

## ***HIDRIA GENERAL TERMS OF SALE (GTS)***

### ***DEFINITIONS***

#### **1. GENERAL:**

- 1.1. The sale of Products to the Buyer is expressly limited to Buyer's acceptance of the terms of HIDRIA's quotation and the GTS as published at Hidria's web page (www.hidria.com).
- 1.2. No modification or waiver of any of the terms and conditions contained herein and no additional or different terms or conditions shall be effective unless agreed to in writing signed by both parties. No oral agreement, course of performance or other means other than such a written agreement signed by both parties expressly providing for such waiver shall be deemed to waive any the terms of these GTS.
- 1.3. Buyer's acceptance of the Products sold hereunder shall constitute Buyer's acceptance of the terms hereof.

#### **2. DEFINITIONS:**

- 2.1. **"Buyer"** means the person placing an Order with HIDRIA and/or entering into contract of sale for the Products with HIDRIA;
- 2.2. **"Confidential information"** means all and any information related to the Products, Orders and any Contract of sale of the Products, their content or performance, including but not limited to prices for the Products, delivery terms, designs, technical data on the Products and their manufacturing and any other data and information which is disclosed by HIDRIA to the Buyer, whether orally or in writing, unless such information is public at the time of its disclosure or becomes public without breach of these GTS.
- 2.3. **"Contract of Sale"**: contract entered into by HIDRIA and the Buyer for sale of the Products, executed by exchange of an order and its acceptance as different deeds, or by the agreement of both parties on one document.
- 2.4. **"HIDRIA"**: means any company of the HIDRIA GROUP that enters into the Contract of Sale.
- 2.5. »HIDRIA GROUP« means Hidria d.o.o. and Hidria Bausch Kft.
- 2.6. **"Order"** means a purchase order for the Products placed by the Buyer with HIDRIA in compliance with these GTS.
- 2.7. **"Products"** means products manufactured and/or supplied by HIDRIA
- 2.8. **"GTS"** means these General Terms of Sale applicable by HIDRIA that may be amended by HIDRIA from time to time.
- 2.9. **"Working Day"**: any day deemed to be a working day in the country of HIDRIA's registered office.

#### **3. ORDERS FOR THE PRODUCTS**

- 3.1. Order, acceptance (confirmation) of the order, any counter proposal for change or amendment of order, rejection of the order and any changes and amendments thereof and rolling forecasts are to be made in writing and sent by registered letter, facsimile

or e-mail. If sent by e-mail, unless otherwise agreed, no certified electronic signature is necessary.

- 3.2. Orders should include the Buyer's part number, quantity of ordered Products and a proposal for lead time.
- 3.3. The Order shall be deemed effective if it complies with the requirements of these GTS and is accepted by HIDRIA with written order confirmation.
- 3.4. In case HIDRIA requests any securities for payment for the Products for the specific Order and (or) all the Orders according to Clause 6 of these GTS from the Buyer, the order shall be deemed as accepted by HIDRIA only after such additional securities are provided to HIDRIA.
- 3.5. The Buyer shall be entitled to cancel or recall the Order accepted by HIDRIA, provided that such cancellation or recall of the Order is approved in writing by HIDRIA.

HIDRIA is entitled to cancel the Order accepted by HIDRIA by submitting the notification to the Buyer on the cancellation of the Order by e-mail, provided that the Order may not be executed due to circumstances preventing HIDRIA from proper execution of the accepted Order which are not under its control.

- 3.7. No cancellations or changes of the Orders shall be effective without HIDRIA's written consent.
- 3.8. Without such consent, a cancellation of the Order shall entitle HIDRIA to all remedies available by law or equity including, but not limited to, cancellation costs or increased prices.

## **4. PRICES AND TAXES**

- 4.1. All prices are subject to the shipping terms defined below. The prices are exclusive of any applicable Federal, State, Provincial or local taxes or assessments. Such taxes and assessments will be included in HIDRIA's invoice and paid in full by the Buyer. All prices are subject to adjustment, at any time, by HIDRIA, for changes in volume forecasts, economics or exchange rates as applicable. Such adjustment shall be retroactive, if the Buyer's actual purchases fall short of the volume forecasts the prices were based on.

