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## **MOTOVARIO S.p.A. GENERAL TERMS AND CONDITIONS OF PURCHASING-SUPPLY**

### **1. GENERAL DEFINITIONS**

In the current Purchasing-Supply General Terms and Conditions, the following expressions have the following meaning: "MOTOVARIO": means MOTOVARIO S.p.A., understood as the acquiring company.

"Supplier": means the company receiving the purchase order and/or the delivery schedule from MOTOVARIO SpA and that should deal with the supply of the products and/or services required to MOTOVARIO SpA.

"Product/s": means any product and/or service provided by the Supplier to MOTOVARIO SpA.

### **2. SCOPE**

These Purchase-Supply General Terms and Conditions will be applied to all commercial supply transactions between MOTOVARIO and Supplier, including those established by computer. In the event of conflict or inconsistency between these General Terms and Conditions of Purchase-Supply and the special provisions contained in specific Supply Contracts and/or Agreements, the special provisions will prevail in relation to the object of that single Supply Contract and/or Agreement.

The Supplier states to fully accept the present Purchase-Supply General Terms and Conditions and withdraws from enforcing in relation to MOTOVARIO its own Sale General Terms and Conditions, wherever specified. It is understood that any additions and/or changes to these Purchase-Supply general Terms and Conditions must be agreed in writing between the Supplier and MOTOVARIO.

### **3. APPLICATION**

The Supplier agrees to supply MOTOVARIO the Products for their intended destination to the original equipment as well as for their intended purpose of direct sale as spare parts.

### **4. ORDER ACCEPTANCE**

The purchase order and/or delivery schedule sent by MOTOVARIO to the Supplier may only be rejected no later than 5 (five) working days from the date of receipt thereof. After this period, the purchase order and/or delivery schedule will be considered as entirely accepted by the Supplier.

### **5. WITHDRAWAL**

This Agreement shall be deemed indefinitely valid and active between the parties. It shall be without prejudice for both parties to withdraw, without any cause and at no cost, with a notice of at least 90 (ninety) calendar days. The notice of cancellation must be sent by registered letter with acknowledgment of receipt.

For the supplies covered by the purchase order and/or delivery schedule already sent by MOTOVARIO and accepted by the Supplier at the date of the notice of termination, it is understood that the provisions of these General Terms and Conditions of Purchase-Supply shall be applied.

### **6. PRODUCT WARRANTIES**

#### **6.1. QUALITATIVE COMPLIANCE AND DEFECTS**

The Supplier guarantees the quality compliance of the products, as indicated in the technical specifications and/or purchase order and/or delivery schedule.

In the event that MOTOVARIO were to find a defect in the Products either directly at its plants or indirectly upon notification of the end customer, it will inform in due time the Supplier, specifying in a timely manner the nature of the defectiveness.

MOTOVARIO will have the following options:

- i. To obtain, at the expense of the Supplier, the immediate selection and replacement of the concerned products.
- ii. To reject, at the expense and risk of the Supplier, the whole lot of the concerned products, without requiring its replacement when it has no use to the customer.
- iii. To select and retrieve, at the expense and risk of the Supplier, the concerned products, with additional processing, in cases of emergency or in cases where the Supplier is not able to provide himself the immediate replacement or in cases agreed upon with the Supplier.

The warranty for flaws and defects in products is given for one year from the date of delivery. In case of defects, MOTOVARIO is expressly exempted from the terms of forfeiture even if the goods have been placed in work or in use, and even if the invoices have been paid, not intending eventual payment of the supply by MOTOVARIO in recognition of the ascertained inexistence of the defective products.

The Supplier will allow individuals or entities delegated by MOTOVARIO to conduct inspections, checks and controls of production processes, means of production, processing and/or control and testing methods used by the Supplier, after due notice.

## 6.2 QUANTITATIVE COMPLIANCE

The Supplier guarantees the quantitative compliance of the Products, with respect to what agreed upon or what stated by the shipping documents.

In the event that there is a quantitative non-conformity of the Products delivered to MOTOVARIO compared to the above, MOTOVARIO will have the possibility:

- i. To accept the quantitative differences, with the right to increase or reduce correspondingly the amounts of any subsequent deliveries.
- ii. To reject the part of the supply in excess, with the option, in case the Supplier does not provide independently its immediate withdrawal, to return the surplus to the Supplier at the expense and risk of the latter. That shall be without prejudice to the right to charge the Supplier the costs incurred for the performed selection.
- iii. except as provided by art. 7, to ask the Supplier to proceed immediately to the dispatching of the missing Products. It is understood that any major cost or expense will be borne by the Supplier. In such case, the Supplier agrees to proceed to the immediate dispatching of the missing products.

