

General terms and conditions of purchases of equipment by Volkswagen Poznań Sp. z o.o.
(as at 01.06.2011)

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General terms and conditions of purchases of equipment by Volkswagen Poznań Sp. z o.o. (as at 01.06.2011)

1. Definitions

Any time the terms specified below are used in there General Terms and Conditions of Purchases of Equipment by Volkswagen Poznań Sp. z o.o., they shall be understood as:

1.1 Terms and conditions

The Terms and Conditions are these General Terms and Conditions of Purchases of Equipment by VWP.

1.2 Equipment

Equipment shall mean an assembly of interconnected parts or elements that constitutes a functional whole and is set in motion by means of natural forces.

1.3 Purchase of Equipment

Purchase of Equipment means sale, delivery or another contract pursuant to which VWP acquires title to the Equipment with the exception of service contracts, construction contracts and contracts covering purchase of goods. Orders shall also be deemed as contracts.

1.4 Supplier

Supplier shall mean an entity, also within the meaning of art. 43¹ of the Civil Code, who makes an offer to conclude a contract or to whom VWP sends a request for proposals or an order to purchase Equipment.

1.5 Written form

Written form shall mean written form within the meaning of art. 78 of the Civil Code under the Terms and Conditions specify otherwise.

An equivalent to written form shall be also a statement made by VWP or the Supplier by fax or e-mail.

1.6 Request for proposals

A request for proposal is an invitation sent to the Supplier by VWP to place offers within an offer contest organised by VWP.

2. Scope of applicability of Terms and Conditions

2.1

These Terms and conditions are applicable to all contracts covering purchases of Equipment, including actions related to or preceding conclusion of such contracts. These Terms and Conditions further apply to preparation and submission of offers by the Supplier in response to requests for proposals.

2.2

Unless agreed otherwise, the Terms and Conditions shall apply in their most current version. A current version of the Terms and Conditions shall be provided to the Supplier before conclusion of a contract. The current version of Terms and Conditions shall at any time be available in electronic version at:

www.volkswagen-poznan.pl

2.3

Unless VWP and the Supplier agree otherwise in writing, the use of any Supplier's contract templates is excluded. No Supplier's contract templates will be used even if VWP did not directly object to their exclusion. Neither the receipt of Equipment by VWP without direct reservation nor making payment by VWP for the purchased Equipment without any protest shall in any case be equivalent to acceptance of Supplier's contract templates. VWP employees are not empowered to include any Supplier's contract template, even in part, in the purchase contract or to accept applicability thereof unless otherwise provided in their power of attorney.

2.4

In case of conflict between the provisions of the contract concluded by VWP with the Supplier and the wording of these Terms and Conditions, the contractual provisions shall prevail.

2.5

In case of conflict between the provisions of enclosures to the contract, enclosures with a higher number shall prevail in the order detailed in item 0 of the Terms and Conditions. If the enclosures to the contract are not numbered or are at the same sequential level as specified in item 0 of the Terms and Conditions, then those enclosures will prevail which are more recent.

For the purposes of interpretation of contracts between VWP and the Supplier, the following sequence of documents constituting the contract shall apply:

- contract / order placed by VWP,
- minutes from negotiations between VWP and the Supplier; priority shall be given to the minutes most recent to the date of contract conclusion,
- these Terms and Conditions,
- request for proposals by VWP,
- technical conditions and quality standards relating to the Equipment.

3. Applicable law

Polish law, unless agreed otherwise, shall apply to all contracts subject to these Terms and Conditions. The application of the UN Convention on International Sale of Goods and the Convention of the limitation period in the international sale of goods.

4. Request for proposals and offers

4.1

All requests for proposals made by VWP shall be deemed valid only when made in writing.

4.2

If along with a request for proposals VWP sends an offer form used by VWP, the Supplier shall be obliged to submit an offer on the form.

4.3

Offers shall be made either in Polish or in German. The offer shall be complete and contain all information that is required to assess if the Equipment offered by the Supplier complies with the requirements specified in the request for proposal. With respect to offers submitted on the offer forms used by VWP, the Supplier shall provide all information required by VWP in the offer. Along with its offer, the Supplier shall submit a written statement that it has read and accepts these Terms and Conditions.

4.4

If in its request for proposals, VWP has strictly specified the requirement to be satisfied by the Equipment, the Supplier shall be obliged to identify any discrepancies between the requirements specified by VWP in the request for proposals and the offer submitted by the Supplier and any reasons for deviation from the requirements or conditions specified by VWP. A list of such deviations shall be attached to the offer submitted by the Supplier.

4.5

Responses to requests for proposals as well as offers and attachments to those responses or offers shall be submitted by the Supplier to VWP free of charge. VWP may at any time request the Supplier to submit any additional information or documents related to the offered Equipment free of charge.

