

## **Iskra Avtoelektrika d.d. General Terms and Conditions of Purchase for Automotive**

### **1. DETERMINING CONDITIONS**

The legal relationship between seller and buyer shall be determined by the following conditions and any additional terms agreed between the contracting parties, if any. Changes and amendments to these conditions have to be made in writing. Any other general terms and conditions shall not be applicable, even if they were not rejected explicitly in any individual case.

### **2. ORDERS AND DELIVERIES**

#### **2.1 Orders**

Supply contracts (order and acceptance of such order) and delivery releases as well as any changes and amendments thereof have to be made in writing. Delivery releases may also be issued by tele-communication. Any delivery release shall become binding if the seller does not reject such material release within one week of its receipt. To the extent it is reasonably acceptable to the seller, the buyer may demand changes to be made to the goods relating to design and process. In this case the consequences, especially with respect to additional costs or reduction of costs, as well as with respect to delivery dates, are to be resolved in an appropriate and mutually agreeable manner.

#### **2.2 Delivery dates and time limits**

Agreed delivery dates and time limits are binding. Compliance with such dates or time limits shall be determined by the day of arrival of the goods to be supplied at the Buyer. Seller shall make the goods available in good time taking into consideration the time usually necessary for loading and shipment.

#### **2.3 Delay**

The seller shall be committed to compensate the buyer for damages caused by delay. There shall be no right of recovery for loss of profit and damages resulting from interruption of business.

#### **2.4 Premium Shipments**

If Seller fails to have goods ready for shipment in time to meet Buyer's delivery schedules using the method of transportation originally specified by Buyer and, as a result, Buyer requires Seller to ship the goods using a premium (more expeditious) method of transportation, Seller will ship the goods as expeditiously as possible. Seller will pay, and be responsible for, the entire cost of such premium shipment, unless Buyer's actions caused Seller to fail to meet Buyer's delivery schedules, in which case Buyer will pay costs for premium shipment.

#### **2.5 Volume Forecasts**

Buyer may provide Seller with estimates, forecasts or projections of its future anticipated volume or quantity requirements for goods. Seller acknowledges that any such forecasts are provided for informational purposes. Buyer makes no representation, warranty, guaranty or commitment of any kind or nature, express or implied, regarding any such forecasts provided to Seller, including with respect to the accuracy or completeness of such forecasts.

### **3. PAYMENT**

3.1 Payment shall be made according to the terms individually agreed. In case of premature shipments, payment will be made according to the agreed delivery date.

3.2 In case of defective deliveries, the Buyer shall be entitled to withhold payment pro rata to the value until the defective goods have been replaced.

3.3 Without previous written consent of the Buyer, which shall not be unreasonably withheld, the Seller shall not be entitled to assign his receivables to third parties or to have such receivables collected by third parties.

### **4. CONFIDENTIALITY**

4.1 The contracting parties commit themselves to deem as business secrets all commercial and technical details, which come to their knowledge during the course of their business relationship unless such details are public.

4.2 Drawings, models, patterns, samples and similar objects shall not be made available or otherwise be made accessible to unauthorized third parties, shall only be used for the purposes of the contract between the Seller and the Buyer and shall not be used for other purposes of the Seller. Reproduction of such objects is permitted only according to business requirements or in compliance with the laws on copyright.

4.3 Subsuppliers shall be made to commit themselves accordingly.

4.4 Each contracting party may use the established business relationship for advertising purposes only after having obtained previous written consent from the other party.

## **5. SPECIFICATION, DESIGN AND SCOPE CHANGES**

Buyer may at any time require Seller to implement changes to the specifications or design of the goods or to the scope of any services or work covered by this Contract, including work related to inspection, testing or quality control. While Buyer will endeavour to discuss any such changes with Seller as early as practical, Seller will promptly implement such changes. Buyer will equitably determine any adjustment in price or delivery schedules resulting from such changes, including Buyer's payment of reasonable costs of modifications to Seller's Equipment necessary to implement such changes. In order to assist in the determination of any equitable adjustment in price or delivery schedules, Seller will, as requested, provide information to Buyer, including documentation of changes in Seller's cost of production and the time to implement such changes. In the event of any disagreement arising out of such changes, Buyer and Seller will work to resolve the disagreement in good faith, provided, however, that Seller will continue performing under this Contract, including the manufacture and delivery of goods and prompt implementation of changes required by Buyer, while Buyer and Seller resolve any disagreement arising out of such changes.

