BMW Group International Terms and Conditions for the Purchase of Production Materials and Automotive Components

Version 31.03.2018

Definitions:

Affiliated Company
with regard to a party, means a company which is directly or indirectly controlled by such party, controls such party, is under common management with such party, or is under joint control with such party, whereby joint control will be assumed if at least 50% of the shares or voting rights are held.

BMW
Bayerische Motoren Werke Aktiengesellschaft (BMW AG), Munich, Germany.

BMW Group
BMW and its Affiliated Companies.

BMW Group Standards (GS)
general rules and requirements of BMW Group.

Buyer
the party which either submits a Purchase Order, in whose name a Purchase Order is placed, or which signs the Supply Contract as "Buyer".

Competitor
A company is a competitor of a party if (i) such company offers goods or services which from the view of the typical customer, are interchangeable with the goods or services of such party (i.e. in particular comparable in terms of characteristics, price, and purpose), or (ii) based upon concrete indications, it appears likely that within a short time such goods or services will be offered by such company.

Delivery Schedule
an instruction issued by Buyer to Seller specifying the quantity of Goods to be delivered, delivery location, the date, and where relevant, the time of delivery.

EDI
Electronic Data Interchange, i.e. the transmission of data between the parties via electronic communication links or via other machine-readable data media.

Goods
all production materials, automotive components and software specified in the Purchase Order for use in Buyer's serial production and as spare parts, as well as Tooling, and services.

In writing or written
also includes in text form, e.g. via fax, email or electronic data interchange (EDI), unless written form is explicitly required.

IATF
International Automotive Task Force, a working group set up by the major automotive OEMs and their suppliers with the purpose of harmonizing quality managements methods and standards previously implemented at national level.

Incoterms
the commercial trade terms published by the International Chamber of Commerce and named „Incoterms 2010".

Intellectual Property Rights
all patents, utility model and design rights, copyrights, trademarks and product designations, which exist worldwide (irrespective of whether such have been registered or registration has been applied for), know-how, and rights of like nature.

ISO/IEC
International Organization for Standardization and International Electrotechnical Commission, respectively.

Purchase Order
any order for the purchase of Goods issued by Buyer to Seller.

Seller
the party to whom the Purchase Order is addressed or the supplier signing the Supply Contract.

Supply Contract
any contract formed by Seller's acceptance (even implied) of a Purchase Order, or any contract signed by Seller and Buyer for the purchase of Goods.

Tooling
Production equipment, including but not limited to forging dies, testing and measuring equipment (e.g. gauges), matrices, models, samples, tools, devices, drawings and similar items required for the production and examination of Goods.

VDA
Verband der Automobilindustrie (German Association of the Automotive Industry), Berlin, Germany.

1. *General*

1.1 These BMW Group International Terms and Conditions for the Purchase of Production Materials and Automotive Components (hereinafter **"Purchase Terms and Conditions"**) shall apply to the purchase of Goods by Buyer from Seller. Unless expressly provided otherwise in these Purchase Terms and Conditions, the relevant statutory rules of the applicable law according to Clause 23.1 shall apply.

1.2 Seller has read and understood these Purchase Terms and Conditions and hereby agrees that upon Seller's written acceptance of a Purchase Order (according to Clause 2) or with the start of its performance on a Purchase Order, Seller shall be legally bound to these Purchase Terms and Conditions.

1.3 To the extent that the following provisions refer to internal documents/requirements of Buyer (e.g. BMW Group Standards), each of these are published on the BMW Partner Portal of BMW Group at https://b2b.bmw.com (hereinafter **"b2b-Portal"**) /> Applications /> TEREG (Technical Rules and Standards); upon request Buyer will provide them to Seller.

1.4 Seller shall provide current supplier master data on the b2b-Portal under /> Applications /> Supplier data maintenance (hereinafter **"Supplier Data Base"**) and designate a responsible master administrator for this. Where Seller is obligated under these Purchase Terms and Conditions to submit certificates, declarations or other verifications, Seller shall submit each of these immediately and with current validity date to the Supplier Data Base .

Buyer's review of, or failure to request such certificate, statement or other verification identified in these Purchase Terms and Conditions, shall not constitute a waiver by Buyer of any of Seller's obligations under these Purchase Terms and Conditions, nor shall such be construed as Buyer's consent to Seller's behavior.

1.5 Seller shall prompty and completely inform Buyer of name changes, of changes in legal form, as well as of changes which are material for the supply relationship between Buyer and Seller and which pertain to Seller's participation, shareolder, or ownership structure; Seller shall inform Buyer of aforementioned changes under email address lieferantenstammdaten@bmw.de as well as the responsible purchase specialist department(s).

A material change for the supply relationship exists upon transfer of all or essentially all assets of Seller, a merger or split of Seller with or to another legal entity, the conclusion of a control or profit transfer agreement by Seller as the controlled company, as well as the acquisition of at least 30% of the voting rights to Seller's company by one or more purchasers acting jointly in one or more transactions.

2. *Purchase Orders*

2.1 Buyer shall issue a Purchase Order to Seller for Goods. The acceptance of the Purchase Order by Seller is expressly restricted to the provisions contained in such Purchase Order as well as to these Purchase Terms and Conditions, and to any existing framework Supply Agreement for such Goods where applicable. Any additional or deviating terms or supply conditions from Seller are expressly excluded and shall not form part of any Supply Contract, unless agreed by the parties in written form. Each Purchase Order accepted by Seller pursuant to Clause 2.2 will constitute a separate Supply Contract. In the case of discrepancy or inconsistency between a Supply Contract and these Purchase Terms and Conditions, the Supply Contract shall prevail over these Purchase Terms and Conditions.

2.2 Within fourteen (14) work days of Seller's receipt of a Purchase Order, Seller shall submit acceptance of such Purchase Order in writing. In any event, any act taken by Seller for the fulfillment of a Purchase Order will constitute acceptance of such Purchase Order. In the event that Seller does not submit acceptance in writing or does not start performance on the Purchase Order within fourteen (14) work days following Seller's receipt of the Purchase Order, Buyer shall be entitled but not obliged, to revoke such Purchase Order without giving rise to any claims against Buyer by Seller.

2.3 If Goods are ordered on the basis of a BMW part number, then such Goods shall comply with the applicable BMW drawings and additional documentation referenced in such drawings (in particular 3D-models, PRISMA-metadata, office supplementary sheets, published technical product specifications) as well as the corresponding project speficiations (Lastenhefte) and service level agreements (Leistungsschnittstellenvereinbarungen) in all particulars, unless otherwise agreed in writing with Buyer in a specific case.
If the aforementioned drawings, documentation or project specifications (Lastenhefte) contain cross references to other documents without indication of an issue date, the version valid at the time of the most recent release of the referencing document shall apply, unless Buyer and Seller have reached a different, separate agreement hereto.

2.4 Buyer shall have the right to request changes with respect to the Goods including but not limited to specifications, drawings, designs, constructions as well as changes regarding date/time and place of delivery, packaging, quality, quantity and means of transportation. Such change requests shall consider Seller's reasonable interests. Seller is under a duty to suggest changes to Buyer, which Seller considers necessary or appropriate in view of revised statutory or other mandatory provisions or for other reasons. If a change results in an increase or a reduction of Seller's costs or in a potential delay of delivery, Seller shall immediately inform Buyer and the parties shall agree on a reasonable adjustment of Seller's remuneration for which Buyer places a change order. The content of a change order shall be deemed to be agreed if Seller does not contradict the change order in writing within fourteen (14) days after its receipt.

In the event that any such change request results in an increase in Seller's stock, which is no longer usable by Buyer in serial production, Buyer will reimburse the costs Seller actually incurred in relation to

- finished and semi-finished products as well as corresponding raw materials, for which Delivery Schedules have been issued for a delivery date within one (1) month after receipt of Buyer's change request,

- finished Goods and semi-finished products and corresponding raw materials which, upon Buyer's written request, are included in a buffer stock .

provided that in all cases Seller is unable to find an alternative use.

