

# ELASTO AB

## GENERAL CONDITIONS OF DELIVERY

(Applicable from 1 February 2002)

### Applicability

1. These General Conditions of Delivery shall be applicable to all deliveries from ELASTO AB, in as much as they are not amended by express written agreement between the parties.
2. In these Conditions, the term "The Seller" shall be taken to signify the company ELASTO AB. The term "The Buyer" shall be taken to signify a firm, person or company with whom agreement on sale of Elastoteknik products has been reached, or to whom a tender has been submitted. The term "Goods" shall be taken to signify the product agreed for sale.

### Conclusion of an Agreement

3. If the period of validity of the tender has not been specifically mentioned, this period is limited to sixty (60) days from the date of issue.
4. An agreement will not be binding on the parties in respect of individual deliveries until after the Seller has issued a written confirmation of the order. If the Buyer, in connection with placing an order, has stipulated conditions which are contrary to that set out in the Seller's confirmation of order or these present General Conditions of Delivery, failure on the part of the Seller to object to such conditions does not imply that they have been approved by the Seller, but the confirmation of order shall be applicable and these present Conditions of Delivery shall remain applicable.

### Quantities, the Nature of the Goods

5. Unless otherwise has been agreed upon, ten (10) per cent more or less than the ordered quantity may be delivered in all deliveries.
6. Unless otherwise has been agreed in writing, the Seller's standard tolerances of measurements and dimensions and the Seller's standard quantity in respect of the ordered Goods shall apply to the deliveries.
7. When the Agreement relates to delivery of Goods manufactured in accordance with special proposals, blueprints, drawings or stipulations, the Seller shall deliver Goods which correspond to these, the Buyer's specifications and manufacturing documentation, and with samples approved by the Buyer.
8. Once the Buyer has approved the manufacturing documentation or final samples, the Buyer shall bear the full development responsibility for the Goods, even if the Seller had previously aided the Buyer with assistance and technical documentation. Unless otherwise is expressly agreed, the Seller is not responsible for Goods delivered being suitable for the Buyer's original purpose or subsequently intended purpose.

### Tools

9. In the event special models, moulds or other tools are required when manufacturing the Goods, the Buyer shall be charged with the costs thereof, and agreement thereon shall be reached between the parties hereto before manufacture is commenced.
10. It is incumbent upon the Seller to operate and store tools safely and securely and, during the life of the Agreement, to take out and maintain adequate liability insurance.
11. At no expense to the Buyer, the Seller undertakes to provide for requisite repairs, maintenance to a reasonable extent and improvements to the tools, with the proviso that the Seller is entitled to reimbursement for costs incurred if the commercial relationship ceases and the Buyer, in accordance with the provisions of Clause 12 or otherwise requests surrender of the tools. In the event of large-scale actions and in the production of a new tool, the costs shall be shared between the parties in accordance with a specific agreement hereon.
12. Should it prove that the Seller does not possess the capabilities of delivering Goods of the agreed quality, or should it prove that the agreed delivery times are repeatedly overrun, the Seller shall, on the request of the Buyer, place tools for which payment has been made at the disposal of the Buyer.

### Deliveries by instalments

13. When the Agreement relates to deliveries by instalments, each delivery shall be considered as an independent sale. The Buyer is not entitled to cancel the Agreement in respect of other deliveries as a result of delay, defect or shortcoming in a part delivery.

### Prices and Payment

14. If, after an agreement has been concluded, changes occur to raw materials prices or rates of exchange which affect the Seller's costs for producing the Goods, increase in duties as a result of the decisions taken by authorities, or if new taxes, duties or insurance premiums are levied on ordered Goods or their transportation, the parties are entitled to enter into negotiations for an adjustment of the price.
  15. Unless otherwise has been agreed upon, payment shall be made at the latest thirty (30) days after the date of invoice.
  16. The Seller is entitled, prior to delivery, to demand acceptable security for payment of the delivery in question, and for previously delivered but as yet unpaid Goods (if any).
  17. On payment after the due date, the Seller is entitled to charge penalty interest at the valid discount rate plus eight (8) percentage points from the due date and until such time as payment is made. Payment shall be deemed to have been made when the cash comes into the possession of the Seller.
- Accrued penalty interest will be invoiced monthly. If penalty interest, for some reason, is not debited for any delivery or deliveries, this does not prevent the Seller from debiting such interest for subsequent deliveries.

