

**TERMS AND CONDITIONS of SPECIALITEITEN RUBBERFABRIEK M. Th. VAN KEMPEN & Zn. BV,
established at Nobelstraat 9 in Heerhugowaard, Holland**

Article 1: Scope

1. These terms and conditions apply to all quotations, offers and deliveries of goods made and contracts concluded by SPECIALITEITEN RUBBERFABRIEK M. Th. VAN KEMPEN & Zn. BV, (hereinafter called “the Supplier”) on behalf of its clients (hereinafter called “the Customer”) and to any other agreements which could arise as a consequence of these quotations, offers, deliveries or contracts.
2. Special stipulations contrary to the Supplier’s general terms and conditions are binding only if agreed in writing.
3. Terms and conditions put forward by or usually applied by the Customer are not applicable unless and to the extent these have first been confirmed in writing by the Supplier.

Article 2: Quotations

1. All quotations by the Supplier are without obligation unless agreed otherwise in writing.
2. An offer made on the basis of a quotation from the Supplier to the Customer lapses after one month unless otherwise stated.
3. The provisions in article 8 of these terms and conditions apply mutatis mutandis to the provision of quotations.

Article 3: Formation of a contract

A contract shall only be deemed to have become effective on the date on which the Supplier sends the relevant order confirmation to the Customer in writing.

Article 4: Confirmation

1. If the Customer has not denied or contested the correctness of the content of a written order confirmation by registered letter within eight days of the date of the Supplier’s written confirmation, the content of the Supplier’s order confirmation shall be deemed to be binding on both parties. If the agreed delivery period is less than or equal to the period specified in this paragraph, the written confirmation shall be deemed to be binding if it is not denied or contested immediately on receipt.
2. If after the contract has been accepted changes are put forward by the Customer and the Supplier is unable to agree to those changes, or if the order is cancelled in full or in part, all the costs already incurred by the Supplier together with the amount of loss of profits shall be for the Customer’s account.
This amount shall be deemed equal to the contract price, with the express reservation that if the costs plus the loss of profit exceed the contract price, the Supplier may claim the entire amount from the Customer. The burden of proof in relation to demonstrating that the costs incurred and the loss of profit are less than the contract price shall rest with the Customer.

Article 5: Changes to the contracted work

1. Any costs arising as a result of adding to and/or changing the work contracted shall be for the Customer’s account.
2. Changes to the contracted work shall, in any case, result in either additional or less work if:
 - a. there is any question of changes to the design, specifications or scope of the work;
 - b. the information provided by the Customer does not correspond to the facts;
 - c. estimated amounts are deviated from by more than 10%.
3. Additional work (contract extras) shall be calculated on the basis of the value of the price-determining factors prevailing at the moment the additional work is undertaken. Less work (contract reductions) shall be calculated on the basis of the price-determining factors prevailing at the time the contract was concluded.
4. If the balance of the contract reductions exceeds the balance of the contract extras, the Supplier may charge the Customer 10% of the balance difference in the final settlement. This provision does not apply to contract reductions requested by the Supplier.

Article 6: Quantities

1. The prices stated in the offers apply to the minimum quantities shown for the prices in question.
2. If the Customer purchases less than has been agreed, the Supplier has the right to charge the Customer those prices that the Supplier would have charged for the purchase of that smaller quantity, without prejudice to the Supplier’s right to claim that the agreement still be fulfilled or, alternatively, to claim compensation, including costs incurred and lost revenue, from the Customer for the Customer’s failure to purchase the agreed quantities, all this being in accordance with the provisions of article 4, paragraph 2.
3. If after the expiry of the delivery period goods have not been taken delivery of, these shall remain at the disposal of the Customer. Goods which are not taken delivery of shall be stored at the risk and expense of the Customer. The Supplier may at all times exercise its authority by virtue of Article 6:90 of the Dutch civil Code.

4. A tolerance range of $\pm 5^\circ$ applies for Shore-A hardness data. Discrepancies in the delivery in respect of finish, weight and colour that are usual in the trade do not constitute a right for the Customer to complain.

