



1. SCOPE

- 1.1. These General Terms and Conditions apply to all deliveries of work, services, testing, goods and deliverables (the "Project") which are provided by the Powertrain Engineering Division of AVL Iberica, S.A (the "Supplier") to the customer (the "Customer"). The work, services, testing, goods and/or deliverables to be supplied pursuant to the Project are referred to as "Products". In case of software licensing specific Supplier Conditions for Software are also applicable.
- 1.2. Unless Supplier expressly agrees in writing, Supplier shall not be bound by any terms or conditions, whether written, oral or otherwise that are different, or vary from or are in addition to the General Terms and Conditions and any such terms or conditions shall be null and void and of no effect whatsoever.

2. OFFER

- 2.1. Offers by Supplier are made without obligation, except if stated to the contrary in writing signed by the parties.
- 2.2. Specifications and quotes in catalogues, brochures, etc., are only binding if expressly referred to in the offer or Order Confirmation Form.
- 2.3. The Project concept and content of the offer is Supplier's intellectual property. Therefore, the offer and/or Project documentation must neither be reproduced nor disclosed to third parties without Supplier's written consent. The documentation remains Supplier's property and must be returned to Supplier upon its request.
- 2.4. Supplier will not disclose the content and existence of the offer to third parties without Customer's consent.

3. CONCLUSION OF CONTRACT

- 3.1. The contract is effective only upon the signature of the contract by both parties, or Customer's receipt of Supplier's written confirmation of a purchase order issued by Customer, and, if agreed upon, Supplier's receipt of the down payment and/or notification of a (confirmed) letter of credit to Supplier.
- 3.2. No contract may be cancelled or altered by Customer except on terms and conditions acceptable to Supplier, as evidenced by Supplier's written consent.
- 3.3. Any costs of a modification requested by Customer or caused by circumstances not known to Supplier at the time of the signing of the contract shall be priced separately and are Customer's responsibility.

4. PRICES

- 4.1. Prices are quoted for delivery ex Supplier's works or warehouse and excluding packaging, shipping and VAT. Any fees, taxes, duties and other expenses except only taxes computed on Supplier's income are

Customer's responsibility.

- 4.2. The prices quoted are based on the assumption that:

- The Project work will commence at the date confirmed by Supplier and will be performed according to the time schedule set forth in Supplier's offer, and
- In case the start or execution of the entire Project or parts thereof is delayed for reasons outside Supplier's control prices will be adjusted according to any increases reflected in the latest Spanish Consumer Price Index published by the Central Government in Madrid or the wage index of the applicable collective labor agreement, whichever is higher.

- 4.3. The prices quoted do not include, unless stated otherwise:

- License and/or engineering fees levied by component or system supplier(s).
- Materials and components supplied by component or system supplier(s).
- Unforeseen and unplanned charges due to delays or additional work caused by Customer and/or component or system supplier(s).
- Effect(s) of revisions of the Project requested by Customer and agreed to by Supplier.
- Travel, accommodation and subsistence costs for Customer's personnel participating in Project meetings and witnessing of results in Graz, and
- Travel, accommodation and subsistence costs for any Supplier personnel travelling beyond the scope of the Project.

- 4.4. All prices quoted are payable in EURO.

5. PAYMENT

- 5.1. Unless agreed otherwise, the contract price shall be paid as follows:

- A down payment of 25 % of the total price shall be made within 60 days after the effective date of the contract (as per 3.1). Payments for the remaining 75 % are due in monthly instalments over the duration of the Project.
- The payments for the amount of 75 % of the total contract price shall be secured by an irrevocable, confirmed letter of credit, to be issued by a prime bank within 60 days after the effective date of the contract or Customer's signing of the order, which shall provide for payment against Supplier's invoice, and shall be in form and substance satisfactory to Supplier.

- 5.2. All payments for Supplier's Products supplied pursuant to the contract are due within 60 (sixty) days, except Mexican suppliers shall be 45 (forty-five), net upon receipt of Supplier's invoice. Interest will be charged on overdue accounts at the Rate of 4 (four) % over the



EURIBOR 12 Months in effect at the time a payment is due. In case of delayed payment Supplier is, in addition to the interest charged, entitled to postpone its own obligations until receipt of the payments due.

- 5.3. Customer shall not be entitled to withhold or reduce any payments due because of alleged claims against Supplier.
- 5.4. Until Customer has fulfilled all financial obligations, the Products supplied shall remain Supplier's property. Customer shall be obliged to meet all legal requirements in order to safeguard Supplier's property or security interest. In case of attachment or other kinds of seizure Customer shall evidence Supplier's title and notify the latter immediately. The retention of title shall not affect the passing of risk under 6.1.

