



Suppliers' Terms

2013 Edition – Rev00



GENERAL TERMS OF SUPPLY OF THE TESMEC GROUP

1. GENERAL INFORMATION

1.1 These General Terms of Supply (the "**General Terms**") are understood to be an integral part of the contractual relationship following the completion of each order issued by Tesmec (the "**Order**").

1.2 These General Terms are applied to all Orders issued by Tesmec S.p.A and by its Italian subsidiary and/or associated companies and/or those forming part of the Tesmec Group (indiscriminately referred to herein as "**Tesmec**") towards the supplier (the "**Supplier**").

1.3 Any waivers or additional terms to the General Terms shall be valid only if agreed in writing. Any unilateral change and/or addition by the Supplier to the Order or to the General Terms, as well as any general conditions drafted by the latter, shall be valid only in the case of specific written acceptance by Tesmec.

2. ORDERS

2.1 Orders become irrevocable by Tesmec from the time it receives acceptance of the same in writing from the Supplier, which must be expressed, within 7 days, by fax or by e-mail, or by forwarding the Order duly signed or by confirmation of the Supplier ("**Order Confirmation**").

2.2 Even if Tesmec does not receive the express acceptance of the Supplier, in the forms indicated above, the implementation of the supply shall be understood, in any case, as tacit acceptance of these General Terms and any specific terms contained in the Order in accordance with and by virtue of Art. 1327 of the Italian Civil Code. Different contractual terms that are attached, cited, added or modified by the Supplier, in the Order Confirmation or elsewhere, shall only be valid if expressly accepted by Tesmec.

2.3 The Order, the appendices to the Order and these General Terms constitute the contract which regulates each specific supply of goods and any accessory and/or related services (the "**Contract**").

2.4 In relation to each individual Order, even in the process of implementation, the Supplier undertakes, where requested by Tesmec, to:

(a) change the characteristics of the goods, or their components, or their quantity or delivery date (so-called Order Change) in accordance with Art. 2.4.1; and/or

(b) to cease production or supply of the goods, or their components (so-called Order Cancellation) in accordance with Art.2.4.2.

2.4.1 Order Change.

Tesmec may request a change to the quality, quantity, characteristics and/or delivery date of the ordered goods. Those changes must be made promptly by the Supplier. Where those changes affect the timescales and costs, the Supplier may be entitled to a variation in the price or delivery timescales.

Any requests for changes to the Order will be formalised by sending, by e-mail or fax, to the Supplier an "Order Change" form.

It is the responsibility of the Supplier to submit to Tesmec a proposal to change the supply setting out: a) the description of the product and respective code; b) any changes of cost with itemised details c) any impact on delivery timescales. Any failure to send the change proposal within 5 working days shall be deemed as tacit full acceptance of the contents of the Order Change form.

Tesmec will pay to the Supplier only the cost of raw materials already in production and only the cost of work performed up until the time of the Order Change, limited to costs actually incurred and documented, excluding in any case from that reimbursement any lack of earnings.

2.4.2 Order Cancellation

Where the order is cancelled, the Supplier shall be entitled to claim compensation for the amount of work already performed and for the direct costs already incurred in relation to the cancelled Order, subject to the possibility for the Supplier to sell the goods to other purchasers. Excluded from that reimbursement are the share of profit and the raw materials already produced but not yet put into production.

2.5 In the cases set out in Articles 2.4.1 and 2.4.2, the Supplier will be required to take all steps so as to contain, to the extent possible, the quantities of goods or their components chargeable to Tesmec, to allow for the control of stocks and, where requested, to deliver those goods to Tesmec.

3. DELIVERY

3.1. Unless otherwise indicated in the Order, the agreed delivery terms are understood to be mandatory and binding for the Supplier and, therefore, neither early deliveries nor delays are permitted.

Tesmec is authorised to reject the supplies received before the agreed time, at the cost and risk of the Supplier, and to charge storage costs to the same.

The Supplier is required promptly to inform Tesmec in writing and in detail of any event that might delay the implementation of the Order without, however, being authorised to claim an extension to the delivery terms.