Article 7: Prices

1. Unless stated otherwise in writing, the selling price is the price of the goods exclusive of value-added tax.
2. Contracts shall, in all cases, be entered into on the basis of the prices applying at the time when the contract is finalised.
3. An increase in any factors affecting the cost price, including wages, social security contributions, government charges and energy prices, becoming effective after the conclusion of a contract may, subject to any existing applicable statutory provisions, be charged to the account of the Customer if, at the time of the increase, the contract has not yet been fully performed.
4. The revised price quoted by the Supplier to the Customer is binding on both parties provided that the Supplier has provided the Customer with reasons justifying the revision.
5. Price changes resulting from mandatory official measures, such as an increase in VAT, are passed on in all cases.
6. The Customer shall be obliged to pay the price increase referred to in paragraph 3 simultaneously with the payment of the principal sum or the next agreed instalment.

Article 8: Samples, drawings, models etc

1. Samples are to be regarded solely as average samples unless expressly stated otherwise in our quotation and/or confirmation.
2. All drawings, sketches, diagrams, samples, models etc. prepared by the Supplier for assignments on order are the property of the Supplier and remain the Supplier's property even after the whole of the contract has been performed, irrespective of whether or not the Customer is charged for the preparation thereof. The drawings etc. may not be reproduced in whole or in part or shown or made available to third parties for any purpose whatsoever without our written consent. The Customer is liable to the Supplier for loss or damage resulting from the fact that third parties have seen or gained possession of drawings etc. In respect of any breach of this provision, the Customer shall owe the Supplier a penalty of € 25,000 for each breach, as well as € 25,000 for each day that such a breach continues. By virtue of the law, this penalty may be claimed in addition to compensation and shall not be susceptible to judicial mitigation nor affect the Supplier's right to claim full compensation.
3. The drawings etc. referred to in paragraph 2 must be returned on first request. In respect of any breach of this provision, the Customer shall owe the Supplier a penalty of € 1,000 per drawing per day. By virtue of the law, this penalty may be claimed in addition to compensation and shall not be susceptible to judicial mitigation nor affect the Supplier's right to claim full compensation.
4. The Customer is not liable for inaccuracies in information, drawings etc. or for advice provided by or on behalf of the Customer for use in the performance of the contract. The Supplier is not obliged to check information or documents received from the Customer or from third parties via the Customer and may assume that they are correct.

Article 9: Production

1. Parts provided to the Supplier by or on behalf of the Customer or parts provided by third parties on behalf of the Supplier, which are to be fitted to or used in or on the product to be manufactured by the Supplier, must be supplied by the Customer to the Supplier promptly, in the required quantity, free of charge and carriage paid.
2. The Customer is liable for the parts or other items provided to the Supplier in this way and for their suitability for their intended purpose. If such parts are delivered late or are not suitable for their purpose and this results in a stoppage in production, the Customer is liable for all the losses or damage suffered by the Supplier as a result of that stoppage.
3. If it is necessary to make a trial run, the Supplier shall not commence production of the product to be manufactured until the Customer has approved the trial run produced by the Supplier and confirmed that approval in writing.

Article 10: Matrices

1. If the Supplier has to arrange for the manufacture of a matrix, mould, tool or the like, that manufacture shall not proceed until the Customer has paid the agreed contribution towards part of the development and manufacturing costs of the item in question. No start shall be made on changes, improvements or repairs to matrices until the costs payable for doing so (or where necessary the estimated costs) have been paid. If no price has been expressly agreed for the work, the Customer shall, on first request, pay a down-payment as determined by the Supplier on the costs.
2. Unless agreed otherwise in writing, matrices that have been manufactured by the Supplier or manufactured wholly to the Supplier's instructions and for which the Customer has paid part of the agreed costs shall become the property of the Supplier.

Article 11: Useful life of matrices

1. Insofar as the offer or order confirmation states the number of strikes or products for which a matrix etc. can normally be used, the matrix etc. shall be deemed no longer to be suitable for further production after that number of items (or as appropriate after the production of that number of items). If no such number has been stated in the quotation or order confirmation, the Supplier shall inform the Customer immediately if it appears that a matrix etc. is no longer suitable for economically viable production. In that case, the Customer shall also be advised of the costs for its repair or replacement.
2. In assessing economically viable production, account is also to be taken of progress in the technology and the adaptation of operations to that progress, as regards both volume and intensity of work.
3. As long as a matrix etc. remains suitable for production on the above criteria and is in the Supplier's keeping, its maintenance costs shall be for the Supplier's account for a period of two years after its first use provided that there are regular repeat orders for the products to be manufactured with it.