4.6

The offer shall clearly specify the currency and the price. All prices shall be net of VAT as provided in the applicable law unless explicitly specified otherwise. Unless agreed otherwise, the prices specified in the offer shall include costs of loading, transport, dispatch, packaging, insurance, unloading, assembly, training, documentation, necessary performance tests of Equipment, as well as the costs of commuting and accommodation of personnel necessary for starting up the Equipment until final acceptance of the Equipment at the premises of VWP or at a production facility of VWP designated in the request for proposals.

Unless agreed otherwise, all prices in the offer are lump-sum prices that cover all work, materials and operations necessary for execution of the contract in compliance with its wording, even if the individual work, materials or operations are not specifically named.

4.7

Offers shall be submitted to the address designated in the request for proposals, quoting the reference number of the request for proposals and offer number.

4.8

Requests for proposals made by VWP expire when the Supplier fails to submit an offer within two weeks from receipt of the request for proposals, unless the request for proposals specifies another deadline. If VWP fails to confirm acceptance of the offer in a form of an order, the offer shall be deemed as not accepted.

5. Special obligations of Supplier relating to offer preparation

5.1

As soon as received from VWP, the Supplier shall be obliged to inspect the completeness and cohesion of documents received from VWP in connection with the submitted request for proposals. Any missing documents and information shall be reported by the Supplier in writing to the unit of VWP from which the request for proposals was received latest within 3 working days from receipt thereof.

5.2

The Supplier shall prepare the offer on the basis of applicable law and the offer shall cover all deliveries and operations required for correct performance of the Contract, in compliance with best practices and best available technology and providing the highest quality and security standards and so that VWP achieves the intended economic effect.

5.3

Unless agreed otherwise, VWP allows submission of variant or alternative offers, deviating from the conditions specified in the request for proposals. However, if a variant or alternative offer is submitted, this should clearly be noted.

5.3.1

Variant or alternative offers submitted by the Supplier shall be clearly and univocally marked as deviating from the conditions specified in the request for proposals. Submitting a variant or alternative offer, the Supplier shall retain the structure and layout (including numbering of each item) as expected of an offer in the request for proposals. If due to the content of such variant or alternative offer, preservation of the structure or layout expected in the request for proposals is not possible, the Supplier shall clearly mark all such deviations in the submitted offer.

5.3.2

Submission by the Supplier of a variant or alternative offer shall be deemed as an assurance by the Supplier that the variant and alternative offer submitted by it is completely equivalent in terms of legal, technical and time aspects to an offer

submitted in compliance with the content of the request for proposals.

5.3.3

In case of any modifications to the VWP documentation provided to the Supplier, the Supplier shall ensure that representatives of VWP and representatives of entities, if any, that developed the VWP documentation, can participate in all work related to modifying the documentation. The Supplier shall be responsible for all costs related to such participation of the persons referred to above in work related to modifying the documentation.

5.4

If the request for proposal refers to conclusion of contracts for provision of services, including for the maintenance of the Equipment or its parts, the Supplier shall submit the offer together with templates of respective contracts in respect of both its own services and services to be provided by the Supplier's subcontractors. Conclusion of a contract for provision of services requires a separate order from VWP. Provisions of item 0 hereof shall apply respectively by the time of such a contract conclusion.

If any part or element of the Equipment listed in the Equipment description has not been marked with the "or equivalent" annotation, the Supplier must use only parts or elements as indicated in the Equipment description. However, if any part or element of the Equipment listed in the Equipment description has been marked with the "or equivalent" annotation, the Supplier may use such equivalent parts or elements only upon VWP's prior consent. If the Supplier intends to use equivalent parts or elements of the Equipment, the Supplier shall present all information and documents concerning such parts and elements to VWP and allow examining such parts and elements. Examination of such equivalent parts or elements by VWP shall not infringe or exclude in any way the Supplier's liability for the Equipment provision in the correct, timely and diligent manner and in compliance with the quality requirements.

6. Contract conclusion

6.1

Contracts for purchases of Equipment shall be made in writing.

6.2

Contracts for Purchases of Equipment are deemed concluded when delivered by VWP. Such delivery may also be made by fax or e-mail.

6.3

Orders under PLN 10 000 may be submitted by e-mail without signature by the Procurement Department of VWP.

7. Invoices; payment terms

7.1

Invoices for Purchases of Equipment shall be sent by the Supplier to the address designated in the VWP order. The invoice shall specify the tax identification number (NIP) or another equivalent identification number of the Supplier, Supplier's identification number assigned by VWP, order number and date, additional information concerning VWP, agreed by VWP and the Supplier (e.g. place of delivery or assembly, waybill number and date, quantity and identification numbers of the Equipment with index, other documents necessary for making the settlement) as well as the contractual price of the Equipment with the VAT amount as a separate item.

