

## **GENERAL PURCHASING CONDITIONS FOR TOOLING (AT SUPPLIER'S FACILITY) ("IMGPCTS")**

### FOR PURCHASE ORDERS SUBMITTED AFTER DECEMBER 01, 2023

#### KONGSBERG AUTOMOTIVE

#### **§ 1: General; Offer and Acceptance of Contract**

- 1.1 The attached purchase order and any other purchase order together with these terms and conditions ("**Order**") issued by the affiliate or subsidiary of Kongsberg Automotive ASA identified on the face of the Order ("**Buyer**") is Buyer's offer to the Supplier identified on such Order and its applicable affiliates and subsidiaries ("**Supplier**") to enter into an agreement for the purchase of tools described in the Order (the "**Tools**").
- 1.2 Supplier's general terms and conditions or any other Supplier's contractual documents shall not apply, irrespective of whether or not such terms and conditions have been expressly rejected by Buyer. Any deviating terms and conditions shall only be binding upon written confirmation by Buyer. Buyer's unconditional acceptance of or payment for the Tools shall not constitute the conclusive acceptance of any deviating terms and conditions.
- 1.3 The Order supersedes all prior or contemporaneous agreements, orders, quotations, proposals and other communications, terms or conditions between Buyer and Supplier regarding the Tools, and the Order does not constitute an acceptance of any offer or proposal made by Supplier. Any Supplier quotation, proposal, response, counter-offer or similar undertaking relating to the Tools or otherwise is expressly rejected and is replaced in its entirety by the offer made through the Order. Notwithstanding the foregoing, the terms and conditions set forth in Buyer's request for quotation shall be incorporated by reference herein.
- 1.4 Supplier has read, understands and fully accepts the Order and these accompanying terms and conditions, and a binding contract shall be deemed to have been created upon Supplier doing any one of the following (a) acknowledging the Order via an order confirmation, (b) accepting the Order in writing or otherwise, (c) commencing any work under the Order, or (d) undertaking any other conduct that recognizes the existence of a contract with respect to the subject matter of the Order.

#### **§ 2: The Tools**

- 2.1 Supplier shall design, construct and manufacture (or have manufactured) Tools in accordance with the specification, technical descriptions, drawings or CAD models of the Tool or single parts thereof provided or approved by Buyer ("**Specification**"). Supplier shall immediately inform Buyer if in Supplier's view the Specification is incorrect, incomplete or otherwise deficient. Any modification of the Specification by Supplier shall require the prior written consent of Buyer.
- 2.2 Supplier's obligation to construct the Tools shall also include the related documentation (all drawings, descriptions and other documentation, including CAD models and the source code, of the Tools). Unless otherwise agreed, the documentation must be provided in English language and together with production part approval process (PPAP) submission, at the latest.
- 2.3 Upon completion of the Tools, Supplier shall furnish Buyer with initial samples in the required quantity as well as with a completed tool data sheet (including a photo in open condition).

#### **§ 3: Operation, Storage and Maintenance**

- 3.1 Supplier shall use and operate the Tools with due care and in accordance with any design parameters and operating instructions received from Buyer. Supplier shall at all times store the Tools in a safe manner when not in use and keep it separated from Supplier's and third parties' goods. Unless otherwise instructed by Buyer, Supplier shall mark the Tooling as Buyer's property and the Tools' ID/Asset number, part number and description as provided by Buyer.
- 3.2 Supplier shall keep all the Tools, regardless of ownership, well maintained at all times, ready for operation and in compliance with the Specification. Supplier shall further be responsible in particular for the correct and accurate inspections, repairs and replacement of the Tools and any parts thereof.
- 3.3 Unless otherwise agreed in writing, the cost for the continuing repair, maintenance, storage and readiness of the Tools in good operating condition and free from defects of any kind, as well as the replacement of worn-out parts of the Tools shall be borne by Supplier in all respects. Upon Buyer's request, Supplier shall provide Buyer with a preventive maintenance program for the Tools.
- 3.4 Regardless of ownership, Supplier shall maintain the Tools used to manufacture goods to Buyer in good working condition for the continued supply of goods for a period of fifteen (15) years after termination of Supplier's supply of the goods for Buyer's series production. When the aforesaid fifteen (15) years period has ended, Supplier shall inquire from Buyer and await Buyer's written instructions whether the Tools shall be transferred to Buyer or scrapped by Supplier. Unless otherwise agreed, Supplier shall scrap the Tools at its own expense.
- 3.5 Supplier shall at any time at Buyer's written request release and deliver the Tools to Buyer provided that all invoiced undisputed amounts under the Order are paid to Supplier.

