

Terms of Purchase of the UK-based Companies of the MAHLE Group

1. Interpretation

1.1 In these Terms:

“Affiliate” means a company within a “group” as that expression is defined in Section 1261 of the Companies Act 2006

“Buyer” (if not stated in the Order) means the UK-based company of the MAHLE Group that placed the order;

“Contract” means a contract for the sale and purchase of Goods and/or the supply and acquisition of Services;

“Delivery Address” means the address for delivery (if any) stated on an Order;

“Goods” means goods (including any instalment of the goods or any part of them) described in an Order;

“Intellectual Property Rights” shall include but not be limited to design rights, patents, know-how, registered designs, copyright, moral rights, utility models and all similar or analogous rights in any part of the world

“Order” means a Buyer’s purchase order to which these Terms are annexed;

“Price” means the price of Goods and/or charge for Services in respect of an Order

“Seller” means the person so described in the Order;

“Services” means the services (if any) described in the Order;

“Specification” includes any plans, drawings, data or other information relating to Goods or Services and (unless the context otherwise requires) whether supplied by the Buyer to the Seller, or specifically produced by the Seller for the Buyer in connection with a Contract;

“Terms” means the standard terms and conditions of purchase set out in this document;

“Writing”, and any similar expression, includes facsimile transmission and comparable means of communication [but not electronic mail].

1.2 Where an Order includes the Seller’s handbook, manual and/or quality guidelines, such Order will be deemed to include the same and so that without limitation such Order will not be fulfilled unless the full amount of such items are delivered to the Buyer by the Seller.

1.3 Any reference in these Terms to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.

1.4 The headings in these Terms are for convenience only and shall not affect their interpretation.

2. Basis of Purchase

2.1 An Order is only open for acceptance on these Terms and constitutes an offer by the Buyer to purchase Goods and/or acquire Services subject to these Terms.

2.2 These Terms shall apply to each Contract to the exclusion of any other terms on which any quotation has been given to the Buyer or subject to which the Order is accepted or purported to be accepted by the Seller.

2.3 The Supplier’s written acceptance or commencement of any work or service under an Order shall constitute an acceptance of these Terms.

2.4 If an Order is not unconditionally accepted by the Seller in Writing within seven days of its date, it will lapse unless at any time agreed otherwise by the Buyer.

2.5 No variation to an Order or these Terms shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.

2.6 In case of conflict between these Terms and the Order the latter shall prevail.

3. Specifications

3.1 The quantity, quality and description of Goods and Services shall, subject as provided in these Terms, be as specified in the Order and/or in any applicable Specification supplied by the Buyer to the Seller or agreed in Writing by the Buyer. The Buyer shall not be bound to accept delivery of Goods in excess or below the number of those subject to an Order or Contract and may at its sole unfettered option accept part delivery of Goods whilst treating the failure to supply the balance subject to a contract as a breach of that contract.

3.2 The Seller shall comply with all applicable regulations and/or other legal requirements (including without limitation those relating to the protection of the environment) and the requirements of the Buyer concerning the manufacture, packaging, packing and delivery of Goods and the performance of Services. The Seller shall undertake a prior and timely discharge of the obligations established by the Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and

Restriction of Chemicals (REACH) and any replacements or amendments thereof. The Buyer shall in no way be responsible for the registration of the purchase of chemicals. The Seller confirms the necessity of a prior registration of the object of purchase for a legally admissible delivery and accepts the obligation to compensate the Buyer for all losses and damages resulting from a breach of law established by REACH (and all and any replacements or amendments thereof) and which relate to Goods.

3.3 Any initial sample shall be produced in compliance with the latest version of VDA Volume 2 ‘Quality Assurance of Deliveries’ or PPAP (QS 9000). In addition to the initial sample inspection report, the supplier shall enter all material data in the IMDS material database (International Material Data System, www.mdsystem.com); the approval and accepted IMDS entry for all relevant material data is a component and precondition of each successful initial sample approval.

3.4 The Seller shall not unreasonably refuse any request by the Buyer to inspect and test Goods during manufacture, processing or storage at the premises of the Seller or any third party prior to despatch, and the Seller shall provide the Buyer with all facilities reasonably required for inspection and testing.

