

# General Terms and Conditions for the Purchase of Production Material

AW Europe S.A., Avenue De L'Industrie 19, 1420 Braine L'Alleud, Belgium  
BCE:0441.938.532  
Edition 7/2018



- 1. Determining Conditions.**

The legal relationship between Supplier and AW Europe S.A., hereinafter "AW-EUR", shall be determined by the following terms and conditions and any additional terms agreed in writing between the contractual parties. Changes and amendments to these conditions must be in writing and mutually agreed upon. Any other general business terms shall not be applicable even if not explicitly rejected. The Supplier shall deliver products ("the Products" or "Products") ordered by AWE.
- 2. Orders**
  - 2.1. Supply contracts (order and order acceptance) and delivery schedules as well as any changes and amendments thereof have to be made in writing between the contractual parties. Purchase orders, order acceptance as well as any changes may also be issued by Telefax, Electronic Data Interchange (EDI) and / or e-Mail.
  - 2.2. Supplier shall send Purchase Order Acknowledgement during business hours no later than forty eight (48) hours following the date of the Purchase Order AW-EUR.
  - 2.3. If Supplier does not send Acknowledgement AW-EUR deems Purchase Order is accepted by Supplier if not objected within latest five (5) business days, following the date of Purchase Order of AW-EUR.
  - 2.4. By acceptance of AW-EUR orders the Supplier accepts the AW-EUR General Terms and Conditions for the Purchase of Production Material in its respective valid version (<http://www.aw-europe.be>).
  - 2.5. AW Europe may postpone and reschedule any previously scheduled Order; provided however that notice of the postponement of any properly-noticed Order must be given prior to the production lead-time provided by the Supplier.
- 3. Payment**
  - 3.1. All Payments shall be made sixty <60> days end of month calculated from the date the invoice is received by AW-EUR provided, however, AW-EUR has received complete billing documents not later than the last day of such month. In case of premature shipments, payment will be made according to the agreed delivery date. Under no circumstances shall the starting point of term of payment be prior to the date of actual delivery of the merchandise.
  - 3.2. In case of defective deliveries, AW-EUR shall be entitled to withhold an appropriate amount until the defective Products have been replaced.
  - 3.3. Without previous written consent of AW-EUR, which shall not be unreasonably withheld, the Supplier shall not be entitled to assign his receivables to third parties or to have such receivables collected by third parties.
- 4. Notifications upon receipt of the goods**
  - 4.1. Without prejudice to the application of article 15 ([Warranty](#)), AW-EUR shall have a period of twenty (20) days commencing on the later of the two (2) dates below:
    - the day of actual delivery of goods
    - the date of receipt of the invoiceto submit any form of complaint or comment concerning either a visible non-conformity, or visible deficiency of the goods sold, in the absence of which the goods are deemed to be accepted.
- 5. Confidentiality**
  - 5.1. The contracting parties commit themselves to deem as business secrets all commercial and technical details which come to their knowledge during the course of their business relationship unless such details are public and to keep any and all information exchanged between AW-EUR and the Supplier strictly confidential.
  - 5.2. Drawings, models, patterns, samples and similar objects of AW-EUR shall only be made accessible by Supplier to third parties on a need to know basis and with prior notice to AW-EUR. Reproduction of such objects is permitted only according to business requirements or in compliance with the laws on copyright.
  - 5.3. The Supplier shall ensure that his Sub-Suppliers shall commit themselves accordingly.
  - 5.4. Each contracting party may use the established business relationship for advertising purposes only after having obtained previous written consent from the other party.
- 6. Delivery**
  - 6.1. Agreed delivery dates and schedules are binding. Compliance with such dates or schedules shall be determined by the delivery date at the place as designated by AW-EUR, or if no delivery term has been specifically agreed, the delivery shall be Delivery Duty Paid (DDP) as per Incoterms 2010 at the place named by AW-EUR.
  - 6.2. Risks are transferred at the time of the actual Delivery date of the Products at the agreed place by Supplier."
  - 6.3. Spare Parts and After Sales Period deliveries. The After-sales period is the period which follows the End of Series Production (EOP) of AW-EUR products mass production, and during which AW-EUR still delivers AW-EUR Products as spare parts to AW-EUR customer(s). The Supplier guarantees the delivery of the Products, according to specifications, during 15 years after the EOP. During this period the Supplier shall maintain all know-how and information necessary to produce the Products and shall ensure proper maintenance of tooling and equipment's without extra cost to AW-EUR.
- 6.4. Premature delivery.** At its discretion, AW-EUR may decide to return immediately, at the Supplier expense, all Products delivered prior to the agreed delivery date.
- 7. Delay**
  - 7.1. In case of a delay on part of the Supplier, the Supplier shall inform AW-EUR immediately in writing.
  - 7.2. AW-EUR is entitled to: (i) cancel the order in whole or in part, (ii) not to cancel but to hold open the order while the Supplier is fully liable for all extra costs that might result from delay, (iii) claim full compensation for the delay damage.
  - 7.3. The Supplier agrees to inform AW-EUR by phone and email within 24 hours of all problems related to delivery of the Products. Information must include as applicable: (i) technical description of problem(s), (ii) impact on production and delivery planning, (iii), next delivery date and quantity, and (iv), short and long term recovery plan.
- 8. Force Majeure.**