6. DELIVERY, PASSING OF RISK

- 6.1. Delivery of Products to a carrier by Supplier shall constitute delivery to Customer; all risk of loss or damage in transit shall be borne by Customer. This also applies if, after arrival at Customer's site, Supplier still has to perform installation work.
- 6.2. If delay in delivery is caused by any of the circumstances mentioned in Clause 12 or by an act or omission of Customer, including the failure to procure any required permits for delivery in Customer's country, the time for delivery shall be extended by a period which is reasonable considering all the circumstances.
- 6.3. If delivery of Products ready for shipping is not possible or not desired by Customer, the Products can be stored at Customer's cost and risk, and delivery shall then be considered as performed.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1. Any existing ideas, know-how, inventions and patents (and applications thereof) owned by Supplier, not resulting from work carried out under the contract, but introduced into the Project by Supplier, shall remain Supplier's exclusive property.
- 7.2. Any ideas, know-how and inventions made by Supplier's employees as a result of work carried out under the contract shall be Supplier's exclusive property.
- 7.3. Any drawings and technical documents relating to the Project in any manner submitted by one party to the other, prior or subsequent to the conclusion of the contract, shall remain the exclusive property of the submitting party and shall be treated as confidential information by the receiving party, and may be utilised only for work performed pursuant to the contract.
- 7.4. Notwithstanding the provisions of 7.1 through 7.3, upon fulfilment of its financial obligations under the contract, Customer acquires:
- A non-exclusive license to use the ideas, know-how and inventions, whether patented or not, described

in 7.1 and 7.2 for all purposes included in the subject matter of the Project, but for no other purposes, and

- The right to use the results and documentation of the Project, it being understood that Customer is obligated to treat any Project documentation it receives from Supplier as confidential information.

8. THIRD PARTY PATENTS, TRADEMARKS, COPYRIGHTS

- 8.1. Supplier shall use reasonable efforts that Products designed and developed pursuant to the contract will not infringe any intellectual property rights of third parties.
- 8.2. In the event the normal intended use of a Product leads to a claim alleging infringement of a third party's intellectual property right, Customer shall give Supplier immediate notice in writing of any such suit. Supplier shall provide Customer with reasonable non-financial assistance in the defence of any such claims. If the use of a Product is permanently enjoined by reason of an infringement of a valid third party's intellectual property right, Supplier will use commercially reasonable efforts to:
- Modify or replace the Product to render it non infringing, or
 - Get a license from the third party who is the owner of the intellectual property right.
- Supplier's obligation as set out above is conditional upon being notified of an infringement claim within the periods set forth in 9.6.
- 8.3. Notwithstanding the foregoing, Supplier shall not be responsible for any compromise or settlement made without its written consent, or for infringements of combination- or process patents covering the use of the Products in combination with other goods or materials not furnished by Supplier. The foregoing 8.2 states the entire liability of Supplier for infringement, and in no event shall Supplier be liable for
- Any direct damages or consequential damages attributable to an infringement,
 - Customer's cost of litigation and/or negotiation, or
 - Compensation of any damages awarded to third parties.
- 8.4. Supplier shall not be liable, and Customer shall indemnify and hold Supplier harmless against all losses and expenses incurred by Supplier as a result of any claim for infringement of any proprietary right of third parties relating to any:
- Products furnished by Supplier to Customer, based on drawings, designs or specifications proposed or supplied by Customer, or
 - Products, systems, components, parts, etc. which are specified by Supplier but furnished by third parties, or



- Products, vehicles, systems, components, parts, etc. which are furnished by Customer to Supplier, or
- Claims of inducement of infringement or contributory infringement resulting from the implementation, use, development or modification of Supplier's Products by Customer or customers of Customer.

9. WARRANTY

9.1. Supplier warrants that any technical targets set out in its offer will be achieved, provided that:

- Technical specifications of the Products suggested by Supplier within the limits of state of the art in Supplier's industry are accepted by Customer, and
- Any systems or components supplied by Customer or its designated component or system Supplier meet and perform within their specifications.

9.2. Supplier warrants that it will execute the Project work in a professional and competent manner according to state of the art in Supplier's industry. The Products will be in compliance with Spanish laws, standards, and regulations as well as with those regulations in countries pertinent for Customer's purposes to the extent they have been communicated in writing to and accepted by Supplier. No warranty is made for the compliance with any law, standard, regulation or any condition imposed by a foreign authority not communicated in writing to Supplier and confirmed by Supplier prior to the formation of the contract. All documentation for work rendered pursuant to the contract will be according to the existing general practice for comparable engine design and development projects in the engine and vehicle industry and will be subject to Customer supervision and final validation.

9.3. Customer shall examine Products provided under the contract upon receipt and shall notify Supplier in writing of any defect within 10 (ten) working days. Unless this duty of examination and immediate written notification is adhered to, warranty claims are forfeited.

9.4. Customer shall arrange for the recording of all required operating conditions, characteristic data and results of analyses for the duration of the warranty period to be able to document any warranty claim under 9.1. In case of deficiencies of Products (including incomplete or incorrect documentation) Supplier will either repair such deficiencies (complete or correct documentation) or replace deficient goods (parts) with new ones. Any warranty claims shall be forfeited if a Product is modified or repaired without Supplier's prior written consent.

