



a cost reduction workshop and to modify the prices to conform to the results thereof.

## General Purchasing Terms and Conditions

KIEFEL Automotive s.r.o. , Průmyslová 763, CZ 333 01, Stod

### 1. Scope of Application

- 1.1 These General Purchasing Terms and Conditions ("GPTC") apply to all the current and future purchases and orders of goods, deliveries and other fulfilments, such as technical services, provided to SWA s.r.o. (the "Customer"). The GPTC will become automatically the integral part of every order or contract concluded with the Customer.
- 1.2 The GPTC apply exclusively and preferentially in all the obligational relationships where the Customer appears as one of the contracting parties; any terms and conditions of the supplier (the "Supplier") that are in contradiction with or depart from these purchasing terms and conditions are not binding for the Customer, unless the Customer provides a written express consent with their applicability. The Customer's GPTC also apply when the Customer, being aware of any contradictory or different terms and conditions of the Supplier, takes over a delivery from the Supplier without any objections.
- 1.3 Any deviations from, changes in or amendments to these GPTC require to be made in writing.
- 1.4 If the Supplier does not agree with these terms and conditions, it shall notify the Customer immediately in writing. If the Supplier fails to notify the Customer of its disagreement, it is assumed to consent with the GPTC. If the Supplier does not agree with the GPTC, the Customer has the right to cancel the order without the application of any sanctions against it or damages claimed by the Supplier.
- 1.5 These General Purchasing Terms and Conditions apply to all contracts, deliveries and other fulfilments in business connections with all suppliers, with a reference made to the provisions of Sections 1721 et seq. of Act No. 89/2012 Coll., the Civil Code (the "CC").

### 2. Ordering

- 2.1 Any delivery documents (order and acceptance) and delivery cancellations, as well as their supplements and amendments must be made in a written form.
- 2.2 Order acknowledgement containing price, delivery date, payment and delivery terms and the Customer's order number to be shown on all paperwork must be addressed forthwith to the Customer.
- 2.3 The Customer may, up to a level acceptable for the Supplier, request changes to be made in the subject of delivery as to its design and workmanship. The Customer is entitled to do so until the moment of taking over the subject of delivery. If the substantial contractual arrangements such as prices or lead times change with the change in the order, the Supplier shall inform the Customer of it expressly, unless the relevant provision has already been agreed, within two working days at the latest of the day of making the change. When changes are made in the order, the Customer shall alert the Supplier to the fact that the latter has to inform it expressly of any changes in the substantial contractual arrangements within two working days; otherwise, it is assumed that the changes in the order would not lead to any changes in the substantial contractual arrangements.
- 2.4 At any time during order implementation, the Customer is entitled to review the prices through a value analysis and

### 3. Deliveries

- 3.1 The Supplier shall deliver the ordered goods in the quantity and quality as set in the order or contract concluded. If goods quality is not defined in the order or contract, the Supplier is obliged to supply the goods in the quality and workmanship fully meeting the purpose for which the goods are being supplied. The supplied goods must meet all technical requirements and safety standards.
- 3.2 The agreed terms and deadlines are binding. The date of goods delivery to the Customer is decisive for considering the delivery term and time kept. The Supplier shall prepare the goods in time, taking into account the period of time usually needed for loading and dispatching. Deliveries are executed as instructed by the Customer. The file of INCOTERMS current wording applies to all business clauses.
- 3.3 If shipment deliveries are to be accelerated for reasons attributable to the Supplier, such extra costs shall be borne by the Supplier. Partial deliveries or deliveries made prior to the agreed date are only admissible with the consent of the Customer.
- 3.4 The Customer is not obliged to pay the carriage in advance. The Customer may refuse taking over any shipments for which the Supplier has not paid carriage. When setting prices of goods taken straight from the manufacturer, in exceptional agreed cases, the Customer accepts the net transportation costs. Any costs incurred in connection with goods delivery until handover to the carrier, including loading, collection and distribution, are paid by the Supplier.
- 3.5 Any deliveries from countries out of the European Union, the waybill must be accompanied by a free-of-charge proforma and/or simplified invoice, preferential declaration and a valid certificate of goods origin. The Supplier shall provide for export customs clearance at its own cost and risk.
- 3.6 Goods must be delivered exclusively to the goods acceptance place and within the goods acceptance times valid in the particular place.
- 3.7 In all deliveries, the place of fulfilment is the place of destination specified by the Customer. Unless agreed otherwise, all shipments are transported at the risk of the Supplier.

