

## **VIDEOTON Battery Technologies Korlátolt Felelősségű Társaság General Terms and Conditions of Supply**

These general terms and conditions of supply (hereinafter referred to as: General Terms and Conditions) shall apply to every purchase order, call-off, release or any other analogous/similar document constituting firm commitment of the customer to take over and pay for specific type and quantity of Products at a defined delivery date as well as every supply agreement (hereinafter collectively referred to as: Purchase Orders, individually each referred to as a Purchase Order) issued by or agreed on with any customer (collectively as: Customer), forming inseparable part of the confirmation issued by VTBT relating to each and every Purchase Order.

VTBT's acceptance of any Purchase Order is expressly limited and subject to these General Terms and Conditions. For the avoidance of doubt, any acceptance of any Purchase Order on terms and conditions attempting to modify, supersede, supplement or otherwise alter these General Terms and Conditions will not be binding on VTBT to that extent.

### **1. Order, cancellation, reschedule**

#### **1.1. Order**

- 1.1.1. Delivery shall be performed on the basis of individual written, electronically transmitted purchase orders received from Customer (hereinafter referred to as: Purchase Orders). VTBT will confirm the Purchase Orders in writing within 5 working days following receipt. Insofar as the Supplier does not submit a written objection with regards to the Purchase Orders within 5 working days following receipt, a delivery contract shall come into effect in accordance with the present General Terms and Conditions of Supply.
- 1.1.2. The delivery dates specified in the Purchase Order and confirmed by VTBT are fix and binding for the Parties. Confirmed Purchase Orders are fulfilled upon receipt of the Product(s) by Customer at the agreed delivery destination, if according to the agreed delivery term VTBT is responsible for arranging carriage. If the agreed delivery terms are EXW or FCA according to INCOTERMS 2010, VTBT shall make the Product(s) available in due time for collection, taking into account the time period needed for loading and shipment to be arranged and coordinated with the forwarder.
- 1.1.3. In case of a continuing business cooperation, the spread of quantities over time are specified in rolling forecasts (hereinafter referred to as: Forecast or Forecasts), which shall be issued and governed pursuant to section 1.1.4. of these General Terms and Conditions.
- 1.1.4. The following applies if Customer orders Product(s) on the basis of Forecasts:
  - 1.1.4.1. Customer shall send to VTBT an updated Forecast on a regular, at least weekly basis for each Product covering a period of 12 months respectively. According to the following provisions, VTBT shall either supply Customer punctually with the quantities per delivery dates [section 1.1.4.2.a)] or do its Production capacity planning [section 1.1.4.2.b)] according to these Forecasts.

#### 1.1.4.2. Forecast periods

##### (a) Binding forecast periods

With regards to the deliveries of Products indicated for the first four weeks of the ever actual Forecast, Customer is, as a general principle, not permitted to make any cancellation, increase or decrease of Product quantity, and shall place the Purchase Order(s) in accordance with the quantities specified for this period.

##### (b) Non-binding forecast periods

Regarding week 5 through 26 of the Forecast, subject to availability of material, Customer is entitled either to increase or decrease the quantity by 15% compared to the specific quantity first indicated in the actual weekly rolling Forecast or to postpone the delivery dates for maximum two (2) months ahead. Regarding week 27 through 52 of the Forecast, subject to availability of material, Customer is entitled to increase or decrease the quantity by 50% compared to the specific quantity first indicated in the actual weekly rolling Forecast.

1.1.4.3. The quantities scheduled by Customer according to the provisions in section 1.1.4.2. a) are non-cancellable and binding for Customer. If, compared to that, Customer takes over fewer Products, it shall reimburse VTBT for the costs incurred, in particular for material, Production and warehousing costs, not exceeding, however, the value of the Products to be delivered.

1.1.4.4. Although the details pursuant to section 1.1.4.2. b) constitute non-binding forecasts, they shall be provided in good faith by Customer to VTBT. VTBT is obliged to purchase sufficient quantity of materials and components according to the Forecast provided by the Customer taking into consideration the lead-times, minimum order quantities (MOQ) and minimum packaging quantities (MPQ) stipulated in the Bill of Materials (BOM).