7.2

Unless agreed otherwise, the payment term will be 30 days from the date of the invoice. The invoice may be issued upon the delivery of the Equipment, subject to a final confirmation of the final acceptance in a form of an acceptance protocol. If an invoice has been issued incorrectly, upon a request of VWP, the Supplier shall issue a corresponding corrective VAT invoice or a correcting note. With respect to delivery and receipt of delayed deliveries, payment term shall apply corresponding to the contractual term of acceptance of the Equipment.

7.3

If the Parties have agreed a payment schedule, VWP shall make payments in compliance with the schedule.

If a downpayment has been agreed, the downpayment shall be made subject to delivery of a time unlimited, irrevocable, unconditional bank guarantee, payable on first demand, for the amount of the agreed downpayment plus VAT. The guarantee shall be returned when final settlement has been made for the delivery of the Equipment. The wording of the guarantee and a list of entities that may issue a bank guarantee acceptable to VWP is available from the Procurement Department of VWP.

7.4

In case of incorrect performance of the contract by the Supplier, VWP shall be entitled to suspend payment, or a respective part thereof, until the contract has been performed correctly.

7.5

The contractual price for the Equipment shall be paid by bank transfer.

The name of the bank and account number shall be provided by the Supplier under separate cover before deliveries are commenced. Any change of the bank or account number shall be notified by the Supplier forthwith, at the latest within 3 working days. Letters concerning changes to the bank account or the bank shall be signed by persons authorised to represent the Supplier and shall provide information on the authorised contact

person. The information referred to in the preceding sentences shall be provided by the Supplier by fax and registered letter.

Failure by the Supplier to provide the above information shall relieve VWP from any liability for the correctness of bank transfers.

8. Compliance with the law

When performing the Contract for Purchase of Equipment, the Supplier shall be obliged to comply with the law and decrees of competent authorities. The obligation applies primarily to such designing, fabrication or manufacturing, transport and assembly of Equipment that it meets all safety requirements, quality standards and do not breach the regulations concerning OH&S, environment protection or third party rights. The Supplier shall be fully liable for all penalties or personal and property damage resulting from breach of such regulations and standards.

9. Duty to collaborate; contract performance

9.1

The Supplier shall be obliged to inform VWP regularly and forthwith of all material matters concerning purchase of the Equipment and to ensure the participation of its duly authorised representative in all negotiations concerning the performance of the Contract for Purchase of Equipment. Such a representative shall be authorised to make necessary decisions and giving orders to other persons acting on the side of the Supplier for the purpose of the Contract performance.

9.2

In connection with the performance of the Contract for Purchase of Equipment the Supplier shall be obliged to take into account and respect all rights of VWP as well as regulations and decrees in force at the premises of VWP. In particular it shall be obliged to provide appropriate guidelines to all persons acting on its behalf in the performance of the contract in order to ensure correct performance of the Contract for Purchase of Equipment.

9.3

The Supplier shall be obliged to arrange all procedures related to the performance of the Contract for Purchase of Equipment so that they do not interrupt current operations of VWP.

9.4

VWP reserves the right to protest against commissioning the duties specified in 9.1 of these Terms and conditions to a designated person or to remove such person from the function.

9.5

In case of modified deadlines to complete any stage of performance of the Contract for Purchase of Equipment or a final deadline of such performance, the parties will agree new deadlines to perform their respective contractual duties; this shall be without

prejudice to the right of VWP to claim damages resulting from the Supplier's failure to keep the original deadlines.

9.6

If the Equipment is provided by more than one Supplier, each of the suppliers shall take all actions in order to enable timely and proper provision of the Equipment by the other suppliers. All and any disputes or difficulties in this area shall be reported immediately to the Specialist Department of VWP. In such an event VWP shall be entitled to decide on the further manner of the provision of works.

9.7

VWP shall not be liable to the Supplier for difficulties and obstructions caused by other contractors operating for VWP.

9.8

If the Contract for Purchase of Equipment provides for a partial acceptance, preliminary acceptance or test start-up of the Equipment, the Supplier shall perform them on such dates that will enable timely performance of the Contract. The partial acceptance, preliminary acceptance or test start-up of the Equipment shall be performed at risk of the Supplier. All and any defects or failures identified at such an acceptance or start-up shall be indicated in a protocol made by VWP and the Supplier and repaired immediately by the Supplier. The partial acceptance, preliminary acceptance or test start-up of the Equipment shall not be deemed confirmation of the Contract completion by the Supplier and shall not be deemed the acceptance of the Equipment by VWP.

9.9

All difficulties or obstacles affecting correct performance of the Contract for Purchase of Equipment shall be reported by the Supplier forthwith to the Procurement Department of VWP in writing. Failure to report such difficulties or obstacles shall result in the Supplier losing any claims related to such difficulties or obstacles.