In the event of delays, provided that they are not due to cases of force majeure, Tesmec may exercise, at its discretion, one or more of the following rights:

- a) to demand the implementation of the Order, in whole or in part, and to apply a conventional penalty in the amount of 1% of the price of the undelivered quantities, subject to any different percentage identified in the Order, for each week or fraction of week of delay, up to a maximum of 10% of the value of the Order;
- b) to procure elsewhere and at any time, in whole or in part, the ordered goods or their components, charging the additional costs to the Supplier and with the sole burden of providing written notice thereof to the Supplier;
- c) to terminate the Order, with immediate effect and in accordance with and by virtue of Art. 1456 of the Italian Civil Code, by simple written communication to the Supplier.

3.2. For the purposes of assessing compliance with the delivery terms and the transfer of risk of loss of the goods, the delivery term identified in the Order will be applied (Incoterms CCI Paris, ed. 2010).

4. PACKAGING, TRANSPORTATION, DOCUMENTATION AND CERTIFICATIONS

4.1. The ordered goods must be packaged at the care and expense of the Supplier appropriately in relation to the nature of the goods, so as to ensure their conservation and preservation from damage during transportation.

4.2. Each package must be marked and labelled indicating at least the following information: Order number, description of contents, gross/net weight in kg, shipping date, name and address of sender and recipient.

4.3. Each shipment and delivery must be accompanied by a transportation document (DDT), in accordance with existing regulations, containing the indications required clearly to identify the recipient, Order number, description, quantity and Tesmec item code.

4.4. The goods supplied must be delivered complete with all technical documentation relating to their testing, proper functioning and maintenance and, in particular:

- a) CE certificate;
- b) Certificate of Origin or Country of Origin Declaration if the goods originate from a country outside the European Union;

- c) the "Use and Maintenance Manual" in the language and in the quantities specified in the Order;
- d) all other documents that may be requested in the Order's supply specifications.

4.5. In the case of non-compliance with the provisions of the paragraphs above, Tesmec will be entitled to reject the packages and packaging received with missing, erroneous, incomplete or damaged data, returning them to the assigned carrier or transporter, without prejudice to the right to reimbursement of costs incurred and compensation for damages deriving from delay, loss or damage to the goods due to deficient markings, packaging, labelling, identification, shipping.

5. PRICES, INVOICING AND PAYMENTS

5.1. The price agreed in the Order includes each and any cost, charge and expense due for the implementation of the supply. Unless otherwise agreed in writing, the prices are understood to be fixed and invariable, irrespective of the occurrence of circumstances of any nature, including unforeseeable events, which affect the level of costs. The application of Article 1467 of the Italian Civil Code is therefore expressly excluded along with, where applicable, Article 1664 of the Italian Civil Code.

5.2. Each invoice must include the details of the transportation document, Order number, Tesmec item code, description, quantity and detailed price of each of the goods supplied.

5.3. Tesmec will make payment of the price of the supplies in the method and at the due date indicated in the Order, subject to receipt of the documents provided by Articles 4.3, 4.4 and 5.2 above. Any non-compliant invoices will be processed by Tesmec as null and void and will therefore be rejected.

5.4. Where, on one or more goods supplied, faults and/or defects and/or non-conformities are identified, which are not eliminated in the shortest reasonably possible technical time, Tesmec reserves the right to suspend the payments due to the Supplier.

6. ACCEPTANCE, GUARANTEE AND RESPONSIBILITY

6.1. The simple delivery or payment of goods supplied may not in any way be considered as acceptance of the goods.

6.2. The Supplier guarantees the quantitative conformity of the ordered goods, both as to what was agreed and as to what is stated on the delivery notes. Where any quantitative non-conformity is identified, Tesmec, subject to written complaint to be sent to the Supplier within 30 days of the delivery, may exercise, at its discretion, one of the following rights:

- a) to accept the quantitative differences identified, with the right to change, correspondingly, the quantities of any later supplies;
- b) to reject the excessive part of the supply, with the right, where the Supplier fails immediately to collect the same, to return the excess amounts at the cost and risk of the Supplier;
- c) to demand that the Supplier proceeds promptly to send the missing part, with costs at its exclusive expense.

Grievances for exercising the rights set out above must be communicated in writing to the Supplier within 30 working days from the delivery date of the relevant batch of goods.