## **5. SHIPMENT AND DELIVERY**

- 5.1. Delivery terms shall, unless otherwise specified in HIDRIA's quotation, be ex works (Incoterms 2010).
- 5.2. Title and risk of loss of the Products shall transfer upon completion of delivery of the Products per the applicable delivery term specified above. Unless otherwise instructed, HIDRIA will ship via industry standard means for the applicable Products. HIDRIA will not be liable for any delays, breakage, loss or damage after having made delivery in good order to the first transportation carrier. All claims for loss or damage in transit are to be made by the Buyer directly to the transportation carrier and the appropriate insurance carrier retained by the Buyer. No deductions of any kind from the invoice amount shall be made.

- 5.3. Shipments shall be deemed accepted by the Buyer, unless a written notice of rejection is received by HIDRIA within five (5) Working Days after reception of the Products by the Buyer.

## **6. TERMS OF PAYMENT**

- 6.1. Unless otherwise specified in HIDRIA's quotation, terms of payment are net thirty (30) days from date of shipment.
- 6.2. HIDRIA reserves the right to alter or suspend credit terms, demand additional security or advance payment, whenever HIDRIA has reasonable doubt as to Buyer's credit worthiness.
- 6.3. If Buyer becomes delinquent in payment or refuses to accept HIDRIA's additional requirements, HIDRIA shall have the right, in addition to all other available rights and remedies, to cancel any or all of the Buyer's orders, withhold further deliveries, and declare all unpaid amounts for Products previously delivered immediately due and payable.
- 6.4. Amounts past due shall be subject to an interest charge of 1.5% per month.
- 6.5. All costs and expenses incurred by HIDRIA as a result of non-payment or delinquent payment by the Buyer, including collection costs, interest, and reasonable attorneys' fees, shall be paid by the Buyer.

## **7. WARRANTY/RECALL**

- 7.1. Unless otherwise specified in HIDRIA's quotation, HIDRIA warrants that the Products will conform to the applicable specifications and will be free of defects in design (to the extent that HIDRIA furnishes the design), material and workmanship.
- 7.2. Unless otherwise specified in HIDRIA's quotation, the warranty shall be for a period of 12 months after delivery of the Product to the Buyer.
- 7.3. HIDRIA will provide free of charge replacement Products to the Buyer, or, at HIDRIA's option, credit in a fair amount, not to exceed the purchase price for the Products, which prove to be defective within the warranty period, provided, however, that the Buyer has returned to HIDRIA 100% or a statistically relevant share, as mutually agreed upon, of any Product claimed to be defective.
- 7.4. HIDRIA shall have the right to request reasonable evidence of, and impose reasonable requirements for the submission of a warranty claim, including by way of example and not as limitation or printouts of diagnostic test results performed by the Buyer.

- 7.5. In the event of: (a) improper installation or misuse of the Products, (b) use of Products outside of HIDRIA approved applications, specified environments or installation conditions, (c) use of Products for racing or testing applications, (d) failure to maintain Products in accordance with applicable maintenance instructions, or (e) alteration or damage caused to the Product, or similar circumstances, no warranty shall apply, and HIDRIA shall not be liable for such Products or any damage caused by such Products.
- 7.6. If the Buyer believes a recall is required by law and, in whole or in part, is caused by the Products, the Buyer shall give a prompt written notice to HIDRIA, keep HIDRIA at all times fully informed, and consult with HIDRIA on the actions to be taken. Such a prompt written notice is also required in the event of any Product-related incident such as fire, accident, malfunction causing injury, and shall be accompanied by all information available to the Buyer. The Buyer shall not respond to inquiries of any governmental or other agency relating to the Products without prior consultation with HIDRIA.
- 7.7. Prior to any recall involving the Products, HIDRIA shall have the right to perform a full investigation, including, but not limited to: inspection and testing of the Products involved, vehicle history, scene investigation, copies of all witness statements, reports, analysis, and tests performed by or on behalf of or in the possession of the Buyer. The Buyer shall give HIDRIA full support for such an investigation. In the event that a recall is determined to be legally required, both parties agree to negotiate a fair and equitable reimbursement of a share of Buyer's direct expenses incurred for such a recall. Such allocation shall take into consideration the portion of each party's responsibility, the cost of the Products involved, the other cause(s) of the recall, and the strength and the nature of the evidence concerning the defect and its cause(s).
- 7.8. In no event shall HIDRIA's liability hereunder exceed ten percent of the average yearly net invoiced value of the aggregate sales of the Products concerned, nor shall HIDRIA be liable for mark-ups or profit margins normally accruing to the Buyer or its customers in the provision of replacement parts, nor for costs of handling, administration, customer inducement or incentives, nor for incidental, consequential or punitive damages (including but not limited to damages caused by standstill, loss of goodwill, lost profits), whether incurred by the Buyer or any of its customers.
- 7.9. Prototype components are provided "AS IS" and all warranties are expressly excluded. HIDRIA shall have no liability for claims related to the prototype components. Buyer shall indemnify and hold HIDRIA harmless from claims related to the prototype components. Prototype components are only to be used in product testing/evaluation by qualified Buyer representatives in an appropriate test environment.