## 7. COMPLIANCE WITH DELIVERY TERMS AND PENALTIES

The terms of delivery agreed upon with the Supplier must be considered essential in the interest of MOTOVARIO.

Upon the occurrence of any event of late delivery from the Supplier with respect to the terms of delivery agreed and not due to any of the force majeure causes referred to in Article 11 of these General Terms and Conditions of Purchase- Supply, MOTOVARIO can exercise the right, upon written notice to the Supplier, to obtain supplies, in whole or in part, from alternative suppliers, and will be entitled to charge the Supplier the incurred additional charges and costs, providing the Supplier with adequate proof. In any case, the right of MOTOVARIO to also charge the Supplier an amount equal to 3% of the total value of the undelivered Products, for every 5 working days of delay remains valid and unprejudiced, provided that the maximum amount of such additional charges applicable from time to time to any single delay does not exceed the percentage of 10% of the value of the undelivered Products.

The aforementioned maximum amount represents an estimate of the damages performed in mutual agreement as a preventive measure by MOTOVARIO and the Supplier, and shall not preclude the right of MOTOVARIO to claim compensation of any further damage and also, in case of exceeding such maximum amount, to settle with immediate effect, by simple written communication, the purchase order and/or delivery schedule of the Products.

The debts of the Supplier to MOTOVARIO, resulting from the application of the penalties provided for in these General Terms and Conditions of Purchase-Supply, can be extinguished by offsetting any debts of MOTOVARIO to the Supplier, even if not at maturity, resulting from the ongoing supply relationships.

## 8. PRODUCT IDENTIFICATION

Products must be identified by both parties by the code number assigned to them by MOTOVARIO. The Supplier acknowledges and agrees that the code numbers are part of a complex numeric system set up by MOTOVARIO, system of which MOTOVARIO remains the sole owner.

Consequently, the Supplier shall use that numbering for the sole purpose of delivery provided for in these General Terms and Conditions of Purchase-Supply, agreeing henceforth to cease such use at the end of the delivery period.

## 9. MARK MANAGEMENT

If requested by MOTOVARIO, the Supplier shall to put the trademark MOTOVARIO or other trademarks or distinctive signs still belonging to the same ("Trademark"), on the Products and/or the original packaging, in the manner and according to the instructions given exclusively in writing by MOTOVARIO.

This use and practice will never give rise to any claim of any kind on the trademark by the Supplier. The use of the trademark by the Supplier shall be discontinued at any time upon written request of MOTOVARIO and in any case with the last delivery of the purchase order related to the Product on which the application of the Trademark was requested.

## 10. INDUSTRIAL PROPERTY

In proposing and/or accepting to study and/or to adopt for MOTOVARIO or provide it with a Product, the Supplier is obliged to give prior notice in writing to MOTOVARIO if and by which industrial patent title is covered the Product.

Supplier's failure to give prior notice shall be construed as a waiver to assert its possible titles of industrial patent to third parties. Unless otherwise agreed in advance at a time when the study and/or adaptation and/or supply of the item were proposed and accepted by the Supplier, and except for the rights of the Supplier deriving from industrial property titles communicated to MOTOVARIO, in the event that, in connection with research, design, testing or development work carried out for a product intended for MOTOVARIO, the Supplier realizes inventions, whether patentable or not, he shall communicate it to MOTOVARIO and upon request of the latter, he

shall make available for MOTOVARIO any documentation or information, required or useful, for its production implementation. The corresponding certificates of industrial property right (patent) are deemed to be automatically awarded to MOTOVARIO in license for production (direct and via third parties) and use in Italy and abroad.

In the event that the invention, covered by the industrial property right title, is obtained by the Supplier with its own documentation, without information, documentation or technical collaboration from MOTOVARIO, the latter will pay equitable remuneration in consideration of this license.

In the event that the research, design, experimental or development work is carried out by the Supplier in performing a specific task for MOTOVARIO, the invention and the corresponding industrial property right titles, drawings and, in general, the technical results shall be the sole property of MOTOVARIO.

## **11. FORCE MAJEURE**

The Supplier shall not be held liable for any delays in deliveries if such delay is actually and exclusively caused by natural disasters, riots, national or local strikes (if unannounced or not foreseeable by the Supplier), fires and other unforeseen circumstances and completely outside of any possibility of control by the Supplier.

Upon the occurrence of such event, the Supplier shall immediately inform in writing MOTOVARIO, communicating the countermeasures taken to try to overcome these events.