Any circumstances beyond the control of the parties (such as industrial disputes, natural disasters, fire, war, blockade, mobilization, requisition, seizure, non-issuance of import or export licenses, currency/exchange restrictions, rebellion, general scarcity of means of transport, general restriction on access to power supply etc.) preventing the performance of the Purchase shall be regarded as case of relief. The party seeking to claim relief on the basis of any of the above circumstances shall immediately inform in writing the other party of the occurrence and cessation of such circumstances. The existence of such circumstances shall release the parties from the liability to deliver and to purchase for the duration of these circumstances.
- 9. Certification Requirements**
  - 9.1. The Supplier shall himself be Minimum **ISO 9001** certified and have a plan to achieve the **IATF** certification (International Automotive Task Force) within a defined timeline, if not already certified for IATF.
  - 9.2. **Laboratories**, contracted or owned by Supplier, that are providing **inspection, test or calibration** services utilized for AW-EUR products characteristics validation, shall be **ISO 17025** certified.
  - 9.3. **Environment.** Supplier shall in any case demonstrably have a suitable environmental management system in place, comparable to **ISO 14001** if not already certified for ISO 14001, or instead comply with the **EMAS Directive of the European Union** and have a process to cascade environmental requirements to sub-tiers upon request (i.e. materials reporting requirements).
  - 9.4. Supplier will provide and maintain Authorized Economic Operator ("**AEO**") certification and provide AW-EUR with its certification number upon request.
  - 9.5. If Supplier cannot provide an AEO certificate upon request, Supplier shall up-front and prior to first delivery complete the separate AW-EUR Form "**Security Declaration**", which will be provided by AW-EUR to Supplier.
- 10. Environmental Requirements – Material Reporting**
  - 10.1. The Supplier shall comply with the latest regulation (see [www.gads.org](http://www.gads.org) and End-of-Live Vehicle directive (EU-D 2000/53/EC, 2005/438/CE, 2005/59/EC, 2005/673/CE and REACH regulation EC 1907/2006) about the material / substance composition, register the Products delivered to AW-EUR in the International Material Data System (**IMDS**) system and provide IMDS registration confirmation to AW-EUR by email.
  - 10.2. **Products and Material Legal Compliancy.** All purchased material used in the Products manufactured by the Supplier shall satisfy current governmental and safety constraints on restricted, toxic and hazardous materials; as well as environmental, electrical and electromagnetic considerations applicable under European regulations. All legal documents regarding the Products have to be included with the delivery.
- 11. Quality Assurance and Documentation**
  - 11.1. The Supplier shall maintain a quality management system in accordance to the stipulations of section 9 Certification Requirements above. The Supplier shall always conform to the latest version of ISO 9001 or IATF and ISO 14001, environmental management standards, demonstrate his certification by an accredited 3rd Party certification body. For electronic components moreover the standards as outlined by the Automotive Electronic Council (**AEC**, [www.aecouncil.com](http://www.aecouncil.com)) are applicable. The quality policies and procedures shall be practiced throughout the entire organization of the Supplier.
  - 11.2. Concerning his deliveries the Supplier shall comply with the acknowledged standards of engineering, the safety regulations and the agreed technical data. Changes to the relevant specification including process and product to be delivered are subject to the previous written consent of AW-EUR.