### 4. Delayed Delivery

- 4.1 If a delivery is delayed, the Customer is entitled to require the Supplier to pay a contractual penalty of 0.5 % of the agreed price of the goods being delivered per started calendar day of delay up to the value of 10 % of the total price of the goods being delivered, and the Supplier is obliged to pay the Customer the contractual penalty. This does not affect the right to claim damages and other rights of the Customer. If in doubt as to loss occurrence, the Supplier is obliged to prove that no loss at all or a substantially lower loss has been incurred due to the delay.
- 4.2 The Supplier is obliged to inform the Customer immediately in writing if circumstances have occurred or become recognizable for the Supplier, resulting in impossibility to keep the agreed delivery time. This does not affect the statutory rights of the Customer.

### 5. Circumstances Excluding Liability

- 5.1 In the event that any breach of obligations under the obligational relationship is caused by circumstances excluding liability, the contracting party affected by such

obstacle shall not be liable for loss occurrence. This also applies when circumstances excluding liability occur at the moment when the affected contracting party is in delay. Within their agreed obligations, the contracting parties shall provide each other immediately with necessary information and adapt their obligations to the changed conditions.

- 5.2 All circumstances occurring beyond the control of the affected contracting party, unforeseeable and irreversible and preventing or delaying the complete or partial fulfilment of the party's contractual obligations are deemed to be those of Force Majeure.

## 6. Prices

- 6.1 The prices agreed in the specified currency are understood to be fixed and applicable with respect to the specified delivery address, including the prices of package and transport, as well as the applicable value added tax in the statutory amount. The cost of inspections for function, quality and varnish coat is also included in the total price of the goods being delivered. If the Supplier is a VAT payer, it shall specify the fact on the tax document (invoice issued).
- 6.2 Any deviations from the agreed price of the goods being delivered require to be made in writing to be effective, even in individual cases.
- 6.3 If changes on the market result in price reduction, the Supplier shall inform the Customer fully about the fact.

## 7. Invoicing and Payment

- 7.1 After executing the delivery/fulfilment, an invoice shall be supplied to the Customer in duplicate, showing the order number and the subject of delivery/fulfilment. Invoices for services shall be accompanied by the original copy of a list of works, activities and materials, signed by a competent employee of the Customer.
- 7.2 The Supplier will acquire the right to issue an invoice for the delivery of the subject of fulfilment on the day of having delivered the subject of fulfilment duly as certified by a competent employee of the Customer.
- 7.3 Every Supplier's invoice shall include the following particulars in addition to those provided in the generally binding regulations: identification of the contracting parties; contract or order number; project number and/or cost centre specified on the order; invoice number; invoice issue date; invoice maturity date; date of taxable fulfilment execution; subject of taxable fulfilment; invoiced amount excluding VAT; total invoiced amount; and bank accounts of the contracting parties.
- 7.4 The Supplier is not entitled to assign its receivables from the Customer or have them recovered by third parties without the prior written consent of the Customer.

## 8. Notification of Defects

- 8.1 Defects can be reported informally, even by phone; it is also acceptable when the Customer asks Supplier's specialists to remove defects.
- 8.2 The Customer's examination obligation as per S. 2104 of the CC is limited to receiving inspection by the delivery note and to any damage occurring during transport, as well as to apparent defects. If a defect manifests itself during such examination, it must be reported immediately to the Supplier. If a defect manifests itself later, it must be reported immediately after discovery. This does not affect the provisions of S. 2112 of the CC.

## 9. Confidentiality

- 9.1 The contracting parties undertake to handle all non-public business and technical details they learn through the business relationship as a trade secret. The Supplier is

obliged to indemnify the Customer for any loss incurred by the latter due to the Supplier's breaching the confidentiality obligation.

- 9.2 The Supplier is obliged to keep in strict confidentiality all the obtained and elaborated drawings, illustrations, models, templates, patterns, calculations and other data and information. It must not transfer or otherwise disclose them to any unauthorized third parties. The data identified as confidential or to be identified as such as instructed by the Customer must be secured and protected specifically by the Supplier in its premises.

Any duplication or copying of such materials is only admissible within the operational requirements and under the provisions of the Copyright Law. Any disclosed information and its representation including copies remain the property of the Customer and must be returned to the Customer immediately upon request.

- 9.3 If the sub-suppliers and employees of the Supplier are familiarized with order implementation details or otherwise learn or may have learned about the order or information and data subject to confidentiality, the Supplier is obliged to commit such sub-suppliers and employees to confidentiality in an appropriate manner.
- 9.4 The confidentiality obligation stipulated in the previous articles also applies after goods delivery under this contract. This obligation will only cease to exist when the production know-how and the professional knowledge contained in the provided drawings, illustrations, models, templates, patterns and calculations becomes the public domain.
- 9.5 The contracting parties are only entitled to advertise through their business obligational relationship with the prior written consent of the Customer. It is prohibited to use the obtained knowledge to conclude one's own agreements to be invoiced separately.
- 9.6 If the Supplier breaches its obligations stipulated in Art. 9 of these GPTC, it shall indemnify the Customer for any loss incurred by the latter.

