

## General Terms and Conditions of Purchase of the Italian companies of the MAHLE Group

### 1. Purchasing Terms and Conditions: General Introduction

1.1 All the contractual relationships arising from the orders issued by MAHLE Componenti Motori Italia S.p.A., MAHLE Valve Train Italia S.r.l. and Glacier Vandervell Italy S.r.l. (hereinafter jointly and severally referred to as "MAHLE") concerning the purchase of raw materials or other materials, machinery or other, miscellaneous services (hereinafter referred to in the singular as the "Supply" and in the plural as the "Supplies") are subject to these general terms and conditions (hereinafter referred to as the "General Conditions") and to the special conditions provided for in the orders (hereinafter referred to as the "Special Conditions"), as well as to the general and special contractual provisions regarding the execution of orders that the supplier has been made aware of (hereinafter referred to as the "Supplier"). MAHLE and the Supplier are also hereinafter jointly referred to as the "Parties".

1.2 The General Conditions, as well as any Special Conditions, shall be considered accepted by the Supplier even if they differ from its general or special supply terms and conditions. The performance of the orders in no circumstances shall imply the acceptance by MAHLE of the Supplier's general or special supply terms and conditions. The Supplier's supply terms and conditions will be considered final and binding only if they have been expressly accepted by MAHLE in writing.

1.3 Any and all exceptions or additional conditions to these General Conditions shall be expressly agreed upon in writing.

1.4 Only the orders executed in original by MAHLE's authorised representatives shall be considered final and binding (hereinafter referred to in the plural as the "Orders" and in the singular as the "Order").

1.5 MAHLE reserves the right to modify the Supplies' Orders, in particular with reference to the construction details and the modalities of performance, in which cases it shall immediately notify the supplier. In case an amendment requested by MAHLE involves a significant variation to the costs or to the other terms and conditions of the Supply, the Supplier may issue a written request for the renegotiation of the terms and conditions within [5] days of MAHLE's request for a modification. If such renegotiation does not take place within the said term, the terms and conditions originally agreed upon for the Order shall apply. The Supplier undertakes to guarantee to MAHLE the best possible market conditions in terms of prices, discounts, payment terms, warranties and technologies.

### 2. Delivery and transportation

2.1 The delivery terms for the Supplies specified in the Order shall be considered final and binding. In the event of delays in the delivery, the Supplier shall pay to MAHLE, without prejudice to any further rights provided for by the law, as penalty, pursuant to art. 1382 of the Italian Civil Code, a sum equal to [1]% of the value of the Supply not delivered, for each week of delay, up to a maximum of [10]% of said amount and without prejudice to the right to claim compensation for any greater damages suffered. MAHLE could provide a different quantification of the penalty in the Special Conditions or the Orders.

2.2 Any quantities of raw materials or other materials (hereinafter referred to as the "Goods") delivered in excess and/or in advance as regards the agreed terms may be rejected at any time. In case of Goods delivered in advance and/or in excess, if accepted by MAHLE, the payment of the corresponding invoice will be delayed and the delay shall be equal to the advance days on the delivery. Moreover, MAHLE has the right to invoice the Supplier for storing expenses borne for the Goods in excess.

2.3 Unless otherwise specified, the Supplies shall be delivered FOB to MAHLE or to the other destinations specified in the Order, the dispatch shall be carried out at the Supplier's expense and risk.

2.4 The Supplies shall in any case include a delivery note or other equivalent transport document, which shall bear the Order number and date of issue, in addition to the specification of goods, semi-finished or finished products and services supplied.

### 3. Documentation

3.1 Each Supply of machinery and/or equipment shall include the following documentation:

- declaration of conformity with the applicable European product directives and any technical reference standards,
- EC marking,
- user and maintenance manuals, diagrams and lists of spare parts, to be drafted in Italian language, and
- pressure and/or noise emission certificates, with the measurements taken pursuant to the technical reference standards.

### 4. Acceptance of supplies

4.1 The mere delivery of the Supplies to the personnel of MAHLE does not entail the acceptance thereof. Final acceptance shall occur only after the examinations have been carried out in

MAHLE's plant in real operating conditions. Any defects found shall be restored by the Supplier at its own care and expense.