## 1.2. Cancellation

1.2.1. Cancellation of a Purchase Order confirmed by VTBT is only possible with the prior written consent of VTBT.

1.2.2. If VTBT permits the cancellation of a Purchase Order, Customer agrees to pay VTBT for all of VTBT's out-of-pocket costs associated with the cancellation of the order including, but not limited to: (i) raw materials, (ii) work in progress, (iii) inventory carrying costs, (iv) scrapping and disposal fees, and (v) a reasonable and equitable profit for VTBT. In no case will the cancellation fee be less than VTBT's actual costs (including overhead and other indirect costs). The amount of cancellation fee to be charged to Customer shall be determined at the sole discretion of VTBT and may equal 100% of the amount of the order at the time of VTBT's receipt of Customer's request for cancellation.

1.2.3. Customer is entitled to receive a written notice from VTBT setting forth how the cancellation fee was calculated. Upon payment of the cancellation fee, Customer

shall be entitled to receive all raw materials and work in progress, and VTBT agrees to ship such goods to Customer at Customer's expense.

- 1.2.4. VTBT reserves the right, by written notice of default, to cancel any order, without liability to Customer, in the event of occurring any of the following: (i) insolvency of Customer, (ii) the filing of a voluntary petition in bankruptcy by Customer, (iii) the filing of an involuntary petition to have Customer declared bankrupt, (iv) the appointment of a receiver or trustee for Customer, (v) the execution of an assignment by Customer for the benefit of creditors, (vi) the discontinuance of business by Customer, or (vii) the sale by Customer of the bulk of its assets other than in the usual course of business.

### **1.3. Reschedule**

- 1.3.1. Customer may only reschedule a Purchase Order confirmed by VTBT with VTBT's written consent. A reschedule should not extend further than an additional thirty (30) calendar days from the original delivery date requested. Reschedules may be subject to a one percent (1%) penalty based on total amount of the order or portion of the order rescheduled at VTBT's convenience.

## **2. Delivery**

- 2.1. All deliveries will be made including packaging, to the specific place of destination that has been designated. INCOTERMS 2010 DAP (delivered at place) applies as a basic principle, unless otherwise agreed.
- 2.2. Risk of loss or damage shall pass to Customer according to the agreed INCOTERMS 2010 parity.

## **3. Quality management, inspection, warranty**

- 3.1. VTBT maintains a quality assurance system in procurement, Production, materials management and shipping.
- 3.2. VTBT is obligated to generate an initial sampling inspection report and to send such report to Customer. After approval by Customer, the initial sampling inspection report shall be archived electronically by Customer.
- 3.3. Irrespective of the foregoing, VTBT undertakes to continuously examine the quality of the Products according to the agreed testing processes.
- 3.4. VTBT warrants that its deliveries are in conformity with workplace safety and other related regulations, statutory provisions, including agreed DIN standards and technical data (including national and international standards / regulations such as REACH and RoHS). Changes to the Products and the Production process require VTBT's prior written approval.
- 3.5. Customer is obligated to examine the Products upon receipt regarding obvious defects such as transportation damage, quantity deviations, discrepancies between the Product type and the confirmed Purchase Orders and/or accompanying documents. Customer is obliged to mark on the delivery note and any accompanying transportation documents any

transportation damage realized. In all other cases, Customer shall immediately point out defects as soon as they are identified in the ordinary course of business.

**3.6.** VTBT represents and warrants to comply with the mutually agreed manufacturing processes and to act as a prudent and reasonable contract manufacturer. Within the frame of this general warranty VTBT especially represents and warrants for the respective warranty period specified below that:

- (i) all Products will be new and unused,
- (ii) all Products will be free from defects in workmanship and will strictly conform to the manufacturing processes mutually agreed,
- (iii) Customer will acquire good and marketable title to the Products, and that all Products will be free and clear of all liens, claims and encumbrances,
- (iv) the parts of the manufacturing processes defined by VTBT will be worldwide free from violation or infringement of any third party intellectual property rights (see also section 7).