Article 12: Delivery periods

1. The Supplier shall set an approximate delivery period. Under no circumstances does an agreed delivery period imply a strict deadline..
2. Delivery periods shall only start once agreement has been reached in respect of all the technical details, the Supplier possesses all the necessary data, final drawings etc., the agreed payment (instalment) has been received and the conditions necessary for the execution of the assignment have been fulfilled.
- 3a. If the circumstances differ from those known to the Supplier at the time the delivery period was set, the Supplier may extend the delivery period by the period necessary to execute the assignment under these (differing) circumstances. If the Supplier cannot fit the work into its schedule, the work shall be completed as soon as Supplier's schedule permits.
- 3b. If there is a question of additional work (contract extras), the delivery period shall be extended by the period necessary to deliver (have delivered) the materials and parts required for this and to perform the additional work. If the Supplier cannot fit the additional work into its schedule, the work shall be completed as soon as Supplier's schedule permits.
- 3c. If there is any question of the Supplier suspending the obligations, the delivery period shall be extended by the duration of the suspension. The obligations of the Supplier shall always, but not exclusively, be suspended should the provisions of article 9 paragraph 1 of these terms and conditions not be fulfilled. If continuation of the work does not fit into the Supplier's schedule, the work shall be completed as soon as the schedule permits.
4. Unless agreed in writing, failure to observe the agreed delivery period shall never give rise to any right to compensation.

Article 13: Delivery

1. Delivery is ex factory Supplier, unless agreed otherwise in writing.
2. Delivery is solely for the Customer's account and risk, even in the case of delivery carriage paid, unless expressly stated and agreed otherwise.
3. The Supplier may provide carriage charges for the Customer's convenience, but these are intended solely for calculation purposes and are not binding on the Supplier.
4. The Supplier reserves the right at all times to deliver on a cash on delivery basis after having informed the Customer that this is to be done.
5. If the delivery is made in parts at the Customer's request, each consignment shall be invoiced separately.
6. Subject to the forfeiture of its rights to complain, the Customer shall be obliged to check the conformity of the goods delivered by or on behalf of the Supplier within, at the latest, five working days.
7. The Customer may no longer invoke a failure in the Supplier's performance if the Customer fails to complain to the Supplier in writing, and with supporting reasons, at the latest within five working days after the failure was discovered or, in all reasonableness, should have been discovered.
8. Complaints in respect of invoices must also be submitted in writing, and at the latest within five working days after the date of posting of the invoices.
9. On the expiry of the periods specified in this article, no further complaints shall be accepted by the Supplier and all the Customer's rights to complain shall cease to apply by operation of law.
10. If a complaint is held to be justified by the Supplier, the Customer shall be entitled to a discount reflecting the reduced value of the goods or to replacement of the goods, at the Supplier's choice.
11. Where the Customer requests the Supplier to engage transport or to order and use containers, this shall be done in a manner to be determined solely by the Supplier and for the Customer's account and risk.
12. Costs of whatever nature incurred in or during carriage, loading or unloading shall not be recoverable from the Supplier or be for the Supplier's account but are wholly for the account and risk of the Customer, and all rights for the Customer to claim compensation in that respect from the Supplier are emphatically excluded.

Article 14: Transferring risk

1. The risk in respect of the goods to be supplied by the Supplier shall be transferred to the Customer on delivery; moreover, if the Customer does not take receipt of the goods, and this failure to take delivery cannot be attributed to or deemed the responsibility of the Supplier, the risk shall, nevertheless, pass to the Customer at the agreed time of delivery.
2. The goods shall be insured by the Supplier in the manner instructed by the Customer, but only on the Customer's express request and at the Customer's expense.
3. Irrespective of the provisions in the previous paragraph, the Customer and Supplier may agree that the Supplier provides the transport. However, even in such cases, the Customer shall be responsible for the risks of storage, loading, transport and unloading. The Customer can insure against these risks.
4. If there is a question of goods being exchanged and, while awaiting delivery of the new goods, the Customer continues to use the goods to be replaced, the risks attached to the goods to be replaced shall remain with the Customer until the moment that ownership of these goods is transferred to the Supplier.