### 5. Supplier's warranties

5.1 The Supplier expressly represents and warrants that the Supplies:

- (i) have been carried out in accordance with the technical specifications, requirements and instructions issued by MAHLE in the Order, the technical specification documents (if available) or any other contractual document, and
- (ii) are free from any defects, non-conformities and/or deficiencies (whether concealed or apparent), fully suitable for the use for which they are required and, if applicable, in perfect working order, as well as manufactured according to the highest state of the art, quality and technical standards.

5.2 The warranty for defects, non-conformities and/or deficiencies referred to in point 5.1 above shall be issued for a period of 24 months as from the date of delivery of the Supply.

5.3 MAHLE may notify any defects, non-conformities and/or deficiencies (whether concealed or apparent) to the Supplier within [60 days] of their detection.

5.4 Upon receipt of aforesaid notification, and without prejudice to any other remedy provided for by the law, the Supplier shall promptly cure the defects, non-conformities and/or deficiencies, also with third parties that might be indicated by MAHLE.

5.5 If the Supplier fails to promptly correct any defects, non-conformities and/or deficiencies under warranty or in case of urgency, MAHLE shall have the right to correct them directly, using its own personnel and/or by means of third parties, in which case the costs and other charges shall be borne by the Supplier.

5.6 It remains understood however that, notwithstanding the provisions of clauses 5.4 and 5.5 above, MAHLE shall have the right:

- (i) to be held harmless and indemnified from all damaging consequences that might arise from its supplies to its final customers affected by the same defects, non-conformities and/or deficiencies notified to the Supplier;
- (ii) to be restored for all the damages suffered (including, inter alia, the costs incurred in reporting the damage and deriving from plant shutdown) as a result of the existence of the defects, non-conformities and/or deficiencies or failure and/or delay in remedying these.

MAHLE reserves the right to quantify such damages and invoice the resulting amount directly to the Supplier.

5.7 The repairs or replacements or additions performed under the terms of the warranty shall in turn be covered by a warranty for a period of [24 months] as from the date of completion of such repairs or replacements or additions and their acceptance by MAHLE.

## 6. Further obligations of the supplier

6.1 The Supplier expressly represents and warrants that the Supplies shall be performed in accordance with the laws in force in the country of manufacture and the country of sale, including the safety law, the environment and electric energy law, as well as in terms of storage, movement, recycling and the elimination or disposal of waste materials.

The Supplier expressly represents and warrants to have complied with all the onus and obligations arising from European Parliament and Council Regulation 1907/2006 of 18th December 2006 on the registration, assessment, authorisation and restriction of chemical substances ("REACH"). MAHLE shall in no circumstances be held responsible in case the Supplier and/or those acting on its behalf fails to register or pre-register the chemical products supplied in accordance with the terms of the said regulation.

6.2 The Supplier acknowledges that MAHLE has obtained for its plants the following conformity certifications the ISO 9001:2000 (MAHLE Componenti Motori Italia s.p.a. e Glacier Vandervell Italy s.p.a.), ISO TS 16949:2002 (MAHLE Componenti Motori Italia s.p.a., MAHLE Valve Train Italia s.r.l. e Glacier Vandervell Italy s.p.a.) and ISO 14001:2004 (MAHLE Componenti Motori Italia s.p.a. e Glacier Vandervell Italy s.p.a.). The Supplier of direct materials declares and warrants that it has obtained the same conformity certifications or has commenced the procedure to obtain the same conformity certifications for its own production plants, or in any case it can ensure that the Supplies shall be made up in accordance with and in strict observance of the standards laid down in said certifications and/or their subsequent modifications and additions. In this sense, the Supplier also acknowledges that MAHLE shall have the right to carry out inspections, visiting the Supplier's plant, prior appropriate notice, to ensure that the Supplies for the Orders have been manufactured in accordance with the abovementioned standards. If required, MAHLE could carry out inspections jointly with its final customers.

