

1. Conclusion of Contract

1.1 Samvardhana Motherson Innovative Autosystems B.V. & Co KG (hereinafter called SMIA) places orders on the basis of its general terms and conditions of purchase and agreed specifications as well as any other agreements that have been concluded between the parties. General terms and conditions of the supplier shall not form part of the contract, even if SMIA does not explicitly contradict these. Even if SMIA accepts the delivery/service without any explicit objection, this can in no case give grounds that SMIA accepts the supplier's terms of delivery. By submitting offers, the supplier agrees with these general terms and conditions. The execution of the order shall in any event imply acceptance of SMIA's general terms and conditions of purchase. These general terms and conditions of purchase shall also be valid for all future contractual relations with the supplier.

1.2 If the supplier makes an offer on the basis of a request for quotation by SMIA, the offer must precisely adhere to the request of quotation and expressly identify any deviations therefrom.

1.3 If the supplier does not accept the order in writing within 3 weeks after receipt, SMIA will be entitled to cancel. Delivery calls become binding if the supplier does not object within 5 working days after receipt.

1.4 If SMIA can prove that SMIA has sent a declaration by fax or data transmission by providing a transmission report, it shall be assumed that the supplier received such a declaration.

1.5 SMIA is entitled to demand modifications of the product also after contract conclusion, if this is reasonable for the supplier. In the case of such contract modifications the effects on both parties, particularly with regard to additional or reduced costs as well as the delivery dates shall be given proper consideration.

2. Prices, shipment, packaging

2.1 The agreed prices are fixed prices – as long as framework agreements with flexible price clauses have not been agreed – and shall exclude additional claims of any kind. The packaging and transport cost to the shipping address or place of acceptance as mentioned by SMIA as well as the cost for customs formalities are included in these prices. The supplier shall bear all costs incurred including loading up and drayage to the point of transfer to the carrier. If the order does not specify any prices, the supplier's current price lists shall apply with the usual trade discounts. The agreement on the place of performance shall not be affected by the nature of pricing.

2.2 Every consignment must be accompanied by a delivery note. Delivery notes, consignment notes, parcel labels, invoices and all correspondence must show the number and date of the order as well as the drawing or material number, product number and internal order reference, if applicable. If possible, barcoded goods tags, in accordance with VDA recommendation 4902, must be used. In cases of freight costs for deliveries that SMIA will cover full or in part, it is imperative to observe the routing order.

2.3 SMIA shall accept only the ordered quantities or items. Over- or under-deliveries are only permissible after obtaining SMIA's prior approval.

2.4 Dispatch and transfer of risk will be made according to the agreed INCOTERMS. The supplier's obligation to recycle the packaging is based upon the legal stipulations. The delivery items shall be packaged according to our packaging regulations or, if these have not been disclosed to the supplier, the goods must be packaged as is customary in the trade and appropriate.

2.5 Packaging materials are only to be used to the extent necessary to achieve this purpose. The packaging material used must be environmentally friendly. If exceptionally packaging material is invoiced to SMIA, SMIA shall be entitled to return packaging material that is in good condition to the supplier freight paid against a payment of 2/3 of the value arising from the invoice.

3. Invoicing and payment

3.1 All invoices must show number and date of the purchase order as well as references, supplier number and material code number.

3.2 To the extent necessary for their understanding, invoices shall be separately submitted in the correct form after delivery with all the associated documentation and data. In no case should invoices be attached to the deliveries. SMIA shall have the right to refuse performance up until submission of the correct invoice. The invoice particulars for payment are the actual volume, weight or any other unit that the delivery is based on as well as the agreed prices.

3.3 Payment shall be made using the normal commercial arrangements. SMIA shall pay the purchase price, except where otherwise agreed in writing, by the fifth working day of the third month following delivery calculated from delivery date and receipt of invoice. If supplies are delivered or services provided before the specified delivery date, these will only count as received at the specified date.