2.5 Seller shall not be entitled to carry out changes with respect to the Goods (including, but not limited to specifications, additional and functionalities not agreed upon, drawings, designs, constructions, production process, date/time and place of delivery, packaging, quality, quantity and means of transportation) without Buyer's prior written consent.

2.6 Unless otherwise provided by the law of the country (and if relevant the state/region) applicable to the Supply Contract, Buyer may terminate a Supply Contract and/or a relating framework supply agreement for extraordinary reasons by written notice to Seller, if Seller:

- commits a breach of the Supply Contract, for which there is no remedy, or

- commits a breach of the Supply Contract, which is capable of remedy but fails to remedy the breach within thirty (30) days of a notice from Buyer specifying the breach and requesting it to be remedied, or

- violates applicable law, provided that a continuing collaboration is unreasonable for Buyer because of such violation, considering all circumstances and weighing the mutual interests of both Parties, or

- offered, promised or granted a benefit of any kind to another business representative (particularly but not limited to an employee of Buyer) or public official in order to induce or reward him in connection with the negotiation, decision-making process or performance of the Supply Contract.

If Buyer is entitled to terminate a Supply Contract and/or a relating framework supply agreement in accordance with this Clause 2.6, then Buyer may terminate other contracts with Seller if a continuance of such other contract(s) would be unreasonable for Buyer.

Other or further termination rights of Buyer, e.g. according to applicable statute, shall remain unaffected.

2.7 In the event that either party becomes insolvent, or bankruptcy or insolvency proceedings of any nature are commenced in relation to a party, the other party shall be entitled to extraordinarily terminate the Supply Contract and/or a related framework supply agreement with written communication.

2.8 Termination of any Supply Contract and/or a relating framework supply agreement under this Clause 2 shall be without prejudice to the accrued rights and duties of the parties and shall not affect the applicability or further applicability of any provision which expressly or implicitly should apply following a termination.

2.9 The quantities stated in any inquiries and/or offers serve solely as non-binding orientation values, e.g. for the purpose of price calculations, and do not establish any obligation for the Buyer or its Affiliated Companies to order such quantities. Delivery quotes set out in any Purchase Order are in no way connected to quantities in requests for quotation and/or offers.

2.10 If it is agreed in the Supply Contract that price components for raw materials are determined based on raw material indexes (e.g. LME stock market price) in the transaction as a price adjustment clause, or on raw material surcharge (MTZ), or in a market-oriented negotiation, then the other price elements shall be considered and negotiated separately from abovementioned raw material price elements.

3. ***Delivery Times and Delay***

3.1 Delivery dates and quantities shall be determined by the agreements in the Purchase Order and/or Delivery Schedules. Seller accepts the condition that delivery times and quantities are of the essence for the contract fulfillment and therefore Buyer may reject and/or return at Seller's expense any delivery of Goods or part thereof received before or after the delivery date or in excess of the quantity specified in the Purchase Order and/or Delivery Schedule.

3.2 Seller shall be bound to comply with any Delivery Schedule or any change thereto issued by Buyer, unless Seller notifies Buyer of his reasonable objection thereto in writing within the following periods:

- one (1) work day after receipt of the Delivery Schedule or change notification thereto, if the requirements or changes therein are to come into effect within ten (10) working days (inclusive) after the receipt of the Delivery Schedule or amendment thereto.

- three (3) working days after receipt of the Delivery Schedule or amendment thereto, if the requirements or change notification therein are to come into effect eleven (11) working days to three (3) calendar months (inclusive) after receipt of the Delivery Schedule or amendment thereto.

- ten (10) working days after receipt of the Delivery Schedule or amendment thereto, if the requirements or amendments therein are to come into effect more than three (3) calendar months after the receipt of the Delivery Schedule or amendment thereto.

3.3 Where specified in the Purchase Order and/or Delivery Schedules, Seller shall deliver Goods „just-in-time", that is, at an appointed time of delivery without delay immediately prior to the serial production, or "just-in-sequence", that is, in the correct sequence of delivery, such sequence to be set out in Delivery Schedules.

3.4 Seller agrees to take all actions necessary and appropriate to ensure that the Goods reach Buyer as required under the relevant Supply Contract. Should concrete circumstances or events become known to Seller which will or could lead to non-compliance with a delivery date or delivery quantity (hereinafter **„Critical Supply Situation"**), Seller shall take all necessary and appropriate corrective measures and without undue delay inform Buyer. Upon specific request by BMW, Seller shall also inform BMW of abstract risks which could lead to a Critical Supply Situation and demonstrate protective and contingency plans.

3.5 Seller shall compensate Buyer for all losses and damages resulting from the non-compliance with its delivery obligations, including lost profit (inclusive of lost contribution margins), unless it concerns a non-compliance without fault in accordance with Clause 3.6. Lost profits shall be compensated by Seller only if the delivery date is exceeded by more than ten (10) days or Seller breached an obligation according to Clause 3.4.

3.6 Either of the parties may suspend performance of a Supply Contract for the duration of a non-fault non-compliance. Non-fault non-compliance shall mean any non-compliance which results

from force majeure, or acts of public enemy, governmental restrictions, prohibitions, expropriations or quantitative restrictions by governmental authority, embargoes, fires, floods, tsunamis, typhoons, hurricanes, earthquakes, epidemics, unusual severe weather, delays of similar natural or governmental causes, and strikes or labor disputes (caused by or involving employees of the defaulting party or its suppliers) or other circumstances which despite industry-standard preventive risk and supplier management, are outside of the reasonable influence of the defaulting party. Nothing contained in this Clause 3.6 shall limit either party's rights granted by other provisions of these Purchase Terms and Conditions.

3.7 If the parties agreed that Seller should maintain a buffer stock, or in case of a Critical Supply Situation, then Seller shall notify Buyer of the currentinventory level at monthly intervals (or at any other reasonable interval as requested by Buyer).

4. ***Packaging, Transport***

4.1 Goods shall be suitably, carefully and appropriately packed in accordance with the "BMW Group Packaging Manual" (hereinafter **„Packaging Manual"**) and in accordance with the instructions of Buyer's packaging department. Seller shall comprehensively provide the packaging data with regard to all required and necessary information in a form defined by Buyer. In the event that the packaging data provided by Seller contains incorrect or incomplete information, Seller shall reimburse Buyer for any costs incurred by Buyer as a result thereof. The Packaging Manual is available under b2b-Portal /> Departments /> Logistics /> Packaging, or Buyer will send it upon request.

Further, the "Logistics Requirements for Suppliers of BMW Group" apply; these are available under b2b-Portal /> Departments /> Logistics; upon request, these will also be sent by Buyer.

4.2 Delivery documents must be made in writing. With regard to documents accompanying Goods (physical or electronic documents), Seller shall comply with Buyer's EDI implementation guidelines and the Packaging Manual. Buyer's EDI implementation guidelines are available under b2b-Portal /> Departments /> Logistics /> Exchange of Logistical Data, or these will be sent by Buyer upon request.

4.3 Seller shall execute the shipping notification (notification of readiness for dispatch) following the VDA Standard 4933 in accordance with Buyer's EDI implementation guidelines over the BMW Connected Supply Chain (CSC) portal under b2b-Portal /> Departments /> Logistics, unless otherwise agreed.

If an Incoterm other than FCA is agreed between the parties, then Seller is obligated to communicate the shipping notification information following the VDA Standard 4933 in addition to the shipping information following VDA 4945/IFTSTA in accordance with Buyer's EDI implementation guidelines.