- 7.10. This warranty is in lieu of all other warranties, express or implied, including of merchantability or fitness for a particular purpose. HIDRIA assumes no liability for incidental, consequential or punitive damages. The remedies set forth in this section represent Buyer's sole and exclusive remedies for any HIDRIA breach of warranty or in any cases of recall.

## **8. REMEDIES**

- 8.1. HIDRIA's rights and remedies set forth herein shall be in addition to any legal or equitable right or remedy available to HIDRIA. No waiver of any of HIDRIA's rights or remedies shall be effective without HIDRIA's express written consent.
- 8.2. HIDRIA shall not be liable for any incidental, consequential, special or punitive damages arising from the sale or use of any Products or HIDRIA's performance, or failure to perform any of its obligations hereunder, whether the claims be in contract or tort, including negligence or strict liability. Buyer's sole and exclusive remedy after acceptance of the Products shall be the remedy available under the warranty provision.

## **9. FORCE MAJEURE**

- 9.1. In the event either party is unable to fully perform its obligations hereunder (except for the Buyer's obligation to pay for Products ordered) due to events beyond its reasonable control, including, but not limited to acts of God, action by any governmental authority (whether valid or invalid), fires, floods, windstorms, explosions, riots, natural disasters, wars, sabotage, labor problems (including lockouts, strikes, slowdowns), inability to obtain power, material, labor, equipment or transportation, or court injunction or order, that party shall be relieved of its obligations to the extent it is unable to perform. Timely notice of such inability to perform shall be given to the other party. In the event of HIDRIA's inability to perform due to force majeure, the Buyer shall be entitled to reduce its purchase obligations towards HIDRIA by the quantities purchased from other sources, but shall not have the right to terminate the respective Contract of Sale.

## **10. INVESTMENTS IN EQUIPMENT AND TOOLS**

- 10.1. In case that the agreement on supply of the Products terminates without fault of HIDRIA, the Buyer shall be obliged to reimburse to HIDRIA the not depreciated value of the equipment (including tools), invested in compliance with the Contract of Sale.
- 10.2. The value of the non-depreciated value to be reimbursed shall be calculated according to HIDRIA's calculation standard.
- 10.3. Tools, which are separately negotiated for and fully paid for by the Buyer as a separate item on an order, shall become the property of the Buyer, however, any designs by HIDRIA remain HIDRIA's property.

- 10.4. During their use at HIDRIA's facility, such tools shall be maintained in accordance with HIDRIA's usual practice.
- 10.5. The Buyer shall bear the risk of ordinary wear and tear, loss or damage except such caused by HIDRIA. At the request of the Buyer and to the extent practicable, tools shall be identified by appropriate markings.
- 10.6. Prices for the tools do not include transportation costs, storage beyond completion of the tool related project, or costs of marking or packaging. HIDRIA will not be responsible for the tools after termination/completion of the tool related project, and the Buyer shall remove all tools within 30 days after such a termination/completion.
- 10.7. If the Buyer fails to do so, HIDRIA may, at Buyer's expense and without any liability towards the Buyer, dispose of such in a manner it deems fit. HIDRIA shall have a lien on the special tooling in order to secure all outstanding obligations of the Buyer.
- 10.8. The Buyer shall, on its own expense and on time, substitute any tool (owned by the Buyer) which shall not anymore, due to normal wear and tear, meet the requirements and parameters for manufacturing of the Products.