#### **§ 4: Title to the Tools**

- 4.1 The Tools become Buyer's property and the title to the Tools shall pass to the Buyer as it is fabricated or delivered to Supplier from Supplier's sub-supplier, regardless of whether the payment for the service under the Order have fallen due or not.
- 4.2 Supplier shall mark the Tools as Buyer's property and ensure that Buyer's ownership and title to the Tools is maintained at all times while in Supplier's possession. Supplier agrees to make any further declaration and to take any steps so as to protect and/or obtain recognition of Buyer's ownership of the Tools and to obtain restitution of the same.
- 4.3 Buyer shall become the sole and exclusive owner of all intellectual property, including without limitation copyright, design rights, patent, trademark, trade secrets, know-how, developed in connection with the design and manufacturing of the Tools. To the extent that, by operation of law, Supplier owns any intellectual property in the Tools, Supplier hereby assigns to Buyer all rights, title and interest, including copyrights and patent rights, in such Tools. Buyer shall further be granted a non-exclusive license to any intellectual property vested in the Tools that is developed independently of the work executed under the Order. Such license shall cover the use of the Tools and manufacturing of additional samples of the Tools for the event that Supplier should be unable or unwilling to manufacture such samples at competitive terms. Buyer may freely assign such license to any company within the same group as Kongsberg Automotive ASA and to any third party which is contracted by Buyer to manufacture automotive parts for which the Tools is intended to be used.
- 4.4 Supplier expressly warrants that the Tools and the use thereof will not and do not infringe on any patent, trademark, copyright or other intellectual property of any third party. Supplier (i) agrees to defend, hold harmless and indemnify Buyer and Buyer's affiliates and subsidiaries against all claims, demands, losses, suits, damages, liability and expenses (including actual fees for attorneys, experts and consultants, settlement costs and judgments) arising out of any suit, claim or action for actual, or alleged direct or contributory infringement of, or inducement to infringe, any patent, trademark, copyright or other proprietary right by reason of the manufacture, use or sale of the Tools. Notwithstanding the foregoing, Supplier is not liable if it has manufactured the Tools in accordance with Buyer's specifications and/or drawings and could not have known that following the specifications and/or drawings would result in infringement of a third party's intellectual property right.

#### **§ 5: Quality and Warranties**

- 5.1 Supplier warrants to Buyer, its successors and assigns that the Tools shall conform to the Specifications and all applicable laws and regulations, be free of defects in design (to the extent that Supplier furnished the design), materials and workmanship. In addition, Supplier acknowledges that Supplier knows of Buyer's intended use and expressly warrants that the Tools have been selected, designed, manufactured or assembled by Supplier, based upon Buyer's stated use, will be fit and sufficient for the particular purpose intended by Buyer. If the Tools do not conform to the aforementioned warranties Supplier shall (i) immediately rectify the non-conformity, (ii) notify Buyer in writing of the measures Supplier has taken to ensure compliance under this section, and (iii) indemnify and hold harmless Buyer and Buyer's affiliates and subsidiaries from any losses and damages attributable to such non-conformity.
- 5.2 Supplier warrants to Buyer, its successors and assigns that it shall, whenever possible, use parts of the highest industry quality for the design, manufacturing and/or procurement of the Tools, and shall supply a detailed bill of materials listing all parts thereof. Supplier further agrees that it shall comply with all specific product sourcing directions of Buyer.
- 5.3 Supplier acknowledges that delivery times are of the essence and in the event that Supplier fails to finish the Tools strictly in accordance with the dates specified by Buyer in the Order or otherwise in writing then, in addition to any other rights and remedies available to Buyer in the Order or under applicable law, Buyer shall be entitled to: (a) entirely or partially cease the purchases of the Tools; (b) purchase the Tools from a third party or other sources; and (c) recover from Supplier all losses and damages caused directly or indirectly by the failure to adhere to Buyer's finishing dates, however Supplier is not liable for Buyer's loss of profit unless Supplier has exceeded any such dates with more than ten (10) days.
- 5.4 All warranties herein shall be in addition to all other warranties, express, implied, or statutory and are effective for the longer of: (a) the term of the Order; or (b) if the Order is terminated before the expiration of the fifteen (15) year period in section 3.4, three (3) years from delivery of the Tools to Buyer. If the Tools do not conform to any warranty provided by Supplier to Buyer hereunder during the aforementioned three (3) year period, Buyer shall notify Supplier and Supplier shall reimburse Buyer for any incidental, direct, consequential and indirect damages, including costs, expenses and losses incurred by Buyer relating to such non-conformity.