3.4 If material test certificates are agreed, they constitute an essential part of the delivery and must be sent together with the delivery to SMIA. They must be available at SMIA 5 days after invoice receipt at the latest. The payment term shall not commence before the agreed certificate has been received.

3.5 The settlement of an invoice shall not constitute a waiver of any claim for invoiced goods that are defective. If the shipment is faulty, SMIA shall be entitled to withhold the payment proportionately to the value until the contract has been duly performed.

3.6 In case of prepayment the supplier shall provide an appropriate security in the form of a bank surety in accordance with the precedent provided by SMIA.

4. Delivery dates, delivery delays, force majeure

4.1 The delivery dates agreed are binding; the supplier will be in default as the delivery date expires, without the need for SMIA to send a reminder. For purposes of contract performance by the supplier, the receipt of the goods at the point of delivery or use as quoted by SMIA is relevant for the observation of the delivery date. As far as acceptance of performance is required, the supplier shall be in default without reminder if the supplier has not provided the performance on the agreed date in such a way so that acceptance cannot be refused (section 640, clause 1, sentence 2, BGB).

4.2 If the supplier realizes that a date agreed upon cannot be met for any reasons whatsoever, he shall inform SMIA without delay stating the reasons and the anticipated duration of the delay in writing.

4.3 If the supplier defaults by exceeding the date of delivery, SMIA shall be entitled to impose a penalty of 0.5% of the order total per working day, and no more than 10% of the order value. The right reserved to enforce the contractual penalty can be asserted until the invoice is paid. The penalty shall be offset against any claim to damage caused by default. The contract penalty is merely the minimum amount of the compensation claim.

4.4 The supplier can only assert the absence of necessary documents that SMIA must supply if he has demanded the documents in written form and he has not received them within an appropriate period of time.

4.5 Force majeure shall exempt the contracting partners for the duration of the interference and within the scope of its effect from their performance obligation. The contractual partners are obligated, to the extent which is reasonable, to immediately provide the required information and to adjust their obligations in good faith to take into account the changes in circumstances.

In the case of force majeure, strike or similar industrial action or other significant operational disruption or disrupted sales, SMIA shall be entitled – taking into account the supplier's interests – to withdraw wholly or in part from the contract without compensation or to postpone the acceptance of the delivery or performance for a reasonable amount of time.

4.6 In case a delivery is made earlier than agreed upon, SMIA reserves the right to carry out the return shipment at the supplier's expense. Should no return be undertaken upon early delivery, SMIA will store the goods until the scheduled delivery date at SMIA's premises at the supplier's expense and risk. In the event of an early delivery SMIA reserves the right not to make the payment before the agreed due date.

4.7 SMIA will only accept partial shipments following an expressed written agreement. If partial deliveries are agreed, the remaining amount must be itemized.

5. Liability

The supplier shall be liable for any form of contractual violations in accordance with the statutory provision unless otherwise agreed in these terms and conditions.

6. Warranty

6.1 The agreed specifications form an integral part of the order and may only be modified by the mutual consent of both parties. Specification shall also mean any description of the scope of supply or any drawing to be considered as binding.

6.2 The supplier undertakes to use environmentally friendly products and processes in his deliveries/services and also for supplies and additional services of third parties within the scope of the economic and technical capabilities. The supplier shall be liable for the environmental compatibility of the goods delivered and the packaging material used as well as for any consequential damage deriving from non-compliance with his statutory waste disposal obligations. At the request of SMIA, the supplier shall issue a test certificate for the goods delivered.

6.3 SMIA shall promptly inform the supplier about any obvious defects of the delivery/service in writing, as soon as these are identified in the normal course of business, but not later than 10 working days following receipt of the delivery at SMIA.

6.4 SMIA is obligated to check incoming goods for any transport damage within 10 working days following delivery.

6.5 As a matter of principle, SMIA retains the right to determine the type of re-fulfillment also in the case of a contract of work and services, unless the supplier is entitled to refuse subsequent performance or SMIA selects a method of subsequent performance, which is unreasonable for the supplier.