The warranties set forth herein will not apply to any Products if and to the extent such Products:

- (a) have been repaired or altered by any other person than VTBT or its duly authorized agents,
- (b) have been subjected to misuse, negligence or accident,
- (c) have been used in a manner contrary to the manufacturing processes mutually agreed,
- (d) comprise defective material from suppliers appointed by Customer or defective material provided by Customer,
- (e) comprise defective construction or design provided by Customer including defect in the manufacturing processes mutually agreed,
- (f) have passed the manufacturing process of VTBT due to incompleteness of testing processes specified by the Customer or failure or defect of tools belonging to Customer (e.g. tools, fixtures, testing devices) though proper running, use and maintenance hereof by VTBT.

**3.7.** If a Customer complaint turns out to be a warranty case, VTBT is entitled to decide either to remedy the defect (repair the defective Products) or to deliver new Products.

**3.8.** If VTBT will not be able to eliminate the defect by the above mentioned measures, Customer is entitled to remedy the defects itself or through third parties, at VTBT's expense, if there is imminent danger or in cases of special urgency, in every case with the prior written consent of VTBT, which, however, shall not be unreasonably withheld. Notwithstanding the above, the statutory provisions regarding the obligation to mitigate losses shall apply to Customer accordingly.

**3.9.** The warranty period for claims shall be 24 months from the delivery date, which carries peremptory forfeitures.

**3.10.** The limitation period for asserting warranty claims shall be 3 months counted as from recognizing the defect(s) within the warranty period set forth above. This limitation period does not apply to claims for damages related to loss of life, bodily injury, or impairment of health, or to claims pursuant to the Product liability, in which cases the statutory limitation or peremptory periods shall apply.

**3.11.** Customer is entitled to conduct audits of VTBT's business premises related to the manufacturing of Products at any time, at no expense, announced in advance in writing, during normal business hours. Customer is also entitled to take samples and perform other necessary or desired controls and audits with regard to quality of the Products.

#### **4. Tooling**

**4.1.** Any components, tools, dies, jigs, test and assembly fixtures, gauges, cavities, molds or other property, equipment, material (hereinafter referred to as: Tools) provided by Customer for the manufacture of the Products or ordered or paid for by Customer (or will later be paid for by Customer) shall remain in the ownership of the Customer. VTBT undertakes to use the Tools exclusively for the manufacture of the Products ordered by the Customer, and to insure the above Tools at their replacement value against damage or loss due to fire, water and theft at its own expense.

**4.2.** VTBT undertakes to perform the reasonably required daily, preventive maintenance in due time and at its own expense. The costs of repair(s) and replacement(s) being needed despite of proper use of the Tools shall be borne by the Customer. In case of improper use, the repair and replacement of the Tools are at VTBT's expense.

**4.3.** VTBT shall not be responsible for any delay in performance or for any non-performance hereunder or the failure of any Product to conform to applicable specifications resulting, in whole or in part, from the use of the Tools furnished by Customer.

#### **5. Price, payment terms, title**

**5.1.** The sale price(s) for Products delivered hereunder are accepted as stated on VTBT's order confirmation and will include the cost of VTBT's agreed factory tests and inspections. The prices set forth herein are not subject to trade or other discounts. Banking costs (e.g. bank transfer fees or costs) shall be borne by the Customer.

**5.2.** Customer acknowledges that the pricing of the Products and the other provisions of these General Terms and Conditions have been set based on the sections of this document providing for an allocation of the risk of any Product defect between the parties. Customer further acknowledges that the pricing as well as the provisions would have been different if there had been a different allocation of the risk.

**5.3.** In case of price change of a material purchased by VTBT from suppliers appointed by Customer and/or the impact of currency fluctuations of any material where applicable Parties shall adjust the Price without delay, always considering the quantity of materials in stock and/or already ordered. Price change of materials purchased from suppliers sourced by VTBT will be considered at the regular quarterly price review.

**5.4.** The payment terms are net 30 days from delivery of the Products according to the agreed INCOTERMS 2010 parity. Payment terms are not subject to change unless made in writing and with mutual consent of the Parties for good reason.

**5.5.** In case of any delay or default in payment Customer is obliged to pay default interest, which is 9% per annum above the base interest rate of the Deutsche Bundesbank. Repeated delays or defaults in payment constitute serious breach of these General Terms and Conditions.

