

## International General Terms and Conditions of Purchase of HS Products Engineering GmbH

### 1. Applicability of the General Terms and Conditions of Purchase (GTCs)

- 1) Any orders from HS Products Engineering GmbH (hereinafter uniformly "HSPE") will be placed exclusively on the basis of the present GTCs; this shall also apply for any future business relations even if the applicability of these terms and conditions is not agreed explicitly once more. The Supplier has read and understood the present GTCs. The Supplier confirms that it has recognised these GTCs as legally binding in its written acceptance of any order (pursuant to 2.1) or with the commencement of delivery. Any general terms and conditions of the Supplier shall be applicable only to the extent as they concur with the present GTCs; any inclusion of other terms and conditions of the Supplier is explicitly contradicted by HSPE even now.
- 2) Any deviations from the present GTCs will be valid only if confirmed in writing by HSPE.

### 2. Orders

- 1) HSPE will place orders for the merchandise (such as parts, tools, devices etc.) and, respectively, services with the Supplier. Acceptance of the order by the Supplier is expressly limited to the provisions contained in the order and the present GTCs as well as a master supply contract that may exist for such goods. Any other and/or deviating contractual or delivery terms of the Supplier are expressly excluded and will not become a part of the supply contract unless agreed in writing between the parties. Any order accepted by the Supplier pursuant to Sec. 2.2 is a separate supply contract. In the event of any deviation or contradiction between the supply contract and the present GTCs, the supply contract shall take precedence over the present GTCs.

Any tenders, supply contracts (order and acceptance) and acknowledgements of orders as well as calls for shipments and any changes or amendments thereto shall be in writing, by fax or in electronic form.

- 2) Orders not accepted in writing by the Supplier within two weeks of receipt are no longer binding. Calls for shipments will also be binding if the Supplier has not objected in writing to the relevant Purchasing or Logistics department of HSPE within 5 working days from receipt. Irrespective of the above two-week term, any act performed by the Supplier to fill an order constitutes acceptance of the said order. In the event that the Supplier should not send a written confirmation of acceptance or commence filling the order within 14 working days after receipt, HSPE is entitled, but not obliged to revoke the order in question without any claims of the Supplier against HSPE being created as a result.
- 3) HSPE is entitled to request that the Supplier make reasonable changes in the construction and design of the object to be delivered at any time. In such cases, the parties shall mutually agree on a written supplement which is commensurate with the implications, especially any excess or reduced cost and the delivery dates. Only when such a supplement has been agreed is the Supplier authorised and obliged to make the requested changes.
- 4) HSPE is entitled to terminate the supply contract extraordinarily by informing the Supplier accordingly, especially in cases where the Supplier
  - violates the supply contract and there is no remedy for such violation, or
  - violates the supply contract and remedy of such violation, albeit possible, has not taken place within 30 days after the Supplier has received notice from HSPE designating the violation and requesting that it be remedied.

The foregoing shall be without prejudice to any other or additional rights of HSPE to give notice, for example on a statutory basis.

- 5) In the event that one of the parties should become insolvent or insolvency proceedings or settlement proceedings in or out of court are instigated against one party, the respective other party is entitled to terminate the supply contract by written notice with immediate effect.
- 6) In the event of termination of the supply contract and/or a pertinent master supply contract pursuant to the present Sec. 2, any rights and obligations of the parties created until that time and the continued validity of such provisions which shall be applicable explicitly or implicitly after notice of termination has been given will not be affected.
- 7) Quantities stated in queries and/or tenders are merely non-binding orientation values, for example for calculating pricing, and do not constitute an obligation of HSPE to order such quantities. The delivery quantities stated in orders of any kind are in no way related to quantities given in queries and/or tenders.

