

TERMS AND CONDITIONS OF PURCHASING Europe
Version as of July 2009

Unless otherwise agreed in writing in framework contracts, orders and individual contracts, the following TERMS AND CONDITIONS OF PURCHASING shall apply to the contractual relationship between the supplier and the ordering company of Tower Automotive (hereinafter referred to as “purchaser”).

The sole exception to the above is a simple and extended reservation of ownership as well as the reserving of a current account advance. The purchaser herewith accepts the delivery under such reservation of ownership and extensions of such reservation.

The unreserved acceptance of goods or services by the purchaser shall in no case be deemed as acceptance of deviating terms and conditions of the supplier.

Communications made by the supplier to the purchaser in which the acceptance of deviating terms of delivery by the purchaser in case of failure to raise objections is indicated shall not be legally effective.

1. Supply contract

- 1.1 As a rule, a supply contract shall be concluded by a written order of the purchaser and the concurrent written order confirmation of the supplier. The same shall apply to changes or extensions of the order. In case of call-off orders or their changes, the transmission of the declarations by way of remote data transmission shall be sufficient.
- 1.2 A contract between the purchaser and the supplier also shall be concluded if the supplier does not raise an objection against an order placed by the purchaser within one week after receipt of such order.
- 1.3 In case of products consumed successively, product, place of delivery, price and further terms and conditions of purchasing (transport, packaging, etc.) shall be fixed in a framework contract. The purchaser shall fix dates and quantities of delivery at regular intervals by call-off orders at its due discretion. In doing so, it shall take into consideration the type and amount of the goods to be delivered as well as size and capacity of the company of the supplier. The supplier herewith shall be contractually obliged to comply with the quantities and dates fixed in the call-off order.
- 1.4 The price stated in the order and/or framework contract shall be binding and include the costs for packaging, insurance, freight and transport to the delivery address and/or place of use as specified by the purchaser, unless otherwise agreed.
- 1.5 The delivery, including delivery to the delivery address and/or the place of use as specified by the purchasers, shall take place at risk of the supplier, unless the purchaser designated the forwarder to be instructed.
- 1.6 The supplier herewith shall be contractually obliged to state on all consignment notes at least the order number, the order date, the quantity or number of articles shipped, the place of unloading (place of delivery pursuant to clause 1.3) and, if available, the material number corresponding to the order. Absence of such information may result in the return delivery of the consignment the costs of which are to be borne by the supplier.

- 1.7 Both parties may request changes of the order with regard to engineering and design in writing within the framework of what is acceptable for the other party. Possible consequences resulting from the changes, especially regarding the additional or reduced costs as well as dates of delivery are to be reasonably agreed amicably.
- 1.8 Subcontracts placed by the supplier for the execution of an order shall require the previous written consent by the purchaser. This shall not apply to the extent that the supplier is dependent on the supply of fungible goods customary in trade for executing the order.
- 1.9 If the supplier discontinues its payments or if insolvency proceedings are opened regarding its assets, the purchasers shall be entitled to rescind the contract regarding the part not performed without prejudice to other rights. If mandatory national provisions of the country where the supplier has its place of business provide for other prerequisites for the rescission regarding the part of the contract not performed in case of opening of insolvency proceedings or discontinuation of payments, these regulations shall apply.
- 1.10 Other general terms and conditions shall herewith be excluded even if the purchaser has not objected to them expressly.
- 1.11 These terms and conditions of purchasing shall supplement possibly existing framework contracts. In case of doubt, deviating regulations in framework contracts or orders shall have priority over the regulations in these terms and conditions of purchasing.

2. Dates of delivery / contractual penalty in case of default

- 2.1 The date of delivery stated in the order shall be binding. What is deemed as timely delivery is the receipt of the goods at the place of delivery/performance designated by the purchaser or mutually agreed (place of delivery pursuant to clause 1.3).
- 2.2 Unless otherwise agreed in writing, the supplier shall be obliged in case of default of delivery to pay to the purchaser a contractual penalty amounting to 0.25 % of the value of the part of the delivery not delivered in good time per day of default, however in total not more than 5.00 %. The assertion of further claims for damages shall not be excluded.

3. Delivery / passing of the risk / defaults of delivery

- 3.1 The goods shall be delivered to the place of use or the delivery address as specified in the order (place of delivery pursuant to clause 1.3).
- 3.2 Unless otherwise agreed in writing, the risk shall pass only upon handover of the goods to the purchaser unless the purchaser is in default of acceptance.
- 3.3 The purchaser shall be obliged to check the goods within a reasonable period of time after receipt of the goods for possibly deviations in terms of quality and quantity and to notify deviations within a reasonable period of time. In case of obvious defects, the notification shall be timely if it is received within a period of time of 5 working days (Monday to Friday with exception of generally applicable holidays at the place of business of the purchaser), calculated as of receipt of the goods. In case of defects becoming apparent during a proper inspection and in case of hidden defects, the notification shall be timely if it is received by the supplier within a period of time of 10 working days, calculated as of receipt of goods or - in case of hidden defects - as of discovery.