10. Collaboration by VWP

10.1

VWP is entitled to supervise the performance of the Contract for Purchase of Equipment by the Supplier or its subcontractors on an ongoing basis. The said right shall be executed by VWP using its authorised persons, who may – in compliance with the applicable provisions of law – stay on the premises of the Supplier or its subcontractors.

10.2

The Supplier shall submit all and any plans, drawings, etc., concerning the Equipment to VWP or parties indicated by VWP. VWP may examine such plans, drawing, etc. Examination of such documents by VWP shall not be interpreted in any way as confirmation of their correctness or compliance with

the legal requirements and best practices and shall not release the Supplier from the liability for any defects in the Equipment or improper performance of the Contract.

11. Deliveries from VWP

11.1

If under the Contract for Purchase of Equipment VWP itself or through any third parties supplies any materials or provides some services to the Supplier, the Supplier shall be liable for checking thoroughly the quality of these materials or services and for reporting to VWP immediately in writing of all and any detected defects and failures, and particularly of those that may prevent proper performance of the Contract.

11.2

The Supplier shall store any material supplied by VWP in proper conditions that ensure preservation of properties of such materials and proper provision of the Equipment. The Supplier shall not be entitled to any additional payments for storing the materials submitted by VWP.

11.3

All and any materials submitted to the Supplier by VWP shall be stored separately from any other materials collected by the Supplier. The materials shall be also marked as property of VWP in a permanent and visible manner. The materials may not be removed from the agreed storage place without the prior written consent of VWP, unless such a removal is necessary for the Equipment provision or for preventing the materials from being destroyed or damaged.

11.4

The Supplier shall be fully liable for all and any materials submitted by VWP to the market value of the submitted materials. The Supplier shall also insure the materials against fire, flood and theft and any other damage. The insurance shall cover the period from the date of the materials submission to the date of the materials return.

12. Subcontractors

12.1

The Supplier shall perform the Contract for Purchase of Equipment by means of its own company. Performance of the Contract by a subcontractor, in part or in full, is also permitted. Performance of the Contract, in part or in full, by a Subcontractor shall not release the Supplier from its liability for the Contract completion.

12.2

The Supplier shall be fully liable for operations of its Subcontractors.

13. Assignment of receivables

Without a prior written consent of VWP, the Supplier may not transfer its receivables from VWP under the Contract for Purchase of Equipment to any third party or authorise any third party to claim such receivables.

14. Refraining from mutual consideration. Set-off

14.1

Any restriction to the right of VWP to refrain from performing mutual consideration in favour of the Supplier or restriction of the possibility for VWP to set-off mutual claims shall be ineffective in relation to VWP.

14.2

The Supplier authorises VWP to make deductions, including contractual deductions, of all receivables due to VWP from the Supplier against all receivables due to the Supplier from VWP.

15. Unfair competition. Liability of collective entities.

15.1

The Supplier shall be obliged to ensure that its employees, or other persons acting on its behalf pursuant to other legal relationship, will not perform any acts to the damage of VWP as designated in chapter 2 of the Act of 16 April 1993 on counteraction to unfair competition (OJ of 2003, No. 153, item 1503, as amended).

15.2

In connection with the performance of the Contract for Purchase of Equipment, the Supplier shall be obliged to comply with the following rules:

- by its behaviour (action, acceptance or omission) it may not breach the applicable law. The duty applies also to employees, representatives of the Supplier and other persons acting on its behalf or in its name and applies in particular to such behaviour that may result in committing offences specified in art. 16 of the Act of 28 October 2002 on liability of collective entities for prohibited acts (OJ 2002, No. 197, item 1661, as amended). The above applies in particular such prohibited acts as: breach of confidence, capital fraud, posing problems in following claims, money laundering, maintenance of unreliable documents, posing problems to public tenders, bribery and paid protection, fraud, falsification of documents, attestation of untruth, use of attested untruth, computer sabotage, fiscal offences against tax liabilities and accounting for subsidies or subventions, fiscal offences against customs duties or rules of foreign trade in goods or services, export of hazardous waste contrary to applicable regulations, breach of company secrets, copying of products, falsification of currency, falsification of value marks;

- it shall be obliged to take all reasonable measures to protect the reputation of VWP and to avoid all actions and omissions that could impair the reputation of VWP;
- it shall be obliged to act within the framework of the tasks assigned to it (and granted power of attorney and other authority). Any deviation from the scope of entrusted tasks (or granted power of attorney and other authority) is possible solely subject to prior written consent of VWP;
- it shall be obliged to notify directly the Management of VWP or a person designated in writing by the Management of VWP of each fact known to it if as a result of such fact the interests of VWP may be harmed or endangered in any way. This in particular refers to information on any prohibited acts that may be committed on connection with performance of duties entrusted by VWP.