6.3.1 The Supplier warrants for a period of 18 months from the date of installation or commissioning up to a maximum of 24 months from the delivery date, that each of the goods supplied is;

- a) free from faults and defects of design, construction, processing, assembly or related to the material used;
- b) compliant with the technical specifications and/or designs identified in the Order and/or the prototypes approved by Tesmec;
- c) new, created in a professional manner, perfectly functional and suited to the particular purpose for which it was intended;
- d) made in compliance with existing regulatory provisions for the specific type of goods supplied and accompanied by the necessary certifications.

6.3.2 In the case of defects and/or non-compliance during the warranty period, Tesmec shall be entitled, depending on its production requirements, to obtain the replacement or repair of the goods. Where the defects and/or non-compliance relate to supply batches, the Supplier is required to identify the defective and/or non-compliant goods within the agreed terms.

In order to exercise the rights set out above, Tesmec's grievances must be submitted to the Supplier within 30 working days from the date upon which the defect was identified. The Supplier undertakes to make the interventions requested on the basis of the aforementioned grievances, subject to the right to check, at its own expense, the legitimacy of the same at the Italian or foreign survey offices indicated by Tesmec.

6.3.3 All costs, charges, including transportation costs, that become necessary in implementing the activities involved in this warranty, as listed above, are covered exclusively by the Supplier.

6.3.4 The Supplier must implement the obligations provided by this warranty in the shortest time reasonably possible, with particular regard to minimising the negative impact on Tesmec's production requirements.

It is understood that, where the Supplier's implementation timescales negatively affect its production requirements, Tesmec shall be entitled to proceed autonomously or by third parties to remedy the defect and/or non-conformity, or to acquire replacement goods, charging to the Supplier the costs and charges incurred to solve the problem and the further costs resulting from investigating the breakdown and the operations of disassembly and assembly of the defective component where part of a complex system.

6.3.5 The goods or their repaired or replaced components are subject to a new warranty period in accordance with the provisions of Art. 6.3.1, commencing from the time of their re-commissioning into service.

6.4. With the exception of goods created on the basis of Tesmec's intellectual and/or industrial property rights, the Supplier guarantees that the use and marketing of goods supplied, or their components, does not involve the infringement of third party intellectual and/or industrial property rights, both in Italy and abroad, accepting liability for the prompt settlement of third party claims and in any case keeping Tesmec indemnified and held harmless from those claims and protected from any action that might inhibit the free production, sale or circulation of Tesmec products.

6.5. Where Tesmec is summoned to court or is alleged to have breached regulatory requirements relating to its products due to the defective nature or non-conformity of the goods supplied and assembled on the aforementioned products, the Supplier will be required to keep Tesmec indemnified and held harmless from all damages incurred. Tesmec must inform the Supplier as soon as it realises that the breach or summons is based upon the defective nature or non-conformity of the goods provided.

6.6. Where Tesmec has to implement a recall or reconditioning of its products due to the defect or non-conformity of the goods supplied, in order to replace or repair them or make them compliant with the technical and/or regulatory provisions identified by Tesmec, the Supplier, even if the defect or non-conformity is identified after the expiry of the warranty period, will participate in the costs incurred by Tesmec to implement the recall in the amount agreed between the Parties.

7. IMPLEMENTATION OF ORDER – INSPECTIONS AND CONTROLS

7.4. Tesmec is entitled to check, at any time, the correct implementation of the supply, both during production and after the preparation of the goods. To that end, the Supplier will provide free access to its premises and plants as well as those of any third parties at any time, subject to adequate prior notice.

7.5. Where the implementation of the supply does not proceed in accordance with the conditions established in the Contract, Tesmec may establish a reasonable term within which the Supplier is obliged to comply with the aforementioned conditions. Once that term has elapsed unsuccessfully, Tesmec shall be entitled to terminate the Contract, in whole or in part.

7.6 No change may be made by the Supplier to the production of the goods, except after written authorisation from Tesmec has been provided. The Supplier is obliged to notify to Tesmec any technical innovations that may improve the quality and/or characteristics of the ordered goods.