- 3.4 Unless otherwise agreed in writing, partial deliveries and performances shall not be admissible. Therefore, the purchaser shall be entitled to cancel remaining quantities.
- 3.5 Force majeure, industrial actions, official measures taken (unless caused by supplier) or other circumstances beyond supplier's control shall release the supplier from its duty to timely delivery of the delivery item for the duration of the impairment.
- 3.6 In case of impending delays of delivery, the supplier shall have to inform the purchaser immediately in writing, stating the reasons and the expected duration of the delay.
- 3.7 In case of back orders and/or repeated supply difficulties, for whatever reason, the purchaser shall be entitled, irrespective of any other effects, to claim that a sufficient inventory of items ready for delivery is established. The supplier shall bear all costs possibly arising.

4. Inspection

- 4.1 If the order size includes the installation and/or assembly or commissioning of the delivery item as auxiliary service, a formal inspection documented in writing by the purchaser shall be required for that. The risk shall pass to the purchaser only after this inspection and the sign-off of the delivery including installation and assembly have taken place and only in this case subject to deviating regulations in clause 3 above. In these cases, the non-detection of defects in such inspections shall be the prerequisite for the claims of the supplier and they shall become effective only after the inspection.
- 4.2 In case of necessary inspection, the delivery item is to be supplied by the supplier within a period which enables the purchaser to carry out the inspection of the delivery item prior to the agreed date of delivery. The supply obligation of the supplier shall be met only after the inspection has taken place.
- 4.3 The effecting of payments by the purchaser prior to the inspection shall not mean that such inspection of the delivery item already has taken place.
- 4.4 If a previous test stage has been agreed for the inspection, clause 4.2 shall apply correspondingly.

5. Quality / documentation

- 5.1 Upon request of the purchaser, the supplier shall provide complete information on the composition of the delivery item if this is required for complying with legal provisions or official requirements in the home country or abroad.
- 5.2 If the purchaser demands initial or reference samples, the supplier only may commence the production of the delivery item(s) after receipt of a corresponding written approval by the purchaser.
- 5.3 The supplier shall have to comply with the state of the art, the applicable safety provisions and the agreed technical data, especially the data stated in the order, for its deliveries. This shall apply especially to any work performed within the premises of the purchasers. A current QA and QM system shall be used by the supplier. All changes, also minor changes of the delivery item and/or the production process shall require the previous written consent by the purchaser. Type and extent of the tests, measurement and testing

technology as well as the processes applied in this respect are to be agreed between the supplier and the purchaser.

- 5.4 The supplier also shall have to document with regard to all parts especially marked in the technical documents or by separate agreement (e.g. parts requiring documentation) when, how and by whom the delivery items have been checked for their characteristics requiring documentation and which findings resulted from the inspection of the quality characteristics. These testing documents have to be stored for 15 years and presented to the purchaser upon request.
- 5.5 Reference is herewith made to the VDA publication “Sicherung der Qualität von Lieferungen - Lieferantenauswahl/Produktionsprozesse - und Produktfreigabe/Qualitätsleistung in der Serie” [quality assurance of deliveries - choice of suppliers/production process - and product release/quality performance in series production] in the latest version and/or the QS-9000 publication “Produktionsteil-Freigabeverfahren (PPAP)” [production part approval process] in the latest version for the initial sample inspection and the inspection of characteristics requiring documentation. Irrespective of the above, the supplier shall have to carry out quality inspections of the delivery items continuously. The contractual parties shall always exchange information regarding improvement opportunities of the quality of the delivery items.
- 5.6 The purchaser herewith shall be obliged to carry out a gratuitous cross-check of the initial samples presented with the initial sample report. If the initial sampling has to be repeated completely or in parts due to defective initial sampling at fault of the supplier, the supplier shall have to reimburse to the purchaser all additional costs incurred due to that; in this respect, a total amount of EUR 200.00 per event is herewith agreed.
- 5.7 The supplier shall warrant that the delivery items comply with the specifications included in the order. The purchaser shall charge EUR 50.00 for each letter of complaint objectively justifiable.
- 5.8 The supplier shall have to grant access to all product-relevant rooms and areas used for the production, inspection and storage as well as access to all quality-relevant documents to the purchaser and its customers in case of justified interest and after notification with a period of notification in accordance with the justified interest. The same shall apply to authorities responsible for road safety, exhaust regulations etc. Appropriate restrictions for the protection of business secrets are herewith admitted.

