

## **ADDITIONAL PURCHASE ORDER CONDITIONS (A)**

### **PURCHASE OF MATERIALS AND EQUIPMENT PURCHASE OF MATERIALS AND EQUIPMENT UNDER CONSIGNMENT REGIME Current as of 23<sup>rd</sup> May, 2018**

#### **CHAPTER A - PURCHASE OF MATERIALS AND EQUIPMENT**

##### **1. SUPPLIES ENTAILING RISK TO HEALTH AND SAFETY**

All technical specifications and manufacturing standards required by Buyer should be observed, and the Seller undertakes that any goods, equipment, tooling, parts and machinery (also herein indistinctly referred to as the products) supplied or installed shall be formulated, designed, constructed, finished and packaged by Seller as to be totally safe and without risks to health when in use in compliance with all UE and Portuguese applicable laws and regulations.

##### **2. ADVICE NOTES AND INVOICES**

- (a) Each voucher, advice note or invoice shall bear in a prominent position the applicable Purchase Order ("PO") or any alteration thereof and the location of the plant to which supplies are being shipped.
- (b) Unless otherwise instructed by Buyer, Seller shall submit a separate invoice for each individual delivery.

##### **3. ALTERNATIVE SHIPMENTS**

If because of failure of Seller to meet the agreed delivery terms and dates, Buyer deems it necessary to require shipment of any of the supplies concerned by a method of transportation other than the method originally specified by Buyer, Seller shall reimburse to Buyer the amount, if any, by which the cost of the more expeditions method of transportation exceeds that of the method originally specified, where such cost has been paid by Buyer, unless such failure is due to causes beyond the control and without the fault or negligence of Seller.

The provisions here above apply to any failure of the Seller to meet the delivery requirements, whether already verified or that may reasonably be anticipated by the Buyer.

##### **4. INSPECTION, TESTING AND WARRANTIES**

All supplies shall be deemed expressly subject to prior inspection and testing by Buyer.

- (a) To this end, once the supplies have been received at Buyers plant, Buyer may carry out such inspection, trials and tests as it considers appropriate in view of the nature of the supplies. Unless otherwise agreed, or previously informed or notified by the Buyer, the trial period shall not exceed 3 (three) months. Buyers' silence at the end of said period shall be taken to imply that the goods have satisfied such tests and inspections.
- (b) Seller hereby expressly warrants to Buyer that the quality of products supplied satisfies the stipulated specifications and all other requirements proper to the use for which such products are intended. Unless otherwise agreed, the warranty period shall extend for 2 (two) years commencing from the express acceptance by the Buyer or from the tacit conclusion of the trial period.
- (c) Should the goods be found to present defects in quality, or any flaws whether hidden or visible, either during the inspection trial period or during the warranty period, Buyer may, upon giving notice within 90 days of actual discovery of the defect and, at his discretionary decision, reject such goods with the partial or total termination of this agreement, as the case may be, and request to Seller to return the portion or the total of the price received, if applicable in the concerned case, or demand that such defects be cured by the Seller. Consequently, Seller shall accept the return of the supplies (conditions: ex-works Buyer's Plant) at its own expense and risk, including packing expenses, transport and customs charges, if any, and the cost of labour used in the assembly and disassembly of such goods, which expenses shall be claimed by Buyer from Seller or compensated by Buyer in its account with Seller.
- (d) Seller hereby further expressly warrants to Buyer that it will reimburse to Buyer, by payment or compensation, any damages which Buyer sustains or may sustain as a result of any judgement pronounced against it or its customers based on quality defects and/or flaws in the goods supplied by Seller, irrespective of the time at which the relevant proceedings are instituted.
- (e) If a defect is reported, the warranty shall extend by the period of time from notification to remedying of the defect. If goods are replaced in their entirety, the full warranty period shall recommence on the date of replacement. If goods are replaced in part, the warranty period shall recommence in respect of the components replaced.
- (f) All warranties given by Seller hereunder shall remain in force in accordance with their terms notwithstanding the termination of the PO for any reason.

## **5. PATENTS AND COPYRIGHTS**

- (a) Save to the extent that the supplies specified in the Orders have been exclusively designed by Buyer, Seller warrants that such products (and their sale or use alone or in combination in accordance with their purpose or with Sellers specifications or recommendation, if any) will not infringe any Portuguese or foreign patents or other industrial or intellectual property rights. Seller agrees to indemnify and hold harmless Buyer, and any other person selling or using any of Buyers products, against any proceedings, decisions or judgements, and any costs and expenses resulting from any alleged infringement, and further agrees, upon request of Buyer, and at its own expense, to defend or assist in the defence of any action which may be brought against Buyer or against any persons selling or using any of Buyers products by reason of any such alleged infringements.
- (b) If in the course of or in connection with any work performed in fulfilment of a PO, Seller or any of Seller's employees make any invention, Seller hereby agrees to grant or, as the case may be, make every effort to procure that there be granted to Buyer, and/or to its associated companies throughout the world, a royalty-free licence to make, have made, use and sell under any patents which may be issued in respect of any such invention. Buyer's associated companies shall be deemed to include all companies part of the Volkswagen Group and any company which is for the time being a subsidiary of Buyer or of any Volkswagen Group Company.