The Supplier agrees to hold harmless and indemnified MAHLE against all and any costs, expenses, liabilities or other damaging consequences and/or claims for compensation for damages filed against MAHLE due to violation of any applicable regulation.

6.3 The Supplier also warrants its compliance with the ADR (International Carriage of Dangerous Goods by Road) regulations and with all the provisions contained therein, with particular reference to the loading, transport and unloading of hazardous goods.

## 7. Inspections and auditing

7.1 During the performance of the Order, MAHLE shall have the right to proceed, either directly or through its representatives:

- (i) to carry out inspections on the supplies by means of inspections to the production plants of the Supplier and its subcontractors, by giving [5] days prior notice. The inspections shall be carried out by MAHLE at its own discretion and expenses, it being understood that the Supplier will not be released of any obligation or liability;
- (ii) to inspect the Supplier's books and documents and those of its subcontractors in relation to the execution of the Order, on the basis of [5] days advance notice. MAHLE undertakes to adopt all the necessary precautions to ensure that the documents subject to these checks remain confidential.

## 8. Right of Repetition

8.1 In the event the Supplier fails to perform an Order, MAHLE shall have the right to retain the sums due for previous Supplies, even if these do not relate to such Order, to cover the damaging consequences caused by the non-performance of the Order.

## 9. Force Majeure

9.1 Neither Party shall be deemed responsible for failure to fulfil any of its obligations if it is able to demonstrate that this is due to an event of force majeure.

9.2 The term 'event of force majeure' means an event which is out of the control of the Parties, and which could not have been reasonably foreseen and avoided. By way of example and without limitations, the following shall be deemed "events of force majeure": acts of war, uprisings and revolutions, natural catastrophes, explosions and fire. Strikes by the employees of the Parties shall, in no circumstances, be considered as events of force majeure.

9.3 Upon the occurrence of an event of force majeure, the party affected shall adopt every measure necessary or useful to limit its effects, and shall immediately notify the other party of such event, by means of a registered letter or fax in which it will describe the facts, consequences and measures it intends to adopt immediately. In such cases, the delivery terms are deemed extended for a number of days equivalent to the duration of

the circumstances concerned. The event of force majeure shall not be invoked if it occurs after the agreed delivery term.

## 10. Industrial and intellectual property

10.1 If in connection with research, design, experiment, development carried out in relation to the Order, the Supplier makes inventions, whether patentable or otherwise, or works of an original intellectual nature, it shall inform MAHLE thereof and provide it with all the information and documentation useful or necessary for the production of the resulting works; the Supplier will grant MAHLE the free licence right for the production or reproduction of the original works – either directly or through third parties – and for their sale and usage, in Italy and abroad. If the aforesaid original works have been carried out by the Supplier in relation to a specific assignment received by MAHLE, the invention and exclusive industrial rights to it, the drawings and all the results obtained in general, in addition to the works of an original intellectual nature, shall become property of MAHLE.

10.2 The Supplier expressly represents and warrants that the performance of the Order does not breach any third party's industrial and/or intellectual property right, whether in Italy or abroad. The Supplier therefore agrees to hold harmless and indemnified MAHLE against any claims and demands that might be filed by third parties due to the infringement of patents, licences, know-how and industrial and/or intellectual property rights in general regarding the goods supplied to MAHLE. In the event of disputes regarding such exclusive industrial rights, the Supplier undertakes to intervene and take MAHLE's place, should MAHLE so require, to ensure the appropriate defence and shall in any case reimburse all the expenses and costs sustained by the MAHLE and restore it for any damaging consequences that might derive from such disputes.

## 11. Subcontracting

11.1 The Supplier shall perform the Supplies directly and it is expressly prevented to subcontract its performance to third parties, in whole or in part, either as subcontract or piecework basis ("cottomo"), without a prior specific authorization in writing by MAHLE.

11.2 Should the Supplier deem advisable, during the performance of the Order, to subcontract to third parties, in whole or in part, the Supplies for that Order, it shall inform MAHLE in advance. MAHLE shall decide, at its own discretion, about the opportunity that the Supplier will subcontract third parties. In this case, MAHLE will establish terms and conditions of the subcontract.