In any case, the parties agree that the infringements of any subcontractors of the Supplier will not be considered force majeure, in so far these are not determined by the force majeure described above.

## **12. LEGISLATIVE REGULATIONS**

In the event that the Product is subject to Italian Law regulations (regarding safety, pollution control etc.), the Contractor is required to prepare a specific documentation related to the homologation and the production processes. This documentation must indicate, inter alia, by what methods and with what results have been tested characteristics regulated by the Italian law.

The aforementioned documentation must be kept by the Supplier and shall be delivered to MOTOVARIO after a written request. The Supplier is obliged to impose similar obligations to any of its subcontractors.

## **13. NON OBSERVANCE-NON COMPLIANCE**

In the event of non observance/infringements and/or non-compliance done by the Supplier, MOTOVARIO shall be entitled to withhold payment of the disputed invoices.

## **14. SPECIFIC TERMINATION CLAUSE**

14.1 MOTOVARIO will have the right to terminate any supply relationship governed by these General Terms and Conditions of Purchase-Supply, if the products do not match the technical or quality requirements agreed upon and/or if the Supplier is found to be inobservant and/or non compliant with even one the provisions provided for in the specifics of "Qualitative compliance and Defects" (art. 6.1), "Compliance with Delivery Terms and Penalties", (art. 7), "Product Identification" (art. 8), "Brand" (art.9) e "Industrial Property" (art. 10).

14.2 MOTOVARIO also reserves the right to terminate in advance any ongoing Supply Contract with the Supplier if: a third party would acquire a majority shareholding or control of the Supplier, it being understood that as of now, the Supplier undertakes to notify MOTOVARIO of such event within 60 days from its occurrence.

- I. the Supplier should be subject to bankruptcy, arrangement with creditors, or other insolvency proceedings.
- II. the Supplier should engage in conduct constituting offenses under the assumption of the legislation referred to in Law 231/01 and subsequent amendments and / or, however, they can result in liability for breach of that law.

The termination of the Supply Contracts will take place by means of written notice to the Supplier of the decision of MOTOVARIO, without prejudice of the compensation right for any damage for the latter.

The early termination of the Supply Contracts, as a result of the above possibilities, shall not result for MOTOVARIO in any liability to the Supplier and/or third parties.

In the event of termination of the equipment supply relationship, the drawings, licenses and any other property of MOTOVARIO that is in the possession of the Supplier must be immediately returned to MOTOVARIO. In any case, the Supplier is forbidden to use them for purposes other than the manufacture of products intended for MOTOVARIO.

## **15. TRANSFER OF DEBT**

MOTOVARIO expressly prohibits the Supplier, for valuable consideration or free of charge, to transfer the credit of MOTOVARIO, except with the prior agreement of the parties and subsequent written consent of MOTOVARIO.

## 16. CONFIDENTIALITY

Any confidential information such as, for example, drafts and/or final design drawings, plans, specifications, calculations, documents in general and other data that is communicated in writing (whether on paper or in electronic form) by either party to the other party in connection with the Supply Contract and/or Contracts and is considered confidential, shall be and remain confidential and private in accordance with the provisions of this Article.

The Parties hereby undertake formally not to disclose to third parties, including any subcontractors, the terms and conditions of the Contract or of the Contracts of Supply, except for the case where such disclosure is required by law or authorized in writing by the owner of the information classified as confidential and reserved.

Both parties agree not to reproduce, use or otherwise exploit confidential information, trademarks, emblems or patents of the other party, subject and consequently except for reproductions previously agreed in writing.

In the case of drafting and formalization of an appropriate confidentiality agreement between the parties, which regulates the managing of confidential-reserved information, this specific agreement shall determine the prevalence of its provisions against the contents of this article.

## 17. PRIVACY POLICY

The Supplier and MOTOVARIO agree with the processing of their personal data by the other party, provided that such treatment is done for the purposes of supply implementation and in full observance of the legal provisions and legislative regulations in force concerning the protection of personal data.

## 18. ARBITRATION CHAMBER OF COMMERCE

Any dispute concerning this contract, including those regarding its validity, execution, interpretation and resolution shall be settled by arbitration at the Chamber of Commerce of Milan (Italy). The arbitrator will proceed according to standard procedures and according to the law.

## 19. GOVERNING LAW

All relationships governed by these General Terms and Conditions of Purchase-Supply are regulated and governed by the Vienna Convention of 1980 on the International Sale of Goods.

Place \_\_\_\_\_

Date \_\_\_\_\_

Supplier \_\_\_\_\_  
(Authorized Signature and stamp)

MOTOVARIO SpA \_\_\_\_\_  
(Authorized Signature and stamp)