials, these Terms for Equipment and Operating Materials (EMEA) apply accordingly.

12. Billing and payment

- 12.1 Payment terms: The payment terms and payment stages for the relevant Equipment and Operating Materials are as stated in the payment plan included in the order.
- 12.2 Payment stages: If no payment plan is included in the order, and unless otherwise agreed, the following payment stages apply: 50% when the first parts are produced using the tools and the remaining 50% upon “green” sampling (Note 1) by DRÄXLMAIER. Unless otherwise agreed, the payment terms are 30 days in each case.

13. Checks of progress and design data

- 13.1 Checks of progress: The Supplier shall subject the production and manufacture of materials produced by the Supplier to regular checks of progress. The Supplier shall provide DRÄXLMAIER with the information requested by DRÄXLMAIER weekly in the form of control sheets and photos. DRÄXLMAIER is entitled to check the production and manufacture of materials produced by the Supplier in accordance with Sec. 6.5.
- 13.2 Data: Simulation data (e.g., Moldflow) must be received by DRÄXLMAIER no later than one week before the tool kick-off date. All design data and data models must be provided by the Supplier at any time by means of data transmission at DRÄXLMAIER’s request. All of the relevant design data must be provided as STEP data.
- 13.3 Documentation: All required documents and Documentation concerning the Equipment and Operating Materials that must be provided by the Supplier are stored on the supplier portal at the following link: <http://www.draexlmaier.com/supplier-portal>.

14. Industrial property rights and rights of use

- 14.1 Third-party industrial property rights: The Supplier shall ensure that no industrial property rights of third parties in Germany or any other country are infringed in connection with the production and procurement of the Equipment and Operating Materials and the use thereof as intended. If claims are asserted against DRÄXLMAIER by a third party due to infringements of industrial property rights, the Supplier must indemnify and hold harmless DRÄXLMAIER from and against such claims and compensate DRÄXLMAIER for all expenditures necessarily incurred by DRÄXLMAIER out of or in connection with the assertion of claims by a third party to the extent that the damages caused originate within the Supplier’s sphere of control and organization.
- 14.2 Granting of rights of use: To the extent necessary, the Supplier grants DRÄXLMAIER, the DRÄXLMAIER Group, and the relevant customer of DRÄXLMAIER any and all rights of use and licenses with respect to any intellectual property rights, particularly patents, that are necessary for the use and exploitation, without limitation in terms of time, content, or territory, of the Equipment and Operating Materials (regardless of the production status thereof).

In the event of termination of the agreement, DRÄXLMAIER has the right to have the Equipment and Operating Materials that have been produced only in part, but not yet completed, at the time of notice of termination completed by a third party. To the extent necessary, the Supplier hereby grants the third party all rights of use and licenses with regard to any intellectual property rights, particularly patents, that are necessary for the completion of the Equipment and Operating Materials.

15. General provisions

- 15.1 Prohibition of assignment: Assignment of rights and obligations arising from the agreement in whole or in part requires DRÄXLMAIER’s prior written consent; assignment of the rights and obligations of DRÄXLMAIER within the DRÄXLMAIER Group is permissible.
- 15.2 Severability: Individual invalid provisions shall not affect the validity of the remaining provisions of the agreement; the invalid provisions must be replaced by the Parties with a provision that is congruent with the original provision’s economic intent. The same applies in the event of a gap in the provisions hereof.
- 15.3 Sole place of jurisdiction: Unless otherwise agreed between the Parties, dispute arising out of or on the occasion of the existing agreement between DRÄXLMAIER and the Supplier must be decided by the courts

in the place of jurisdiction, Landshut, Germany. Legal action can also be brought against each Party in that Party's general place of jurisdiction.

- 15.4 Applicable law: Unless otherwise agreed, the laws of Germany apply, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).