4.4 The following Clauses 4.5 to 4.8 apply to Supply Contracts under Incoterms "FCA" or "EXW" only.

4.5 All shipments shall be handled by a carrier contracted by Buyer and specified to Seller.. Buyer reserves the right to choose the mode of transport.

a) In order to ensure compliance with the agreed delivery date Seller has to calculate the day of the planned pick-up of the Goods considering the lead-time specified by Buyer separately. Lead-time is defined as the time from pick-up of the Goods by the carrier at the agreed location up to drop-off at Buyer's specified place of delivery.

b) Seller shall notify the carrier of the Goods' readiness for dispatch by 12 noon at the latest on the day before the planned pick-up of the Goods. The notification of dispatch readiness shall be made in writing on the basis of the carrier's formats, templates, procedures and communication media, which have been agreed to with Buyer. The notification of the readiness for dispatch shall contain the following data:

- shipping location and specific loading point,
- quantity, type and BMW identification numbers of all loading units,
- gross weight and dimensions per loading unit, including pile factor (in case stackabilty is restricted or not possible) particularly for alternative and cardboard packaging,
- pickup day,
- agreed date and time of delivery to Buyer,
- Buyer's place of delivery and unloading point (including address and BMW unloading point number) and plant code,
- information in the case of dangerous goods, and

- information in the case of customs goods.

c) Seller shall grant access to the shipment area (ramps/loading area) on its business premises to the carrier, provided that the carrier complies with the statutory and other provisions (e.g. rest periods, presence of safety gear) and it does not conflict with Seller's business secrets.

d) In the event that the notification of readiness for dispatch completed by Seller contains incorrect or incomplete information, or Seller otherwise violates its duties in the scope of the transport process, any additional costs incurred shall be borne by Seller.

4.6 For domestic German shipments, courier, express and parcel shipments (CEP-shipments) shall be carried out by CEP-service providers contracted by Buyer. Outside Germany all domestic and international CEP-shipments shall be carried out solely by CEP-service providers to which Buyer agrees.

4.7 Special transports at the expense of Buyer are only permitted upon special request of Buyer's material planning departments.

4.8 Buyer shall send empty containers and pallets at its own expense unless otherwise agreed. Generally a pallet exchange does not occur.

5. ***Transfer of Risk***

Unless otherwise agreed between the parties in writing, the risk of damage or loss to the Goods shall transfer to Buyer in accordance with the Incoterm agreed in the Supply Contract. Unless otherwise agreed between Buyer and Seller, the Goods shall be deemed to be sold „FCA", with named place being the premises of Seller where the Goods are ready for dispatch. Seller shall not change any place named in connection with any Incoterm without Buyer's prior written consent.

6. ***Notice of Defects***

Buyer shall conduct an inspection of incoming Goods only with respect to externally visible transport damages, the quantity of containers according to the loading list as well as regarding identity deviations of the delivered Goods from the Goods specified in the shipping documents, and notify Seller of any such defects without undue delay. Moreover, Buyer shall conduct an inspection of incoming Goods in compliance with the technical specifications IATF 16949 „Quality management system requirements for automotive production and relevant service parts organisations (IATF 16949:2016)" (hereinafter **„IATF 16949"**) and notify of any defects of the delivery once such has been discovered by Buyer in the ordinary course of its business.

7. ***Invoicing and Payment***

7.1 Unless otherwise agreed or otherwise prescribed by law, the invoicing of Seller will be done by credit note via EDI.

Seller need not send additional invoices to Buyer since invoicing will be done based on the receipt of Goods and the terms agreed in the Supply Contract. For customs purposes regarding import deliveries, Seller shall attach a commercial invoice in English, in duplicate, to the shipping documents. Such commercial invoice shall include the required data as set out in Clauses 7.2 and 8.

7.2 If the parties have agreed that Seller will not be invoiced via a credit note, then Seller shall submit a commercial invoice. The original invoice shall be sent to Buyer's invoice verification and accounts payable department or (if specified on the relevant Purchase Order) to its billing address. Such invoices shall comply with the requirements of the national law stated in Clause 22.1, including in particular but not limited to, the requirements of the applicable taxation legislation. If requested by Buyer, Seller shall transfer all invoices electronically (e-Invoicing). The possible transmission modes will be prescribed by Buyer. The invoices shall in particular include the following data:

- Seller's full corporate name and full address of the registered office, and Seller's tax number or value-added tax identification number.
- Buyer's full corporate name and full address of the registered office;
- the invoicing party's supplier number issued by Buyer (8-digit) and, if different:
  • Seller's supplier number issued by Buyer (8-digit) and/or
  • Payee's supplier number issued by Buyer (8-digit);

- in case of intra-European (EU) deliveries:
  • VAT ID of Buyer
  • VAT ID of Seller;
- for deliveries within Germany:
  • Seller's VAT ID or national tax number;
- for deliveries within Great Britain:
  • Seller's VAT ID.
- • when ordered by BMW AG: British VAT ID of BMW AG (GB748003249);
- for deliveries within Austria:
  • Seller's VAT ID
  • when ordered by BMW AG: Austrian VAT ID of BMW AG (ATU31792209);
- for deliveries within Mexico:
  • RFC („Registro Federal de Contribuyentes“) of Buyer
  • RFC („Registro Federal de Contribuyentes“) of Seller;
- origin of the Goods;
- applicable VAT rate and VAT amount, total net invoice amount excluding VAT;
- reference to tax exemptions;
- charges split according to VAT-rates;
- date of invoice;
- date of delivery or performance;
- sequential and unique invoice number;
- specification of Goods (quantity, measuring unit, type) or service rendered;
- in case of prepayments / advance payments: the date of payment receipt;
- any reduction of charges agreed in advance, if not already accounted for; lower VAT value must be stated;
- Buyer’s Purchase Order number / Buyer’s Purchase Order modification number;
- Buyer’s part number;
- Seller's delivery note number;
- date of shipment of the Goods (explicitly stated on the invoice), delivery location / unloading point;
- in case of re-delivery of a prior delivery to Buyer: Delivery note number indicated by Buyer with respect to the said prior delivery;
- value of Goods delivered (price per item and total price);
- price unit, currency unit; for deliveries within the UK not being invoiced in Great British Pound (GBP): In addition to the values in the agreed currency, the value-added tax and net values shall be stated in GBP in the invoice as well as the exchange rate;
- packaging price (per unit of Goods);
- package count and weight (gross/net).

Invoices which fail to meet the requirements of this Clause 7.2 may be rejected by Buyer. Seller will be notified; costs arising therefrom will be invoiced to Seller. In such case the term allowed for payment shall begin on the day of receipt of the new, due and proper invoice, which meets the requirements of this Clause 7.2.

7.3 Any change of (a) the recipient of payment, (b) the invoicing party or (c) the Purchase Order recipient requires Buyer's prior written consent. Any change in the flow of Goods/flow of invoices from the place of origin of the Goods to Buyer has to be communicated in writing to Buyer in advance. Costs arising from damages resulting from not meeting the requirements of this Clause 7.3 shall be borne by Seller.

7.4 Payment of Goods delivered or services performed according to contract will be made within the payment period agreed in the Purchase Order:

a) If the invoicing is done per credit note in accordance with Clause 7.1, then the receipt of the Goods at the demand location or the acceptance with confirmation of performance will be decisive for calculating the start of the payment period.

b) If the invoicing is not done per credit note in accordance with Clause 7.1, then the receipt of the Goods at the demand location or the acceptance with confirmation of performance, as well as in each case the receipt of a proper, auditable invoice which corresponds to the requirements of Buyer in accordance with Clause 7.2, will be decisive for calculating the start of the payment period.

c) For the calculation of the payment period for a service which was performed prior to the due date, such service will count as performed on the due date which was agreed.

7.5 The mode of payment will be at Buyer’s option, either bank transfer or check. Seller is obligated to provide current accurate bank information, and upon request, to confirm such. Transfer fees will be split (transfer charge code „Share“), provided otherwise is not agreed. The Buyer is authorized to settle Seller receivables in another currency other than that of the Purchase Order

currency if Seller's account proveably does not enable payment in the currency of the Purchase Order. The conversion rate in such case will be that which is effective on the payment day.

7.6 Where delivery is not made in accordance with the Supply Contract, Buyer shall be entitled to withhold a proportional amount of the price until Seller has fulfilled its obligations in full.