- (c) In any event, Seller shall be deemed to have granted to Buyer under this agreement a licence to repair, rebuild and relocate, and/or to have repaired, rebuilt and relocated, any supplies purchased by Buyer under any PO.
- (d) The Seller hereby grants to Buyer a royalty-free licence to use, itself or to allow third parties indicated by the Buyer to do so, any patents, inventions, drawings, specifications and/or any copyrights in respect of any goods/equipment supplied by Seller to the Buyer under this agreement, even after termination of the same. This licence to use comprises the right to use and to modify, totally or partially, the referred patents, inventions, drawings, specifications and/or any copyrights.

## **6. DRAWINGS, SPECIFICATION, LOGOS AND TRADEMARKS**

- (a) All drawings supplied by Buyer and all rights thereon shall remain the property of Buyer. Seller is authorised to use such drawings only for the purpose of fulfilling its agreements with Buyer. Seller may not, during the validity of this agreement or at any time thereafter, disclose any such drawings, or any data contained therein, including the PO, to any third party or manufacture on the basis thereof goods or articles for itself or for subsequent sale or transfer to third parties, unless expressly required or permitted to do so by Buyer in writing.
- (b) All drawings prepared by Seller for or in connection with the fulfilment of a PO, including those prepared in connection with any inquiry or request for information by Buyer (hereinafter called Sellers drawings) and all rights therein shall remain the property of Seller subject to Clause 5 above and may be used by Buyer as described in the following paragraphs.
- (c) Buyer, its associated companies and the Volkswagen Group Companies shall be entitled to reproduce and use and to authorise, any third parties indicated by them the reproduction and use of the Sellers drawings.;
- (d) For the purpose of this Clause 6, drawings shall be deemed to include plans, charts, diagrams, photographs, models, patterns, samples, specifications and technical information of every description whether written or oral.
- (e) Buyers logos, trademarks and part numbers must be marked on the goods ordered by Buyer if specified on drawings and instructions issued by the same. The objects thus identified may only be supplied to Buyer. Goods bearing Buyers logos or trademarks that are returned as deficient or faulty must be made unserviceable.

## **7. SECURITY STOCK**

The Seller shall have a security stock in its premises located in Portugal, representing the foreseen consume for two (2) months of the parts object of rotation in the last twelve (12) months, calculated in accordance with the annual foreseen consume. The annual consume shall be automatically readjusted by the Seller whenever the same has an historic of consume. The stock must comprise all products identified in the present Agreement.

## **CHAPTER B – GOODS/MATERIALS AND EQUIPMENT UNDER CONSIGNMENT REGIME (to be considered only in the applicable situations)**

### **7. APPLICABLE PROVISIONS OF CHAPTER A AND C**

1. Clauses 1 to 6 *inclusive* of Chapter A above shall be fully applicable with the necessary adaptations to the cases of goods/materials, parts and equipment under consignment. The references to Seller shall be understood to be made to the Consignor and the references to Buyer as made to the Company, Volkswagen Autoeuropa, Lda.. Clause 7 of Chapter A is not applicable.

2. Clauses 14 paragraphs (a) and (c) and 15 of Chapter C below shall also be fully applicable with the necessary adaptations to the cases of goods/materials, parts and equipment under consignment. Clause 14. paragraph b) of Chapter C below is not applicable.

## **8. TERMS OF CONSIGNMENT**

1. The Consignor undertakes to execute the request of the products within the delay requested by the Company.
2. All products shall be delivered duly identified in the Company's Plant, at the sole and entire responsibility and on the exclusive account of the Consignor. The delivery note shall contain the description and number of products.
3. All products delivered to the Company shall remain the property of the Consignor until the Company confirms the same have been used in the course of its activity, case in which said products shall be purchased by the Company.

## **9. SPECIFIC OBLIGATIONS OF CONSIGNOR**

The Consignor undertakes to:

- (a) Consign, per request of the Company and during the term of this Agreement, the products identified in the present Agreement;
- (b) Make available the equipment and other technical or material means and the human and administrative resources necessary for the prompt fulfilment of the services requested by the Company;
- (c) Use, in the execution of the services, employees, collaborators and/or subcontractors technically specialised and qualified for the services rendered;
- (d) Obtain and maintain all permits and licences necessary to operate its activity and, in particular, the execution of the services object of this Agreement;

## **10. OBLIGATIONS OF THE COMPANY**

The Company undertakes to:

- a) Make available, on a weekly basis, a report on the products used by the Company in the course of its activity;
- b) Keep an updated inventory of the consignment stock. At the end of the period of duration of the consignment, the Company shall make a physical inventory of the consignment stock.
- c) Use the products solely within its scope of activity unless the written consent of the Consignor is obtained.
- d) Store, house and protect the products from loss or damage.