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- 11.3. Products supplied shall be in compliance with their Specifications. The Supplier shall check without delay whether a description provided by AW-EUR is in any way incorrect, out-dated and / or incomplete. In such case the Supplier shall immediately give notice in writing to AW-EUR.
  - 11.4. Inspection rights. At any time during normal working hours and at whatever stage of manufacture, AW-EUR is permitted to have the quality of the materials and parts used inspected and investigated by one or more duly appointed authorised persons. The fact that no comments have been made following these inspections or investigations in no way prejudices the right of AW-EUR to refuse the material if it is not correct or is afflicted with visible or hidden defects.
- 12. Samples and Approval**
- 12.1. If applicable in the relation between the Supplier and AW-EUR, mass deliveries may be commenced only after AW-EUR has accepted samples. Notwithstanding the afore-stated the Supplier shall permanently control the quality of the Products delivered. The contracting parties shall inform each other of the possibilities of improving the quality of the Products to be delivered.
  - 12.2. Product Part Approval Process (PPAP) is applicable only for components which are selected by AW-EUR. PPAP documents have to be provided by the Supplier where appropriate. The PPAP procedure is to be applied for new parts or when technical modifications to products and/or changes to production process or prequalification of the process occur.
- 13. Changes to Products**
- 13.1. AW-EUR reserves the right to request changes to the Products. If such modifications affect the production or delivery cost of Products, the Parties shall make an equitable adjustment in the purchase price. Delivery schedules and / or relevant purchase orders will be modified in writing, as and after agreed with the Supplier.
  - 13.2. Any intended change to the Products including the Design, the Bill of Material (BOM), the Drawings, the Production Instructions that affect the form, fit, function and / or reliability by the Supplier shall be informed and forwarded to AW-EUR in writing with e-Mail to: "PCN@aweurope.be." The Supplier shall obtain AW-EUR's written consent, which shall not unreasonably be withheld, at least six (6) months prior to implementation of an intended change.
  - 13.3. AW-EUR and the Supplier guarantee to each other in any case of a change to the Products to closely coordinate the change process together and to maintain sufficient parts supply of Products to cover AW-EUR procurement requirements until the change takes place in order to avoid a disruption of production lines.
  - 13.4. In any case Supplier shall give AW-EUR an opportunity to place orders and make available to AW-EUR Products in sufficient amounts before the change takes place.
- 14. Discontinuation of Products**
- In case Products (parts or components) are going to be discontinued, the Supplier shall inform AW-EUR in writing of discontinuation with a minimum lead time of six (6) months prior to the discontinuation of the Products. The written information must include (i) information about actions which have been taken and/or will be taken in order to maintain the Supplier ability to deliver The Products to AW-EUR and (ii) other information related to equivalent parts or replacement parts.
- 15. Warranty**
- In accordance with applicable law and, if defective or non-conforming Products are delivered, and if the Supplier is not able to immediately replace the deficient Products AW-EUR is entitled to claim as follows:
- 15.1. Before start of production (processing or fitting) the Supplier shall be given the opportunity to sort out as well as rework defective Products. In case the Supplier is unable to accomplish the afore-stated or in case the Supplier does not conform with it immediately, AW-EUR is entitled to rescind the contract to this extent and return the Products at the Supplier's risk and cost. In urgent cases AW-EUR may, after consultation with the Supplier, accomplish the rework himself or have it done by a third party. Any costs resulting thereof shall be borne by the Supplier. In the case the same Products are repeatedly supplied in a defective condition, AW-EUR shall be entitled to rescind the contract also with respect to the Products not yet supplied, upon written notification, as from the second defective condition of the Products. On request the Supplier shall send a duly qualified technician at its cost and expense to the affected AW Europe Production site in Belgium.
  - 15.2. In the event the defect is discovered only after start of production even though AW-EUR has carefully attended to the notification of deficiencies as outlined in article 4.1 of this General Terms and Conditions then AW-EUR is entitled to: (i) claim supplementary performance and indemnification for cost of transport as well as cost of dismantling and installation (cost of labour and cost of material), which are required for the additional fulfilment, or (ii) to reduce the purchase price.
  - 15.3. Notwithstanding any other claim for direct or consequential damages, AW-EUR can claim indemnification for hidden defects and claims on the basis of the Product Liability Act and the Civil Law.
- 15.4. The warranty for defective Products expires at the end of forty two (42) months after acceptance in accordance to article 4.1 (**Warranty Term**).