6.6 If the work performed or the product supplied are defective, SMIA may remedy the defects and demand compensation for the necessary cost of doing so after the fruitless expiry of a reasonable period of grace for subsequent performance unless the supplier has correctly refused subsequent performance. In this regard the statutory provision for carrying out such work oneself in the event of a work order (article 637 BGB) applies to the purchase order accordingly. Notwithstanding the statutory provisions, SMIA may in urgent cases, in order to prevent a serious risk of considerable loss and damage, remedy the defect itself at the supplier's cost even without setting a period of grace for subsequent performance.

6.7 The warranty period is 36 (in words: thirty-six) months, unless otherwise expressly agreed. It shall commence with the handing over of the subject matter of delivery to SMIA or to the third party designated by SMIA at the receipt address or user location specified by SMIA. If acceptance dates have been agreed, the warranty period shall commence on the date of a successful acceptance.

6.8 If a defect occurs during the first 12 months (guarantee period) of the warranty, a presumption shall exist that this defect was already present on the date of the transfer of the risk unless such a presumption is inconsistent with the nature of the defect or object.

- 6.9 For supplied parts or units that cannot be used while the defect is being examined or eliminated, the warranty period shall be extended by the duration of the shutdown period.
- 6.10 For repaired or newly delivered parts, the warranty period shall recommence on the day of repair or delivery – beyond the suspension of the statute of limitations.
- 6.11 Claims, which already existed at the commencement of the term of warranty or which arise during the term of warranty, shall be time-barred in accordance with the statutory limitation periods. The limitation period shall commence on the date the claim arises.
- 6.12 In case of defects of title, the supplier shall indemnify SMIA against any possible claims of third parties. A statute of limitation of 3 years applies for defects in title. This period of limitation starts with the end of the year in which the claim has occurred and in which SMIA learned about the circumstances of the claim and about the person of the defaulter or in which this should have taken place without culpable negligence, irrespective of the knowledge or the grossly negligent lack of knowledge within ten years from appearance.
- 6.13 If claims are brought against SMIA on grounds of breach of official safety regulations or domestic or foreign product liability regulations or laws as a result of its products being defective, and this can be traced back to the contractual partner's goods, then SMIA shall be entitled to demand compensation for this damage from the contractual partner, insofar as it has been caused by the products supplied by the contractual partner. These losses also include the cost of any necessary recall campaign. If a part delivered by a supplier is defective, it will be presumed, that the supplier is exclusively responsible for the defect.
- 6.14 The supplier shall perform quality inspections, which will be appropriate in terms of nature and scope and which meet state-of-the-art requirements and provide evidence of the same to SMIA on request.
- 6.15 The supplier shall insure himself for an appropriate sum against all product liability risks, including the risk of recall and upon request forward SMIA a copy of the insurance policy.
- 7. Guarantee**
- 7.1 The supplier shall guarantee and ensures that all deliveries/services conform to the latest technical standards, the relevant legal provisions, the regulations and guidelines issued by the public authorities, professional bodies and trade associations. If deviations from these regulations are necessary in specific cases, the supplier must obtain a written consent to the same. The warranty obligation of the supplier shall not be restricted by such consent.
- 7.2 The supplier shall guarantee and ensures that all shipments are free from the protected rights of third parties and that, in particular, patents, licenses or any other trade mark rights of third parties within Germany are not infringed by the supply and use of the delivery items. If the supplier is aware that SMIA intends to sell his products also in certain countries, the above provision shall also apply to the countries in question.
- 8. Transport and delivery certification**
- 8.1 The supplier must ensure, within the scope of his quality management, that the quality of the deliveries and contract items is not affected by the transport to the SMIA plant or the customer. As a result, he will deliver exclusively in means of transport and packaging which meet these requirements and which have been approved by SMIA.