15.3

Upon each request by VWP, the Supplier shall return all letters and documents that confirm or certify its authority or authorisation of other people to act on behalf of VWP. Request to return such documents shall be equivalent to revoking such authority unless provided otherwise in the request. Such document shall be returned latest after completion of the actions specified therein unless the original document had been submitted to a competent body of administration or court. In such situation, it is necessary to provide an official confirmation that the original of such document had been submitted as specified above.

15.4

Further powers of attorney may be granted by the Supplier only if so provided in the original power of attorney. Any further power of attorney shall be notified in writing to the Legal Department of VWP.

15.5

The parties agree clearly that any breach of the above rules and duties may be treated as a basis of Supplier's liability to VWP. The Supplier is aware that breach of the above rules may form a basis to terminate the agreement it has with VWP.

VWP reserves the right to claim damages in accordance with the law as a result of breach of the rules or obligations specified in these Terms and Conditions.

16. Copyright and industrial property right; confidentiality; advertising

16.1

VWP or Volkswagen AG holds all rights, including intellectual property rights, in particular to all drawings, sketches, calculations and other documents, presented on any medium, as well as models and templates provided to the Supplier in connection with conclusion of the contract. The subjects of such rights may not be disclosed to third

parties without a prior written consent of VWP. The Supplier may use them solely in order to perform the contract concluded with VWP and after completion of the contract they shall be returned forthwith to VWP without a separate request on the part of VWP.

16.2

Logos and trademarks of VWP or any other equity related companies, particularly of Volkswagen AG, must be placed on the Equipment, provided such an authorisation results explicitly from any documents submitted by VWP in relation to the contract performance or if VWP instructs the Supplier to do so. Equipment marked as specified above may be delivered solely to VWP. In case of justified return of the Equipment marked with the logo or trademark or part number of VWP, the Supplier shall take all reasonable actions that the Equipment may not be used unless VWP instructs the Supplier otherwise.

16.3

The Supplier shall be obliged to treat all information, documents and other objects provided to the Supplier by VWP in connection with preparation of an offer, conclusion and performance of the contract as a secret of VWP within the meaning of art. 11.4 of the Act of 16 April 1991 on counteraction to unfair competition (OJ of 2003, No. 153, item 211, as amended). The confidentiality obligation shall survive the completion of the contract by the Supplier unless such information, documents or other objects constitute secrets of VWP are not generally accessible or known.

16.4

The Supplier shall further be obliged to keep the fact of having concluded the contract with VWP in confidence unless the applicable law requires disclosing the fact to persons who have statutory authority to obtain such information. The Supplier may publish information on collaboration with VWP for advertising purposes solely subject to a prior written consent of VWP. Such consent will be granted by VWP solely for a specific advertising action detailed by the Supplier in its request to VWP.

16.5

Pursuant to art. 11.4 of the Act of 30 June 2000 – Industrial property right, the parties agree that VWP shall be solely entitled to patents to inventions or protection rights for utility models as well as the right to register industrial models with reference to inventions and models developed in connection with the performance of the Contract for Purchase of Equipment. The Supplier shall be obliged to incorporate corresponding provisions in its contracts with employees or other persons who are involved in the performance of the Contract for Purchase of Equipment.

16.6

The Supplier shall provide VWP with complete documentation related to the models and inventions referred to in item 0 of these Terms and conditions.

PURCHASE OF EQUIPMENT

The Supplier shall transfer forthwith to VWP all copyright as long as such rights relate to works developed in connection with the performance of equipment purchase contracts.

16.7

If in the performance of the Contract for Purchase of Equipment the Supplier uses objects or software protected under copyright or industrial property right held by third parties, it shall take all reasonable efforts to prevent breach of such rights. The Supplier shall be fully liable for any claims for damages or other claims raised by third parties related to infringement of their rights.

16.8

Breach by the Supplier of the provisions of items 16 - 0 hereof shall be deemed as a material breach of the contract between the Supplier and VWP, which will constitute grounds for termination of the contract by VWP with immediate effect.

If as a result of the Supplier's infringement of third party rights as referred to in item 0 of these Terms and Conditions an entitled third party demands that VWP discontinues to use the Equipment and it is impossible to rebuild the Equipment so that it does not infringe the rights of the third party, the Supplier shall disassemble the Equipment at its own expense and refund to VWP the remuneration received for the purchase of the Equipment along with penalty interest at the rate of 10% p.a. The above shall be without prejudice to further claims by VWP for damages or any other claims in order to remedy or mitigate the damage caused by such breach by the Supplier to third party rights.