3.5 If as a result of inspection or testing the Buyer is not satisfied that Goods will comply in all respects with a Contract, and the Buyer so informs the Seller within seven days of inspection or testing, the Seller shall take such steps as are necessary to ensure compliance.

3.6 Goods shall be marked and packaged in accordance with the Buyer’s instructions and any applicable regulations or requirements of the carrier, and properly packed and secured so as to reach their destination in an undamaged condition in the ordinary course.

4. Price of the Goods and Services

4.1 Subject to 4.3 and 4.4 below the Price of Goods and Services shall be as stated in an Order and, unless otherwise so stated, shall be:

4.1.1 exclusive of any applicable value added tax (which shall be payable by the Buyer subject to receipt of a VAT invoice); and

4.1.2 inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the Delivery Address and any duties, imposts or levies other than value added tax.

4.2 No increase in the Price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of the Buyer in Writing.

4.3 The Buyer shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Seller, whether or not shown on its own terms of sale.

4.4 The Seller undertakes with the Buyer to ensure that the Price of Goods and Services will at all times notwithstanding an Order or contract to be at the lowest price at which the Seller has supplied or agreed to supply such or similar goods and/or services to third parties at any time during the period of one month before the relevant Order or Contract and final fulfilment of such Order or Contract.

4.5 The Buyer shall upon reasonable notice from time to time make available and procure that its own suppliers make available to the Buyer and its agents its and their accounting records and other documents which the Buyer requires to establish whether or not the Seller is in breach of any of the obligations hereunder and shall permit the Buyer and its agents to take copies of the same at the Buyer's expense.

5. Terms of Payment

5.1 The Seller may invoice the Buyer on or at any time after delivery of Goods or performance of Services, as the case may be, and each invoice shall quote the number of the Order.

5.2 Unless otherwise stated in the Order, the Buyer shall pay the Price of Goods and Services within [30] days after the end of the month of receipt by the Buyer of a proper invoice or, if later, after acceptance of Goods and Services in question by the Buyer.

5.3 The Buyer may set off against the Price any sums and/or liability owed by the Seller to the Buyer or to an Affiliate of the Buyer.

6. Delivery

6.1 Goods shall be delivered to, and Services shall be performed at, the Delivery Address on the date or within the period stated in the Order, in either case during the Buyer's usual business hours.

6.2 Where the date of delivery of Goods or of performance of Services is to be specified after the placing of the Order, the Seller shall give to the Buyer reasonable notice of the specified date.

6.3 The time of delivery of Goods and of performance of Services is of the essence of every Contract.

6.4 A packing note quoting the number of the Order must accompany each delivery or consignment of Goods and must be displayed prominently.

6.5 If Goods are to be delivered, or Services are to be performed, by instalments, the Contract will be treated as a single contract and not severable.

6.6 The Buyer may reject any Goods delivered which are not in accordance with a Contract, and shall not be deemed to have accepted any Goods until the Buyer has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in Goods has become apparent.

6.7 The Seller shall supply the Buyer in good time with any instructions or other information required to enable the Buyer to accept delivery of Goods and performance of Services.

6.8 The Buyer shall not be obliged to return to the Seller any packaging or packing materials for Goods, whether or not any Goods are accepted by the Buyer.

6.9 If the Goods are not delivered or the Services are not performed on the due date (including without limitation delivery or performance before due date) then, without limiting any other remedy, the Buyer shall be entitled to deduct from the Price or (if the Buyer has paid the Price) to claim from the Seller the liquidated damages ensuing.

6.10 If any Goods are rejected by the Buyer the Seller shall at its expense forthwith collect the same or the Buyer may at its option return the same to the Seller at the cost (including without limitation packaging and repackaging) and risk of the Seller.

7. Risk and Property

7.1 Risk of damage to or loss of Goods shall pass to the Buyer on delivery to the Buyer in accordance with the Contract.

7.2 The ownership of Goods shall pass to the Buyer on delivery, unless payment for Goods is made prior to delivery, when the ownership shall pass to the Buyer once payment has been made and Goods have been appropriated to the Contract.