### Reservation of Title

18. Delivered Goods, as well as tools produced, shall remain the property of the Seller until such time as full payment has been made, inasmuch as such Reservation of Title is valid in compliance with applicable Law.

### Deliveries

19. In respect of deliveries, delivery clauses shall be interpreted in accordance with the INCOTERMS valid on the date of conclusion of the Agreement. If no delivery clause has been agreed upon, the delivery shall be Ex Works, Seller's factory (INCOTERMS 2000).
20. If the price disclosed in the Agreement entails that the Seller shall wholly or partly be responsible for freight costs, the Seller shall be entitled to choose the mode of transportation.
21. Should the Seller find that he cannot meet the agreed delivery time, he shall without delay inform the Buyer thereof and, in such instance, indicate that point in time when it is expected that delivery can take place.
22. Should delay to delivery occur as a result of transport delays beyond the Seller's control, or because of any circumstance encompassed under Clause 14, or because of any action or failure to act on the part of the Buyer, the delivery time shall be extended by so much as, given all of the circumstances in the case, may be deemed reasonable. This applies regardless of whether the reason for the delay occurs before or after the expiry of the agreed delivery time.
23. The Seller's liability in the event of delay is limited to substantiated direct losses and shall not, in any event, exceed fifty (50) per cent of the invoice value of the delayed delivery.

### The Buyer's Cooperation etc.

24. Unless suborder or specification on purchased quantity reaches the Seller within the agreed time, the Seller is entitled, at his discretion, either to cancel the Agreement in respect of the nonsubordered or specified quantity and to obtain damages from the Buyer for his direct loss, or to complete delivery of and debit for the remaining quantity.
25. Should the Buyer fail to take delivery of the Goods at the appointed time, he is nevertheless obliged to make each payment as if delivery of the Goods in question had been taken. If the Buyer, regardless of grounds, fails to take delivery of the Goods at the appointed time, the Seller shall be entitled, by written notification to the Buyer, to cancel the Agreement

in respect of such outstanding part of the goods that, due to the buyer failure has not been compensation from the Buyer for damage caused to him by the Buyer's failure to fulfil his obligations.

### Inspection

26. If no agreement on extensive delivery inspection and verification has been reached, it shall apply under these present Conditions that the Goods shall be subject to that inspection employed by the Seller in his normal business. It is incumbent upon the Buyer on his own initiative to examine and approve these routines. Delivery inspection carried out by the Seller does not, in any event, exempt the Buyer from conducting such incoming goods inspection as, given the nature of the Goods and the business, is motivated on receipt of the Good.
27. In the event of certificated deliveries, by which, in these present Conditions of Delivery, is taken to signify deliveries in which the Buyer, on conclusion of the Agreement, has declared that he does not employ internal incoming goods inspections, the Buyer and the Seller shall jointly discuss that inspection which is to be implemented prior to delivery, and the inspection routine thus employed by the Seller shall be approved by the Buyer.

### Defects and Shortcomings in the Goods.

28. If delivered Goods suffer from defects or shortcomings, the Goods shall, in accordance with the provisions of the Clause and of Clauses 29 to 34, be replaced by perfect Goods or such shortcoming be remedied. If the defective Goods are not replaced or the shortcoming not remedied within a reasonable time, the Buyer is entitled to a deduction in price corresponding to the difference between the value of the Goods in the defective and in the agreed condition.
- The Seller's liability for defects or shortcomings is limited to that embodied in this Clause and in Clause 37. Above and beyond these provisions, the Seller has no liability whatsoever for production losses, loss of profits, costs for intervention in other than the Goods on dismantling or assembly work, or other direct or indirect damage, loss or cost suffered by the Buyer, his customers or other third parties.

29. Unless otherwise has been agreed upon, the Seller shall, in the event Goods delivered prove to be defective, defray the cost for and assume the risks of transport of the defective Goods to the Seller, and defray the costs for and assume the risks of transport of Goods delivered in replacement, or repaired Goods to the place of delivery set out in the Agreement.
30. The Seller assumes no liability for the Goods to be suitable for any given purpose unless having expressly referred through the Agreement to a written guarantee which declares that such is the case.

31. The Buyer undertakes, on retailing and marketing of the Seller's Goods, not to make any pledges whatever on behalf of the Seller and binding on the Seller in respect of the performance and properties of the Goods. The Buyer is obliged to indemnify the Seller in the event the Seller suffers damage as a result of breach of this condition.