### 3. Delivery dates and deadlines – default

- 1) Unless otherwise agreed, any dates and deadlines stated in the order are binding. What counts for compliance with the delivery date or deadline is receipt of the goods by HSPE. Therefore, the Supplier shall provide the merchandise in good time, taking into account the usual time for loading and shipping unless "franco domicile" has been agreed. In case of calls for shipment, the volume and date of the individual calls will be determined by HSPE or, respectively, the factory to which the delivery is to be made. In the event of non-compliance with the agreed delivery dates, HSPE need not give the Supplier notice of default to assert any damages HSPE may have incurred as a result. In addition, HSPE is entitled in such a case to rescind the contract and to demand damages on the grounds of non-performance. In the event of culpable failure to comply with the delivery dates, the purchaser is entitled to demand lump sum damages in the amount of 0.5 % of the order volume per full calendar day, but not more than 10 % in total. The purchaser is not obliged to declare such a proviso upon acceptance. The right to assert any further statutory and contractual claims is reserved. The Supplier has the right to prove that no damages or significantly smaller damages have been incurred as a result of default.
- 2) In the event that the Supplier is presumably or actually unable to meet the agreed delivery date after the contract has been signed, for example due to shutdowns, lack of raw materials, semi-finished materials or as a result of force majeure, it shall inform HSPE in writing without delay and, at any rate, in such good time that HSPE is in a position to cover its requirements from other sources by the agreed delivery date. If such notice is not given at all or belatedly, the Supplier shall be liable for possible delays and the consequences thereof. The present Sec. 3.2 is without prejudice to the rights of the parties granted in other provisions of these GTCs. HSPE is further entitled to procure the merchandise from other sources for the duration of non-culpable delays and to reduce the volumes stated in the order and/or calls for shipment without any obligation whatsoever vis-à-vis the Supplier.
- 3) The Supplier is obliged to pay the purchaser compensation for any damages resulting from default. This does not apply for lost profits and damages resulting from a shutdown of operations.
- 4) In the event of slight negligence, damages shall be limited to additional shipping costs, the cost of refitting and, after a period of grace has expired without success and the purchaser is no longer interested in this shipment, to extra expenditures for back-up purchases.

### 4. Packaging, shipment, certificate of origin

- 1) Unless agreed otherwise, any merchandise to be supplied shall be packed carefully and as customary in the industry and, if so requested by HSPE, be shipped in special packaging. The Supplier shall reimburse any cost resulting from defective packaging to HSPE.
- 2) The Supplier is obliged to provide any declarations regarding the origin of the merchandise that may be required for customs purposes to HSPE in good time before shipment. Any extra costs incurred by HSPE as a result of an inadequate or belated declaration of the Supplier shall be paid by the Supplier. If required, the Supplier shall submit proof for its declaration on the origin of the merchandise by means of an information leaflet confirmed by its local customs office.
- 3) Unless the parties have agreed otherwise in writing, the statutory provisions shall apply for the passing of risk.
- 4) In the event that suitable individual packaging for the parts to be supplied should be required as a protection against damages (for example for surface parts, etc.) the Supplier shall provide and use such protective packaging without any extra cost for HSPE.

### 5. Quality

- 1) The Supplier shall comply with the recognised rules of technology and the agreed technical specifications when making deliveries. Any changes to the object of the delivery require the prior written consent of HSPE.
- 2) The Supplier undertakes to observe any standards, laws and other safety regulations applicable for the goods to be delivered, such as requirements of the Factory Inspectorate, VDE provisions for electrical parts or accident prevention regulations of the professional associations, the end-of-life vehicle directive and the regulations regarding dangerous goods. The Supplier shall indemnify HSPE against any public and private claims resulting from a violation of such regulations. All required test certificates and documentation shall be provided by the Supplier without HSPE having to ask for them. In addition, the Supplier shall feed the necessary information into suitable systems to ensure that the above regulations are complied with (such as the International Material Data System "IMDS").