#### **§ 6: Acceptance**

- 6.1 Acceptance of the Tooling shall be defined as Supplier's receipt of Buyer's written approval of Production Part Approval Process (PPAP) documentation for the parts to be manufactured by the Tooling. Acceptance shall not constitute a waiver of any breach of warranty and shall only be construed as an acknowledgement that said parts complies with all manufacturing specifications.

#### **§ 7: Price and Payment**

- 7.1 Buyer shall pay to Supplier the price for the Tools as set on the Order. Unless otherwise agreed, the price for the Tools include the compensation for the manufacture, design and the technical release procedure for the Tools as well as all prototype, samples and replacement parts.
- 7.2 Unless otherwise agreed and indicated on the Order, all invoices are payable within ninety (90) days from the invoicing date. Payment shall be executed by bank transfer.

#### **§ 8: Insurance**

8.1 Supplier shall keep the Tools owned by Buyer fully and adequately insured while it is in Supplier's possession. Maintenance by Supplier of such insurance coverage shall be without prejudice to Supplier's liability under the Order or the Terms and Conditions. Supplier shall at Buyer's request substantiate that there is adequate insurance coverage is provided and maintained for the Tools.

#### **§ 9: Tool List**

9.1 On the 31st of January each year, Supplier shall send to Buyer a complete list of all the Tools owned by Buyer and utilized by Supplier under the Order. The list shall include a specification of the exact location of the respective Tools.

#### **§ 10: Liability and Inspection**

10.1 The Tools shall be held by Supplier on a bailment basis as a bailee-at-will at Supplier risk. Supplier is responsible for inspecting, testing and approving all the Tools prior to any use, and Supplier assumes all risk of and shall indemnify and hold harmless Buyer and Buyer's affiliates and subsidiaries from injury to persons or property arising from Tools while in Supplier's possession. The Tooling shall not be used by Supplier for any purpose other than the production of goods to Buyer and Supplier shall not move the Tools from Supplier's premises without Buyer's prior written approval. Buyer will have the right to enter Supplier's premises to inspect Supplier's records regarding the Tools as well as the Tools itself.

10.2 Effective immediately upon written notice to Supplier, without further notice or legal action, Buyer has the right to enter the premises of Supplier and take possession of all of the Tools. Supplier waives, to the extent permitted by law, any lien or other rights that Supplier may otherwise have in any of the Tools, including but not limited to moulder's and builder's liens.

10.3 Buyer shall have the right to inspect and test all the Tools and at all times and places including, when practicable, during manufacture. If any such inspection or test is made on Supplier's premises, Supplier shall furnish all reasonable facilities and assistance for a safe and convenient inspection or test without additional charge to Buyer. Buyer's inspection of the Tools, no matter when occurring, shall not constitute acceptance of any work-in-process, finished goods or Tools. Notwithstanding prior inspection, payment for, or use of the Tools, Buyer shall have the right to reject any of such Tools that does not conform to the requirements of the Order.

#### **§ 11: Term and Termination**

11.1 The Order is effective from when the Order is accepted pursuant to section 1.4 hereinabove, until terminated in accordance with this section 11.

11.2 Buyer may at any time terminate the Order with prior written notice of three (3) months to Supplier. The three (3) months' notice period for termination shall be calculated from the date of receipt of Supplier.