7.7 Buyer shall have the right to refuse performance if such performance would constitute a breach of applicable laws by Buyer.

7.8 Seller may not assign its claims or receivables hereunder without the prior written consent of Buyer.

7.9 Payment by Buyer for any Goods neither indicates nor constitutes acceptance of such Goods.

7.10 Buyer receivables which arise from these Purchase Terms and Conditions or which are in connection with such, are immediately due unless otherwise agreed in an individual case.

7.11 Buyer shall be entitled to offset its claims against receivables of Seller and also receivables that are assigned from Seller to any third party. Buyer may convert its receivables at the day rate of the offset to the currency of Seller's receivable.In addition, Buyer is entitled to offset its receivables against Seller's claims against any of the following companies:

- BMW AG;
- BMW Fahrzeugtechnik GmbH
- BMW Hams Hall Motoren GmbH;
- BMW M GmbH;
- BMW Motoren GmbH;
- BMW (UK) Manufacturing Ltd.;
- Rolls-Royce Motor Cars Ltd.;
- Swindon Pressings Ltd.;
- BMW Manufacturing Co., LLC.;
- BMW Consolidation Services Co., LLC;
- BMW (South Africa) (Pty) Ltd. and
- BMW SLP S.A. de C.V. (Mexico).

Moreover, Buyer is entitled to offset its claims against Seller's claims, also regarding receivables to which any of the above-named companies are entitled to against Seller.

8. ***Customs, Conformity, Origin and Export Control and Supply Chain Security***

8.1 For customs purposes Seller shall attach an English-language commercial invoice in duplicate to the shipping documents. Any deviation from that procedure is only permitted subject to Buyer's prior written consent.

a) For deliveries incurring customs duties, the invoice shall additionally specify as separate items:

- costs not included in the price (such as commissions, broker fees, license costs, Tooling costs);
- costs included in the price (such as cost of assembly and freight cost);
- value of repairs carried out according to costs of materials and wages; and
- value of components contributed by Buyer (Beistellungen) related to the Goods delivered.

b) Even if deliveries are made free of charge, an indication of value is still required with a note „For Customs Purposes Only", which should reflect usual market price. Either the invoice or the delivery note shall include the reason that the delivery is made free of charge (e.g. free of charge sample deliveries).

c) Should further official documents be required for the intended use of the Goods as per Buyer's specifications (particularly, the project specifications) in the case of imports or exports, for the type approval or for the proof of product conformity, Seller shall at its own cost procure such documents for Buyer without delay and make them available to Buyer via the transmissions system prescribed by Buyer (e.g. post, email, exchange server, IT system).

8.2 Seller shall make a binding communication to Buyer of the non-preferential and preferential origin of the Goods by either:

- using the BMW Group application Origin and Preference Portal (OPAL) or other applications made available via the b2b-Portal and submitting the required origin data by electronic means (preferred option), or

- in exceptional cases, communicating the origin data in written form within fourteen (14) days starting with the receipt of Buyer's request letter. The origin data shall be supplied in written form by the time of the first delivery at the latest. The written form requires the handwritten signature (in original form) through an authorized representative of Seller.

Without prior written approval from Buyer, origin declarations printed upon the business forms of Seller will not be recognized by Buyer, unless such is required by law.

Changes of the Goods origin shall be notified to the Buyer in writing without undue delay.

If Seller supplies Goods, which may be granted preferential treatment in the import country, Seller shall attach a suitable proof of origin to that shipment (e.g. Form sheet A, EUR 1). Such proof is required with every such shipment in a legal format accepted by the customs authority of the country of import.

If proof of origin is required by virtue of other local import rules in the country of import, Seller shall likewise provide Buyer with such proof.

8.3 Seller shall provide Buyer with all such support as may be necessary to enable Buyer to reduce or minimize its liability to customs duties. Upon Buyer's request, Seller commits to implement, particularly in the EU, customs procedures with commercial impact pursuant to Art. 210 of regulation (EU) No. 2913952/2013 (European Customs Code) or submit declarations (affidavits) pursuant to customs rules of third countries in close coordination with Buyer. If Seller participates in a US Foreign Trade Zone, MX IMMEX or comparable program (hereinafter **„Programs"**), then Seller undertakes towards Buyer that it will comply with all applicable legal norms and regulations in connection with such Programs, as well as timely and in correct form, and with complete and correct content, provide Buyer with all necessary information for its compliance with its duties under such Programs.

8.4 For any and all questions and instructions arising out of or required in connection with customs and declarations of origin, Seller shall contact Buyer's respective customs department.

Unless otherwise agreed, customs clearance in the country of export shall be the responsibility of Seller and customs clearance in the country of import shall be the responsibility of Buyer. If Seller assumes responsibility for customs clearance in the country of import without Buyer's prior written approval, Seller shall bear the costs of such clearance.

8.5 Seller shall ensure supply chain security and observe legal requirements. Seller shall, upon Buyer's request, provide reasonable evidence such as certificates or declarations (for example in the AEO security statement, explanations in the scope of C-TPAT or similar programs), to support Buyer in official audits and ensure a comparable standard of care towards Seller's business partners.

If Seller is supplying a production plant or logistics facility of Buyer's from a dispatch location or via an airport which is located in a member state of the European Union by air freight (also as a substitute for a standard sea freight process), Seller shall hand over the Goods to a 'regulated agent' in the sense of Art. 3 Para. 26 Regulation (EC) No. 300/2008, assigned by Buyer in such condition that the Goods can be transported according to Annex 6.1.1. and Annex 6.3.2. of Regulation (EU) No. 1998/2015 on a passenger plane without further security checks as according to Annex 6.2 of Regulation (EU) No. 1998/2015. If the dispatch location of Seller is certified as 'known sender' in the sense of Art. 3 Sec. 27 Regulation (EC) No. 300/2008 or as 'regulated agent' in the sense of Art. 3 Sec. 26 of Regulation (EC) No. 300/2008, Seller shall inform Buyer about this fact. Seller shall notify BMW (Purchasing) of any foreseeable changes or threats to this status without undue delay.

8.6 Seller shall inform BMW

- of any export restrictions applicable to the Goods and technologies (e.g. registrations in accordance with the Dual-Use Regulation or comparable regulations),

- if the Goods and technologies are subject to any export/re-export license under US law/US regulations, and

- of the relevant classification number applicable (e.g. ECCN - Export Control Classification Number for US products, "AL-Number" for Goods and technologies listed in the German Export Control List, the "Dual-Use-Number" for Goods and technologies in accordance with the Dual-Use Regulation, etc.), as well as

- of any exemptions available for the Goods and technologies.

Seller shall provide such information directly to the BMW department of customs and export control (contact persons see under b2b-Portal /> Departments /> Finance /> Export control). Upon Seller's request, Buyer will provide Seller with the required declarations / notifications.

9. ***Quality***

9.1 Seller shall be certified in and compliant with the latest edition of IATF 16949; the certification has to be evidenced to Buyer through submission of a respective certificate. Buyer and Seller may agree in writing on variations of the requirements set out in Sentence 1 above.

9.2 A production process and product approval of the series process (hereinafter **„PPA-Procedure"**) shall be successfully completed by Seller before Goods are supplied:

- for the first time; or
- under a new part number; or
- after any process modification (e.g. caused by the addition of another customer to a production line).

For the purposes of this Clause 9, a PPA-Procedure is a performance test of Seller's manufacturing process, including its production plants, equipment and machines and its production logistics processes, under serial conditions and according to Buyer's requirements, to prove that Seller is able to produce the required quantity and quality of Goods with the plant, personnel and machine capacity.

Seller will use the PPA-Procedure to produce initial samples of the Goods. Seller will inspect initial samples in accordance with the VDA publication „Quality Management in the Automotive Industry, Volume 2: Quality Assurance for Supplies", in its version valid at such time.

Further, the BMW Group Standards GS 98001 – „Process series", GS 90018-1 „Requalification of product and process at suppliers – General specifications" and GS 90018-2 „Requalification of product and process at suppliers - Process, checklist" apply. Seller is particularly obligated to conduct an unaccompanied requalification at least every 12 months after completion of the PPA-Procedure.