All means of production manufactured by the Supplier on the basis of data or documents provided by VWP, such as swages, moulds, templates, models, standards, tools, welding templates, programs, etc. may be used by the Supplier solely for the performance of orders placed by VWP. The Supplier may not use such means of production for its own purposes or offer or provide access thereto to third parties.

16.9

All technical documentation (drawings, plans, calculations, spare part lists, programs, etc.) which in particular may be required for assembly, operation, use, repair, fabrication or obtaining the required permits, shall be provide to VWP by the Supplier at the right time in the number of counterparts as required by VWP and in appropriate format. Such documentation will be delivered latest at the time agreed in the contract.

17. Other obligations of the Supplier

17.1

Before delivery to VWP, the Supplier shall be obliged to verify the quality of the Equipment. The Supplier shall in particular be obliged to verify

whether the Equipment has the agreed properties and whether it can be used as specified in the contract or in a way customarily accepted for such Equipment. The scope and control of quality control to be performed by the Supplier may be specified in the contract between the parties. The Supplier shall be obliged to perform quality control in accordance with the type and kind of the Equipment and best available know-how with respect to technical properties of the Equipment.

17.2

The Supplier shall apply and enhance or update its quality assurance system to keep up with most recent technical know-how, appropriate for the type and properties of the Equipment supplied by the Supplier.

17.3

All parts and elements of the Equipment must be constructed and manufactured in such a manner as to enable quick and correct repair, check and replacement.

17.4

The Supplier is obliged to train employees of VWP or any other persons indicated by VWP in respect of the Equipment operation. The training shall be made in Polish, unless VWP reserves otherwise. If special qualifications are required for the Equipment operation, the Supplier shall advise VWP in writing not later than 10 working days prior to the commencement of the training about the required qualifications. VWP shall submit a list of the training participants to the Supplier not later than on the first day of the training.

18. Scope of Contract / Amendments

18.1

The Contract for Purchase of Equipment shall cover production or delivery by the Supplier of complete and working Equipment as well as execution by the Supplier of all works related to the Equipment start-up and preparation to operation together with the complete documentation, unless the Contract for Purchase of Equipment provides otherwise. The Equipment covered by the Contract shall contain all parts and elements as required for correct, appropriate and faultless operation even if not directly specified in the request for proposals or order.

18.2

The project manager, if appointed by VWP in relation to the Contract for Purchase of Equipment, shall not be entitled to order any additional works or make any arrangements modifying the Contract on behalf of VWP. Only the Procurement Department shall be entitled to do so.

18.3

If during performance of the Contract for Purchase of Equipment it turns out that some additional costs must be incurred that were not provided for in the

Contract and are not covered by the agreed price, then the Supplier shall notify VWP thereof immediately and submit a respective offer together with its grounds within 6 working days. The Supplier shall be entitled to do so only if:

- at the moment of submitting the offer the Supplier could not have predicted the need for incurring such additional costs, despite all its due diligence, or
- such costs are caused by a direct decision of the competent governmental authority.

18.4

To the offer for the order modification the provisions for the offer shall apply.

18.5

All additional works covered by the amendment offer may be implemented only when a written change of order is received. The above does not apply to work that is required to be performed in order to protect human life or health or to prevent material damage to the property of VWP or third parties.

18.6

VWP is entitled to change the scope, manner and dates of performance of the Contract for Purchase of Equipment and to instruct the Supplier respectively. VWP will account for the Supplier's technical and personnel potential when making such changes.

19. Tools

VWP may provide the Supplier with tools required to manufacture the Equipment. The tools shall remain the property of VWP and the amount of remuneration for such provided tools shall be included in the price agreed by the parties. The Supplier shall be obliged to use to tools solely to perform the contract with VWP. The Supplier shall be obliged to enter into an insurance contract covering the provided tools with cover against fire, flood and theft and to transfer to VWP all claims due to the Supplier under such insurance contracts. Additionally, the Supplier shall be obliged to perform all repairs to such provided tools at its own expense. The Supplier shall notify VWP forthwith of any damage to the tools.

20. Acceptance of Equipment

20.1

Satisfactory completion of the Equipment provision by the Supplier shall be confirmed by the final protocol of the final acceptance of the Equipment, which will specify that the Equipment complies with the Contract, has been performed without any defects or failures and its documentation is complete. All and any benefits and burdens as well as the risk of loss or damage of the Equipment shall be transferred onto VWP upon execution of the final protocol of the final acceptance.

20.2

Earlier use, start-up or official acceptance required under the provisions of law of the Equipment shall not constitute the acceptance of the Equipment as required by VWP. Neither will the Supplier's notice on the Equipment provision constitute the acceptance of the Equipment as required by VWP.

20.3

The Supplier's notice on its readiness for the acceptance procedure shall constitute a guarantee on the Equipment's compliance with the Contract and particularly that it is free from any defects or failures and a guarantee on completeness of the Equipment and related documentation as provided for in the Contract for Purchase of Equipment.