## **11. QUALITY**

1. The Consignor guarantees the good quality of the products consigned and their compliance with all-applicable laws, regulations and technical specifications and rules.
2. In case of production, manufacturing, packaging and/or transport deficiencies and/or defects/flaws of the products, including use by past date, not imputable to the Company, the Consignor shall immediately, within the maximum delay of 24 hours and at its own expenses, replace the products without any damage or impairment, of any nature, to the normal production of the Company's Plant and/or without any costs of any kind to the Company.

3. Notwithstanding the provisions of paragraphs 1 and 2 above, the Company may reject and refuse to pay the products that are not in compliance with the technical specifications provided by the Company and, in particular, the ones that do not meet the conditions previously established.
4. The Consignor shall possess the technical experts with the necessary means to evaluate eventual complaints and shall immediately promote the replacement of the products.
5. The guarantees foreseen in this clause shall survive the termination of the Agreement for as long as the products supplied by the Consignor are used by the Company.
6. The Consignor undertakes to be in permanent improvement of its technical, equipment, human and administrative resources in order to improve the operation and efficiency of the products at the possible lowest cost.

## **12. SPECIFIC DURATION TERMS**

1. The products shall remain in consignment for a period of one (1) year.
2. After that period, the Company, shall, at its option, either buy the products, return them at its cost to the Consignor or request the extension of the consignment.

## **13. SPECIFIC INVOICING TERMS**

1. For the products reported - on a weekly basis - to be used by the Company, the Consignor shall receive from the Company the remuneration agreed by the Parties. At the end of the period of duration of the consignment, as established in Clause 12 above, and after the physical inventory referred to in Clause 10 b) above, the Company shall pay for all missing products, corresponding to the difference between the products used by the Company in the course of its activity and the ones delivered by the Consignor under this Agreement.

The Consignor shall issue a monthly invoice corresponding to the products used by the Company in the course of its activity during the previous month, always referring the products and the quantities used and their respective prices. The Consignor shall forward the original of the invoices for the following persons and department of the Company:

Name: 10/300

Department: Accounting Department

Address: Volkswagen Autoeuropa, Lda  
Quinta da Marquesa  
2954-024 Quinta do Anjo  
Portugal

## **14. SPECIFIC INSTRUCTIONS FOR THE CONSIGNMENT PROCESS**

The Consignor shall fully comply with all the specific instructions and procedures for the consignment process included in the Volkswagen Group Supplier's B2B Platform: [www.vwgroupsupply.com](http://www.vwgroupsupply.com), under the topic "Information" – "Procurement Conditions new" – "Volkswagen" – "Other Volkswagen locations" – "Volkswagen Autoeuropa, Lda", - "Specific Instructions for the Consignment Process".

## **CHAPTER C – COMMON PROVISIONS**

### **15. TERMINATION FOR DEFAULT OF SELLER /PENALTIES**

- (a) Termination of this agreement on the grounds of breach/default by the Seller entitles the Buyer with the right to be indemnified in accordance with the terms of the Law.

- (b) Without prejudice of the above provision, if the Seller does not accomplish the scheduled timing of the works, or of the agreed delivery date of the materials and/or equipment, it must immediately present to the Buyer a contingency plan in order to make up for delay/lost time.

If the global timing of the Project or the agreed delivery date will not be accomplished, due to a delay, in respect of the agreed intermediate milestones of the project, imputable to the Seller, as agreed in the Work Timing Plan or in the PO, the Seller shall indemnify the Buyer by paying the following amounts:

0,5% of the value of the PO, per each week of delay, up to a maximum of 5% of the total value of the PO.

- (c) In addition to the above compensations and penalties and to the mandatory legal general civil liability provisions referred to in 15 (a) above (which include in particular all liability of the Seller in respect of damages caused to third parties and/or to their property, and to damages caused the employees of the Company and/or to its subcontractors) the Seller will also be under the obligation to pay for any line stoppage and damages caused on vehicles, or on its components, due to the Sellers deficiency on Project Management or to any supplier's delay in the delivery dates, unless otherwise discussed and agreed, in writing, by the Seller with the Buyer's Project Engineer or with the Area's requester. The costs of repair will be calculated based on the costs of the materials and on the time spent to make such repairs by the Buyer's own repair staff and will be discounted on the Seller's bank guarantee or on the subsequent invoices to be paid by the Buyer to the Seller.