



GUMMI-TECHNIK®

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Tool production and rental agreement (TRA)

Version 02/2019

PREAMBLE:

With regard to the business relationship between the two parties, it is necessary for the respective contractual partner to produce moulds, tools, devices, machines, check gauges and models. In this regard, the respective contractual partner shall be obligated to ensure that the respective company belonging to the GTP group receives a full and exclusive right of ownership for the contractual items.

This is supposed to be structured within the framework of the following agreement:

I. Scope of application

These and the following provisions apply in full to any and all business relationships with one and/or all of the companies listed in the following sections or, as the case may be, their legal successors:

- a) GT GUMMI-TECHNIK GmbH, Salierstr. 24, 70736 Fellbach, HRB Stuttgart 261098, VAT ID: DE 147330713
- b) GTP GUMMI-TECHNIK-PLASTIK GmbH, Robert-Bosch-Str. 5, 71409 Schwaikheim, HRB 260574, VAT ID: DE 147330326

II. Contractual item

1. Special moulds, tools, devices, machines, check gauges [hereinafter referred to collectively as 'tool(s)'] and/or the like need to be developed and manufactured in order to make it possible to produce products intended for I. a) and/or I. b).
2. Within the framework of this contract, the contracting parties hereby agree upon the division of the costs associated with developing and manufacturing the objects specified in II. 1., as well as the conditions related to the ownership, possession, usage, safekeeping and return of the same.

III. Documentation

1. By signing this contract, the contractual partner accepts that he is obligated to record all the tools that have been handed over to him by I. a.) or I. b) and provide I. a) and/or I. b) with a written list (tool list) of the same within a period of 4 weeks.
2. This written record is to be signed by the contractual partner. The contractual partner should expand the list to include every tool that is handed over to him by I. a) or I. b), or which is manufactured by either the contractual partner or a third party commissioned by him. The list should also be signed by I. a.) or I. b).
3. Even if certain tools have not been recorded in spite of the above provision, the tools in question shall be understood to have been handed over to the contractual partner merely as a loan; under such circumstances, I. a) or I. b) shall retain ownership of the said tools.

IV. Developing and manufacturing the mould or tool

1. The contractor manufactures the tool on the basis of the drawings that have been agreed upon by both contractual partners and specifies the respective tolerances.
2. Unless otherwise agreed upon, the contractual partner creates type samples after the tools have been manufactured. I. a) or I. b) then makes a decision regarding an approval for the series production of the contractual products on the basis of the type samples. If such approval is not issued (especially because the contractual products do not exhibit the required dimensional accuracy), the contractual partner shall be obligated to deliver a cost-free supplementary performance.
3. When it comes to developing and manufacturing the tool and manufacturing the contractual products themselves, the contractual partner bears sole responsibility for compliance with the legal regulations or guidelines pertaining to industrial and product safety.

V. Development and manufacturing costs

1. Unless otherwise agreed upon, the costs associated with developing and manufacturing the tools which have been taken over by I. a) and/or I. b) are settled in accordance with the offer and order after the tools have been approved.
2. The costs associated with subsequent modifications of the tools are borne by the contracting party that had made it necessary to make the said modifications.
3. If I. a) or I. b) is entitled to either pay for the tools by instalments or pay for them to the tune of a certain percentage (such an arrangement must be agreed upon separately and explicitly) on the basis of a separate order, I. a) or I. b) shall gain joint ownership of the tools in question when the payment has been made. The co-ownership share corresponds to the share of the costs paid by I. a) or I. b) for developing and manufacturing the tools. Clause VI. 1. applies with no restrictions.

VI. Ownership and ownership protection

1. The tools that have been handed over or which are to be handed over in the future remain the property of I. a) or I. b). The contractual partner should tag these tools with an ownership sticker featuring the text 'Property of >I. a)< or >I. b)<', the item number and the drawing number. He shall do everything in his power to ensure that third parties do not encroach upon the property of I. a) or I. b). The borrower shall notify I. a) or I. b) if third parties want to lay claim to the tool.
2. If the contractual partner independently manufactures the tools on the basis of a separate order placed by I. a) or I. b), or if he gets the said tools manufactured by third parties, I. a) or I. b) shall gain sole and exclusive ownership of the tools in question, and this shall happen no later than the point in time at which payment is made. The parties understand that the contractual partner shall transfer the items in question to I. a) or I. b) in accordance with §930 and §950 of the BGB (Civil Code). In this respect, I. a) or I. b) shall be considered to be the manufacturer in the sense of §950 of the BGB. VI. 1. of this contract remains quasi-valid.