  - 15.5. Warranty Survival. The warranty set forth above shall survive the transfer of the Products to AW-EUR customers.
  - 15.6. Warranty claims don't arise if a defect is attributable to the non-observance of operation, service or installation instructions, inappropriate or unsuitable use, incorrect or careless treatment, normal wear and tear as well as to changes to the Products supplied, made by or on behalf of AW-EUR.
- 16. Liability**
- 16.1. Insofar as these conditions do not provide for other liability clauses, the Supplier shall be liable for damage directly or indirectly caused to AW-EUR as a result of defective supply, violation of official safety regulations or for any other reason, attributable to the Supplier, according to the following.
  - 16.2. Supplier shall hold AW-EUR and its shareholders, directors, employees, agents, distributors, parent companies and subsidiaries, free and harmless from any claim, damage, loss, costs, expenditure, obligations, liabilities and legal proceedings, including but not limited to interest and penalties, reasonable lawyers' fees and costs and all amounts that are paid with a view to settling a demand, claim or legal proceedings arising from, resulting from or connected to: (i) non-compliance with or violation of any obligation stipulated in the General Terms and Conditions by Supplier; and (ii) claims of any nature whatsoever by a third party suffering any damage whatsoever that is directly or indirectly the result of Supplier's Products.
  - 16.3. If AW-EUR intends to assert a claim against the Supplier according to the afore-stated provisions, he shall forthwith consult the Supplier and shall comprehensively inform him. He shall give the Supplier the opportunity to investigate the damage occurred.
- 17. Trade Mark and Industrial Property Rights (IP)**
- 17.1. The Supplier shall be liable for any claim which results from the infringement of IP, either granted or applied for. The Supplier shall hold AW-EUR and his customers free and harmless of all liabilities resulting from making use of such IP. To fulfil its obligations under this agreement the Supplier is obliged at its own cost either to (i) obtain for AW-EUR the right to continue using the infringing product (ii) substitute other products with equivalent functional capabilities or (iii) modify the product so that it is no longer infringing while retaining equivalent functionality.
  - 17.2. The afore-stated shall not apply inasmuch as the Supplier has manufactured the Products to be delivered according to drawings, models or similar descriptions or statements provided by AW-EUR and if, at the same time, the Supplier does not know that protective rights were infringed.
  - 17.3. The contracting parties commit themselves to inform and to support each other forthwith on all risks of violation or alleged violations and to give each other the opportunity to jointly oppose such claims.
  - 17.4. At the request of AW-EUR the Supplier shall inform AW-EUR about the use of any published or unpublished protective rights relating to the Products to be delivered regardless whether they are owned by the Supplier or licensed to the Supplier including also any rights pending.
- 18. Manufacturing Equipment and Confidential Information**
- 18.1. AW-EUR has the exclusive property rights and ownership for tools, samples, designs, special equipment's, specifications and results of development activities for which AW-EUR pays the cost. The Supplier shall make tools, samples, designs, special equipment's, specifications and results of development activities available to AW-EUR immediately.
  - 18.2. Tools, samples, designs, matrices, models, jigs and any other equipment owned by AW-EUR must not, prior written permission, be used by The Supplier for other purposes than the fulfilment of its obligations under this agreement nor for the benefit of any other party. AW-EUR shall have the right to discretionary ask the Supplier to return tools, samples, designs and other special equipment owned by AW-EUR. Tools, samples, designs and other special equipment's owned by AW-EUR may not be removed or destroyed without permission of AW-EUR in writing.
  - 18.3. Supplier undertakes to safeguard with all due care and diligence the models, tools and molds entrusted to it. It shall, at its own expense, provide any insurance necessary against fire, theft, or any other damage which may occur to the models, tools and molds deposited, and this for a minimum insured sum of Euro corresponding to the value of the models, tools and molds. If it so wishes AW EUR may ask Supplier for a copy of the insurance policies and the proof of the payment of the premiums. Supplier shall affix clear distinctive signs on all models, tools and molds, which shall be stored in a confined space to that purpose, so as to be easily distinguished from all other models, tools and molds deposited by others or owned by Supplier himself. The models, tools and molds shall be returned in good order to AW EUR upon its first request. Supplier shall take all measures to avoid any third parties to enforce any rights or seizure on the models, tools and molds. If the goods are stored in premises rented by Supplier, he must inform lessor of these premises by registered mail that the stored goods are not its own property, and that lessor cannot enforce its privilege of unpaid lessor on the models, tools and molds.