- 5.6.** Customer shall as soon as possible (within 15 days) inform VTBT of any defect or failure of an individual invoice in order to enable VTBT to correct or reissue the invoice affected. An administrative or formal defect or failure of any invoice shall not serve as a cause for rejection of payment and no payment term shall be prolonged on the grounds of such formal objection against the invoice.
- 5.7.** In case of single or multi-item invoices only the price of the disputed number of Products or items are subject to withholding. After settlement of such dispute, the outstanding amounts are due payable, too. Set-off payment against invoices issued by VTBT based on any reason, legal basis or grounds whatsoever is only permitted with the express prior written consent of VTBT. Any withholding or set-off payments by the Customer contrary to this section 5.7. constitutes a serious breach of the present General Terms and Conditions.
- 5.8.** The Products delivered and Tools managed by VTBT shall remain its property until the purchase price has been paid in full. In case of any delay or default in payment on Customer's part VTBT may have the right of withholding or retention of subsequent deliveries.
- 5.9.** Customer is not entitled to remit payments directly to VTBT's subcontractors or suppliers for materials, parts, components, and other goods and services ordered by VTBT from such subcontractors or suppliers in relation to the manufacturing of the Products without the prior written consent of VTBT. If Customer makes such direct payments to VTBT's subcontractors or suppliers without VTBT's prior written consent, Customer shall not reduce its next payments to VTBT for the Products by the amount of all such direct payments, otherwise this constitutes serious breach of the present General Terms and Conditions.

## **6. Liability**

- 6.1.** Nothing in these General Terms and Conditions shall limit or exclude the liability of either Party for damages resulting from death or personal injury, wilful misconduct or gross negligence and from Product liability cases.
- 6.2.** For the cases where liability limitation is not restricted by statutory provisions VTBT's liability will be limited to the coverage of its liability insurance indicated below.
- 6.3.** For the cases which are not covered by VTBT's liability insurance, VTBT's liability will be limited to 10% of the aggregate annual added value of VTBT realized with Customer for the respective Product in the year in which the event giving rise to the liability occurred provided that once this present annual limitation has not been exhausted the remaining amount shall not be cumulative to the next year's cap.
- 6.4.** Notwithstanding the above VTBT shall not be liable to the Customer for:
  - (a) loss of business,
  - (b) loss of profit or reputation,
  - (c) punitive or exemplary damages,
  - (d) any Product manufactured by VTBT in full compliance with the specification provided by Customer though not being fit for the intended use,
  - (e) non-performance, delay in delivery of a material/component supplier appointed by the Customer, except if and to the extent such non-performance, delay in delivery is caused by a failure of VTBT to purchase the materials/components in a prudent

- manner (on the basis of the Purchase Orders and Forecast provided by Customer considering the lead time and minimum order quantity of such supplier),
- (f) fines or penalties assumed by Customer by agreement with its clients which are higher than the penalties stipulated by the Parties in these General Terms and Conditions.

**6.5.** VTBT undertakes to take out and maintain a Product liability insurance policy (including the risks associated with the costs of recalls) with adequate coverage for personal injury and property damage and to furnish Customer with proof thereof upon written request.

**6.6.** Unless other provisions on liability have been set out elsewhere herein, VTBT is only obligated to render compensation for damages and/or losses suffered by Customer directly as a result of defective Products, violation of official safety regulations in terms of the manufacturing process, or other legal grounds attributable to VTBT according to the followings:

6.6.1. Both Parties shall be liable for measures taken to avert or mitigate damage and/or losses insofar as legally required. The principles set forth in article 6:525 of the Act V of 2013 on the Hungarian Civil Code shall apply *mutatis mutandis* to balancing of damage and losses between Customer and VTBT. This also applies in the event that claims are asserted directly against VTBT.

6.6.2. The obligation to render compensation is ruled out insofar as Customer has, for its part, been able to limit liability vis-à-vis its client by agreement. Customer shall strive to agree upon limitations of liability to the extent permissible by law.

