1. Purpose and scope of the general conditions of purchase

The present general conditions of purchases, hereinafter referred to as the "GCP" are applicable to all purchases, including the purchase of intellectual services, made by Delingen Group and its direct or indirect subsidiaries ("the client") from any supplier ("the supplier"). Notwithstanding any clause to the contrary in any document issued by the supplier.

The GCP, completed, if necessary, by the commercial bid submitted by the supplier, by the "supplier demand dossier" and the "specifications" submitted by the customer, by the specific conditions of purchase negotiated by the parties, and by the purchase order that may contain specific stipulations, constitute the "contractual documents" that express the full agreement between the parties and any other document falls outside the contractual scope, without prejudice to the mandatory provisions stated by the law applicable to the agreement.

Should some provisions between the various contractual documents be conflicting, the supplier demand dossier shall prevail over the GCP; the specifications shall prevail over the supplier demand dossier and the GCP; the specific conditions of purchase shall prevail over the latter documents; the specific stipulations on the purchase order shall prevail over any other document.

2. Order

It is mandatory for the customer to issue a purchase order ("the order") for goods or services ordered, for an unlimited (blanket order) or limited (closed order) period, of which the supplier must acknowledge receipt within 48 hours of its date of issue. These GCP shall be deemed accepted without reservation by the supplier on the date of issue of the acknowledgement of receipt of the order by the supplier, or as soon as the execution of any part of the order has commenced

Without an acknowledgement of receipt of the order within the above-mentioned time period, the customer may consider the order null and void, even if the supplier has already started the execution of the order. The effective receipt of the ordered services and/or goods within the conditions set out in these GCP shall justify the regulation of the order.

3. Delivery and packaging of the products

The supplier must supply, at its expense and under its responsibility, the packaging required to adequately protect the products until the delivery thereof. The supplier shall choose its means of transport and bear all the resultant costs, liability and risks until the delivery of the products at the location specified on the order. The supplier shall bear the required insurance cost until the delivery of the products.

All deliveries shall occur during the customer’s business hours or during those of the receiver. Any delivery may be rejected if there is no detailed delivery note that states the purchase order number, the company’s address and the service, the nature and the quantity of the products and the type of packaging.

4. Quality and delivery date

The supplier shall undertake to carry out and deliver the service and/or product orders placed by the customer using standard practice and up to the required quality standard in its business sector and specified, if applicable, on the contractual documents, especially the specifications.

In particular, the supplier shall be informed of the requirements of delivery and execution deadlines and the conditions of delivery stated on the contractual documents, and shall undertake to strictly comply with them, given that the deadlines thus stated already take into account the technical risks that affect the completion and delivery of the services and/or products ordered.

The supplier shall inform the customer as soon as possible, by registered letter with request for acknowledgement of receipt, of any difficulties encountered as part of the completion of the delivery of the ordered services and/or products, in particular of any foreseeable delay in the execution of the delivery of services and/or products, without the consequence of this notification being to escape liability. Assuming this, the supplier shall undertake to communicate to the customer proof of these difficulties and the measures implemented to resolve it.

The customer must give its prior written approval for any changes the supplier wishes to apply to the order. The customer shall not be liable for its express authorisation for early deliveries, whether partial or in excessive quantity. Without such authorisation, the quantities delivered in excess shall be returned to the supplier or stored at its expense.

Without prejudice to its right to compensation for the damages incurred, should the supplier not comply with the its commitments in terms of delivery time, the customer reserves the right to apply, without the requirement of formal notice, late delivery penalties of 2% of the value of the order or batch in question, per week of delay. Assuming that late delivery penalties are applied by its own customers due the initial defaulting of the supplier, the customer may transfer these penalties to the supplier, upon proof.

5. Acceptance - compliance

5.1 Products

The mere signing of the supplier or transporter’s delivery note shall not indicate the acceptance of the products and does not free the supplier from its responsibility of a compliant and defect-free delivery. The acceptance of products shall only occur after the inspection that the delivery complies with the order and its contractual documents, in quality and in quantity. In the case of non-compliance found by the customer, it shall issue a total or partial non-compliance statement addressed to the supplier and shall make available to it the non-compliant products for inspection. Without prejudice to its right to compensation of the damage incurred and/or to be applied to late delivery penalties, the customer may immediately demand from the supplier, according to the circumstances, the free replacement of the non-compliant products, the free repair of the non-compliant products, the delivery of the missing quantities or a partial or full credit note. The customer may also, if necessary, turn to a third party of its choice to replace or repair the non-compliant products, after consulting the supplier and at the latter’s expense.

5.2 Services

The acceptance of the ordered services may only occur after they have effectively been rendered in full, according to the conditions set out in the various contractual documents, in particular the specifications.

In the case of non-compliance of the service that has been delivered, the customer shall issue a total or partial non-compliance statement addressed to the supplier and shall make available to it all the items that prove this non-compliance. Without prejudice to its right to compensation for the damage incurred and/or to be applied to late delivery penalties, the customer may immediately demand from the supplier, according to the assumptions, the immediate delivery by the supplier of a compliant service or a partial or full credit note. The customer may also choose to turn to a third party of its choice for the completion of the service, after consulting the supplier and at the latter’s expense.