All the information that is based on our standard business terms can be found on the internet at the following address: <http://www.gtp-gruppe.de>
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VII. Transfer for use

1. The borrower shall only be allowed to use the tools to manufacture the parts and products ordered by I. a) and/or I. b).
2. The tools may neither be handed over nor made available to third parties, and they may not be copied for the purposes of third parties either. The contractual partner is obligated to ensure that he does not use the tools belonging to I. a) or I. b) to manufacture and/or sell products that have not been ordered by I. a) or I. b) and/or products that are not meant for I. a) and/or I. b).
3. The borrower may only deliver tools to third parties if the management board of I. a) or I. b) has approved of such a course of action in writing.
4. Models may not be provided to third parties or used as exhibition pieces, catalogue images or digital images (this applies in particular to publication on the internet) unless such a course of action has already been approved of in writing by the management board of I. a) or I. b). Violations shall be prosecuted immediately.
5. The tools may only be modified if I. a) or I. b) has already approved of such a course of action in writing. Once approval has been obtained for the modification, the modification in question should promptly be made in accordance with the schedule-related agreement that has been struck with I. a) or I. b); this should be done in conjunction with a corresponding stockpiling operation, so that the production supply procedure favouring the client will not be curtailed. Maintenance and servicing operations are not considered to be tool modifications, and do not require approval from I. a) or I. b).

VIII. Access to the tools

1. I. a) and/or I. b) shall always be entitled to inspect the relinquished tools on the contractual partner's premises during normal business hours. They shall also be entitled to perform an inventory-taking operation on the contractual partner's premises. For this purpose, the contractual partner shall always be obligated to provide I. a) and I. b) with access to the premises containing the relinquished tools. Alternatively, I. a) or I. b) can also commission a third party to inspect the tools and conduct an inventory-taking operation.
2. If the contractual partner engages the services of a third party to manufacture the tools, store them or manufacture products with the help of the said tools, he (i.e. the contractual partner) shall be obligated to conclude an agreement with the third party in question in order to ensure that I. a) and/or I. b) gain access to the said tools in accordance with VIII. 1.

IX. Maintenance, repairs, accident prevention, warranty and liability

1. The contractual partner is obligated to handle the tools in a proper and technically correct manner. He is also obligated to promptly carry out the required maintenance, repair and servicing activities at his own expense in a proper and technically correct manner, or get the said activities carried out.
2. Furthermore, the contractual partner must also ensure that he complies with the accident prevention regulations of the occupational insurance association that is responsible for him.
3. If the tools are destroyed because of the contractual partner having violated the obligations associated with X. 1. and X. 2., he (i.e. the contractual partner) must promptly re-manufacture the tools or get them re-manufactured at his own expense in a manner that ensures that there are no production-related delays. If the contractual partner does not promptly honour this obligation, I. a) and/or I. b) shall be entitled to a substitute performance at the expense of the contractual partner.
4. If the tools suffer damage that nullifies or reduces their suitability to be used in the contractually-stipulated manner, the contractual partner must promptly notify I. a) and/or I. b) to that effect in writing. Furthermore, the contractual partner must promptly notify I. a) and/or I. b) in writing if it becomes apparent that a tool is, on account of wear and tear, going to lose its ability to be used as per the contract in the foreseeable future.
5. If the contractual partner is unable to rectify safety deficiencies or use the tool in accordance with the respective accident prevention regulations, I. a) and I. b) shall assume no liability or compensation-related obligation for the resultant damages.
6. The contractual partner shall also release I. a) and I. b) from the damage compensation claims of third parties.
7. If a defective tool or a contractual product that turns out to be defective on account of such a tool leads to a fatality, physical injury, damage to health or damage to an object, the contractual partner shall, in his capacity as the actual manufacturer, be obligated, by rights, to reimburse the victim for the resultant damage (§1 of the product liability act).

