

## Conditions of Purchase

of Oberaigner Automotive GmbH, D-18299 Laage, Roman-Oberaigner-Allee 1,  
dated June 2017

for the exclusive application with respect to enterprises acting in carrying out their commercial or independent professional activity on concluding this agreement.

### 1. Binding relations

The legal relations between the supplier and Oberaigner Automotive GmbH, D-18299 Laage, Roman-Oberaigner-Allee 1 ("Oberaigner") shall be based on these conditions and any other arrangements. Any amendments and additions to this shall be made in writing. No other General Conditions of Business shall apply even if these have not been expressly rejected unless Oberaigner has explicitly agreed to these. Actions carried out by Oberaigner in fulfilling the agreement shall not be considered as any consent to alternative contractual conditions.

These General Conditions of Business shall serve as a framework agreement for all subsequent legal relations between the contractual parties.

### 2. Orders

- 2.1 Delivery agreements (orders and acceptance) and delivery schedules as well as changes and additions to these shall be made in writing. Delivery agreements (orders and acceptance) and delivery schedules may also be concluded by data transmission.
- 2.2 The supplier shall be obliged to respond to orders or delivery schedules from Oberaigner without delay and within no longer than one week. Failure to respond shall be considered as approval or acceptance of such order.
- 2.3 Oberaigner may demand at any time that changes be made regarding the construction and design of items to be delivered. If this means that the agreed delivery deadlines can no longer be kept or are likely to involve an increase in the agreed prices, the supplier shall notify Oberaigner of this without delay and propose a suitable deadline and/or price increase in writing. The originally agreed delivery deadlines and prices shall otherwise also apply for the changed order.
- 2.4 Regarding the conclusion of framework agreements, the provisional purchase quantities stated in these shall be binding. Oberaigner shall therefore also be entitled to purchase lower quantities or to end the business relations at any time without providing reasons.

### 3. Payment, invoice and delivery note

- 3.1 Payment shall take place by transfer.
- 3.2 On accepting premature deliveries, the due date shall be based on the agreed delivery deadline.
- 3.3 In the case of defective delivery, Oberaigner shall be entitled to withhold payment until proper and complete fulfilment has taken place.
- 3.4 The supplier shall not be entitled to surrender its demands against Oberaigner or to allow third parties to collect these without Oberaigner's prior written approval. If the supplier surrenders his demands against Oberaigner to a third party in contrast to sentence 1 without its approval, Oberaigner may however, at its own discretion and in full discharge of its liabilities, fulfil its liabilities both to the supplier and the third party to whom the demands have been surrendered.
- 3.5 The invoice shall be sent in simple form to the plant to be supplied. It shall – otherwise it shall not be payable – include the supplier number, number and date of the order (or completion of the purchase and delivery schedule), addition, orderer's additional data (allocation), VAT ID

No. in case of international deliveries within the European Community, offloading point, number and date of the delivery note and quantity of the goods invoiced. The invoice shall only refer to one delivery note.

- 3.6 If it is agreed that the supplier may also issue part invoices, a discount shall also be guaranteed for the individual part and final invoices paid within an agreed cash discount period if the payment of another part invoice does not take place within an agreed cash discount period.

#### **4. Notice of defects**

It is expressly agreed that Oberaigner shall be completely free from the obligation to inspect and report defects under article 377 of the Civil Code (or the following legal conditions) without forfeiting any legal claims (in particular, claims from guarantees and compensation). Oberaigner shall not therefore be obliged to examine the goods received or to report or notify any defects.

Article 377 of the Civil Code shall not apply.

#### **5. Secrecy**

- 5.1 The contractual parties shall be obliged to treat with secrecy all not generally known commercial and technical details of which they gain knowledge during the business relations and shall in particular refrain from using these for anything other than their purpose or from utilizing or making these known to unauthorized third parties.
- 5.2 Drawings, models, templates, samples, sketches, tools, production tools and other items as well as confidential details and construction data provided to the supplier by Oberaigner or paid by the latter and generally, all business details shall not be provided or otherwise made accessible to third parties and may only be used or utilized for the purpose of the business relations with Oberaigner. Such items shall only be duplicated if required due to the circumstances within the business and in accordance with the copyright conditions. On termination of the business relationship, the supplier shall return all these items to Oberaigner without request and without retaining any copies or suchlike.
- 5.3 Sub-suppliers shall be obliged accordingly.
- 5.4 The contractual partners shall only use their business relations for advertising with prior written approval.

#### **6. Delivery dates and deadlines**

Agreed dates and deadlines shall be binding. The receipt of the goods at the plant to be supplied by Oberaigner shall be decisive as regards adherence to the delivery date or delivery deadline. If a delivery "free works" has not been agreed, the supplier shall prepare the goods subject to consideration of the normal time for loading and dispatch.

The delivery of empties must also be possible at the same time as collection. On provision of the truck within the agreed time frame, the unloading of empties for the supplier and loading incl. administrative processing must be carried out within the following times:

- Package freight up to 2.5 t or up to 10 cbm max. 30 minutes
- Partial loads up to 10 t or up to 40 cbm max. 45 minutes
- Full shipments max. 60 minutes

At the request of the mover, the supplier is obligated to confirm the start and end of vehicle provision on a docket. Delayed processing plus inappropriate loading and waiting times lead to additional costs and must be borne by the supplier.