## **11. NOTICES**

- 11.1. Any notice or other written communication required or permitted hereunder shall be in writing and:
  - delivered personally to the officer of the party to whom it is directed, or
  - sent by registered mail, postage prepaid, return receipt requested (provided that such notice or other written communication shall not be forwarded by mail if on the date of mailing there exists an actual or imminent postal service disruption in the city from which such communication is to be mailed or in which the address of the recipient is found); or by a confirmed e-mail or telefax.
- 11.2. All such notices shall be addressed to the party to the address set forth in the Contract of Sale or notified in writing after the Contract of Sale is entered into.

## **12. INTELLECTUAL PROPERTY AND RELATED MATTERS**

- 12.1. Any HIDRIA's patents and/or trademarks disclosed or transmitted to the Buyer shall remain the property of HIDRIA.
- 12.2. The Buyer shall not infringe any trademarks, logos, patents, design, copyrights, trade names and/or HIDRIA standard marks. No license is granted to the Buyer for intellectual property owned by HIDRIA.

- 12.3. Without prior written instructions of HIDRIA, the Buyer shall not change, supplement or otherwise alter any signs, names, labels, instructions or other information on the origin or characteristics of the Products.
- 12.4. HIDRIA warrants that the Products shall be delivered free of rightful claims for infringement of any patent or trademark, provided, however, that this warranty shall not apply to claims for patent infringement to the extent that any Products are
- (a) manufactured to the Buyer's specifications,
  - (b) used in combination with products not purchased from HIDRIA in a manner which infringes a patent covering the combination, or
  - (c) used in a manner not reasonably anticipated by HIDRIA.
- 12.5. HIDRIA's obligation hereunder is conditioned upon the Buyer:
- (i) giving HIDRIA a prompt written notice of any infringement claim;
  - (ii) cooperating fully with respect to the defense of such a claim; and
  - (iii) upon HIDRIA's request, providing HIDRIA with full control of the defense, including settlement and/or litigation of a such claim.
- 12.6. HIDRIA shall be entitled, at its option, to obtain a license on the Buyer's behalf for the Product which (allegedly) infringes an intellectual property right or to modify the Product in such a way that it does not infringe the intellectual property right, or replace the Product by a similar product which does not infringe the intellectual property right.

## **13. CONFIDENTIALITY**

- 13.1. Each party agrees to maintain in confidence and not to use, except for the purpose of the Contract of Sale, any information of a confidential nature such as, but not limited to, technical information and data, commercial information and know-how, price structures, administrative and operational costs, or other information relating to each other's business operations, or in the case of HIDRIA, relating to the Products.
- 13.2. Each party's obligation of confidence and limitation upon use shall not apply to any information to the extent that the receiving party can show that such information:
- is or became generally available to the public, other than by reason of breach by the receiving party or the provisions of the respective Contract of Sale;
  - was known by the receiving party prior to the date of the submission of the respective data by the disclosing party, provided that documentary evidence of such knowledge is provided to the disclosing party on request;
  - was subsequently disclosed to the receiving party without obligation of confidence by a third party owing no such obligations to the disclosing party in respect of such information;
  - is required by law to be disclosed but then only when, to the extent reasonably practicable, a prompt notice of this requirement has been given to the original

disclosing party, so that it may seek appropriate relief to prevent or limit such disclosure.

- 13.3. This clause shall remain in force for five years after the expiry or termination of the respective Contract of Sale.

## **14. GOVERNMENT AND OTHER REGULATED CONTRACTS**

- 14.1. If Products are purchased under a government contract or sub-contract or any other regulated contract or sub-contract or any special requirements by the Buyer, the Buyer shall promptly notify HIDRIA of the provisions of any government procurement laws, regulations and requests, which are required to be included in the contract covering the Products ordered. If compliance with such provisions increases HIDRIA's costs or liability, HIDRIA shall be entitled, at its option, to adjust the prices accordingly, request separate payment of the additional costs, or terminate the Contract of Sale, with the Buyer being responsible for all costs incurred by HIDRIA.