X. Storage and surrender of the tools

1. As a matter of principle, the contractual partner shall, even after the transfer of ownership, leave the tools in the possession of the contractor. The contractor shall be obligated to properly store the tools, take care of them and keep them in a ready-to-use condition for a period of at least 8 years after the complete closure of the task involving the production of the contractual products; he must do this free of charge, and at his own risk. The storage obligation is extended accordingly if the client orders additional contractual products in the interim period.
2. During the period of storage, the contractual partner shall, at his own expense, ensure that the tool is fully insured against loss, fire and theft. If the client makes such a request, the contractor shall provide written evidence of this insurance coverage.
3. I. a) and/or I. b) shall always be entitled to demand that the tools be surrendered, along with accessories like spare parts, instruction manuals and technical documentation. The right to retain the tools is hereby ruled out, unless the contract for the production of the contractual products has indisputably not been ended, or unless the contract in question has produced a situation in which the contractual partner has claims against I. a) and/or I. b) which are undisputed, or which have been determined without further legal recourse.
If I. a) and/or I. b) demand that the tools be surrendered, the contractual partner shall be obligated to return the said tools to I. a) and/or I. b) in a defect-free and functional condition within a period of 14 days after receipt of the said message. Alternatively, the contractual partner shall, under such circumstances, be obligated to hand the tools over at a location that has been mutually agreed upon.
4. If insolvency proceedings are initiated vis-a-vis the contractual partner's assets or denied for lack of sufficient assets, or if tools are seized at third hand, the contractual partner shall be obligated to promptly notify I. a) and/or I. b) to that effect.
5. If the contractor is not capable of surrendering the tools, and if he consequently gains compensation or a compensation claim for the tools in question (e.g. against an insurance company), I. a) and/or I. b) shall be entitled to demand the surrender of either the received compensation or the compensation claim in question.

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XI. Contract duration and cancellation

- 1. The contract enters into force when it is signed. Termination with notice is ruled out and waived.
2. I. a) or I. b) shall be entitled to cancel the rental contract with immediate effect (without notice) if the borrower cannot make the demanded deliveries in a manner that complies with requirements related to quality and/or quantity and/or deadlines, if no agreement can be reached regarding increases in price, if there is a marked deterioration in the borrower's financial situation or if judicial settlement or bankruptcy proceedings are initiated vis-a-vis his assets. The carriage charges associated with the returning of tools shall be borne by I. a) or I. b).
3. I. a) or I. b) shall also be entitled to cancel this contract for an important reason, without notice or in conjunction with a grace period of 14 days - if a violation of an important contractual obligation for which the contractual partner is responsible is not rectified in spite of a suitable grace period for corrective actions having been set in writing (especially if the contractual partner has discontinued the contractual deliveries or production of the contractual products in a non-temporary manner), or - if the contractual partner's company is liquidated, or - if a demand for surrender has been raised by a client of I. a) or I. b).

XII. Place of jurisdiction, applicable law, decisive version

- 1. The place of jurisdiction is Stuttgart or Waiblingen.
2. The contract is exclusively subject to German law.
3. In case of doubt, the German version of this agreement shall be binding.

XIII. Changes and additions, severability clause

- 1. There are no side agreements.
2. If individual parts of this contract are or become legally invalid, it shall have no negative effect on the effectiveness of the remaining provisions.
3. The ineffective provision should then be replaced with the effective provision that most closely approximates the original economic objective of the contractual partners. The same thing applies to situations involving an undetected contractual gap or frustration of purpose.
4. Modifications require the written form. The same condition also applies to the written form clause. Verbal side agreements associated with this contract have no validity.

XIV: Acceptance

By signing this agreement, the signatory accepts the latest versions of the cited conditions in full. It shall be made available upon request. Furthermore, the signatory also affirms that he is fully aware of the rights and obligations associated with this agreement, and that he has, if necessary, obtained legal advice regarding the same. The agreement enters into force on the date of signing.

.....
Place, date*

.....
Company (block letters)/Seal*

.....
Legally valid signature*

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Signatory (block letters)*

GT GUMMI-TECHNIK GmbH

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Place, date*

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Company (block letters)/Seal*

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