Article 15: Retention of title and right of pledge

1. After delivery, the Supplier shall remain the owner of the goods delivered for as long as the Customer:
 - a. fails, or shall fail, in the fulfilment of its obligations arising from this contract or any other similar agreements;
 - b. has not paid, or shall not pay, for the work performed, or yet to be performed, in accordance with such contract/agreements;
 - c. has not settled any claims arising out of the failure to fulfil the above-mentioned contract/agreements, such as damages, penalties, interest and costs.
2. As long as the title to the goods delivered is retained, the Customer may not encumber these outside its normal business operations.
3. After the Supplier has invoked its retention of title, it may take back the goods delivered. The Customer shall allow the Supplier access to the place where these goods are located.
4. If the Supplier is unable to invoke its retention of title because the goods delivered have been mixed, altered or made a constituent element of other goods, the Customer shall be obliged to pledge the newly formed goods to the Supplier.

Article 16: Payment

1. Unless the Supplier has expressly specified otherwise, payment is to be made at the Supplier's business address or paid to an account designated by the Supplier. Payment shall be made in Euros, unless explicitly agreed otherwise by the Customer and Supplier.
2. The Customer is obliged to pay invoices within thirty days of receipt without applying any discount to the total shown on the invoice or invoices.
3. The right of the Customer to settle its claims against the Supplier is excluded, unless there is any question of the Supplier being bankrupt or having a legal debt rescheduling arrangement applicable to it.
4. The full amount due shall become immediately due and payable if:
 - a. a payment period is exceeded;
 - b. the Customer is declared bankrupt or requests a suspension of payments;
 - c. the Customer's claims or goods are impounded;
 - d. the Customer (a company) is closed down or wound up;
 - e. the Customer (a natural person) requests a legal debt rescheduling arrangement, is placed under administration or dies.
5. If the Customer has not paid the amount due within the period specified in this article, the Customer shall be in default by operation of law without any previous warning or notice of default being necessary and, from this date, the Customer shall, by operation of law, be due to pay interest at the rate of 12% per year, or the statutory interest rate if this is higher, on the overdue invoice amount. A part of a month is treated as a full month for the calculation of the interest payable.
6. If payment is not made within the agreed payment period, the Customer shall be liable to pay the Supplier all the judicial and extrajudicial costs actually incurred. The extrajudicial costs shall be set at a minimum of € 1,000. The costs shall be calculated on the basis of the following table:

15%	on the first € 3,000;
10%	on amounts over € 3,000 but not in excess of € 6,000;
8%	on amounts over € 6,000 but not in excess of € 15,000;
5%	on amounts over € 15,000 but not in excess of € 60,000;
3%	on amounts in excess of € 60,000.

If the actual extrajudicial costs are higher than those by virtue of the calculations above, the Customer shall be liable

for the actual costs incurred.

7. If the Customer has not met its payment obligation for goods already received promptly, or has not met it fully and completely, the Supplier is not obliged to make any further delivery until the Customer has met all its obligations towards the Supplier, including the payment of interest and costs payable as described in these terms and conditions.

Article 17: Security

Irrespective of the agreed payment terms, at the Supplier's request the Customer shall provide sufficient security for payment; the level of security to be determined solely by the Supplier. If the Customer fails to provide this security within the specified period, it shall immediately be deemed to be in default. In such situations, the Supplier shall, amongst other things, be entitled to dissolve the contract and recoup any losses or damages from the Customer.

Article 18: Liability

1. The Supplier's total liability, both contractually and legally, shall be limited to the amount in respect of which the Supplier is insured. To the extent any damages are not covered by insurance, the liability shall be limited to a maximum of the contract price. This limitation of liability shall not be applicable should the damage be due to wilful misconduct or gross negligence on the part of the Supplier.

2. The Supplier's liability for goods supplied to the Customer extends no further than the liability of the Supplier's supplier in respect of those goods.

3. The following shall not be deemed eligible for compensation:

- a. losses or damage resulting from injudicious and improper use of goods supplied by the Supplier except in the case of gross negligence or wilful misconduct on the part of the Supplier;
- b. indirect and/or trading losses including, but not restricted to, losses due to business interruption, loss of profit, loss of goodwill, depreciation of or damage to assets. If so required, the Customer should insure against such losses;
- c. damage or losses as a result of intent or wilful recklessness on the part of auxiliary staff or the Supplier's non-managerial subordinates.