32. The Seller's liability applies only to cases which occur under conditions foreseen in the Agreement and in correct use, installation and refinement of the Goods.

33. The Seller's liability does not encompass defects caused by circumstances which have arisen after the risk for the Goods has been transferred to the Buyer. For example, such liability does not encompass defects caused by faulty maintenance or incorrect assembly on the part of the Buyer, modifications without the written consent of the Seller, repairs incorrectly carried out by the Buyer, as well as normal wear and tear. Nor does the Seller's liability encompass such loss as the Buyer could have limited by taking reasonable action for limiting such loss.

34. The Buyer shall immediately report visible defect or shortcoming in the Good, which may be assumed to have occurred during transport, to the carrier, by noting such occurrence on the waybill. As soon as possible after receipt of the Goods, the Buyer shall examine that the Goods correspond with that set out in the Agreement.

- At the latest within two (2) weeks from receipt of the Goods, the Buyer shall inform the Seller of such defect or shortcoming as he has noticed or ought to have noticed on such reception inspection.

- Report on such defect in delivery as could not have been discovered at the time of reception inspection shall be made immediately after the defect was noticed or ought to have been noticed by the Buyer, but at the latest within six (6) months after delivery.

- Should the Buyer fail in the performance of his obligations pursuant to this Clause, the Buyer will forfeit those rights due to him as a result of the defect or shortcoming.

### Purchase to Order etc.

35. When delivery takes place of Goods in compliance with the instructions of the Buyer (purchases made to order), the Buyer is responsible vis-à-vis the Seller that the Goods do not constitute infringement into patent rights or registered design protection rights or other intellectual property rights belonging to third parties. Should claims arising out of such infringement be filed against the Seller, it is incumbent upon the Buyer on request to provide all requisite assistance and also to compensate the Seller for damages which he may be ordered to pay in such matters, together with all costs which the Seller may have incurred in connection therewith.

36. The Seller's liability does not encompass defects arising as a result of material provided by the Buyer, as a result of any design or construction specified or prescribed by the Buyer, or production methods, instructions for use, marketing or other product documentation provided by the Buyer.

### Product Liability

37. Should the Goods of the Seller cause damage to persons or property (product damage) belonging to the Buyer or to third parties, the Seller's liability is limited to such types of damage and loss, and such amounts as are covered by the Seller's liability insurance. Above and beyond that which may be payable as a result of this insurance, the Seller assumes no liability whatsoever for any damage or loss which occurs.

38. To the extent the Seller assumes product liability vis-à-vis third parties, the Buyer is obliged to indemnify the Seller to the same extent as the Seller's liability is limited vis-à-vis the Buyer in accordance with the foregoing.

39. The Seller and the Buyer undertake, during the life of the Agreement, to take out and/or maintain product liability insurance of the scope of cover and at amounts customary for the Swedish market, covering those Goods disclosed in the Agreement between the parties.

### Ground. for Exemption

40. In the event of State intervention on the part of the Swedish or an alien state, war, labour disputes, military mobilization or other difficulties in obtaining a workforce, scarcity of means of transportation, general scarcity of goods, shortage of raw materials, electric power or other power, delivery delays, non-delivery or other disruption to delivery from subcontractors or others, fire, damage to machinery or other accident at works, vessel disablement, obstruction by ice or other circumstance of any type whatever beyond the parties' control which impedes the parties' possibilities of discharging their obligations pursuant to the Agreement, the parties are entitled to postpone completion for such time as is required for obviating the effects of any such circumstance as is envisaged here. Should this time exceed six (6) months, each party is entitled wholly or partly to cancel the Agreement by written notification to the other party.

### Arbitration, Applicable Law

41. This Agreement shall be interpreted and construed in accordance with the laws of Sweden. However, the United Nations Convention on the International Sale of Goods shall not be applicable to this Agreement. Disputes arising out of this Agreement and conditions attached thereto and disputes concerning legal matters mentioned therein or deriving there from and all other matters related thereto shall not be brought to court but shall be finally settled under the Rules of the Copenhagen Chamber of Commerce, as presently in force, by one or more arbitrators appointed in accordance with said Rules. The place of arbitration shall be Copenhagen, Denmark. The English language shall be used throughout the arbitration proceedings.