20.4

If operation of the Equipment is subject to a permit for use or another official certificate or declaration admitting the Equipment for operation, the Supplier shall obtain such decisions, certificates or declarations and submit them to VWP at the latest on the day of final acceptance of the Equipment. If, under separate provisions, it is the VWP's obligation to obtain the use permit or any other official certificate or confirmation, the Supplier shall prepare complete documentation to be submitted to the competent authority.

20.5

The parties may agree on the date of preliminary acceptance that will precede the final acceptance as well as on the dates of partial acceptances.

20.6

Each acceptance procedure shall be documented in an acceptance protocol, which shall be signed by duly authorised representatives of the parties. Any refusal to sign the acceptance protocol and the reason thereof shall be included in the protocol. The protocol shall contain information on persons participating in the acceptance procedure and indicate whether the Equipment or its part has been provided correctly and on time, and, if any defects or failures are identified, it shall specify the dates for the repair thereof and the repeated acceptance.

20.7

All costs of the repeated acceptance of the Equipment shall be incurred by the Supplier. If in the repeated acceptance procedure it is found that the Supplier failed to repair any previously identified defects or failures, VWP may have such defects or failures be repaired by any third parties at cost and risk of the Supplier or terminate the Contract.

20.8

The Equipment shall be started up in agreement with VWP, but at cost and risk of the Supplier. If VWP provides its personnel for the purpose of verifying the correctness of the Equipment start-up to the Supplier, the Supplier shall be liable for any damage caused to such personnel. The Supplier

shall be also liable for any damage to the VWP's assets related thereto.

20.9

If possible and permitted, VWP may use the Equipment during the test start-up or other trials for the purposes of its own production.

21. Transfer of risk

21.1

Unless agreed otherwise, loading, dispatch, transport, unloading, internal transport, sitting, assembly and start-up of the Equipment ordered by VWP shall be at the Supplier's expense. The Supplier shall be obliged to enter into an insurance contract covering transit of goods.

21.2

Unless agreed otherwise, the delivered Equipment shall be packed in accordance with trading customs and suitably to the properties of the goods. The Supplier shall be responsible for damage resulting from incorrect packaging. The Supplier agrees to collect all packaging materials.

22. Deadlines; delay

22.1

The delivery time of the Equipment shall be binding upon the Supplier.

22.2

Unless agreed otherwise, the Supplier shall submit the schedule for the delivery of the Equipment to VWP within 5 working days upon the Contract conclusion date. The schedule must be approved by the Specialist Department of VWP. VWP may report reservations to the content of the schedule to the Supplier. The Supplier shall account for the reasonable reservations of VWP and adopt the schedule respectively.

22.3

During the performance of the Contract for Purchase of Equipment any changes of dates specified in the schedule may be made only if agreed with the Specialist Department of VWP. A change in the schedule may not have any impact on the final completion date specified in the Contract.

If as a result of changes in the schedule it is necessary to change the dates specified in the Contract, the Supplier shall notify the Procurement Department thereof. Provisions of items 22.5 and 26 shall apply respectively.

22.4

The Supplier shall be obliged to notify the Procurement Department of VWP in writing forthwith of an intention to deliver the Equipment before the agreed time and about any delay in delivery of the Equipment. VWP may refuse to accept the Equipment before the contractual time of the

Equipment delivery. In case of such refusal, the Supplier shall be responsible for all costs and risks related to storage of the Equipment until the contractual delivery time of the Equipment.

22.5

If the Supplier is late with the delivery of the Equipment, it shall pay VWP a contractual penalty of 0.2% of the net value (net of VAT) of the order for each day of delay. If the production process at VWP is suspended due to a delay by the Supplier, the Supplier shall additionally pay a contractual penalty for each instance of the production suspension as follows: for production suspension in the Paint Shop – EUR 160 per minute, in the Assembly area – EUR 390 per minute, in the Body Construction area – EUR 420 per minute, in the Head Foundry area – EUR 328 per minute, in the Pressure Foundry – EUR 73 per minute. VWP reserves the right to claim damages in accordance with the law and related to delays in the Equipment delivery by the Supplier, in particular damages related to damage suffered as a result of production suspension, in excess of the contractual penalty specified above.

22.6

If as a result of force majeure, VWP is not able to accept the Equipment at the agreed location, the Supplier shall not be entitled to any claims for damages from VWP due to delay in collecting the Equipment. In this situation, the Supplier may not demand that VWP performs its reciprocal contractual obligation. Force majeure within the meaning of these Terms and Conditions shall be understood as all unforeseeable, unavoidable and major events, such as natural catastrophes, war, riots, unrest, administrative measures, etc. As far as possible, VWP shall notify the Supplier of the anticipated duration of force majeure circumstances. For the duration of such obstacles, the Supplier shall be obliged to store the Equipment properly at its expense and risk.