8. SPECIFIC EQUIPMENT

The equipment (welding jigs, moulds, specific equipment, control equipment, etc.), which Tesmec may provide to the Supplier to implement the Order, is understood to be given on free loan and remains under the exclusive ownership of Tesmec. The Supplier is responsible for its loss, destruction or damage. In relation to the aforementioned equipment, the Supplier is obliged to:

- a) register it and mark it as Tesmec property;
- b) proceed with appropriate insurance cover against fire, theft, vandalism, natural disasters, tampering or other insurable risks of loss or damage;
- c) store and use it with the utmost care and proceed, at its own expense, with planned maintenance;
- d) promptly report to Tesmec any necessary unplanned repairs, replacements or alterations, it being understood that Tesmec is responsible for making any decision regarding the implementation of those repairs, replacements or alterations, which are understood to be at the responsibility of Tesmec, provided that they are not due to incidents, negligence or other causes attributable to the Supplier, in that case, the costs will be borne by the latter;
- e) not to transfer it outside its own plants, except to the extent that is authorised each time in advance by Tesmec;
- f) to allow Tesmec employees to check, during normal working hours, the methods of use, storage and condition of use;
- g) not to use it or not to permit other to use it except for the implementation of Tesmec Orders and, in any case, not to transfer it to third parties, for any reason, directly or indirectly, for use in production of goods with the same technical specifications as Tesmec;
- h) not to subject it to liens, pledges or mortgages or constitute other guarantees on the same, with the burden of promptly informing Tesmec of attachments, seizures or other enforcement procedures to which it may be subjected;
- i) comply with the instructions that will be given by Tesmec in relation to the return, destruction or storage of that equipment.

9. CANCELLATION OF ORDER-WITHDRAWAL-TERMINATION

9.1. Tesmec shall be entitled to cancel the Order without any charge to the Supplier prior to receiving the Supplier's acceptance in accordance with the provisions of Art. 2.1, or to cancel the Order in accordance with the provisions of Art. 2.4.2 above, or in the other cases provided by the Order (e.g. cooling-off period) or agreed between the Parties.

9.2. Except in the cases mentioned elsewhere in these General Terms, Tesmec shall be entitled to withdraw or terminate the Contract:

- a) where during the course of implementing the supply, it is ascertained that the agreed delivery cannot be complied with for causes attributable to the Supplier, or that the implementation is not proceeding in accordance with the agreed conditions;
- b) where the Supplier is in breach of one of the obligations deriving from these General Terms and that breach is not remedied within the term of 15 (fifteen) days from receipt of the written dispute from Tesmec;
- c) where the Supplier is subject to bankruptcy, arrangements with creditors or other insolvency proceedings, or in the case of voluntary liquidation or transfer of the company;
- d) where a circumstance of force majeure has occurred that gives rise to a delay exceeding three months from the established delivery date.

9.3. The annulment, cancellation of the Order, withdrawal or termination of the Contract have effect from the date upon which the Supplier receives the respective communication from Tesmec, to be provided in writing by post, fax or e-mail.

Except in the cases provided by 9.1 and 9.2, letter d), this is in any case without prejudice to compensation for damages actually incurred by Tesmec.

10. TECHNICAL INFORMATION AND INDUSTRIAL PROPERTY

The technical specifications, designs and any other information, even of a commercial nature, both written and oral, issued by Tesmec to the Supplier for the design and/or production of ordered goods (indiscriminately, the "Technical Information") remain under the exclusive ownership of Tesmec and may be used only for the purposes of implementing the Order. In relation to the Technical Information, the Supplier, even after termination of the supply relationship, is obliged to:

- a) store it with the utmost confidentiality and return it to Tesmec at its request;
- b) not to reproduce or copy it, other than to the extent expressly authorised by Tesmec, and not to send it or reveal it to third parties;
- c) not to file patent applications or claim any other title of industrial property;
- d) not to produce or have produced by third parties, directly or indirectly, for use in production or marketing other than the implementation of the Tesmec Orders, goods or their components designed or created using the Technical Information referred to above;
- e) to require and ensure compliance with the obligations under this article from its personnel and any third party acting with the Supplier, to which the same has been authorised in advanced by Tesmec to send the Technical Information as part of implementing the Order.