11.3 Either party may terminate the Order with immediate effect, if:

- a) the other party is in default with its obligations under this Order and the non-defaulting party has served a written notice to the defaulting party describing the alleged default, and the defaulting party has not remedied the breach within five (5) days from such notification; or
- b) the other party becomes (i) insolvent, (ii) bankrupt, (iii) subject to insolvency proceedings against it, (iv) put under receivership, or (v) subject to a general assignment to the benefit of its creditors.

11.4 In the event of termination of the Order, for any reason, Buyer retains title to the Tools by paying to Supplier:

- a) in relation to finished Tools, the outstanding portion of the agreed total costs; or
- b) in relation to unfinished Tools, such proportion of the outstanding costs as is represented by the costs actually incurred by Supplier in the supply or construction the Tools as at the date of termination.

#### **§ 12: Confidentiality**

12.1 During the Term of the Order and for a period of five (5) years thereafter, the receiving party shall maintain in confidence all Confidential Information, as defined in section 12.3, received by the other party, and shall not disclose it to any third party. The parties shall only use the other party's Confidential Information for the purpose for which it was disclosed.

12.2 Each party shall use at least the same standard of care as it uses to protect its own Confidential Information and ensure that its employees, agents and consultants do not disclose or make any unauthorized use of the other party's Confidential Information. Each Party shall promptly notify the other upon discovery of any unauthorized use or disclosure of the other's Confidential Information.

12.3 Any technical, commercial or financial information relating to the disclosing party, its affiliates and/or subsidiaries, customers or suppliers is confidential under the Order (such information, "**Confidential Information**"). The obligations of confidentiality contained in the Order do not apply to the extent that it can be established by the receiving party that such Confidential Information:

- a) was already known to the receiving party, other than under an obligation of confidentiality, at the time of disclosure by the other party;
- b) was generally available to the public or otherwise part of the public domain at the time of its disclosure by the other party;
- c) became generally available to the public or otherwise part of the public domain after its disclosure and other than through any act or omission of the receiving party in breach of the Order;

- d) was disclosed to the receiving party, other than under an obligation of confidentiality, by a third-party lawfully in possession of the information; or
- e) was required to be disclosed by reason of law and the receiving party was ordered to disclose such information by a body of competent jurisdiction. The party requested to disclose such information shall promptly notify the other party of any such requirement in advance of the disclosure and cooperate with the other party in order to obtain a protective order or other remedy and shall disclose only the portion of the information that it is legally compelled to disclose.

### **§ 13: Miscellaneous**

- 13.1 No amendment, modification, termination or waiver of any provision of the Order, and no consent to any departure by either party therefrom, shall under any circumstances be effective unless the same shall be in writing and signed by both parties, which must include the signature of an authorized representative of Buyer, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on Supplier in any event, case or occurrence, shall of itself entitle Supplier to any other or further notice or demand in any similar or other circumstances.
- 13.2 If any provision hereof or any part provision is or is held by any competent court or authority to be invalid or unenforceable, such provision or part provision will be deemed severed and omitted, the remaining portions hereof continuing in full force and effect. If required, Buyer and Supplier shall replace such invalid or unenforceable provision with a valid and enforceable provision having similar economic consequences, provided that the content of the Order is not materially altered.
- 13.3 No course of dealings between Supplier and Buyer or any delay or omission of Buyer to exercise any right or remedy granted under the Order shall operate as a waiver of such rights, and every right and remedy of Buyer provided herein shall be cumulative, concurrent and in addition to any other further rights and remedies available at law.
- 13.4 Supplier shall not assign the benefit or the burden of the Order, in whole or in part, to any third party without the prior written consent of Buyer.
- 13.5 Notwithstanding anything herein to the contrary, the Order does not award Supplier of any series production supply agreement of goods and any such claim by Supplier is null and void. Buyer may at its sole discretion decide that contracts for the manufacturing of automotive parts for which the Tools is intended shall be undertaken by a third party and that such third party contacted by Buyer shall be free to use the Tools according to the Buyer's instructions.

### **§ 14: Governing Law and Jurisdiction**

- 14.1 The Order shall be governed by and construed in accordance with the laws of the country in which the Tools is located without regard to such country's conflict of laws principles. The courts of such country shall have jurisdiction to resolve any dispute arising out of the Order; provided however, that Buyer shall have the right, to seek from any court of competent jurisdiction equitable relief or any interim or provisional relief that is necessary to protect its rights under the Order.