- 8.2 If the supplier prescribes temperature limits and limits for his products, he must ensure that these values are maintained during transportation to SMIA and that they can be verified against SMIA by means of suitable test equipment such as thermologues and temperature strips.
- 8.3 The proper execution of the contract items shall be certified with an inspection certificate according to DIN EN 10204 3.1 and shall be enclosed with the delivery documents of each delivery from a production lot. The supplier shall ensure by appropriate labelling of the contract object (e.g. manufacturer-labels, time of manufacture, place of manufacture) that, upon detection of a defect in the subject matter of the contract, it can be immediately determined which objects of the contract as a whole are affected or could be affected by such an error.
- 9. Additionally provided production materials**
- 9.1 Additional production material like drawings, models, samples, gauges, tools, equipment and similar items that SMIA provides to the supplier, remain the property of SMIA.
- 9.2 The production material provided to the supplier must not be copied, sold or passed on to a third party in whole or in part without express written consent. They must also not be used to manufacture products or to supply them to third parties.
- 9.3 The supplier is obligated to insure the production material provided to him as well as the production material that SMIA proportionately paid for against damage and loss. The existence of the insurance policy must be verified to SMIA on request.
- 9.4 At the same time the supplier cedes as of now all rights to claim compensation from this insurance; SMIA hereby accepts the transfer of these rights. The supplier is obligated to carry out any required maintenance and inspection work as well as servicing and repair of the tools owned by SMIA at his own expense and in a timely manner. Supplier has to notify SMIA about any faults immediately; should he culpably omit to do so, claims for compensation of damage remain unaffected.
- 10. Confidentiality**
- 10.1 The supplier is under obligation to treat the conclusion of the contract as well as all commercial and technical information that is not general knowledge and which has been disclosed to him in the course of the business relationship confidential, unless he has known this information already or this information was in the public domain already. Only with written consent he may use SMIA as a reference to third parties.
- 10.2 Subcontractors are to be bound accordingly.
- 10.3 The supplier has to do his best so as to prevent an unauthorized disclosure of confidential information.
- 11. Trademark rights**
- 11.1 The supplier shall exempt SMIA and its customers from any third party claims from trade mark violations on the first written request to do so and he also covers all the cost that SMIA incurs in this context.
- 11.2 Taking into consideration the due care of a merchant, SMIA shall be entitled to obtain approval for the use of the delivery items and services from the authorized person at the supplier's expense.
- 11.3 SMIA is entitled to all right in inventions stemming from development contracts.
- 12. Foreign transactions**
- If the supplier has an office abroad, the following supplementary rules shall apply:
- 12.1 For the relationship between the supplier and SMIA German law shall exclusively be applicable excluding the regulations for the international purchase of movable items (CISG).
- 12.2 Contract language is German. If the contracting parties use another language in addition, the German wording shall take priority.
- 13. Final provisions**
- 13.1 Should individual clauses of these general purchasing conditions be ineffective, this does not prejudice the effectiveness of the other provisions.
- 13.2 The supplier is not entitled to pass on details or major parts of the order to third parties without SMIA's prior written consent.
- 13.3 Without SMIA's prior written consent, which may not be refused unreasonably, the supplier shall not be entitled to assign his claims against SMIA.
- 13.4 SMIA shall treat all personal data of the supplier in accordance with the General Data Protection Regulation.
- 13.5 Should the supplier become insolvent or if his financial circumstances significantly deteriorate or should a petition have been filed for insolvency or composition proceedings on his assets, SMIA may – without prejudice to any other rights or remedies – cancel all existing contracts.
- 13.6 Unless explicitly agreed otherwise, the place of performance for the delivery obligation is the shipping address or the point of use as per SMIA's request; for all other obligations relating to both parties the place of fulfillment shall be Michelau.
- 13.7 For all disputes arising in connection with the contractual relationship, if the supplier is a qualified merchant, a legal entity under public law or public-special assets, action is to be raised at the court that is competent for SMIA's head office. SMIA shall also be entitled to take legal action against the supplier at any other admissible location.