6. Pricing/billing

The price and the terms of payment and invoicing shall be set out in the purchase order or in any other contractual document. Unless stated in these documents, the price of the services and products shall be given excluding tax. They shall be deemed to include all the costs involved in packaging, casing, and the transport of the products to their place of delivery. The payment currency will be the currency of purchase order. A change in exchange rate parity may not be taken into account under any circumstances. The products and services shall be paid for by cheque or bank transfer, upon receipt of the invoice, within 45 days end of month. Any sum that shall remain due by the customer upon expiry of this payment date may not incur the application of penalties to an amount higher than three times the legal interest rate.

The invoices shall be sent to the customer’s Accounting department in writing and must mention the reference numbers of the order, of the delivery note and all the stipulations required by the law applicable to the agreement.

7. Property and risk

The transfer of the property of the products of the order shall be done, according to the assumptions, as soon as the first order of suppliers is assigned for completion, or at the latest, after completion of the products or when they have been incorporated into the equipment provided by the customer, given that this transfer shall not release the supplier from its obligations. The risks shall be transferred without reservation as soon as the customer receives the products.

8. Cancellation

Without prejudice to the application of the regulatory provisions set out in the law applicable to the agreement or any specific stipulation mentioned on the contractual document, the order may be cancelled by rights by the customer:

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a. If the supplier defaults on any of its contractual obligations without compensating for this breach within eight days from the receipt of the registered letter with request for acknowledgment of receipt addressed by the customer to the supplier in which it is notified of this breach. Then the cancellation of the agreement shall not require the customer to waive its right to request compensation of the potential loss incurred due to the supplier defaulting on its obligations.
b. If there is a direct or indirect change of the supplier’s management, and if its land is transferred, on condition that an eight-day notice is given from the receipt of the registered letter with request for acknowledgment of receipt addressed by the customer for this purpose.
c. In the event of a blanket order, at any time, subject to a 3-month notice from the receipt of the registered letter with request for acknowledgment of receipt addressed by the customer for this purpose. Should this be the case, no compensation of any kind shall be due to the supplier as a result of this cancellation.

Should the customer place several successive orders from the supplier, he shall not be deemed to be in an established commercial relationship. The customer shall not be required to comply with a given notice period if he chooses not to continue one or more orders.

9. Contractual guarantee

Without prejudice to the application of the regulatory provisions set out in the law applicable to the agreement or any specific stipulation mentioned on the contractual document, the supplier shall guarantee the products and/or services of the order against any design and/or manufacturing defect for a minimum period of 12 months from the date of receipt by the customer. The guarantee shall involve, depending on the customer’s preference, the free and immediate replacement of the products or another service rendered free of charge, the immediate and free repair of the guaranteed products or a partial or full credit note. The customer may also, if necessary, turn to a third party of its choice to replace or repair the products, or to render the service, after consulting the supplier and at the latter’s expense.

All the direct or indirect costs incurred by the application of this contractual guarantee shall be exclusively borne by the supplier. The implementation of this contractual guarantee shall not call into question the customer’s right to request compensation for the loss incurred due to the delivery of an incorrectly- assigned product and/or service.

Should the products, which are the object of the order, be parts expressly designed for the automotive market, the supplier shall guarantee to maintain a production capacity of these parts for a 10-year period from the official announcement of the cessation of production of the end product.

10. Liability / Limitation of liability

If the supplier should be rendered liable in the event of defaulting on any obligations, it shall undertake to restore the total loss incurred by the customer, direct or indirect, including the consequences of the customer defaulting on its own obligations as regards its customers and caused by the supplier’s initial breach, notwithstanding any contrary provision in any other document issued by the supplier. In all cases, should the customer potentially be rendered liable in the framework of the contractual relations with the supplier, it will be strictly limited to the compensation of the direct loss suffered by the latter, and shall exclude any other loss such as commercial or administrative difficulties, or loss suffered due to an action where a third party is liable to the supplier.

11. Regulatory obligations

The supplier shall undertake to comply with all the legal and regulatory obligations applicable to its commercial activity, and all the specific legal and regulatory provisions applicable to the completion and delivery of the ordered services and/or products. In particular, the supplier shall undertake to comply with all the legal and regulatory demands as regards environmental protection and labour law. The supplier shall be prohibited, notably, to directly or indirectly employ children under 16 years of age. The supplier shall undertake to ensure that its own suppliers or sub-contractors comply with all the legal and regulatory obligations applicable to their activities.

12. Force majeure

In the event of circumstances not in the contemplation of the parties that prevent the completion and delivery, the ordered products and/or services shall strictly be interpreted according to the law applicable to these GCP. Should the circumstances not in the contemplation of the parties occur for longer than a period of 30 consecutive days, the customer shall have the right to cancel the order by rights eight days after receiving from the supplier, a registered letter with request for acknowledgement of receipt in which it is notified of this cancellation.