## **6. QUALITY AND INSPECTION**

Seller will participate in Buyer's supplier quality and development program(s) and comply with all engineering release and validation requirements and procedures, including Buyer's production part approval processes, which Buyer specifies from time to time. Seller will permit Buyer and its representatives and consultants to enter Seller's facilities at reasonable times to inspect such facilities and any goods, inventories, work-in-process, materials, machinery, equipment, tooling, fixtures, gauges and other items and processes related to Seller's performance of this Contract. No such inspection by Buyer will constitute acceptance by Buyer of any work-in-process or finished goods.

## **7. NON-CONFORMING GOODS**

Buyer is not required to perform incoming inspections of any goods, and Seller waives any right to require Buyer to conduct any such inspections. If Buyer rejects any goods as non-conforming, Buyer may, at its option, (a) reduce the quantities of goods ordered under this Contract by the quantity of non-conforming goods, (b) require Seller to replace the non-conforming goods, and/or (c) exercise any other applicable rights or remedies.

The buyer shall notify the seller in writing about any non-conformities of a shipment as soon as such non-conformities have been discovered in the course of an orderly business practice. In case the buyer complies with the afore-stated condition the seller hereby waives his right to reject delayed notification of deficiency.

## **8. FORCE MAJEURE**

In case of Acts of nature, labour disputes, civil commotion, governmental or official actions and other non-foreseeable, inescapable and serious events the contracting parties shall be temporarily relieved from their obligations during the period of time such events continue and to the extent their liabilities are affected. The afore-stated shall also be applicable in case the contracting party concerned is already in default. The contracting parties are committed to give each other the necessary information which may reasonably be expected without delay, and to adjust their obligations in good faith to the changed circumstances, emissions standards and the like, demand inspection of the manufacturing process and disclosure of the test records of the Buyer, to scrutinize certain requirements, the Seller shall, upon request of the Buyer, concede to such authorities the rights which they have with regard to the Buyer and provide them with the support which may reasonably be expected.

## **9. WARRANTY**

**9.1 General.** Seller warrants and guarantees to Buyer, its successors, assigns and customers that the goods and services covered by this Contract will (a) conform to the current release/revision level (based on date Buyer's release is issued to Seller) of Buyer's applicable specifications and drawings, (b) conform to all samples, descriptions, brochures and manuals furnished by Seller or Buyer, (c) be merchantable, (d) be of good material and workmanship, (e) be free from defect, and (f) be fit and sufficient for the particular purposes intended by Buyer and any customer of Buyer. If requested by Buyer, Seller will enter into a separate agreement for the administration or processing of warranty chargebacks for nonconforming goods.

**9.2 Warranty Period.** In the case of goods supplied for use as, or incorporation into, parts, components or systems for automotive vehicles or other finished products, the period for each of the foregoing warranties will commence upon delivery of the goods to Buyer and, except as provided in Section 9.4 or as otherwise expressly agreed in writing by an authorized employee of Buyer, end twenty-four (24) months following the date the vehicle or other finished product on which such parts, components or systems are installed is first sold and delivered or otherwise utilized for consumer or commercial purposes, provided, however, that if Buyer's customer requires Buyer to offer and provide a longer warranty with respect to any such parts, components or systems, then such longer warranty period will apply to the goods. In the case of goods supplied for other uses, the period for each of the foregoing warranties will be that provided by applicable law unless otherwise expressly agreed in writing by an authorized employee of Buyer.

**9.3 Remedies and Damages.** If any goods are reasonably determined (including by use of statistical analysis or other sampling methodology) to fail to conform to the warranties set forth in this Contract, Seller shall reimburse Buyer for

all reasonable losses, costs and damages caused by such nonconforming goods. Such costs and damages may include, without limitation, costs, expenses and losses of Buyer and/or its customers arising from (i) inspection, sorting, repair or replacement of any nonconforming goods or any system or component that incorporates such nonconforming goods, (ii) production interruptions or slowdowns, (iii) offlining of vehicles or component systems, and (iv) field service campaigns and other corrective service actions, including, without limitation, the amounts paid to distributors and/or dealers for materials and replacement parts (including reasonable markup to recover administrative costs or other capital expenses) and the labour costs to perform such work.

**9.4 Recalls.** Notwithstanding the expiration of the warranty period set forth in Section 9.2, if Buyer and/or the manufacturer of the vehicles (or other finished product) on which the goods, or any parts, components or systems incorporating the goods, are installed, voluntarily or pursuant to a government mandate, makes an offer to owners of such vehicles to provide remedial action to address a defect that relates to motor vehicle safety or the failure of the vehicle to comply with any applicable law, safety standard or guideline (a so-called "recall"), Seller will nonetheless be liable for costs and damages associated with the conduct of such recall to the extent that such recall is based upon a reasonable determination (including by use of statistical analysis or other sampling methodology) that the goods fail to conform to the warranties set forth in this Contract.