9.3 In case of a conflict between the Supply Contract and IATF 16949 or the abovementioned VDA publication, the Supply Contract shall prevail.

9.4 In the event that any authorities responsible for vehicle safety standards demand inspection of the production process and disclosure of the test records, Seller shall, upon request of Buyer, give such authorities access to such records and provide them with any support as may reasonably be expected.

9.5 Seller shall comply with the VDA process description „Special Characteristics (SC)". Special Characteristics are product features or production process parameters which could have effects on the safety (SC safety requirements) or compliance with government regulations (SC legal/ production conformity), the fit, the function (SC functions), the performance or other processing of the product. Further information on this can be found in the IATF 16949 as well as in the BMW Group Standards GS 90000-1 „Technical regulations", GS 91005-1 „Technical Drawings" and GS 91011 „L-marking of features in release documents".

9.6 Seller shall ensure that each of its subcontractors are contractually bound to Seller to comply with the terms of Clauses 9.2 to 9.5 and Clause 9.8 Sentence 1.

9.7 If Seller repeatedly or grossly violates the agreed quality and/or quantity objectives (in particular criteria for escalation according to the overview under b2b-Portal /> Collaboration /> Escalation process, or project goals of the Service Level Agreement), Buyer – if due to capacity reasons it is absolutely necessary, also with the support of third parties – shall be entitled to take supportive action for failure analysis and the failure correction within an escalation process (in particular, support by QMT, LQS and/or value stream management). Seller undertakes to assist herewith and to reimburse Buyer's actual and not unreasonable costs incurred due to such violation without prejudice to any other rights and claims which Buyer may have in such a case. In the aforementioned cases Buyer shall provide Seller with a complaint report invoice (Prüfberichtsabrechnung) or other suitable invoice documents. Seller may object against the support of third parties if there is a material reason in the person of the third party (particularly, Competitor).

9.8 Any change of the production location or of the dispatch location of the Goods requires the prior written consent of Buyer; such may not be unreasonably withheld. Any costs which are incurred by Buyer due to the non-compliance with this provision or otherwise due to a change of location initiated by Seller, shall be borne by Seller. Seller will inform Buyer immediately of any relocations in its supply chain in the sense of Sentence 1 above or of any changes of sub-suppliers in its supply chain which are or become known to Seller.

9.9 In order to ensure product safety and to avoid product liability cases regarding the Goods, before the first delivery, Seller shall qualify a product safety officer (PSO) in its company for the respective production locations and designate such as current contact person in the b2b-Portal (Supplier Database).

10. ***Warranty***

10.1 Seller warrants that the Goods shall be free of defects according to the applicable law and particularly warrants that the Goods are suitable for the use intended under the Supply Contract, as yielded from the documents referenced in Clause 2.3. Seller further warrants that the Goods shall comply with all laws and regulations in the relevant sales markets related to the Goods.

In the event that Seller has entered into a valid warranty agreement applicable to Buyer's Purchase Order regarding the Goods, such warranty agreement shall apply in lieu of the following Clauses 10.2 to 10.5. In all other cases the consequences of delivering defective Goods shall be governed by these Purchase Terms and Conditions.

In the case of any discrepancy or inconsistency between (1) the Supply Contract, (2) the warranty agreement and (3) these Purchase Terms and Conditions, the documents shall prevail over each other in the order of their aforementioned listing in this sentence.

10.2 For all Goods the warranty period begins on the date of delivery and ends on the sooner of:

(i) the expiration of any warranty provided to end-customers of the Goods or of the products into which the Goods are incorporated; or

(ii) the fifth (5th) anniversary of the delivery date.

The provisions of this Clause 10.2 are subject to any longer warranty period prescribed by the national law of any sales market into which Goods or products into which the Goods have been incorporated are supplied.

10.3 If a defect is discovered before the defective Good has left Buyer's production sites or that of an undertaking commissioned by Buyer, Seller shall be given the opportunity to remedy the defect or to replace the defective Goods before production commences, provided that any such remedy does not cause any delay in Buyer's production.

If Buyer cannot reasonably be expected to allow Seller to remedy the defect or to replace the defective Goods due to operational reasons (in particular reasons related to the time and sequence of assembly) or if Seller is not able to remedy or replace the defective Goods, then Buyer shall have the right either (i) to remedy the defect itself at Seller's expense or (ii) to have it remedied by a third party at Seller's cost or (iii) return or scrap the defective Goods at Seller's cost in accordance with the following terms..

Seller shall in the case of (iii), within the time frame prescribed in BMW Group Standard GS 95015 – "Requirements placed on the supplier's defect analysis and elimination for zero kilometer issues", communicate whether Buyer should return the affected Goods to Seller or scrap them. If Seller does not communicate its decision to Buyer within the abovementioned period, then Buyer will scrap them at Seller's cost. Further claims of Seller in this respect do not exist.

If Goods are repeatedly delivered in a defective condition, Buyer shall have the right to terminate the entire Supply Contract and/or a relating framework supply agreement, provided that Buyer has notified Seller in writing that the Goods are defective and Seller continues to supply defective Goods after such notification.

In each case described under this Clause 10.3, Seller shall indemnify Buyer against all damages and losses incurred by Buyer resulting from the delivery of defective Goods.

10.4 If a defect is discovered after the defective Good has left Buyer's production sites or that of an undertaking commissioned by Buyer, Seller shall indemnify Buyer against all damages and losses incurred by Buyer resulting from the delivery of defective Goods.

10.5 Where possible, upon Seller's request, defective Goods within the meaning of Clause 10.4 will be made available to Seller at Seller's cost.

11. ***Liability and Damage Compensation***

11.1 Unless otherwise provided by these Purchase Terms and Conditions Seller shall be liable for damages and losses incurred by Buyer caused by or arising out of any breach of Seller's obligations under the Supply Contract and/or a relating framework supply agreement. To the extent that Seller's liability according to the applicable statutory rules requires culpability, the relevant provisions shall remain unaffected.

11.2 Seller shall indemnify, defend and hold Buyer and its Affiliated Companies harmless against all liabilities, costs, damages, losses and expenditures (including in- and out-of-court costs, and legal fees and expenses) occasioned by or arising out of any legal claim for death, personal injury and/or property damage, which results from or are attributable to (a) defective Goods; (b) Seller's breach of duty in the Supply Contract and/or a relating framework supply agreement; or (c) intent or negligence of Seller, or (d) failure to comply with any applicable law, statute, regulation, ordinance or notice.

11.3 If Seller's employees, agents, subcontractors or other representatives (hereinafter **„Representatives"**) are on Buyer's premises, Seller shall be and is, without prejudice to Seller's liability for agents and other auxiliary persons according to applicable statutory rules, responsible for the acts and omissions of his Representatives on or in the proximity of Buyer's premises, and shall indemnify, defend and hold Buyer harmless against liability for damage to property or injury or death to persons (including in- and out-of-court costs, and legal fees and expenses) arising out of acts or omissions of the Representatives whether pursuant to performance on a Supply Contract or otherwise. The duty to indemnify in this Clause 11.3 shall not apply insofar as the claim is caused by Buyer's negligence or intentional acts.

11.4 In the event that Seller delivers defective Goods and Buyer therefore conducts a recall of products into which the relevant Goods have been incorporated, due to legal obligation or upon consultation of relevant authorities, Seller shall hold Buyer and its Affiliated Companies harmless against liabilities, costs, damages, losses, claims and expenses (including in- and out-of-court costs, and legal fees and expenses) occasioned by or arising out of or attributable to such recall. While making a decision for such action to recall, Buyer will exercise reasonable discretion and duly consider Seller's interests.

11.5 In the event of a claim by a third party against Buyer (hereinafter **„Third Party Claim"**), which may be the subject of the indemnification provided for in this Clause 11, Buyer shall provide written notification thereof to Seller. Seller shall provide Buyer with such reasonable assistance in the defense and prosecution of claims as Buyer may request.