## **15. TERMINATION**

- 15.1. HIDRIA may terminate the Contract of Sale:
- (a) upon breach of any material term of the Contract of Sale or GTS by the Buyer which is not remedied within 30 days after notice of such a breach; or
  - (b) if the Buyer becomes insolvent or makes an assignment for the benefit of creditors, or such party institutes any voluntary proceeding under bankruptcy, reorganization, arrangement, readjustment of debt or insolvency law of any jurisdiction, or for the appointment of a receiver or trustee in respect to any of the party's property, then termination shall be automatic and immediate. However, in the event any such proceeding is initiated by a third party against the Buyer, termination shall be automatic, if the such a proceeding is not dismissed or cured by the Buyer within thirty (30) days after the filing thereof; or
  - (c) in case of a change of control, either by:
    - (i) acquisition, directly or indirectly, by any non-affiliated third party of a beneficial interest representing fifty per cent (50%) or more of the voting rights of the Buyer, or of the power to direct or cause the direction of the management and/or policies of the respective party, whether through the ownership of voting rights, by contract or otherwise; or
    - (ii) acquisition, directly or indirectly, by any non-affiliated third party manufacturing or selling a competitive product, of any beneficial interest, voting rights or power to direct or cause the direction of the management and/or policies of the other party, whether through the ownership of voting securities, by contract or otherwise; or
    - (iii) transfer, sale or assignment of the Buyer's business related to the subject matter of these GTS and/or the Contract of Sale to a non-affiliated party.
- 15.2. Either party shall have the right, in its sole discretion, to terminate the respective Contract of Sale entered into for a period of time equal or longer than one year or



for indefinite time without cause at any time up to six (6) months prior by a written notice to the other party; such early termination shall not entitle the Buyer to any compensation.

- 15.3. In the event that the Buyer cancels the project/Contract of Sale before the agreed upon end of project duration, the Buyer shall reimburse appropriate cancellation charges for unrecoverable investments including, but not limited to: HIDRIA paid equipment and tools, engineering and material costs, direct and indirect labor cost, cost of lost opportunity, and any other cost incurred by HIDRIA. The Buyer's payment is expected in lump sum at the latest by the end of the calendar year of the cancellation. The Buyer is also obligated to buy all materials and semi-manufactures bought and/or manufactured for the Contract of Sale.

## **16. END OF PRODUCTION**

- 16.1. Hidria is entitled to start a discussion about the end of production conditions (prices, delivery terms, volumes, etc.) in case
- (i) the production quantity drops below 15% of the agreed yearly volume, as specified in the Contract of Sale (or in any other written form of agreement between parties),
  - (ii) of termination of serial production,
  - (iii) the serial production is drastically reduced to irregular orders (i.e. quarterly orders, half year orders, etc.).

## **17. MISCELLANEOUS**

- 17.1. Neither party shall be entitled to reassign its rights or obligations hereunder without the other party's prior written consent. A corporate reorganization, which does not result in a change of control or beneficial owner, shall not be deemed a reassignment.
- 17.2. The Buyer is not entitled to set-off any amounts due or allegedly due from HIDRIA to the Buyer from its debts towards HIDRIA.
- 17.3. In the event that any provision of these GTS shall by a court be declared void or unenforceable, the validity of any other provisions and of the entire GTS shall not be affected thereby.

## **18. APPLICABLE LAW**

- 18.1. Each Contract of Sale shall be construed, interpreted and applied in accordance with the laws of the country where HIDRIA at the time of conclusion of the Contract of Sale has its registered seat. For the avoidance of doubt, notwithstanding the above, the parties exclude the application of any international statutes on the sales of goods, including the United Nations Convention on International Contracts for the Sales of Goods.

- 18.2. The GTS shall be in English language and the English version of the GTS shall be deemed the official and governing instrument, notwithstanding any translations thereof.

## **19. SETTLEMENT OF DISPUTES**

- 19.1. Any dispute, controversy or claim arising out of, or in connection with the Contract of Sale shall be settled amicably by the Parties.
- 19.2. In the event of failure to reach such an amicable settlement within a one (1) month period, the dispute shall be finally settled by a competent court according to the registered seat of the respective company of HIDRIA GROUP.

Ljubljana, 8.10.2019