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Likewise, Supplier shall inform pledgees and other preferential creditors of the ownership rights of AW EUR on the models, tools and molds. Supplier shall inform AW EUR without delay and through the most appropriate channel of any claims that third parties may wish to make on the goods and of every seizure, precautionary measure, measure of execution, process served by a bailiff, etc. Supplier shall reimburse AW-EUR for all costs, including lawyers' fees, which the Depositor incurred for recovery of the models, tools and molds.

## 19. General Provisions

- 19.1. Should one of the provisions of these conditions or of any additional stipulations agreed upon be or become invalid, the validity of the remaining part of these conditions shall not be affected thereby. The contracting parties are committed to replace the invalid provision by another equivalent term, in so far as this is possible, with respect to the commercial effect.
- 19.2. If the parties have not agreed otherwise the laws of Belgium shall be applied exclusively. The application of the uniform laws of sale contained in the Vienna Convention on International Sale of Products (CSIG), dated 11th of April 1980, is hereby excluded.
- 19.3. Any dispute between the parties shall be settled by the courts of the district where AW Europe has its registered office.

## 20. Privacy

- 20.1. **Privacy.** Any Personal Data provided by the supplier will be processed by AW(TC) Europe SA (Avenue de l'Industrie 19, 1420 Braine-l'Alleud, Belgium, registered under the number 0441.938.532), the European Head Quarter of the Aisin AW Co. Ltd. group of companies with seat in Okazaki, Japan, (Aisin AW Group), the Controller, for the following purposes (i) to communicate with the supplier, (ii) to take steps prior to entering into a contract with the supplier, (iii) to perform a contract with the supplier, (iv) to comply with any legal or regulatory obligations, (v) to review and evaluate the supplier and (vi) to manage AW(TC) Europe's business operations.
- 20.2. Depending upon the purposes of processing, the Controller relies on (i) the necessity for the performance of a contract or for taking pre-contractual measures, (ii) the necessity for compliance with legal and regulatory obligations AW(TC) Europe is subject to and/or (iii) AW(TC) Europe's legitimate business interests. Where AW(TC) Europe relies upon its legitimate business interests, this includes the pursuit of its commercial activities and objectives and the maintenance and development of the relationship with its suppliers.
- 20.3. The personal data provided by the supplier may be shared within AW(TC) Europe on a 'need to know' basis. In addition and on a need to know basis only, AW(TC) Europe may disclose personal data provided by the supplier to its contractors and service providers.
- 20.4. The personal data provided by the supplier may be disclosed or transferred to other entities within the AW(TC) Europe group of companies, both within and outside of the European Economic Area (EEA).
- 20.5. In order to ensure adequate protection of the personal data when transferred outside the EEA, AW(TC) Europe has entered into Standard Contractual Clauses with the entities within the AW Group of companies located outside the EEA. Upon request, AW(TC) Europe will provide further details on these arrangements.
- 20.6. **Deletion and Retention of Personal Data.**
  - 20.6.1. Personal Data provided by the supplier will be deleted or locked from access when the purpose of use of Personal Data ceases to exist (ref. par. 1 above), unless otherwise required by law. AW(TC) Europe obeys and respects all statutory requirements stipulating the periods for retention of Personal Data.
  - 20.6.2. Data subjects have the right at any time to personally request access to and rectification of their personal data, or erasure of their personal data, or restriction of the processing of their personal data concerning the data subject, or to object to processing. Data subjects have the right to object at any time to the processing of their personal data for the purposes of direct marketing as well as the right to data portability. Such rights may be exercised by sending an Electronic Notification to the Controller by e-mail to the following address [GDPR@aweurope.be](mailto:GDPR@aweurope.be) including data subject's unique identity. Data subjects also have the right to lodge a complaint with a supervisory authority.