11.6 In the event of any claim by a third party against Buyer or one of its Affiliated Companies for death, personal injury and/or property damage alleging a defect in Seller's Goods or any product into which the Goods are incorporated, or alleging any breach of duty set out in Clause 11.2, Seller and Buyer shall in good faith, immediately attempt to reach an agreement specifying the terms under which Seller and Buyer would apportion responsibility and liability for the defense of any such Third Party Claim or suit as well as the financial burdens arising therefrom.

11.7 This Clause 11 shall nonetheless apply whether the stated costs, damages, losses, claims and expenses mentioned above are incurred by Buyer itself or its Affiliated Companies. However, Seller shall not be liable according to this Clause 11 insofar as the liabilities, costs, damages, losses, claims and expenses mentioned are caused by negligence or intentional acts of Buyer or one of its Affiliated Companies.

11.8 If Seller or one of its Affiliated Companies has culpably engaged in any agreement or other conduct with respect to the delivery of the contractual supplies, which constitutes an unlawful restraint of competition according to applicable antitrust rules (in each case determined by a final regulatory or judicial decision), then Seller shall pay to Buyer 8 % of the net invoice amount of the supplies affected by such violation of antitrust law as damages, unless Seller can prove that Buyer has suffered no or only lesser damage. This obligation shall survive termination or fulfillment of the Supply Contract and/or a relating framework supply agreement. Any other or further contractual or statutory claims of Buyer shall remain unaffected; in particular, Buyer may claim higher damage upon presentation of relevant proof.

12. ***Labelling of Goods; Advertising***

12.1 Seller shall mark the Goods as Buyer requires.

12.2 Neither of the parties shall use any of the other party's proprietary names, logos, trade names, trademarks or service marks without the prior written consent of the party which owns or controls such proprietary names or trademarks.

12.3 Without Buyer's prior written consent, Seller shall not publish in any manner, through marketing or in any other means, that Seller has contracted with or has been supplying Goods to Buyer, unless such publication is required by mandatory law. In such case, Seller shall nevertheless timely inform Buyer prior to the statement concerned.

13. ***Tooling***

13.1 Title to a Tooling shall pass to Buyer in accordance with the provisions of the respective Purchase Order. Seller shall mark the relevant Tooling as Buyer's property. If in the development of Tooling, Intellectual Property Rights or copyrights arise related to the Tooling, Buyer and its Affiliated Companies shall receive free of charge a fully paid-up, non-exclusive right to use said rights for their own purposes, which right shall be unlimited in terms of time, scope, geography, etc. To the extent that Seller's background Intellectual Property Rights are necessary in order to use the Tooling, Buyer shall hereby receive free of charge a fully paid-up, non-exclusive right of use with respect to such Tooling, which right shall be unlimited in terms of time and geography, etc., and which shall include the use by Buyer for the purposes of serial production and the corresponding use by its Affiliated Companies as well as by third parties on behalf of Buyer or its Affiliated Companies. The same applies to background know-how.

In the event of cancellation or termination for any reason of a Supply Contract for the supply of Tooling where, on the date of cancellation or termination, title to the Tooling is not vested in Buyer, Buyer may obtain title to such Tooling by paying to Seller (i) (for finished Tooling) the outstanding portion of the agreed total costs; or (ii) (for unfinished Tooling) such proportion of the outstanding costs as is represented by the costs actually incurred by Seller in the supply of the Tooling as of the date of cancellation or termination.

13.2 Any and all Tooling owned by Buyer which is in Seller's possession or possession of Seller's Representatives (within the meaning of Clause 11.3), shall remain the property of Buyer. Seller shall mark such Tooling as the property of Buyer and may not relocate it without the prior express written consent of Buyer. Such Tooling shall not be sold, assigned as security, pledged, mortgaged, charged or otherwise encumbered or disposed of without the express prior written consent of Buyer.

If a Tooling is provided by or completely financed by Buyer, such Tooling may not, without explicit prior written consent of Buyer, be used for the production of Goods for any party other than Buyer or its Affiliated Companies. If Buyer takes over a non-insignificant share in the product development costs for the Goods to be supplied and/or if Buyer contributes necessary Intellectual Property Rights or necessary know-how which Seller does not have at its disposal and which it cannot obtain under reasonable conditions, such contribution may not be used by Seller for the production of Goods for delivery to third parties without prior written consent of Buyer.

13.3 Seller shall prove adequate insurance coverage for the Tooling required for the supply of Buyer. Maintenance by Seller of such insurance coverage shall not affect Seller's liability under any Supply Contract and/or a relating framework supply agreement.

13.4 Seller shall treat all Tooling, regardless of ownership, with due care and diligence, constantly keeping it operational and in compliance with the latest design status. Seller shall be responsible in particular for the correct and accurate dimensions of the Tooling, particularly of gauges. Buyer agrees to support Seller in examining and correcting the gauges made available to Seller, insofar as such items are not used as check gauges.

13.5 Unless otherwise agreed in writing, the cost for the continuing repair, maintenance and readiness of the Tooling in unobjectionable condition shall be borne by Seller in all respects.

13.6 Buyer is entitled to demand surrender of Tooling which it owns, however Buyer will enable Seller to retain Tooling to the extent to which Seller requires the same for executing a Purchase Order for Buyer. In all other cases Seller shall be obliged forthwith upon the request of Buyer to surrender the Tooling owned by Buyer.

13.7 Regardless of ownership, Seller shall maintain Tooling used to manufacture Goods in good working condition for the continued supply of Goods for a period of fifteen (15) years following the end of Seller's supply of the Goods for Buyer's serial production. Irrespective of such, each Tooling owned by Buyer may only be scrapped with prior written consent of Buyer. Seller shall ensure that all subcontractors are contractually bound to adhere to the requirements under this Clause 13.7.

13.8 Following receipt of a Purchase Order for Tooling issued by Buyer, Seller shall without undue delay provide Buyer with all available information regarding such Tooling as required in the BMW "Quotation Analysis Form" (QAF) and the BMW "Tooling Analysis Form" (WAF).

By no later than the time that initial samples of the Goods are produced by means of such Tooling for the PPA, Seller shall provide Buyer with (1) information concerning such Tooling as required in the QAF and in the WAF, (2) drawings and CAD-data (as a 3D-data-model in a format customary in the industry) of such Tooling and (3) a complete list of such Tooling and a document identifying the exact location of such Tooling.

14. ***Spare Parts***

14.1 Whether or not a Supply Contract remains in effect, Seller will at the request of Buyer provide Buyer or its designated third parties with sufficient quantities of Goods for use as spare parts for a period of fifteen (15) years following the end of Seller's supply of the Goods for Buyer's serial production (End of Production, EOP) or for such lesser period of time as Buyer shall determine in writing. Seller shall ensure that its subcontractors comply with this Clause 14.1.

One year before expiration of the abovementioned deadline, Seller shall submit proposals in writing to BMW for an economically reasonable supply of spare parts for the time afterwards (hereinafter **"Classic Supply"**). Seller's proposals shall be based on Buyer's estimated future demands, which will be provided to Seller by Buyer upon written notice. Seller's proposals should contain a reasonable offer for an all-ime stocking on the basis of the last valid spare parts price or further supply at comparable and reasonable conditions. Seller shall inform Buyer in good time before the intended scrapping of Seller-owned Tooling required for the Classic Supply at email-address forecasts.classicparts@bmwgroup.com.

14.2 During the term of a Supply Contract for Buyer's serial production, the price of the Goods used as spare parts shall be equal to the serial price agreed in the Supply Contract. During the extended term as set out in Clause 14.1, the price shall be separately negotiated by the parties in accordance with Clause 14.4.

14.3 Buyer and its Affiliated Companies shall be entitled to purchase Goods used as spare parts directly from Seller's subcontractors or from any other third party.