6.6.3. Claims of Customer arising from causes stipulated as exclusions of VTBT's warranty obligations in the above section 3.6 are hereby ruled out as well.

**6.7.** Customer shall notify VTBT without delay and in detail if any claim is asserted against Customer in accordance with the foregoing provisions. Customer shall provide VTBT with an opportunity to examine the incident involving damage and/or loss. The Parties shall consult each other with regards to the measures, legal actions, and declarations to be undertaken.

**6.8.** Parties understand that due to technical/engineering changes or Product discontinuation (phase out) or actual non-consumption of any specific material or component for more than 12 months or cancellation of any Purchase Order or termination of these General Terms and Conditions by either Party for any reason whatsoever (hereinafter collectively referred to as: Triggering Event) obsolete materials (binding orders and forecasts, en route or in stock), Products and work-in-progress may arise (hereinafter collectively referred to as: Obsolete Items) even though VTBT has done prudent procurement based on the forecast provided by Customer and carried out the manufacturing of the Products in accordance with the relevant orders. Parties agree that Customer assumes responsibility for such Obsolete Items as follows.

6.8.1. Within thirty (30) calendar days following the Triggering Event (e.g. change date, discontinuation date, cancellation date or termination date, etc.) VTBT shall make reasonable efforts to:

- (i) cancel any open purchase orders for materials given to its suppliers;
- (ii) use the materials for other projects; or

- (iii) sell the materials on the open market.
- 6.8.2. After that 30-day-period VTBT shall provide Customer with a complete list of materials, Products and work-in-progress remaining in VTBT's inventory and becoming obsolete by the Triggering Event despite efforts made by VTBT under subsection (i) through (iii) above.
- 6.8.3. Based on this inventory list Customer shall (a) buy and take over or (b) pay for and reimburse Customer for the depletion of the following Obsolete Items:
  - (a) all Products manufactured on the basis of orders accepted by VTBT prior to the Triggering Event at the actual prices, provided that these Products are in full compliance with the terms and conditions of these General Terms and Conditions and
  - (b) all work-in-progress on the basis of orders accepted by VTBT prior to the Triggering Event at a reasonable pro rata percentage of the actual prices; and
  - (c) all materials ordered on the basis of orders accepted by VTBT prior to the Triggering Event, being in stock, en route or in process at VTBT's landed purchase price; and
  - (d) all long-lead-time materials prudently purchased (ordered) on the basis of the forecast provided by Customer prior to the Triggering Event, at VTBT's landed purchase price.
- 6.8.4. The above provisions shall accordingly apply to Products or materials being in safety and/or consigned stock – if any – at VTBT and not exceeding the stock level previously agreed by the Parties.
- 6.8.5. Only in the case when Products and/or materials purchased by Customer according to the above scenario (b) do not leave Hungary, VTBT is obligated to invoice Hungarian VAT on the sold goods because of taxation regulations. VTBT will support Contractor to get this VAT refunded.
- 6.8.6. The payment terms shall be 30 days after receipt of VTBT's invoice on the Obsolete Items.
- 6.8.7. Any actions of Customer not complying with the present section 6.8 will constitute a serious breach of these General Terms and Conditions.

## **7. Intellectual property rights**

- 7.1.** Customer is entitled to sell and distribute the Products worldwide, in its own name and on terms and conditions chosen by Customer itself.
- 7.2.** VTBT warrants that the Products do not violate any patents, utility patents, design patents, copyrights, trademarks, or similar rights (hereinafter collectively referred to as: Intellectual Property Rights) of third parties in terms of the manufacturing process controlled by VTBT. For the avoidance of misunderstanding the design and specification of the Products is the sole responsibility of the Customer, therefore in case of any violation of Intellectual Property Rights by the specification or design Customer shall indemnify and hold harmless VTBT against any and all claims asserted by third parties.

- 7.3.** If a third party asserts claims against Customer arising from Intellectual Property Rights with regards to the delivery and/or use of Products, VTBT shall indemnify and hold harmless Customer against such claims only if and to the extent VTBT is at fault according to the above section 7.2. In the case of cease-and-desist claims, VTBT shall, at Customer's request, either obtain a right of use or modify the Products or replace them with Products with the same specifications that are not subject to or not violating any Intellectual Property Rights.