9.5. The warrant contained in this clause 9 is exclusive and in lieu of all other representations and warranties, express or implied. Specifically excluded are damages caused by non-observance of instructions for use and maintenance of products, warning, safety and other regulations provided by supplier, and improper handling of products. Supplier shall not be liable for further (consequential) damages resulting from deficient products, unless supplier is held responsible for intentional misconduct or gross negligence. Further, supplier disclaims any liability for damages or malfunction the cause of which does not lie within the scope of work to be performed by supplier under the contract.

9.6. Unless provided otherwise, the duration of the warranty will be 12 (twelve) months after the signing of the acceptance protocol under Clause 10, if applicable, or delivery of the Products as provided in 6.1, which ever is earlier. Any warranty claims not received by Supplier within 7 (seven) working days after the expiration of such period are forfeited. The performance of a warranty obligation does not prolong the original warranty period.

10. FULFILMENT OF CONTRACT

10.1. The contract is fulfilled on one or both of the following events, depending on the scope of the Project:

- Supplier's delivery of the reports and documentation containing the results of the Project as well as any hardware that may be agreed upon between Customer and Supplier, subject to the terms of Clause 6.
- Performance of a formal acceptance test conducted at Supplier's plant.

10.2. Conditions for a formal acceptance test and warranted technical targets to be achieved shall be defined in the contract. Supplier shall notify Customer of the acceptance test in sufficient time to permit Customer to be represented at the test. A protocol stating the results of the acceptance test will be drawn up and signed by authorized representative(s) of Supplier and Customer. If Customer is not represented, the protocol will be sent to Customer and accepted as accurate. If the warranted technical targets are met, a particular phase of the contract or the entire contract, as the case may be, is fulfilled.

11. LIABILITY

11.1. Supplier shall be liable for damages only if supplier is held responsible for international misconduct or gross negligence. Any liability for indirect and (or) consequential damages, including loss of property or profit, costs of product recall is specifically disclaimed.

11.2. Supplier shall not be subject to any obligations arising from product liability claims. Customer shall indemnify and hold harmless the supplier against any and all



losses, liabilities, damages and expenses that supplier may incur as a result of any product liability claim of a third party.

12. FORCE MAJEURE

If Supplier or one of its component or system Suppliers is subject to an event of force majeure or an event beyond the control of Supplier or its component or system Suppliers, such as war, acts of terrorism, natural disasters, governmental interventions and bans, energy and raw-material shortages, strikes, civil unrest, transport damages or delay, Supplier shall be entitled to extend the time of delivery set forth in Supplier's offer, provided Supplier notifies Customer within 10 (ten) days in writing of such event.

13. PREMATURE TERMINATION OF CONTRACT

13.1. Either party may immediately terminate the contract by giving written notice to the other party if any of the following occurs:

- the other party discontinues its payments to third parties or the other party or one of its creditors files a petition of insolvency on such other party's assets;
- the other party materially breaches the contract and fails to remedy such breach within 60 days after written notice is given;
- should circumstances of Force Majeure continue for more than six months.

13.2. In addition to the circumstances set forth in 13.1 Supplier may immediately terminate the contract by giving written notice to Customer, if

- Delivery or performance becomes impossible for reasons attributable to Customer, or is delayed due to such reasons beyond a reasonable grace period established in writing;
- Customer's financial situation has worsened notably after signing the order and Customer is unable or unwilling to provide adequate security for payment of its financial obligations under the contract;
- Payments are not received when due from Customer despite Supplier's fulfilment of its obligations and Customer fails to pay within a reasonable grace period established in writing;
- A change of Customer's ownership takes place which has a substantial impact on Supplier's interests;
- Supplier has reasonable cause to suspect that the delivery of Products by the Supplier or any of its affiliates or any other performance of the contract infringe any sanctions, prohibitions or restrictions under resolutions of the United Nations or laws and regulations of the European Union, the Kingdom of Spain or any other state which are applicable to the Supplier and/or any of its affiliates;

- Supplier's Products become subject to the restrictions imposed by the EC-Dual-use-Regulation No. 428/2009 as amended after the contract has been concluded if the Supplier does not obtain an export license under the EC-Dual-use-Regulation.

13.3. In case of premature termination, all performances or parts thereof, which have already been fulfilled by Supplier, shall be settled and paid according to the contractual provisions. This also applies to deliveries and performances not yet accepted by Customer as well as to any preparatory work undertaken by Supplier. Any other consequences resulting from a premature termination of contract are excluded.

14. APPLICABLE LAW AND JURISDICTION

14.1. The contract shall be construed and interpreted according to Spanish law. It is mutually agreed that the United Nations Convention on Contracts for the International Sale of Goods (UNCITRAL) does not apply.

14.2. In case of controversies or disputes between Supplier and Customer the competent courts for Supplier's seat in Valladolid, Spain, shall have jurisdiction. Supplier shall, however, also have the right to bring a claim before another court which has jurisdiction for Customer's seat or domicile.