## 10. Industrial Protection Rights and Copyright

- 10.1 The Supplier shall not claim or apply for any industrial protection or other rights for any performance, working procedures, processes or products that can be derived from the Customer's information. Nor shall the Supplier for itself or for any third party produce or have produced articles in the production of which the Customer's information is used directly or indirectly. If the Supplier breaches the above-mentioned obligation, the Customer may, in addition to claiming damages at its option, require the protection rights to be erased or transferred to it. Unless agreed otherwise expressly between the contracting parties, then all the industrial protection rights and usufructs acquired under and for the purpose of delivery contract or order implementation, as well as other legal protection items if provided to the Customer under a contract for work, and any rights to all contractually provided work results will pass to the Customer at the moment of occurrence. In this respect, the Customer is entitled without any limitation in time and space, irrevocably and exclusively to all existing usufructs to the above-mentioned rights, legal items and work results, without any further burden and limitation. Unless expressly agreed otherwise, the Customer is entitled to distribute, transfer, modify, rework, duplicate and disclose the work results and products thus acquired. Unless expressly agreed otherwise, the Customer is entitled to apply any products and work results, as well as products generated from contracted activities, for patenting according to the legal provisions.
- 10.2 The Supplier is liable for the copyrights and other third-party rights not being violated in connection with its delivery.

10.3 If a third party raises claims against the Customer for violation of an industrial protection right or copyright to a product supplied by the Supplier, the Supplier shall release the Customer upon a first written request, if legally possible, from all such claims and shall take suitable protective steps immediately, unless the violation of the industrial protection rights or copyrights could be attributable to the Customer, especially based on Customer's instructions. The Supplier is liable towards the Customer for all losses resulting therefrom, especially when product usage or operation is suspended in order to mitigate the losses or for other substantial reasons. The Customer is entitled to obtain, at the cost of the Supplier, a permit needed for delivery, commissioning, use, resale, etc. of the subject of the delivery, providing the third party requires so of the Customer on the basis of such protection rights in connection with the provision of the Supplier's services.

10.4 The Supplier's obligation to release the Customer from the liability concerns all the expenses spent by the Customer in connection with the application of claims by a third party.

10.5 The obligation of release from liability according to the paragraphs above does not apply if the Supplier has produced subjects of delivery according to drawings or models supplied by the Customer or according to other Customer's equivalent descriptions or data and does not or may not know in connection with products developed by it that protective rights have thereby been violated.

10.6 The contracting parties undertake to inform each other immediately about any risks of violation of rights and about any alleged cases of violation and to find opportunity to agree upon appropriate steps against any resulting claims.

10.7 Upon Customer's request, the Supplier shall inform the former about using any published or not published protection rights, licensed protection rights or applied for protection rights concerning the subject of delivery.

10.8 Unless agreed otherwise, the Customer is entitled to all rights even if, when concluding the contract and while taking into account all circumstances, it acted *bona fide*.

## 11. Subcontracting

11.1 Subcontracting with third parties (subsuppliers) is only allowed with the prior written consent of the Customer. If the Supplier subcontracts without the consent of the Customer, it shall be deemed in a material breach of the contractual obligations upon which the Customer is entitled to withdraw from the contract and claim for damages. Such damages shall cover especially any loss caused by a potential project delay with respect to the end customer and any extra costs incurred from contracting another supplier.

11.2 Any transfer of the Supplier's contractual rights and obligations to a third party is only allowed with the prior written consent of the Customer. Otherwise, the provisions of Article 11.1 will apply accordingly.

## 12. Package and Transport

12.1 Packages or transport charges shall only be paid by the Customer if compensation for them has been agreed expressly. Otherwise, all costs of goods transport and delivery shall be at Supplier's expense. If pricing is set for package or for transport exclusively, the provable working costs shall only be paid. Packaging, transport routes and transport means shall be specified by the Supplier according to the current circumstances and in order to prevent any damage to the goods being transported.

12.2 The ordering number of the Customer must be shown in every individual case in any shipment dispatching advice notes, bills of lading, on packages and in delivery notes; otherwise, the Customer has the right to return the shipment without paying the price.

12.3 If for reasons for which it is not liable the Customer cannot accept a delivery or take a service, then the Supplier or carrier shall store the delivery as instructed and at its own expense, beyond the agreed period of time, free of charge and at its own risk, providing the Customer informs the Supplier in due time about the reason and expected period of duration of the obstacle.