13. Insurance

The documentation, the products or tools that belong to the customer and given to the supplier for the completion of the order are placed under the latter’s responsibility. The supplier shall undertake to exercise all usual and reasonable care, skill and forethought in the use of these goods. The supplier shall notably purchase insurance that covers these goods against all risks of theft, destruction or fire.

The supplier shall purchase an insurance policy that covers the financial consequences of a breach of its contractual obligations. The supplier shall also purchase third-party insurance cover that covers the financial consequences of its civil liability that can be called into question in the event of bodily harm, material or immaterial damage caused to the customer or a third party as a result of the services and/or products.

The supplier shall send the customer the insurance certificates upon its request. It shall ensure that its own suppliers or sub-contractors comply with the provisions of this clause.

14. Transfer and sub-contracting

The supplier may not transfer all or part of the order, even free of charge, to a third party, unless the customer has first expressed approval in writing. The order may not be outsourced in full or in part, directly or indirectly, unless the customer has first expressed approval in writing. Should the customer authorise outsourcing, the supplier shall remain solely and entirely liable to the customer for the completion and delivery of the products and/or services according to the conditions stipulated in the contractual documents.

15. Confidentiality / reference

The supplier shall undertake to keep confidential all the technical, administrative, organisational, industrial, commercial and financial information communicated by the customer in the framework of its contractual relations with the supplier, regardless of the form in which this information is transmitted (written, verbal, products, equipment, etc.) The supplier shall undertake to require its employees and potential suppliers or sub-contractors to comply with this clause. This obligation of confidentiality shall survive the contract for a period of five years once the contractual relations have come to an end.

The supplier shall undertake to return to the customer all documents regarding the order(s), for the full duration of the contractual relations and up to five years afterwards, upon the customer’s request. The supplier shall be prohibited from referring to the contractual relations it has with the customer in any commercial communications for up to five years after the end of these relations.

16. Intellectual property

The supplier may freely use the documents and equipment required to complete and deliver the products and/or services of the order, and may freely sell these products and/or services, without infringing on any third party’s intellectual property rights. As a result, the supplier shall guarantee the customer against any claim from a third party to intellectual property rights regarding the above-mentioned documents, equipment, products and/or services. Should a third party commit an action on this principle that results in the prohibition or limitation of the use or sale by the customer of the products and/or services of the order, the supplier shall be solely liable for all the damaging consequences to the customer, resulting from this action.

Should the customer call on a third party to complete and deliver the products and/or services, without infringing on any third party’s intellectual property rights on these products and/or services, the supplier shall undertake to comply with all the intellectual property rights that may apply to the documents, tools and equipment entrusted by the customer in the framework of the completion and delivery of the products and/or services of this order, and shall be prohibited from any assumption to use these documents, tools and equipment outside the framework of the completion and delivery of the services and/or products that are the object of this order.

The supplier may not claim any property on these items outside the framework of a specific agreement entered into with the customer.

17. Waiver / invalidity of a clause

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Any waiver on the part of the customer that concerns the provisions of a clause in the contractual documents, as well as any tolerance by the customer on the content and the scope of a clause, even prolonged in time, shall not lead to the novation of the contractual documents.

If a clause of a contractual document is regarded null and void or not-applicable, it shall be deemed not written and shall lead to the invalidity of any other provision.

18. Price Warranty
Supplier warrants that the prices for the articles sold to Purchaser hereunder are no less favorable than Supplier currently extends to any other customer for the same or similar goods or services in similar quantities. If Supplier reduces its prices to others during the term of this Purchase Order for such goods or services during the term of this Purchase Order, Supplier will reduce the price to Purchaser for such goods or services correspondingly.

19. Customs and Exports controls
Transferable credits or benefits associated with or arising from goods purchased under this GCP, including trade credits, exports credits or rights to the refund of duties, taxes or fees, belong to the Client. The Supplier will, at its expense, provide all information necessary (including written documentation and electronic transaction records in Client-approved formats) to permit Client to receive these benefits, credits or rights. The Supplier will furthermore, at its expense, provide the Client with all information, documentation and electronic transaction records relating to the goods necessary for the Client to fulfill any customs-related obligations, origin marking or labeling requirements and certification or local content reporting requirements, to enable the Client to claim preferential duty treatment for goods eligible under applicable trade preference regimes, and to make all arrangements that are necessary for the goods to be covered by any duty deferral or free trade zone program(s) of the country of import. The Supplier will at its expense, provide the Client or Client’s nominated service provider with export documentation to enable the goods to be exported, and obtain all export licenses or authorizations necessary for the export of the goods unless otherwise indicated in this GCP, in which event the Supplier will provide all information as may be necessary to enable the Client to obtain such licensees or authorizations.

20. Language
The present GCP are written in French, which is the authoritative language for the application and interpretation of these general conditions and the contracts signed with the Supplier. Any translation is made for information purposes only, and may not be binding on the Client.

21. Applicable law, competency
These GCP shall only be governed by French law. Any dispute as to the validity, opposability, interpretation and execution thereof shall be decided by the court of Besançon (France), including when there is more than one defendant.
In the event that the previous paragraph is declared inapplicable, the court located in the buyer’s jurisdiction shall be appointed as the competent court.