The Supplier is obliged to obtain certification according to the directive TS 16949. In the event that the Supplier should not yet have such certification when the supply contract is signed, it is obliged to submit proof of such certification pursuant to the above directive within one year and to maintain such certification valid during the entire term of the contract.
- 3) Any missing safety parts shall be delivered and installed without extra cost.
- 4) The quality assurance agreements (QAA) applicable from time to time for deliveries to HSPE with regard to the methods of quality insurance to be observed by the Supplier apply. In addition, the Supplier shall record when, in which way and by whom faultless production of the delivery was assured in the quality assurance documentation for all its products. Such documentation must be retained for 15 years and submitted to HSPE upon request. The Supplier has imposed similar commitments on its own suppliers. For guidance, please refer to the VDA publication "Leitfaden zur Dokumentation und Archivierung von Qualitätsanforderungen und Qualitätsaufzeichnungen" (Guidelines for the Documentation and Archiving of Quality Assurance Requirements and Quality Records).
- 5) In the case of first orders or when changes have been made to the design of pieces ordered, the Supplier shall submit the required number of samples which, unless otherwise agreed separately, shall be 5 pieces per part number – designated as such – together with the necessary documentation to HSPE for approval before starting serial production. In case of surface parts, suitable reference parts shall be submitted for approval separately. Only when the sample parts have been accepted in writing by HSPE will the order be deemed to have been placed bindingly. Sample parts that are defective or deviate otherwise from HSPE or other applicable specifications will be rejected by HSPE. Irrespective of the foregoing, the Supplier shall continuously examine the quality of the pieces supplied. The parties shall keep each other informed on potential improvements in quality.
- 6) In the event that official authorities responsible for vehicle safety, emission standards and such like should request inspection of the production processes and the testing documentation of HSPE, the Supplier agrees to grant the same rights to such authorities in its own factory if so requested by HSPE and to give them all reasonable support.

## 6. Issue and payment of invoices – customs duties

- 1) Invoices shall be sent on the same day the merchandise is shipped. HSPE is permitted to reject invoices from which the formal order number is missing as invalid. In such cases, receipt of a corrected invoice shall be relevant for the commencement of agreed payment terms.
- 2) In case of defective deliveries, HSPE is entitled to withhold payment on a *pro-rata* basis until supplementary performance is completed or to request that any sums already paid be returned.
- 3) Unless otherwise agreed, payment will be made on the 30<sup>th</sup> day of the month following delivery with 2 % discount or on the 30<sup>th</sup> day of the second month following delivery in the net invoice amount if the merchandise has been received as ordered and a proper and auditable invoice has been issued. If premature deliveries are accepted, the due date of the payment is determined by the agreed delivery date.
- 4) Payments shall be made by bank transfer or, if so requested, by cheque.
- 5) Invoices must comply with national legislation and especially any tax requirements of the country concerned. If so requested by HSPE, invoices shall be sent in electronic form (e-invoicing).  
Invoices that do not satisfy the above prerequisites or, respectively, do not contain the required elements may be rejected by HSPE. In such cases, the payment deadline starts from the date of receipt of a new, auditable invoice which has been duly issued and satisfies the above requirements.
- 6) Any assignment of claims for payment of the purchase price addressed to HSPE or passing such claims on to third parties for collection requires the prior written agreement of HSPE which shall not be unreasonably withheld. The foregoing does not apply for any assignment in connection with an extended reservation of title to which HSPE gives its general consent even now.
- 7) The Supplier is obliged to include a commercial invoice in the English language and in duplicate with the shipping documents for customs purposes. Any deviation from this rule is permitted only with the prior written consent of HSPE.  
  
In case of shipments subject to customs duty, the Supplier shall accept responsibility for compliance with all its national statutory regulations on imports and exports, for example requirements in connection with invoices, customs clearance etc.

## 7. Notice of defects

- 1) HSPE shall notify the Supplier in writing without delay of any defects in deliveries identified by HSPE in the course of routine business when starting to use or process the merchandise and assert its claims for defects pursuant to Sec. 437, German Civil Code (BGB). The Supplier shall waive the objection of delayed notice of a defect. In cases that do not allow for postponement, HSPE is also permitted to rectify the defects itself or have them rectified by a third party at the cost of the Supplier; however, this shall be discussed with the Supplier before work commences.
- 2) Any payment of the purchase price that may have been made before the defects were identified or acceptance of the merchandise by an HSPE agent from the Supplier do not constitute recognition of flawlessness of the merchandise and do not release the Supplier from warranty.