14.4 Seller shall comply with the requirements stated in the BMW Group Standard GS 90022 "Process chain spare parts". For Goods for which a shelf life is agreed between Buyer and Seller, the BMW Group Standard GS 90034 "Marking of Parts – Marking of shelf life" applies.

15. ***Intellectual Property Rights and Copyrights***

15.1 Seller shall indemnify, defend and hold Buyer as well as its Affiliated Companies harmless from and against all liabilities, costs, damages, claims and expenses (including in- and out-of-court costs, and legal fees and expenses, as well as any settlement of such claim or action) incurred by Buyer in respect of any claim or action brought by any third party against Buyer that the Goods or their use by Buyer or Buyer's customer infringe third party Intellectual Property Rights. Notwithstanding the foregoing, Seller shall not be liable to the extent that Buyer has actual fault for the infringement which occurred directly as a result of its instructions for manufacturing the Goods, and Seller taking the level of care that is customary in the industry could not have known that following these instructions would have resulted in an infringement of a third party's Intellectual Property Right.

15.2 The parties will inform each other forthwith of all such third party infringements or allegations of third party infringements of which they become aware. At Buyer's option, Buyer may select its own legal representation subject to the approval of Seller. Such approval shall not to be unreasonably withheld in the defense of any such claims or actions. Seller will assist Buyer in its investigation, defense or handling of any such claim, including by providing any documents needed by Buyer to defend the action. If Buyer determines that it may be desirable for Seller to intervene in any action, Seller shall consult with Buyer and consider any reasonable request that Seller intervene in the action. However, the decision to intervene in an action remains Seller's sole decision.

If Buyer selects its own legal representation, Seller's indemnification obligation under Clause 15.1 extends to the reasonable costs and fees associated with such representation. If Buyer does not select its own legal representation, Buyer will give Seller sole conduct of the defense of any such claims or actions.

15.3 Upon Buyer's request, Seller shall specify any and all Intellectual Property Rights and copyrights known or becoming known to it, which are used in the design or manufacture of, or which otherwise affect or relate to the Goods.

15.4 In the event of a claim of infringement of any third party rights that is communicated to Seller, Seller shall take all necessary steps to secure a non-infringing source of supply for Buyer, which may involve securing the required licenses (if any), redesign of the Goods (subject to any contract requirements and qualification obligations), or other adequate steps.

16. ***Electronic Data Interchange („EDI")***

Seller shall comply with the requirements set out in Buyer's EDI implementation guidelines.

Seller shall ensure that the communication between the mail servers of Buyer and those of Seller is transacted via mandatory transport layer security (mandatory TLS), to the extent otherwise is not agreed with Buyer.

17. Information Security

17.1 The software used or delivered in connection with a Supply Contract may not contain any features which Seller could have detected in accordance with the state of the art and which endanger the integrity, trustworthiness and availability of the contractually agreed Goods (particularly software), other hard- or software, or data, in particular no feature

- for unwanted transmission/extraction of data,
- for unwanted change/manipulation of data or process logic, or
- for unwanted insertion of data or unwanted feature enhancements.

„Unwanted" in this sense is a feature which
- Buyer did not request,
- Seller did not offer in its concrete description of the feature and its effects, and
- which Buyer also did not accept in writing in the individual case.

„Data" in the meaning of this Clause 17 is information which is stored or transmitted either electronically, magnetically, or otherwise not immediately perceptible.

17.2 Seller shall secure Buyer's Data and its own Data which is necessary for the delivery of the Goods in accordance with the state of the art against unauthorized access, modification, destruction and other misuse (hereinafter "**Information Security"**). In particular, Seller shall strictly seperate and handle seperately Buyer's Data (with the exception of email communication) from Data from other customers, and employ appropriate protective mechanisms against access by other customers to such Buyer's Data.

17.3 Depending upon the type and protection requirements of the affected Buyer Data, or the significance of the Goods' delivery by Seller for the business operations of BMW Group, Buyer can demand from Seller an appropriate level of security measures as well as proof as prescribed by BMW of an appropriate Information Security level within Seller's operations; in particular such proof could take the form of presenting the applicable certificate (e.g. ISO/IEC 27001 "Information technology – IT Security process – Informations Security Management Systems – Requirements") or by certification according to the VDA Model „TISAX" (Trusted Information Security Assessment Exchange"). The parties may agree an appropriate deadline for the first-time certification of a site according to „TISAX".

17.4 Seller shall ensure that no possibly damage-causing software (e.g. virus, worms or trojans) be used in connection with the Supply Contract, e.g. in included drivers or firmware. Seller shall check such in accordance with the state of the art and Seller, upon request by Buyer, shall confirm in writing that upon such check Seller found no indications of damage-causing software.

17.5 Should Seller obtain knowledge of an incident which involves breach to the Information Security (e.g. security gaps, Data loss, malfunctions, endangerment, attack by damage-causing software, Data misuse) and which could concern Buyer, in particular in the form of unauthorized access by third parties to Buyer's Data (e.g. Data leak or cyber attack), or if there are indications for Seller which upon reasonable assessment justify the suspicion of such incident, then Seller shall, without undue delay and free of charge,

- inform BMW of such, and

- take all necessary steps to clarify the matter and limit the damage, as well as support BMW hereby, and

- support BMW in the recovery of the Data if the violation to the Information Security causes a disruption or delay of the Goods' delivery, a decrease in the operations efficiency or the loss of Data, and

- upon request by BMW, provide a security report for a specified period. The necessary content of such report shall be in particular, results of the security checks identified, Information Security risks, as well as identified Information Security incidents and their handling, as well as,

- upon request, enable BMW to confirm for itself compliance with the Information Security and the agreed Data protection and security guidelines (hereinafter **"Audits"**). Seller shall tolerate the Audits and cooperate, for example by providing information, to the extent such is necessary for the Audits. Clause 22.5 applies accordingly. Buyer is authorized to have the Audits conducted by a qualified external company bound by confidentiality regarding third parties, unless such company is a Competitor of Seller. Statutory control and information rights of Buyer are not hereby restricted or excluded; as long as no proof in accordance with Clause 17.3 is present, BMW may demand an Audit even in the absence of an incident/suspicion of the presence of an incident in accordance with Clause 17.5.

17.6 Before the first delivery, Seller shall notify Buyer via the b2b-Portal (Supplier Database) of a central contact person for Information Security, and inform of any changes without undue delay.

17.7 Seller shall ensure that through appropriate contractual regulations, its subcontractors are contractually bound to Seller to comply with the provisions of this Clause 17.

18. ***Confidentiality***

18.1 Seller and Buyer shall handle confidentially all information which in the scope of their business relationship is disclosed directly or indirectly from the respective other party or from a party's Affiliated Company. In particular, Seller and Buyer each undertake to neither give such information to third parties nor otherwise make such acccessible in any other way, and to take all reasonable precautions in order to prevent access by third parties. Seller and Buyer shall each ensure that their Affiliated Companies which receive information in the scope of this project, likewise comply with this provision. The employees of a party are not considered third parties in the meaning of this provision as long as they are bound by confidentiality obligations equivalent to this Clause 18 (e.g. due to their employment contract).

18.2 If and to the extent that it becomes necessary in the scope of their business relationship (**"Need-to-know-principle"**), Seller and Buyer may forward information to

a) their Affiliated Companies and

b) third parties which in each case are contractually bound to such party, in connection with the Supply Contract, if such is not excluded in the individual case for certain information,

provided the recipient is not a Competitor of the other party and to the extent permitted by law.

Each party shall ensure that prior to the forwarding of information the recipient is bound by obligations equivalent to this Clause 18and will comply with such.

18.3 The confidentiality obligations of this Clause 18 do not apply if and to the extent that information

a) is or becomes publicly known without breach of these obligations, or

b) was legally acquired by a third party, or

c) was already known by the receiving party, or

d) must be disclosed based upon a mandatory judicial, regulatory, or statutory regulation, provided that the disclosure shall be made as limited as possible and the receiving party

shall inform the other party in writing prior of the intended disclosure unless such is not reasonable, or

e) was independently developed by the receiving party without use of or reference to the information of the other party.