8. Warranties and Liability

8.1 The Seller warrants to the Buyer (and subject to any legal requirement it shall be a condition) that (notwithstanding any inspection of or ability to inspect the same) the Goods and any goods or parts replacing the same as a result of breach of warranty and/or condition:

8.1.1 will be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Seller or made known to the Seller [in Writing] at the time the Order is placed;

8.1.2 will be free from defects in design, material and workmanship and will incorporate the best technology then available to the Seller;

8.1.3 will correspond with any relevant Specification or sample; and

8.1.4 will comply with all statutory requirements and regulations relating to the sale of the Goods;

8.1.5 will comply with all quality and certification requirements from time to time demanded by the Buyer.

8.2 Notwithstanding anything herein, where there are serial defects such warranties and conditions mentioned above shall be unlimited in time.

8.3 In respect of all and any component parts obtained by the Seller from a third party for incorporation or use in connection with Goods, to the extent that the Seller has received a more extensive warranty or remedy from such supplier in connection with such components the Seller will extend to the Buyer such warranties and remedies applicable to such component parts to correspond with the warranties which the Seller receives and

8.3.1 such extended warranties will be in addition to the warranties otherwise applicable; and

8.3.2 the Seller shall observe all relevant procedures to ensure preservation of its warranties from its suppliers to the maximum extent.

8.4 The Seller warrants to the Buyer that the Services will be performed by appropriately qualified and trained personnel, with due care and diligence and to such high standard of quality as it is reasonable for the Buyer to expect in all the circumstances.

8.5 Without limiting any other remedy, if any Goods or Services are not supplied or performed in accordance with the Contract, then the Buyer shall be entitled:

8.5.1 to require the Seller to repair Goods or to supply replacement Goods or Services in accordance with the Contract within [7] days; or

8.5.2 at the Buyer's sole option, and whether or not the Buyer has previously required the Seller to repair Goods or to supply any replacement Goods or Services, to treat the Contract as discharged by the Seller's breach and require the repayment of any part of the Price which has been paid.

8.6 The Seller shall indemnify the Buyer in full against all liabilities, loss (including without limitation loss of profit), damages, costs and expenses (including legal expenses) awarded against or incurred or paid by the Buyer as a result of or in connection with:

8.6.1 breach of any warranty or condition given by the Seller in relation to the Goods or the Services and the reasonable costs of the Buyer in handling all claims relating to or emanating from any such breach of warranty and/or condition;

8.6.2 any claim that the Goods infringe, or their importation, use or resale, infringes, the patent, copyright, design right, trade mark or other Intellectual Property Rights of any other party, except to the extent that the claim arises from compliance with any Specification supplied by the Buyer.

8.6.3 any liability under the Consumer Protection Act 1987 in respect of the Goods;

8.6.4 any act or omission of the Seller or its employees, agents or sub-contractors in supplying, delivering and installing the Goods;

8.6.5 any act or omission of any of the Seller's personnel in connection with the performance of the Services; and

8.6.6 all costs (including without limitation notification of any party likely to be affected) of recalling and/or servicing any Goods which the Buyer in its own unfettered judgement considers necessary and which results from a breach of warranty and/or condition by the Seller.

8.7 In case of any disagreement between the Buyer and the Seller relating in any way to a breach or breaches of warranty and/or condition and all amounts payable in connection therewith the same shall be determined by the Buyer acting reasonably in all the circumstances.

8.8 Neither the Seller nor the Buyer shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Goods or the Services, if the delay or failure is beyond that party's reasonable control. Without limiting the foregoing, the following shall be regarded as causes beyond either party's reasonable control:

8.8.1 Act of God, explosion, flood, tempest, fire or accident;

8.8.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;

8.8.3 (subject to 8.1.4 above) acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental parliamentary or local authority;

8.8.4 import or export regulations or embargoes;

8.8.5 strikes, lock-outs or other industrial actions or trade disputes (but not involving employees of the Seller or of a third party supplying the Seller)

9. Seller's Undertakings

9.1 The Seller undertakes with the Buyer:

9.1.1 not to use in connection with the supply of goods to third parties tooling supplied by the Buyer or manufactured or acquired in accordance with the Buyer's instructions or as a result of the Buyer's specific requirements contained in an Order.