## 8. Liability for defects

- 1) The Supplier warrants that the merchandise is free of defects according to the laws applicable from time to time and especially the suitability of the merchandise for the use specified in the contract. Moreover, the Supplier warrants that the merchandise is commensurate with all laws and provisions applicable in the relevant markets where it will be sold. In the event that defective merchandise is supplied, the Supplier shall be given the opportunity to remove or rectify such parts unless this cannot be reasonably expected of HSPE. If the Supplier is unable to do this or does not comply with any such request without delay, HSPE is entitled to rescind the contract in that respect without any further deadlines and to return the merchandise at the risk of the Supplier. In urgent cases, HSPE – having first informed the Supplier – is entitled to perform rectification itself or have it performed by a third party. Any costs resulting from such action shall be paid by the Supplier. If the same merchandise is repeatedly delivered in a defective condition, HSPE is entitled to rescind even that part of the contract which has not yet been delivered if another shipment is found to be defective despite a written warning.
- 2) If, despite compliance with Sec. 7 (Notice of Defects), a defect is identified only after production has started, the purchaser
  - may demand rectification and reimbursement of the shipping charges necessary for the purpose of rectification (without towing costs) and the cost of dismantling and reinstallation (cost of staff and material) pursuant to Sec. 439 (1), (3) and (4), BGB, or
  - reduce the purchasing price
- 3) In case of culpable violation of obligations exceeding the supply of defective merchandise (for example violation of the obligation to inform the customer, give advice or carry out examinations), HSPE may demand that the Supplier reimburse the consequential damages resulting from such violation plus any consequential damages paid by HSPE to its customer pursuant to Sec. 9. A consequential damage resulting from a defect is the damage which HSPE as the ordering party has suffered by supplying defective merchandise in legal assets other than the merchandise itself. HSPE has additional claims to the reimbursement of expenditures and damages on the grounds of the delivery of defective merchandise under Sec. 437, BGB, or, directly, under the regulations cited there if the statutory prerequisites have been satisfied.
- 4) If so requested, HSPE shall provide the Supplier with the parts to be replaced without delay at the Supplier's expense.
- 5) Claims under the liability for defects act come under the statutes of limitation after expiry of 48 months for elements of the delivery used in the ECE area. 72 months apply for elements of the delivery used in the United States, Canada and Puerto Rico (NAFTA) and in other countries of the world (RDW). Both terms start to run with the delivery to HSPE or the relevant warranty agreement. The foregoing is without prejudice to any claims which HSPE may have against the Supplier on the grounds of material defects pursuant to Secs. 478, 479, BGB. Such claims may be asserted by HSPE even if the retail customer is not a consumer, but an entrepreneur.
- 6) Claims for defects do not arise if the defect is due to the violation of instructions regarding operation, maintenance and installation, improper or unsuitable use, defective or negligent treatment, natural wear and tear or interference with the supplied object by HSPE or a third party.
- 7) In case of defective deliveries, the purchaser's claims under the Product Liability Act, tort, or actions performed without due authority as per Sec. 7 are not affected. Warranties regarding quality or shelf-life must explicitly be designated as such in detail and in writing.
- 8) If a valid warranty agreement which is applicable to the relevant order from HSPE is in place between the parties, said warranty agreement shall apply in lieu of the above Secs. 8.2) – 8.7). In all other cases, the present Terms and Conditions of Purchase are applicable with regard to the legal consequences of the delivery of defective merchandise on these terms.

In the event of contradictions between the supply contract, the warranty agreement and the present GTCs, the above documents shall apply in the stated order.