12.4 The Supplier must observe the applicable national and international regulations concerning packages, identification and transport. The place of fulfilment for package return is the business offices of the Customer or the place of acceptance and use where the subjects of delivery and the subjects of fulfilment had to be supplied. The Supplier shall pay the cost of return transport and appreciation.

## 13. Transfer of Risks and Losses Incurred in Transport

13.1 The Supplier is obliged to arrange at its own expense, adequate transport insurance corresponding to the delivery value as a minimum. The Supplier shall inform the Customer immediately about any losses occurring during transport, providing it learns about the loss sooner than the Customer. Furthermore, the Supplier is liable for settling any losses occurring during transport. In particular, it must take all steps needed to apply for the insurance claims.

13.2 The Supplier bears the risk of loss occurrence in the goods being transported, consisting especially in their loss, destruction or other damage, until the moment of due delivery when the authorized employees of the Customer take over the goods in the place of fulfilment and certify the takeover. The risk of loss occurrence in the goods being delivered shall pass to the Customer on due acceptance in the agreed place.

## 14. Liability for Defects

14.1 The Supplier warrants that every subject of delivery has the properties as agreed in the contract.

14.2 The subject of fulfilment has defects when it does not meet the qualitative conditions, scope, properties and criteria set in the order, contract or these GPTC. Defects in goods are also considered to be those of all paperwork and documents to be supplied together with the goods.

14.3 The Customer is entitled to claims under the contractual warranty for a minimum period of 36 months of goods delivery by the Supplier. The Supplier undertakes that the goods it supplies have all the standard properties and all the properties specified in the contract and/or in the documentation, if attached to the contract, during the contractual warranty period. The Supplier is liable for any defects occurring in the goods during the whole warranty period, irrespective of the time of origination of such defects. If defects occur in supplied goods, the Supplier is obliged to reimburse all the expenses spent to remove the defect or to deliver a faultless thing, especially the cost of transport, trip, work and materials. The additional fulfilment shall be provided in the place of delivery.

14.4 The Customer and the Supplier agree expressly that, irrespective of defect character and relevance of the breach of the contract due to defects in delivered goods, the Customer shall always be entitled to choose any of the following entitlements or their combination:

- Require defect removal by the delivery of substitute goods, delivery of any missing goods, or require the removal of legal defects
- Require defect removal by goods repair, providing the defects are repairable
- Withdraw from the contract
- Request a reasonable price discount

- Remove the defect by itself or have it removed by a third party or provide for the delivery of substitute goods, all at the expense of the Supplier

14.5 If there are preconditions for withdrawal with respect to one part of the total Supplier's delivery only, the Customer, taking into account the interests of the Supplier, is entitled to partial withdrawal with respect to the defective subjects of delivery.

14.6 The Customer's claims for defects in goods do not affect the right to claim damages or to a contractual penalty.

14.7 In the case of an additional fulfilment (additional defect removal, additional improvement or additional delivery) of the subject of delivery or performance, even in the form of replacement of defective parts, the warranty period for the replaced or additionally improved part of delivery or performance will start running from the beginning. This applies to the whole delivery or performance, providing the Customer or the end user cannot use the faultless parts of the delivery or performance fully without the defective part of the delivery or performance according to the purpose envisaged in the contract.

14.8 The Supplier warrants that its deliveries and performances meet the requirements of the occupational safety regulations and that necessary protective devices in particular are supplied together with the goods, even if the individual parts necessary for trouble-free operation are not mentioned specifically in the order. In other matters, the Supplier undertakes to carry out its deliveries and performances in accordance with the terms and conditions of the relevant trade association.

14.9 If the Supplier is in delay in the fulfilment of any of its obligations under the Supplier's liability for defects in the goods, the Supplier shall pay the Customer a contractual penalty of 0.5% of the defective goods per day of the delay in meeting the obligation to deliver the duly ordered goods. The contractual penalty is due within three days of the delivery of a Customer's call to pay the penalty.

## 15. Withdrawal from Contract

15.1 Irrespective of the other provisions of these GPTC, the Customer is entitled to withdraw from the contract in the case of:

- Supplier's delay in meeting the obligation to deliver the ordered goods in a due and timely manner;
- Supplier's delay in meeting any of its obligations under its liability for defects in the delivered goods;
- starting insolvency proceedings with the Supplier;
- Supplier's entering bankruptcy;
- occurrence of a Force Majeure event preventing the delivery of the ordered goods for a period exceeding 3 days;
- additional fulfilment being intolerable for the Customer;
- the Supplier's failure to arrange insurance according to the conditions set in Art. 19 of the GPTC.