4. The Supplier shall not be liable for the suitability and durability of goods supplied by it which are used as components of goods not manufactured by the Supplier. Nor shall the Supplier be liable for the suitability of goods supplied for whatsoever purpose, to the extent the goods supplied have been manufactured by the Supplier in accordance with specifications supplied by the Customer and within the margins of deviation provided by the Supplier. The Customer should be responsible for arranging research into the suitability and durability of goods provided by the Supplier and for testing them in as realistic as possible an environment. When the Customer places an order, this implies that the specifications of the order have been tested and approved by the Customer.

5. The Customer shall not be liable for circumstances which could not have been anticipated at the time the contract was concluded and which fall outside its sphere of influence.

6. A shortcoming may never be attributed to the Supplier if it involves a situation which falls outside the sphere of influence of the Supplier; such situations include but are not exclusive to: a situation in which one of the Supplier's or Customer's suppliers and/or manufacturers fails to fulfil its obligations or fails to fulfil them on time, earthquakes and other natural disasters, fire in the building or wherever the Supplier's goods are stored, wars (including civil wars) both in the Netherlands and abroad, riots, epidemics, interruptions to transport, strikes, disasters at sea of all kinds, lockouts, losses or damage during transport, stoppages in the supply of raw materials and in the power supplies, breakdowns and bad weather stoppages, import and export measures and restrictions by the authorities and other similar cases beyond the Supplier's control which cause delay to delivery or render delivery impossible.

7. In the situations specified in paragraph 6 of this article, the delivery date shall automatically be postponed for a reasonable period. The Supplier shall no longer be entitled to postpone delivery if the temporary inability to fulfil the contract has lasted longer than six months. Only after this period has lapsed and only in respect of those parts of the obligations that have not yet been fulfilled, may the parties, by means of registered letter, dissolve the contract. In such cases, the parties shall not have any right to compensation for losses or damages suffered, or to be suffered, as a consequence of the contract being dissolved.

8. If the non-attributable shortcoming occurs when the contract has already been partly performed, the Supplier has the right to demand payment for the goods and services already provided.

9. In respect of any products consisting wholly or partially of products and/or materials delivered by the Supplier, the Customer shall indemnify the Supplier for all product liability claims from third parties arising as a consequence of a defect in a product delivered by the Customer to a third party, or in a product delivered by the Supplier to the Customer in accordance with the quality standards of article 18, paragraph 4.

Article 19: Dissolution and breach of contract

1. If the Customer fails to comply with the contract in any way, the Customer shall be in default immediately and without any notice of default being required. Notwithstanding what is provided in the Dutch Civil Code, the Supplier shall in that case also have the right to suspend the concluded contract or to treat it as partially or completely dissolved

without recourse to the courts.

2. The provisions in the previous paragraph also apply in the event that the Customer files for bankruptcy, suspends payment or is placed under administration or in the event that the Customer's business is discontinued.

3. If the Customer wishes to dissolve the contract without there being any question of a shortcoming on the part of the Supplier and the Supplier agrees to the dissolution, the contract shall be dissolved by mutual consent. In such a situation, the Supplier shall be entitled to compensation for all its financial losses such as any losses suffered, loss of profits and costs incurred.

4. If the concluded contract is unilaterally breached and/or dissolved by the Customer, the Customer shall be obliged to compensate the Supplier completely for its costs, losses or damages, and interests, including loss of profit.

Article 20: Disputes

1. The laws of the Netherlands shall apply to the contract.

2. The Vienna Sales Convention (CISG) shall not be applicable, nor shall any other international ruling by virtue of which exclusion is permissible.

3. Only the Dutch civil court in the district where the Supplier has its registered office shall be competent to take cognizance of disputes, unless this is contrary to mandatory law. The Supplier may deviate from this jurisdiction rule and observe the statutory jurisdiction rules.

4. In disputes relating to any translation of these terms and conditions, the original Dutch version shall be binding.

Article 21: Legal expenses and other costs

1. All the actual costs incurred by the Supplier in order to exercise the Supplier's rights under the contract and associated agreements shall be for the account of the Customer.

2. In the event of attributable failure to perform on the part of the Customer vis-à-vis the Supplier, the Supplier shall, by operation of law, acquire the right to claim compensation from the Customer; this compensation shall include costs incurred and lost revenue and shall not be subject to reduction.