## 9. Liability

- 1) Unless other provisions regarding liability have been made elsewhere in the present GTCs, the Supplier shall be liable for any damages, losses and expenditures incurred by HSPE as a result of a breach of delivery obligations under the supply contract and/or a pertinent master supply contract. If the Supplier's liability is contingent on the Supplier being at fault under the pertinent statutory provisions, such provisions shall not be affected. However, the Supplier shall not be liable for damages, losses, expenditures and any related cost if caused by negligence or premeditation on the part of HSPE or an associated company of HSPE.
- 2) The Supplier shall indemnify HSPE and its associated companies against any liability, cost, damages, losses and expenditures including the cost of taking legal action and court fees and shall further protect HSPE against any losses resulting from claims on the grounds of a death, personal injury and/or damage to property which has been caused by or is the result of
  - defective merchandise
  - a breach of an obligation under the supply contract and/or a pertinent master supply contract by the Supplier
  - premeditation or negligence on the part of the Supplier, or
  - the failure to observe applicable law, statutes, regulations, safety regulations, rules and notifications.
- 3) In the event that a recall of products into which the respective merchandise of the Supplier has been incorporated is required on the basis of statutory provisions or following consultation with official authorities and/or serial damages characterised by a large number of defects having the same cause, for example consistent defects in quality, occur due to the shipment of defective merchandise by the Supplier, the Supplier shall indemnify HSPE and its associated companies against any liability, cost, damages, losses and expenditures including the cost of taking legal action and court fees resulting from or caused by the above-mentioned recall and/or serial damages. When the above circumstances occur, HSPE shall adequately take the interests of the Supplier into account.
- 4) If claims are lodged against HSPE on the basis of strict liability under a law which cannot be excluded vis-à-vis third parties, the Supplier shall pay compensation to HSPE to the same extent it would have had to pay in the event of direct liability. In that respect, therefore, the Supplier shall indemnify HSPE as far as the relations *inter se* are concerned. The principles of Sec. 254, BGB, shall apply for any compensation of damages between HSPE and the Supplier. This also applies in the event where claims are lodged directly against the Supplier.
- 5) Claims by HSPE are ruled out to the extent the damage is due to the violation of instructions regarding operation, maintenance and installation, unsuitable or inappropriate use, improper or negligent treatment, natural wear and tear or faulty repair.
- 6) In the event that HSPE wishes to lodge claims against the Supplier under the above provisions, HSPE shall inform and consult with the Supplier comprehensively and immediately. The Supplier must have the opportunity to investigate the damage. The parties shall agree on any steps to be taken, especially in case of settlement negotiations.
- 7) The Supplier shall impose the same contractual or statutory liability upon its agents, sub-contractors and such like.

#### 10. Intellectual property rights

- 1) The Supplier shall be liable for any claims based on the infringement of intellectual property right applications (intellectual property rights) when the supplied objects are used as set forth in the contract.
- 2) The Supplier shall indemnify HSPE and HSPE's customers against any claims resulting from the use of such intellectual property rights.
- 3) The foregoing shall not apply in cases where the Supplier has produced the objects on the basis of drawings, models, equivalent other descriptions or information provided by HSPE and is not aware – nor has to be aware in connection with the products developed by HSPE – that intellectual property rights are infringed as a result.
- 4) If so requested, the Supplier shall inform HSPE of any published or unpublished intellectual property rights or applications for such rights to the supplied objects it owns or for which it has acquired a licence.
- 5) Without prejudice to the above Secs. 10.1 and 2, the parties undertake to inform each other immediately of any risks of infringement and alleged infringements they become aware of and to counteract such claims by mutual agreement.

#### 11. Labelling of the merchandise

- 1) The Supplier shall label the merchandise to be delivered in the manner prescribed by HSPE or mutually agreed between the parties. As a rule, the VDA transport label is the standard label.
- 2) The Supplier shall deliver objects bearing the trademark or the corresponding design protected on behalf of HSPE or which are packed in the original packaging of HSPE exclusively to HSPE or a certain third-party designated by HSPE. If merchandise labelled in this manner is rejected as defective, the Supplier shall make it unfit for use at its own expense.
- 3) In the event of violation of one of the above obligations, HSPE is entitled to rescind the contract or to demand surrender of any profits resulting from such violation or compensation of any damages incurred by the purchaser.

#### 12. Production materials and confidential information

- 1) Models, templates, moulds, samples, tools and other production materials as well as confidential information provided to the Supplier by HSPE or fully paid by HSPE may be used for shipments to third parties only with the prior written consent of HSPE.
- 2) Apart from that, the special terms and conditions of HSPE shall apply for the production, storage, maintenance and payment of production materials.
- 3) HSPE shall acquire ownership of production materials in accordance with the provisions of the order concerned. The Supplier shall mark the production material concerned as the property of HSPE as specified by HSPE. To the extent industrial proprietary rights or copyrights relating to said production material are created in the development thereof, the purchaser shall be granted a non-exclusive right to use them for its own requirements which shall be unlimited in terms of time and territory, free of charge and fully paid for.
- 4) Irrespective of ownership, the Supplier shall keep the production materials used for producing the merchandise in functional condition to permit continued supply of the merchandise during a period of 15 years after termination of supply by the Supplier for serial production by HSPE. Said obligation to keep the materials on hand shall expire after this 15 year period and written notice to HSPE. The Supplier shall make sure that all its subcontractors are obligated by contract to observe Sec. 12.4 of the present agreement.