Additional fulfilment is intolerable for the Customer especially when there is a danger that the deadline set for the Customer by the end user for the delivery and/or production of the goods for which the subject of delivery is needed, expires due to the additional fulfilment.

## 16. Delivery of Spare Parts

The Supplier warrants the availability of spare parts and consumables for a period of ten years.

## 17. Documentation

17.1 Together with the delivery, the Supplier shall supply to the Customer due documentation concerning especially the product properties, use, operation, further processing or installation, such as certificates; measurement reports; product descriptions; storage, operation and maintenance instructions; installation instructions; and list of parts subject to fast wear and tear, in Czech language and always in duplicate. The Supplier warrants the completeness and correctness of this documentation. The Supplier is obliged to supply the documentation on suitable data carriers and to make timely inquiries with the Customer about its requirements for the data carriers.

17.2 In the case of absence of complete, faultless and sufficient documentation according to the previous provision and to the other agreements of the contracting parties, the Supplier shall be liable to the Customer and to the end user for any damage incurred due to any missing or faulty documentation. This applies especially to damage occurring through improper operation or maintenance, incorrect installation or assembly. If such absence or incompleteness of the documentation represents a defect in the subject of delivery or performance, the provisions of Art. 14 shall apply.

## 18. Liability

18.1 Customer's entitlements to claim damages are excluded if the damage occurs due to breaching the operation, maintenance and installation instructions, incorrect or non-professional use, improper or neglected care, natural wear and tear or wrong repair attributable to the Customer. This does not apply if the breach of the operation, maintenance and installation instructions, incorrect or non-professional use, improper or neglected care or wrong repair results from the absence of or fault in the documentation according to Article 16.

18.2 The Customer shall inform the Supplier immediately about its intention to apply its claims against the Supplier according to the provisions above. The Customer must provide the Supplier with opportunity to examine the occurrence of damage. The contracting parties shall agree upon the steps to be taken, especially in conciliatory proceedings.

18.3 If the Supplier causes a loss to the Customer in connection with its obligation to supply goods duly and provide services in due and timely manner, it undertakes to settle the loss thus incurred in full. The Customer is entitled to transfer to the Supplier in full any sanctions imposed upon it by its contracting parties and charged to it in the causal connection with the breach of the Supplier's contractual obligations. It concerns especially the cases of Supplier's delay, delivery of goods with defects, delivery of goods in insufficient quantity, execution of works contrary to the order or contract, damage of the property of a Customer's contracting party, as well as other cases of breaching contractual obligations by the Supplier. The Supplier undertakes to pay the Customer thus imposed sanctions in full.

## 19. Supplier's Insurance

19.1 The Supplier must have business third party insurance arranged. The insurance must cover as a minimum any cases of damage caused to other persons through defective products, goods, faulty production procedure or by breaching the contractual terms and conditions. The scope of the insurance must correspond with the total price of ordered goods or services, and the insurance benefit limit must be EUR 1 million as a minimum. The Supplier shall submit an insurance certificate to the Customer before signing every contract or partial order. If the Supplier is not insured according to the provisions of these GPTC, the Customer is entitled to withdraw from the contract or order concluded with the Supplier.

## 20. Material Provision

20.1 Any material provided shall remain the property of the Customer and shall be stored, identified and controlled separately and free of charge . It is only admissible to use it for the Customer's orders. If the value of the material is decreased or the material gets lost, the Supplier shall provide compensation and arrange insurance at its expense for this purpose. This also applies to billed abandonment of any material connected with an order.

20.2 The material is processed and reworked for the Customer, who shall become the immediate owner of the new or reworked thing. If this is not possible for legal reasons, the Supplier and the Customer shall agree as soon as when concluding an order that the ownership of such a new or reworked thing would pass to the Customer at the moment of origination. The Supplier shall keep the new or reworked thing with due diligence.

## **21. General Provisions**

21.1 These GPTC are published on the Customer's web pages and a reference to them is part of every order or contract concluded.

21.2 Unless agreed otherwise, the rights and obligations of the contracting parties under these GPTC are exclusively governed by the law of the Czech Republic. If a controversy occurs between the Customer and the Supplier in connection with the rights and obligations stipulated in these GPTC, such controversy shall be decided by a court of Pilsen competent in rem.

21.3 The place of fulfilment for the deliveries and performances is the place of acceptance and use specified by the Customer, unless agreed specifically otherwise.

21.4 If any of the provisions of these purchasing terms and conditions and concluded agreements is or becomes ineffective, it shall not affect the validity of the other parts of the contract.