## **8. Confidentiality**

- 8.1.** The Parties are mutually obligated to maintain confidentiality with regards to internal business processes. They agree to treat all documents already created and to be created in the future in connection with the processing of the agreement between the Parties as confidential, and to ensure that their employees provide confidential treatment thereof. Such documents must not be disclosed or made accessible to third parties except with the other Party's prior written approval. VTBT is not permitted to supply Products to third parties without prior written approval from Customer.
- 8.2.** The disclosing party reserves all ownership rights and copyrights to illustrations, diagrams, drawings, calculations, and other documents transmitted to the other party. The documents must not be used for any purpose other than Production pursuant to these General Terms and Conditions. They must be returned upon first written request.

## **9. Force Majeure**

- 9.1.** In the event of force majeure and other unforeseeable, unavoidable, extraordinary circumstances for which the Parties are not at fault (including fire, flooding, tsunami, typhoon, hurricane, earthquake, actions by enemies of the state, government restrictions, bans or prohibitions, expropriation or rationing by government agencies, embargo, civil unrest, labor disputes as well as allocation period on the market of materials or components), the Parties shall be released from their performance obligations for the duration of the disruption and in the scope of the effects thereof. This also applies if such events occur at a point in time when the Party affected thereby is in default.
- 9.2.** The Parties are obligated to provide each other with the necessary information without delay, to the extent reasonable. The Parties shall consult each other with regards to the measures and actions to be undertaken and adjust their obligations in good faith to the changed circumstances.
- 9.3.** If VTBT is prevented from delivering due to the force majeure mentioned above, Customer is entitled, for the duration of the disruption, to reduce the delivery quantity stated in the order without incurring any obligation vis-à-vis VTBT and to seek coverage for its needs elsewhere.
- 9.4.** If an event of force majeure as mentioned above delays the delivery or performance by more than 4 months, both Customer and VTBT are entitled, to the exclusion of any and all claims for damages, to rescind the Purchase Orders confirmed with regard to the quantity affected by the disruption in delivery.

## **10. Termination**

- 10.1.** Each Party is entitled to terminate these General Terms and Conditions without notice in case the other party seriously breaches its obligations arising from the provisions stipulated herein and fails to remedy its breach in reasonable grace period stipulated in the written warning of the other Party.
- 10.2.** Each Party is entitled to terminate the business relationship based on the present General Terms and Conditions without notice in the event of occurring any of the following cases:
- (i) insolvency of the other party,
  - (ii) the filing of a voluntary petition in bankruptcy by the other party,
  - (iii) the filing of an involuntary petition to have the other party declared bankrupt,
  - (iv) the appointment of a receiver or trustee for the other party,
  - (v) the execution by the other party of an assignment for the benefit of creditors,
  - (vi) the discontinuance of business by the other party, or
  - (vii) the sale by the other party of the bulk of its assets other than in the usual course of business.

## **11. Applicable law-jurisdiction**

- 11.1.** These General Terms and Conditions, as well as the sale and delivery of Products hereunder shall be governed by and construed in accordance with the laws of Hungary without regard to any otherwise applicable conflict of laws provisions. The United Nations Convention on Contracts for the International Sale of Goods will not, for any purpose, govern or apply to the sale and delivery of Products or any transactions, performance or disputes hereunder.
- 11.2.** Parties consent to the exclusive jurisdiction of the Hungarian ordinary courts. The exclusive place of jurisdiction is Székesfehérvár, Hungary.

## **12. Miscellaneous**

- 12.1.** These General Terms and Conditions represent the entire agreement between VTBT and the Customer for the purpose of the implementation hereof.
- 12.2.** If and insofar as individual provisions of these General Terms and Conditions should be or become invalid or unenforceable, the remaining provisions hereof shall remain unaffected by such circumstance. The invalid or unenforceable provision shall be replaced with a valid provision that approximates the economic content of the invalid or unenforceable provision to the greatest extent permitted by law or possible in fact.
- 12.3.** The Parties are not permitted to assign any claims on the other Party except with the other Party's prior written approval.