#### 13. Secrecy and advertising

- 1) The parties undertake to treat any non-obvious commercial and technical details they become aware of in their business relationship as business secrets and to refrain from passing them on to third parties. However, HSPE is entitled to pass such information to its associated companies.
- 2) Drawings, templates, moulds, samples and similar objects must not be passed on to unauthorised third parties or other access granted to such parties. Duplication of such objects is permitted only to the extent required by operations and admissible under copyright.
- 3) Similar commitments shall be imposed on subcontractors and the entire staff of both parties.
- 4) The Supplier may use the business relationship with HSPE for advertising purposes only with the latter's prior written consent.
- 5) The obligations of secrecy set forth in this section shall survive termination or expiry of any supply contract.

#### 14. Insurance

- 1) The Supplier shall, at its own expense, take out comprehensive general liability and product liability insurance as well as insurance to cover the cost of any vehicle recall with a recognised insurance company at a volume customary in the industry which adequately covers the Supplier's liability vis-à-vis HSPE and third parties. Whenever requested by HSPE, the Supplier shall submit evidence regarding the existence of such insurance and the amounts covered.
- 2) The existence of an insurance contract does not result in any limitation of the obligations of the Supplier resulting from the present GTCs.

#### 15. Retention of title

- 1) The Supplier retains the title to any merchandise it has supplied until this has been paid for in full; all deliveries are considered to be a continuous supply transaction. In case of current accounts, the retained title is deemed to be collateral for the sum owed to the Supplier.
- 2) If the merchandise supplied is combined with other objects by HSPE to form a homogeneous product and such product is deemed to be the main product, HSPE agrees to assign appropriate co-ownership to the Supplier to the extent the main object is owned by HSPE. If the product is sold on as intended, HSPE even now assigns any sums payable by the customers of HSPE including all ancillary rights resulting from such sale until all claims of the Supplier have been settled. If there is good reason, the Supplier may demand that HSPE inform its own customers of such assignment and to provide the Supplier with all information enabling the Supplier to assert its rights and to surrender pertinent documentation.
- 3) The Supplier shall release any collateral it holds to the extent its value exceeds the receivable to be secured by more than a total of 20 %.

#### 16. Environment

- 1) The Supplier undertakes to introduce and operate a certified environmental protection management system pursuant to "ISO 14001" or another recognised and certified environment management system derived from the above no later than two years after acceptance of the order and to submit a relevant certificate to HSPE by way of evidence.
- 2) By establishing suitable contractual rules with its own suppliers or sub-contractors, the Supplier shall ensure that the rules set forth in Section 16 are observed.
- 3) The Supplier further undertakes to recognise the conditions imposed by the main customer of HSPE which will be set forth in a separate contract on a project basis.

#### 17. Observation of basic principles and rights at work

- 1) Both parties declare their commitment to observing the principles and rights passed by the International Labour Association (ILO) in the "Declaration on Fundamental Principles and Rights at Work" (Geneva, 06/98), the Guidelines of the UN Initiative Global Compact (Davis 1/99) and the UN Guiding Principles on Business and Human Rights (2011) and shall furthermore comply with their responsibilities vis-à-vis their own employees and society as such.
- 2) It is a further obligation of the Supplier to make sure that its sub-contractors act in accordance with the regulations set forth in this Section.

#### 18. Place of performance, jurisdiction, applicable law

- 1) In the event that one party stops payment or insolvency proceedings or an out-of court settlement is applied for regarding that party's assets, the other party is entitled to rescind the non-performed part of the contract.
- 2) In the event that any provision of these terms and conditions or the agreements made therein should be or become invalid, the validity of the contract on the whole is not affected. In such cases, the parties shall replace the invalid provision by a valid one which comes as close as possible to the commercial success envisaged.
- 3) In the event that the Supplier is a registered merchant, the place of performance shall be the domicile of HSPE; exclusive jurisdiction for any legal action and proceedings arising from or in connection with a supply contract shall lie with the courts having competence for said domicile.
- 4) The present GTCs are exclusively governed by the laws of the Federal Republic of Germany to the exclusion of the UN Convention on the International Sale of Goods (CISG) and its terms.