22.7

VWP shall be relieved from its obligation to collect the ordered Equipment in whole or in part and will be authorised to terminate the contract in this respect within two months from expiry of force majeure circumstances, if due to the delay caused by force majeure within the meaning of item 0 of these Terms and Conditions the Equipment has become unnecessary for VWP – subject to economic aspects.

23. Supplier's liability for defects in the Equipment

23.1

The Supplier shall be liable for defects in the Equipment in accordance with the applicable law, in particular in compliance with the regulations concerning statutory warranty for defects in sold goods.

23.2

Unless agreed otherwise, the rights under the statutory warranty shall expire after 24 months upon transferring the Equipment to be put to use.

23.3

If the Supplier delivers a defective Equipment, VWP shall enable the Supplier to remedy such defects or perform another delivery of the Equipment within the time designated by VWP unless such repeated delivery is of no importance to VWP. If the Seller is not able to comply with the request made by VWP within the timeframe designated by VWP, VWP may terminate the contract and return the Equipment at the risk and expense of the Supplier. Any resultant costs shall be borne by the Supplier. VWP shall be entitled to deduct (also under the contract) any costs related to performance of the repairs referred to above from the receivables due to the Supplier from VWP.

23.4

If the Supplier delivers defective Equipment again, VWP shall be entitled to terminate the contract without designating the Supplier an additional time to deliver Equipment free from defects. Any resultant costs shall be borne by the Supplier. VWP shall be entitled to deduct (also under the contract) any costs related to performance of the repairs referred to above from the receivables due to the Supplier from VWP.

23.5

If despite ineffective expiry of the time designated to the Supplier by VWP in accordance with item 0 of these Terms and Conditions VWP does not terminate the Contract, VWP may repair the defects in the Equipment itself or have them repaired by third parties. Any resultant costs shall be borne by the Supplier. VWP shall be entitled to deduct (also under the contract) any costs related to performance of the repairs referred to above from the receivables due to the Supplier from VWP.

23.6

When the defects in the Equipment delivered by the Supplier may cause or pose direct threat to human life or health or may cause major material damage, VWP shall be entitled to immediately remedy or have the defects in the Equipment remedied at the Supplier's expense and risk. Any defects shall be notified as soon as possible by VWP to the Supplier and as much as possible shall ensure Supplier's participation in remedying such defects in the Equipment.

23.7

In case of deliveries of defective Equipment, VWP shall be entitled to claim price reduction of defective Equipment and to demand remedy of the resultant damage. If as a result of deliveries of defective Equipment, production is interrupted at VWP, VWP may claim contractual penalties as specified in item 22.5 for each case of production interruption. The Supplier shall be further obliged to indemnify and

hold VWP harmless against all claims for damages due to deliveries of defective Equipment that may be made by third parties and to repair the resultant consequential damage.

24. Liability / Third party liability insurance / Securities

24.1

Unless agreed otherwise, the Supplier shall be obliged to cover damage incurred by VWP directly or indirectly as a result of defects in the Equipment, breach by the Supplier of administrative regulations concerning safety or otherwise for reasons for which the Supplier is responsible even if it may not be held guilty.

24.2

Unless agreed otherwise, the Supplier shall submit a third party liability insurance contract covering the operation of its business, product liability and damage caused to the natural environment. Such insurance contract shall be maintained throughout the term of the contract between VWP and the Supplier.

VWP may request submission of such insurance policy along with detailed terms and conditions of such insurance.

24.3

Any claims for damages due to lack of features of the Equipment the presence of which was assured by the Supplier and claims related to product liability by the Supplier shall remain unaffected.

24.4

VWP shall be liable to the Supplier solely for damage caused as a result of willful misconduct.

25. Personal data protection

The parties shall be obliged to collect, store and process all personal data in a manner that would not breach the applicable law.

26. Final provisions

All modifications of the legal relationship between VWP and the Supplier shall be made in writing.

27. Severability clause

Should any provision of these Terms and Conditions and other agreements between the parties become or be invalid or ineffective in the future, this shall not affect the validity of the other provisions of the contract. The above applies to any contractual gaps respectively.

28. Place of performance. Competent court

28.1

Unless the parties have agreed otherwise the offices of VWP shall be the place of performance of the obligations resulting from the Contract for Purchase of Equipment.

PURCHASE OF EQUIPMENT

28.2

Any disputes shall be resolved by a court of law competent for the registered office of VWP. However, VWP may file its claims in a court of law competent for the Supplier's registered office.

28.3

In case of disputes, the Polish version of these General Terms and Conditions of Purchase shall apply.