11.3 In case of subcontracting, it remains understood that Supplier shall continue to have sole re-

sponsibility with regard to MAHLE for the correct execution of the Order. As a consequence, the Supplier expressly agrees to hold harmless and indemnified MAHLE against any claims, costs, expenses, burdens and demands for compensation filed by subcontractors and/or third parties in relation to the performance of the Supplies.

## 12. Insurance obligation

12.1 Unless otherwise specified in the Special Conditions and/or in the Order, the Supplier is obliged to enter into with a primary insurance company:

- (i) an insurance policy which guarantees adequate coverage against the product liability risks, - any other risks for damages regarding the factories, machinery and/or equipment and the Suppliers properties- and recall or service campaigns and
- (ii) an insurance policy to cover "third party" liability risks (including MAHLE and its employees) due to injury or damages caused to persons, animals or property as a result of acts carried out by or on the instructions of the Supplier, its employees or subcontractors during the execution of an Order.

## 13. Miscellaneous

13.1 The drawings supplied by MAHLE shall not be reproduced or used in any other way and should be returned as soon as the use, for which they were received, has ceased.

13.2 In relation to the Supplies, the Supplier agrees to provide MAHLE with any spare parts necessary for a period of 15 years at current market prices, and shall in any case guarantee MAHLE that these will be produced on a continuous basis.

13.3 In performing the Order, the Supplier agrees to use recycled materials for manufacturing purposes, as far as this is possible and when expressly requested by MAHLE, and to mark them consequently.

13.4 According to the terms of EC Directive 2000/53, the Supplier of direct materials shall ensure at its own expense that all the information on its Supplies is entered in an IMDS database (International Material Data System, [www.mdssystem.com](http://www.mdssystem.com)); the approval and accepted IMDS entry for all relevant material data is a component and precondition of each successful initial sample approval. (This procedure is not necessary for auxiliary materials and services).

## 14. Termination clause

14.1 The contractual relationship governed by these General Conditions shall automatically terminate, pursuant to article 1456 of the Italian Civil Code, by means of a simple written notice from MAHLE, if the Supplier fails to perform its

obligations as specified in clauses 1.6 (Market Conditions), 6.2 (Certifications of Conformity), 6.3 (Compliance with the ADR Regulations), 10 (Industrial and Intellectual Property), 11 (Subcontracting), 12 (Insurance Obligations), 13.1 (Reserve) and 13.3 (Use of Recycled Materials).

14.2 Should MAHLE invoke this termination clause, in any case, it shall have the right to retain the Supplies already performed to it, effecting the relevant payment with a deduction of a sum equivalent to [10%] by way of a penalty, but without prejudice to its right to claim for further damages.

## 15. Applicable law and jurisdiction

15.1 These General Conditions and all the contractual relationships which exist or which may exist in the future between MAHLE and the Supplier shall be governed by Italian law. The Parties acknowledge that the application of the Convention of Vienna of 1980 on the international sale of movable goods is expressly excluded.

15.2 The Parties irrevocably submit to the exclusive jurisdiction of the Court of the place where the MAHLE Group company issuing the order has its head quarters with respect to any legal action, suit or proceedings against it with respect to its obligations, liabilities or any other matter arising out of or in connection with these General Conditions. MAHLE does however reserve the right to invoke the jurisdiction of the court of the place of domicile or registered office of the Supplier

Status: May, 2008

For acknowledgement and acceptance of these general conditions.

.....  
**The Supplier**  
(date, signature and stamp)

According to articles 1341 and 1342 of the Italian Civil Code, the Supplier hereby specifically approves the terms set out in clauses 1.5 and 1.6 (Purchasing Conditions), 2.1 and 2.3 (Delivery and Transport), 5 (Supplier's Warranties), 6 (Further Obligations of the Supplier), 7 (Inspections and Auditing), 8 (Right of Retention), 11 (Subcontracting), 12 (Insurance Obligations), 14 (Termination clause) and 15 (Applicable Law and Jurisdiction).

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**The Supplier**  
(date, signature and stamp)