#### **10. TERMINATION FOR BREACH**

Buyer may terminate all or any part of this Contract without any liability to Seller or obligation to purchase raw materials, work-in-process or finished goods under Section 11 if Seller (a) repudiates, breaches, or threatens to breach any of the terms of this Contract, including Seller's warranties, (b) fails to perform or threatens not to perform services or deliver goods in accordance with this Contract or (c) fails to assure timely and proper completion of services or delivery of goods.

#### **11. TERMINATION FOR CONVENIENCE**

In addition to any other rights of Buyer to terminate this Contract, Buyer may immediately terminate all or any part of this Contract, at any time and for any reason, by providing reasonable notice to Seller in writing to the extent required by applicable law and without any liability to Seller except to the extent set forth in this Section 11. Upon such termination, Buyer may, at its option, purchase from Seller any or all raw materials, work-in-process and finished goods inventory related to the goods under this Contract which are useable and in a merchantable condition. The purchase price for such finished goods, raw materials and work-in-process, and Seller's sole and exclusive recovery from Buyer on account of such termination, will be (a) the contract price for all goods or services that have been completed in accordance with this Contract as of termination date and delivered and accepted by Buyer and not previously paid for, plus (b) the actual costs of work-in-process and raw materials incurred by Seller in furnishing the goods or services under this Contract to the extent such costs are reasonable in amount and are properly allocable or apportionable under generally accepted accounting principles to the terminated portion of this Contract less (c) the reasonable value or cost (whichever is higher) of any goods or materials used or sold by Seller with Buyer's written consent. In no event will Buyer be required to pay for finished goods, work-in-process or raw materials which Seller fabricates or procures in amounts that exceed those Buyer authorizes in delivery releases nor will Buyer be required to pay for any goods or materials that are in Seller's standard stock or that are readily marketable. Payments made under this Article will not exceed the aggregate price for finished goods that would be produced by Seller under delivery or release schedules outstanding at the date of termination. Within sixty (60) days after the effective date of termination, Seller will submit a comprehensive termination claim to Buyer, with sufficient supporting data to permit an audit by Buyer, and will thereafter promptly furnish any supplemental and supporting information Buyer requests.

#### **12. PRODUCT LIABILITY**

Seller will defend, hold harmless, and indemnify Buyer from and against any liability and expenses (including, without limitation, attorney and other professional fees and disbursements) arising from or in connection with any third party claims or demands to recover for personal injury or death, property damage or economic loss caused by any of the goods or services supplied by Seller (regardless of whether such claim or demand arises under tort, negligence, contract, warranty, strict liability or any other legal theories), except to the extent such injury, damage or loss results from Buyer's specifications as to design or materials or from alteration or improper repair, maintenance or installation by any party other than Seller.

#### **13. INDUSTRIAL PROPERTY RIGHTS**

Seller will defend, hold harmless and indemnify Buyer and its customers, and their respective successors and assigns, against any claims of infringement (including patent, trademark, copyright, moral, industrial design or other proprietary rights, or misuse or misappropriation of trade secret) and resulting damages and expenses (including, without limitation, attorney and other professional fees and disbursements) relating to the goods or services covered by this Contract, including any claims in circumstances where Seller has provided only part of the goods or services. Seller waives any claim against Buyer that any such infringement arose out of compliance with Buyer's specifications.

**14. ENTIRE AGREEMENT**

This Contract, together with the attachments, exhibits, supplements or other terms of Buyer specifically referenced in this Contract, constitutes the entire agreement between Seller and Buyer with respect to the matters contained in this Contract and supersedes all prior oral or written representations and agreements. This Contract may only be modified by a written contract amendment issued by Buyer. Notwithstanding anything to the contrary contained herein, Buyer explicitly reserves, and this Contract will not constitute a waiver or release of, any rights and claims against Seller arising out of, or relating to, any fraud or duress in connection with the formation of this Contract or any breach or anticipatory breach of any previously existing contract between Buyer and Seller (whether or not such previously existing contract related to the same or similar goods or subject matter as this Contract). All payments by Buyer to Seller under this Contract are without prejudice to Buyer's claims, rights, or remedies.

**15. GOVERNING LAW AND JURISDICTION**

This Contract is to be construed according to the laws of the country (and state or province, if applicable) where Buyer's receiving location is located (as shown by the ship to or receiving address of Buyer). All disputes arising out of or in connection with the contract shall be finally settled under the rules of arbitration of the International Chamber of commerce (ICC) by one arbitrator appointed by the said rules.

**16. TRANSLATIONS**

Buyer may provide various translated versions of these General Terms and Conditions for informational purposes only. However, the original English language version of these General Terms and Conditions will apply in the event of any disagreement over the meaning or construction of any provisions of these General Terms and Conditions.