#### **7. Quality and documentation**

- 7.1 The supplier shall adhere to the recognized rules of technology, safety regulations and the agreed technical data with respect to its deliveries. Changes to the item to be delivered shall require Oberaigner's prior written approval. For the first sample inspection, reference is made to the VDA text "Securing the quality of deliveries – selecting suppliers/production process – and product approval/Quality performance in production". The supplier shall constantly inspect the quality of the items delivered independently of this. The contractual partners shall inform one another of the possibilities of improving quality.

- 7.2 The supplier shall also record in its quality records for all products when, how and by whom the defect-free production deliveries were secured. These records shall be retained for 15 years and submitted to Oberaigner if necessary. The supplier shall be entitled to reduce the retention period of the records if it is able to exclude any danger to life and health when using the products. The supplier shall oblige pre-suppliers to the same extent as far as legally possible. Reference, by way of instruction is made to the VDA text "Keeping records – Guide to documentation and archiving quality demands", Frankfurt am Main 1998.
- 7.3 As far as authorities responsible for vehicle security, exhaust gas conditions, etc., demand an inspection of the production process and Oberaigner's test documents for the purpose of checking as to certain demands, the supplier shall declare its readiness on request from Oberaigner to grant it the same rights within its business and to provide it with all reasonable support.

## **8. Guarantee**

- 8.1 In the case of defects of goods delivered or services provided, the supplier shall be obliged to provide a guarantee at Oberaigner's discretion either by way of improvement, exchange or price reduction. Provided the defect is not minor, Oberaigner shall also be entitled to demand the agreement be changed instead of the stated warranty remedy; a change or a price reduction at Oberaigner's discretion may also be required without setting any deadline if the supplier refuses to carry out the improvement or the change originally demanded by Oberaigner or fails to do so within the deadline set by Oberaigner. Oberaigner shall be entitled at any time to rectify the defect itself or have this done by a third party. The supplier shall bear the costs of this. Until the supplier provides evidence to the contrary, it shall be assumed that the defect was already present on handover; this shall also apply if the defect does not occur until six months after handover.
- 8.2 Rights under the guarantee shall be asserted within three years of Oberaigner receiving the goods. If Oberaigner issues notification of a defect in writing or verbally within this period or if there are legal grounds for interrupting the guarantee period, this period shall commence once more; if the defect is reported within the stated period, Oberaigner shall in any case reserve the right to make such assertion by way of objection without subject to limitation. If Oberaigner has provided third parties with a guarantee, it may demand a guarantee from its supplier even on expiry of these deadlines. Oberaigner shall however assert such a claim against third parties within six months of complete fulfilment of the guarantee rights.
- 8.3 The exercising of the guarantee rights shall not affect any further reaching claims by Oberaigner for compensation, product liability or other reasons.

## **9. Compensation**

The supplier shall fully indemnify Oberaigner from loss of any kind that Oberaigner may occur directly or indirectly due to a defective delivery or service, due to the violation of official safety regulations, due to contravention of the agreed delivery times, dates and deadlines, sub-delivery or any other legal grounds attributed to the supplier. The supplier shall be liable until full compensation has been made for all damage occurring in this context. This shall also apply in particular to any outside or own expenses (including material or personnel expenses) in connection with establishing or rectifying of defects or any dissatisfied material and personnel expenses due to defects and other costs or loss of profits and damage due to industrial downtimes, due to delivery delay or the associated extra expense regarding this delay connected with own or outside personnel and material and any penalties and other compensation to be paid by Oberaigner to customers. The supplier shall bear the burden of proof that it is not to blame for the damage it has caused.

## **10. Property rights**

The supplier shall be liable for claims arising from the contractual use of the delivery items from the violation of property rights and property registrations (property rights) of which at least one was published from the family of property rights in the supplier's home country, the European Patent Office or in one of the States of the Federal Republic of Germany, France, the United Kingdom, Austria or the USA.

- 10.2 It shall indemnify Oberaigner and its customers from all claims from the use of such property rights and shall indemnify Oberaigner in this respect.
- 10.3 The supplier shall, on request from Oberaigner report on the use of published and unpublished own and licensed property rights and property registrations of the goods delivered.

## **11. General provisions**

- 11.1 If the supplier ceases payment, insolvency shall apply or insolvency proceedings shall be requested or opened with respect to its assets thus entitling Oberaigner to withdraw from the unfulfilled part of the agreement.
- 11.2 The supplier shall not be entitled to discontinue or withhold its deliveries or other services if invoices by Oberaigner are not paid in the event of an indication as to lacking maturity, warranty or compensation claims or other legal grounds or if other payments are withheld.
- 11.3 If any of these conditions and the other agreements should be or become ineffective, this shall not affect the validity of the remainder of this agreement. The contractual parties shall be obliged to replace the ineffective condition by one that comes as close as possible economically to the condition to be replaced.
- 11.4 This agreement shall be governed exclusively by German law. The applicability of the United Nations Convention of 11 April 1980 on the International Sale of Goods shall not apply.
- 11.5 Place of performance for the delivery shall be the Oberaigner's works. The place of performance shall otherwise be Oberaigner's registered office.
- 11.6 The place of jurisdiction shall be the competent court in the legal district of Oberaigner's registered office.
- 11.7. The terms are valid together with the "guidelines for suppliers" (quality agreement) in the current version.