6. Modes of payment/assignments

- 6.1 The payment shall be made only after receipt of the contractual delivery items and receipt of a proper invoice which can be used as accounting voucher.
- 6.2 Deliveries made prior to the agreed date of delivery shall be deemed as delivered only as of the agreed date of delivery.
- 6.3 If no special terms of payment have been agreed in writing, the payments shall be effected by the purchaser after receipt of the contractual goods as well as receipt of a proper and auditable invoice within 14 days with 3 % cash discount or within 30 days strictly net. In case of acceptance of early deliveries, the payment period shall commence based on the agreed date of delivery.

- 6.4 Payments shall be effected by cheque or by money transfer.
- 6.5 If down-payments have been agreed by way of exception, they shall only be effected against bank guarantee subject to the conditions of the purchaser.
- 6.6 The supplier shall not be entitled without previous written consent, which consent may not unreasonably be refused, to assign its claims against the purchaser to third parties. If the supplier assigns its claims against the purchaser without its consent in violation of sentence 1 to a third party, the supplier shall have to inform the third party to which the claims are assigned about the content of this provision in advance and the assignment shall be effective nevertheless. However, the purchaser may effect payment with discharging effect to the supplier or the third party at its option. If the supplier fails to inform the third party, it shall be liable towards the purchaser for any damage whatsoever resulting from that.
- 6.7 In case of defective or incomplete delivery, the purchaser shall be entitled to retain payment until the proper performance of the contract.
- 6.8 The invoice of the purchaser is to be executed in duplicate (with the copy being marked). It has to be usable as accounting voucher, stating the supplier number, date and number of the order and/or framework contract, quantity and material number, number and date of the shipping note, type of despatch and price/quantity unit of the goods invoiced as agreed. Invoices not complying with the requirements above may be sent back.
- 6.9 In case of delivery with assembly and installation, the payment according to invoicing shall be effected only after sign-off by the purchaser if the assembly prevails.

7. Warranty

- 7.1 The warranty period of the supplier shall commence upon inspection of the delivery item by the purchaser pursuant to clause 3.3 above. In case of delivery and assembly, the warranty period shall commence only after inspection and sign-off by the purchaser in deviation from clause 7.1 sentence 1 above.
- 7.2 If the purchaser discovers defects within the framework of the production process, the supplier shall have the opportunity to sort out the defective delivery items, to touch them up or to deliver new items if this is acceptable for the purchaser. If the supplier is not able to do this or if it does not comply with such request, the purchaser may rescind the contract regarding these goods and return the goods to the supplier at supplier's costs and risk. In cases in which the purchaser is no longer able due to particular urgency to notify any defect and the damage threatening due to that to the supplier and to set a period of time for remedying the defect, the purchaser shall be entitled without setting a period of grace to remove the damage itself or have it removed by third parties or to procure replacement at costs of the supplier. The purchaser shall inform the supplier as soon as possible and agree on the further procedure with the supplier. If also the next delivery of the same goods is defective, the purchaser may rescind the contract also regarding the remaining part not yet performed.
- 7.3 The notification of defects of the purchaser shall have a suspensory effect on the warranty period for the defective delivery item.
- 7.4 The warranty period shall apply irrespective of the duration of use of the delivery item.

- 7.5 The warranty of the supplier also shall apply if it is not the manufacturer of the delivery item or parts thereof.
- 7.6 Upon request of the supplier, the purchaser shall have to make available to the supplier all parts to be exchanged by it at own costs. The purchaser shall store these parts for a maximum period of 30 days; after expiry of such period, the purchaser either may return them to the supplier at supplier's costs, may claim remuneration for their storage or may dispose of them without prejudice to its warranty claims.
- 7.7 The purchaser reserves the right to charge a processing fee amounting to EUR 100.00 for subsequent improvement and/or return deliveries. The assertion of claims due to costs directly incurred shall remain unaffected from that.
- 7.8 The purchaser also shall be entitled to all statutory warranty claims to the full extent. It may request either the removal of the defects or a replacement delivery from the supplier; in this respect, the supplier has to bear the corresponding costs. The assertion of claims for damages by the purchaser shall not be affected by that.
- 7.9 The claims resulting from the warranty of the supplier shall become time-barred 24 months after initial registration of the vehicle and/or mounting of the replacement part, however at the latest 30 months after acceptance of the delivery by the purchaser pursuant to clause 3.3.