11. PROHIBITION ON SUBCONTRACTING AND ASSIGNMENT

11.1. Without the prior written consent of Tesmec, the Supplier may not transfer or assign, for any reason, or subcontract to third parties the implementation of the supply and/or any other interest, obligation, right, credit deriving from the Contract.

11.2. Any type of assignment, as noted above, made by the Supplier in breach of the previous article shall not be effective towards Tesmec and shall give the latter the right to terminate the Contract in accordance with Art. 9.3 above and/or to suspend the payments due to the Supplier, even in relation to the implementation of other supplies.

12. FORCE MAJEURE

If a Party finds itself unable to perform one of the obligations placed upon it by the Contract due to a force majeure event, the aforementioned Party may not be considered liable for the failure to perform that obligation, nor for the consequences deriving from the same. The suspension of implementation of the obligations must be limited to the period for which the cause of force majeure persists, provided that the interested Party has given written communication thereof to the other party by and not beyond 7 days from the occurrence of the event. In any case, it will be the responsibility of the Parties to take all precautions so as to reduce the harmful consequences, with particular regard to those related to the delays accumulated.

The term 'force majeure' should be understood, for the purposes of this contract, to be an unforeseeable event beyond the control of the Parties, so as to make impossible and/or excessively onerous the fulfilment of any of the contractual obligations, including: natural and atmospheric phenomena of exceptional gravity (such as earthquakes, floods, epidemics, etc.); legislative measures or measures by the Government Authority which impede or delay the implementation of the contractual obligations by a Party; socio-political events, provided that they are of national scope (general strikes, wars, uprisings, revolutions, etc.).

Delays of sub-suppliers shall not be considered cases of force majeure.

13. COMMUNICATIONS

Where not otherwise provided in these General Terms, any communication between the Parties shall be understood to be made in writing if sent by registered delivery letter with return receipt, by fax with confirmation slip, certified post and/or e-mail, at the time it is received by the recipient Party.

14. OBLIGATIONS UNDER DECREE NO. 231/2001

ITALIAN LEGISLATIVE

The Supplier declares to have been made aware by Tesmec that the latter, in order to comply with the provisions of Italian Legislative Decree no. 231/2001 in relation to the liability of Companies for administrative offences resulting from crime, has prepared a Model of Organisation, Management and Control and a Code of Ethics published on the website www.tesmec.it, Investor Section.

With the implementation of the Supply Contract, the Supplier undertakes to conduct itself in line with the principles contained in that document and not to implement conduct and/or activities that constitute criminal cases in accordance with Italian Legislative Decree no. 231/01, agreeing that, in the absence thereof, Tesmec may terminate the Contract immediately and other Contracts in place with the same Supplier, in accordance with and by virtue of Art. 1456 of the Italian Civil Code.

15. PERSONAL DATA PROCESSING

_____, _____
(Date) (Place)

For the Supplier _____
Signature: _____
Role: _____
Stamp

In accordance with Articles 1341-1342 of the Italian Civil Code, the Supplier declares to have carefully read and expressly approve the following articles: 2.4.1; 2.4.2; 3.1; 5.1; 5.3; 6.1; 6.3.4; 6.4; 7.5; 8; 9; 10; 11; 16.

For the Supplier _____
Signature: _____
Role: _____

Stamp

The Supplier consents to the processing of its personal data which will be processed, in accordance with the information notice provided in line with and by virtue of Art 13 of Italian Legislative Decree no. 196/2003 (Code in relation to Personal Data), in order to implement the obligations deriving from and/or connected to the supply Contracts and to fulfil the related obligations of law, including of a fiscal, administrative and accounts nature.

16. APPLICABLE LAW AND COURT WITH JURISDICTION

16.1. For anything not expressly provided in these General Terms and in the individual supply Contracts, reference is made to the Italian Civil Code.

16.2. Any dispute relating to the interpretation, implementation, validity and termination of each Contract and these General Terms, which is not resolved amicably between the Parties, shall be passed over to the exclusive jurisdiction of the Court of Milan.



Tesmec S.p.A. - Headquarters

Via Zanica 17/O - 24050 Grassobbio BG - Italy - Tel. +39.035.4232911 - Fax +39.035.4522444
www.tesmec.com