9.1.2 for a period of [15] years following the Buyer ceasing to supply equipment to third parties being Goods or incorporating the same to deliver to the Buyer as the Buyer shall require all spare parts for Goods at a price no greater than that at which such parts were then last supplied to the Buyer by the Seller plus a reasonable amount to allow for inflation.

10. Intellectual Property Rights

10.1 The parties agree that insofar as possible they shall respectively procure that all right title and interest in Intellectual Property Rights involved from time to time in the Specification, manufacture and/or supply of Goods shall be the exclusive property of the Buyer and the Seller insofar as it is possible assigns with full title guarantee all such Intellectual Property Rights for no further consideration, subject only to payment of the Price. The Seller agrees at the cost and request of the Buyer to do all such other things and execute all such other documents as the Buyer shall require to vest the same in the Buyer absolutely but in the meantime to hold the same on trust for the Buyer.

10.2 The Seller shall forthwith inform the Buyer of any matter which now or in the future shall involve a new invention or method of manufacture or use of equipment involved in the production or use of Goods.

10.3 Insofar as it is not possible to vest any Intellectual Property Rights in the Buyer pursuant to 10.1, the Seller shall procure that the Buyer shall have a royalty free right at all times to use manufacture sell and deal in goods incorporating the same, which right shall be freely assignable.

11. Termination

11.1 The Buyer may cancel an Order in respect of all or part only of the Goods and/or the Services by giving notice to the Seller at any time prior

to delivery or performance, in which event the Buyer's sole liability shall be to pay to the Seller the Price for the Goods or Services in respect of which the Buyer has exercised its right of cancellation, less the Seller's net saving of cost arising from cancellation. In the event of a re-order of such Goods and/or such Services so cancelled a credit shall be given by the Seller to the Buyer in respect of monies paid pursuant to this Clause 11.1.

11.2 The Buyer may terminate a Contract without liability to the Seller by giving notice to the Seller at any time if:

11.2.1 the Seller makes any composition or voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) enters into administration or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction), or a moratorium comes into force in respect of the Seller (within the meaning of the Insolvency Act 1986); or

11.2.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Seller; or

11.2.3 the Seller ceases, or threatens to cease, to carry on business; or

11.2.4 the Buyer reasonably apprehends that any of the events mentioned above is about to occur in relation to the Seller and notifies the Seller accordingly; or

11.2.5 an even occurs in a foreign jurisdiction which is analogous to any of the foregoing.

12 Insurance

12.1 The Seller shall at all times maintain adequate insurance in a sum not less than [£10,000,000] for business and product liability and recall costs.

12.2 In addition if the Seller is to be involved in visiting the Buyer's premises to supply Goods and/or services the Seller shall at all times maintain adequate public liability insurance and employers' liability insurance both in a sum not less than [£5,000,000].

12.3 The Seller shall at all times allow the Seller or its agent to inspect all insurance policies relating to 12.1 and 12.2.

13. General

13.1 The Buyer is a member of the group of companies whose holding company is Mahle GmbH, and accordingly the Buyer may perform any of its obligations or exercise any of its rights

hereunder by itself or through any other member of its group, provided that any act or omission of any such other member shall be deemed to be the act or omission of the Buyer.

13.2 The Order is personal to the Seller and the Seller shall not assign or transfer or purport to assign or transfer to any other person any of its rights or sub-contract any of its obligations under the Contract.

13.3 A notice required or permitted to be given by either party to the other under these Terms shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified under this provision to the party giving the notice.

13.4 No waiver by the Buyer of any breach of the Contract by the Seller shall be considered as a waiver of any subsequent breach of the same or any other provisions.

13.5 If any provision of these Terms is held by any court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Terms and the remainder of the provision in question shall not be affected.

13.6 The Contract shall be governed by the laws of England, and the Seller agrees to submit to the jurisdiction of the English courts, or if the Buyer shall so requires the Seller shall submit to the jurisdiction of the Courts of the jurisdiction in which the Seller is resident.

13.7 These Terms shall apply to Orders and Contracts made until due notification of revised terms and conditions of purchase are given by the Buyer to the Seller whereupon such revised terms shall apply instead of these Terms.

Status: January, 2008