8. Proprietary rights

- 8.1 The supplier shall be liable for claims resulting from a use of the delivery items which is in accordance with the agreement but constitutes an infringement of existing and pending proprietary rights.
- 8.2 The supplier shall indemnify the purchaser from any liability for claims resulting from the use of such proprietary rights if the supplier has not manufactured the delivery items in accordance with the specifications of the purchaser. Further claims for damages of the purchaser shall remain unaffected.
- 8.3 The supplier shall inform the purchaser about the use of published and unpublished, own existing or pending property rights or existing or pending property rights used under a license prior to the granting of such rights, especially if it intends to charge license fees.
- 8.4 The contractual parties herewith shall be contractually obliged to inform the respective other party immediately about emerging dangers of infringements as well as alleged cases of such infringements and to put the other party in a position to counteract such allegations in mutual agreement.

9. Operating resources / drawings / etc.

- 9.1 Operating resources such as moulding tools, matrices, gauges, models, samples, tools, drawings, etc. made available to the supplier by the purchaser are to be returned to the purchaser upon request.
- 9.2 Operating resources made available to the supplier or produced according to specifications of the purchaser must not be reproduced, sold, pledged, relinquished as security, otherwise assigned or used for third parties without previous written consent of the

purchaser. The same shall apply to the delivery items manufactured using these operating resources.

9.3 Drawings, models, matrices, samples, tools, other operating resources and know-how made available to the supplier by the purchaser, paid by the purchaser or becoming known to the supplier during the handling of the order may be used for deliveries to third parties only with previous written approval of the purchaser. They must not be assigned or made available to unauthorised third parties. Reproductions of these items only shall be admissible within the framework of what is economically necessary and within the framework of the copyright regulations.

9.4 A corresponding obligation is to be imposed on subcontractors/sub-suppliers. The supplier shall be obliged to present verifiable proof for the performance of this duty upon request.

10. Confidentiality/advertising

The supplier herewith shall be contractually obliged to treat as business secret all unpublished commercial and technical details of which it learns due to the business relationship.

11. Insurance

The supplier herewith shall be contractually obliged to conclude insurance contracts corresponding to the risks occurring in connection with the delivery item (especially product liability, recall campaigns, etc.) and to present the corresponding insurance policies to the purchaser upon request. Upon request, the supplier shall be obliged to present also verifiable proof that the insurance premiums have been paid.

12. Environmental protection

The supplier herewith shall be contractually obliged to perform its services at all times taking into consideration the applicable national and international standards, laws and regulations regarding safety and environmental protection as well as observing the respective state of the art. The compliance with the laws and regulations of the country in question shall be required for the delivery and the installation of machinery. Within the framework of what is reasonable economically, the supplier shall ensure an environmentally friendly performance of the contract; this shall also include the choice of ecological and recyclable materials, ecologically degradable designs as well as solutions saving energy and raw materials. Using materials and formulations the use of which is prohibited by law shall not be allowed. In particular, the directives 2000/53/EC on end-of-life vehicles and the VDA list of declarable substances are to be taken into account. The supplier shall herewith be contractually obliged to register all materials used for the manufacturing of vehicles in the material data system of the automotive industry (IMDS).

13. Duty to point out

To the extent that items supplied within the framework of an order or call-off, especially software, are subject to export control regulations or export restrictions of whatever kind and irrespective of the origin, the supplier shall point this out to the purchaser. If the supplier violates such export control regulations, the purchaser shall be entitled to terminate the contract insofar.

14. Final provisions

- 14.1 What is valid is the version of the TERMS AND CONDITIONS OF PURCHASING published as of the time of conclusion of the contract under www.towerautomotive.com for the country the legal provisions of which govern the contract as of the time of conclusion of the contract.
- 14.2 The supplier shall mark the delivery items pursuant to the specifications of the purchaser.
- 14.3 The consent to the quality guideline for suppliers of Tower Automotive Deutschland is herewith granted unless otherwise agreed.
- 14.4 This contract shall exclusively be governed by the laws of the country in which the purchaser has its place of business, excluding the private international law of the country in which the purchaser has its place of business. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) of 11 April 1980 shall be excluded.
- 14.5 If the supplier is a merchant, the place of jurisdiction for all disputes arising under the contractual relationship shall be at the place of business of the purchaser unless otherwise imperatively provided for by the provisions under national law authoritative for the contract.
- 14.6 If individual regulations in these terms and conditions of purchasing or individual provisions in a contract concluded based on these terms and conditions of purchasing become invalid or unenforceable, the validity of the remaining regulations shall remain unaffected. The invalid, ineffective or unenforceable regulation is to be replaced by a regulation which takes into account the joint intention of both contractual parties as far as possible and is as close as possible the economic purpose of the regulation to be replaced.

Delivered

Date:

Name and signature of the responsible employee of Tower