Whichever party claims one or more of the abovementioned exceptions must prove the underlying factual basis.

18.4 Provided otherwise is not agreed, the confidentiality obligations of the parties under this Clause 18 continue to apply for a period of three years following the end of each last Supply Contract.

19. ***Insurance***

19.1 Seller shall at its own expense, obtain and maintain business liability insurance as well as product liability insurance and a vehicle recall insurance of adequate coverage in line with industry norms, with a reputable and financially solvent insurance company. Such insurance shall cover Seller's liability towards Buyer and third parties to the necessary extent. At any time upon Buyer's request, Seller shall immediately provide Buyer with proof of the existence of and the extent of coverage of such insurance.

19.2 Existence of any insurance contract shall not limit Seller's obligation under any clause of these Purchase Terms and Conditions.

19.3 Where not otherwise required pursuant to any applicable Incoterm under Clause 5, Seller shall oblige any carrier engaged by Seller to insure his carrier's liability.

20. ***Environment***

20.1 While performing under the Supply Contract Seller shall use the necessary resources (in particular materials, energy and water) efficiently and shall reduce the environmental impact (in particular with respect to waste, wastewater, air pollution and noise) to a minimum. This also applies to logistics and transportation expenses.

For the quantitative assessment of Seller's resource efficiency Seller shall upon Buyer's request, provide the following information relating to the total annual scope of orders placed by and supplied to Buyer and its Affiliated Companies:

- Total energy consumption in MWh;
- CO_2 emissions from energy generated in-house and externally in metric tons;
- Total water consumption in m^3;
- Process wastewater in m^3;
- Waste for disposal in metric tons;
- Waste for recycling in metric tons;
- VOC emissions (volatile organic compound) in metric tons.

20.2 Additionally, upon Buyer's request Seller shall provide data for a life cycle assessment relating to Goods or parts thereof (including data with regard to the materials input) according to the data collection format for life cycle assessment of the VDA.

20.3 At the latest by start of production (SOP), Seller shall establish and maintain a certified environmental management system in accordance with the requirements of "ISO 14001" or a recognized and certified environmental management system derived therefrom, and provide evidence to Buyer by submission of a corresponding certificate. Buyer and Seller may agree in writing to deviations from the requirements of Sentence 1.

20.4 Seller shall comply with the requirements of the BMW Group Standard GS 93024 "Recycling-optimized vehicle design" during the entire life cycle of the Goods. Upon Buyer's request a recycling concept has to be provided.

20.5 Goods made of polymer materials or metals, or Goods with metal coatings, shall bear identification markings in accordance with the relevant standards (VDA Material Data Sheet 260 "Vehicle components - Marking of material" and/or BMW Group Standards GS 91001 "Marking of parts with trademark and part identification data" and GS 91003 "Marking of parts - Marking of materials").

20.6 Polymer materials contained in Goods shall throughout the entire life cycle of the Goods, comply with the BMW requirements according to specification (particularly, project specification) derived

from the applicable statutory targets and standards for hydrocarbon emissions of vehicles. The production processes for Goods shall be adapted to comply with such requirements.

20.7 Seller shall comply with the requirements stated in BMW Group Standard GS 93008 (1 to 4) "Substances of concern" throughout the entire life cycle of the Goods.

a) Seller is responsible for registration and where necessary, authorization or notification of chemical substances contained in Goods in accordance with the statutory requirements that apply to the concerned market (e.g. according to Regulation (EC) No. 1907/2006 (REACh), EU). In the event that a chemical substance being imported falls within the area of applicability of a relevant law, Seller assumes responsibility for all obligations named above and all associated expenses.

b) For the respective Goods, Seller shall provide the required data as according to BMW Group Standard GS 93008-1 "Substances of concern – Materials and components, Prohibited and declarable substances " for the constituent substances/materials in the International Material Data System IMDS (http://www.mdsystem.com). The data provision forms an integral part of the scope of supply and Seller shall comply therewith. This applies for e.g. to serial development, type approval and initial sampling inspection for PPA.

c) In the event that Goods are chemical substances, mixtures or materials, Seller shall provide Buyer with “safety data sheets” for such Goods.

d) For Goods which are labeled as dangerous goods for transport according to international dangerous goods regulation (e.g. ADR/RID, IMDG, ICAO/IATA), e.g. airbags, Seller shall provide Buyer with safety information, for example in accordance with VDA recommendation 11-007.

e) If the Goods are raw materials then Seller shall ensure according to the state of the art and in compliance with the applicable thresholds, that such are free from radioactivity or radioactive contamination and ionizing radiation. For this purpose, upon request by Buyer, Seller shall conduct corresponding measurements and disclose their results.

20.8 Seller shall ensure that all of its subcontractors are contractually bound to comply with the terms of this Clause 20.

21. ***Social Responsibility***

21.1 For Buyer it is of paramount importance that corporate activities take account of the social responsibility to employees and to society as a whole. This applies both to Buyer itself and to its suppliers. Buyer and Seller acknowledge their compliance with the adopted principles and rights set by the International Labour Organization (ILO) in its “Declaration on fundamental principles and rights at work” (Geneva 06/98), the Directives of the UN Initiative Global Compact (Davos, 01/99) and the UN Guiding Principles on Business and Human Rights (2011). The following principles are of particular importance:

- Preservation of human rights,
- Elimination of forced, compulsory, and child labor,
- Positive and negative freedom of association,
- Elimination of discrimination on the basis of gender, race, origin, religion or belief, membership of a trade union or the like, handicap, age, sexual identity, nationality, marital status, political affiliation, veteran status, or other characteristics protected by local laws.
- Compliance with occupational safety and health requirements,
- Protection from individual arbitrary personnel measures,
- Maintenance of employability by training and continuing education,
- Maintenance of adequate social working conditions,
- Provision of conditions that enable employees to enjoy a reasonable standard of living,
- Remuneration, which permits employees to secure their livelihoods including their social and cultural participation,
- Implementation of equal opportunities and family-friendly policies,
- The protection of indigenous rights,
- Ban on bribery and extortion,
- Compliance with current laws and regulations.

In view thereof, Seller shall take adequate measures in order to prevent corruption offenses within its company.

It shall be Seller’s responsibility to cause all and any of its subcontractors to act in accordance with the regulations of this Clause 21.

21.2 Seller shall at the latest by start of production (SOP), implement, operate and prove to Buyer by presentation of a corresponding certificate, a certified occupational health and safety management system in accordance with „OHSAS 18001“ or „ISO 45001“ or a recognized and certified occupational health and safety management system derived therefrom. Buyer and Seller may agree in writing on deviations from the requirements of Sentence 1.

22. ***General Provisions***

22.1 No addition, modification, termination or waiver of any provision of these Purchase Terms and Conditions or of any Supply Contract, and no consent to any deviation by either party therefrom, shall under any circumstances be effective unless the same shall be in written form and signed by both parties, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No notice to or request to Seller in any event, case or occurrence, shall of itself entitle Seller to any other or further notice or request in any similar or other circumstances.

22.2 The headings of the various clauses of these Purchase Terms and Conditions are solely for convenience and shall not be used for the purposes of interpretation.

22.3 If any provision in whole or part of this Purchase Terms and Conditions is held by any competent court or authority to be invalid or unenforceable, such shall be deemed severed and omitted so that the validity of the remaining portions hereof remain unaffected. If required, Buyer and Seller shall replace such invalid or unenforceable provision with a valid and enforceable provision having similar economic consequences, provided that the content of the Purchase Terms and Conditions is not materially altered.

22.4 No course of dealings between Seller and Buyer or any delay or omission of Seller or Buyer to exercise any right or remedy granted under these Purchase Terms and Conditions shall operate as a waiver of such rights. Every right and remedy of Buyer provided herein shall be cumulative, concurrent and in addition to any other rights and remedies available at law or in rules of equity under the applicable legal system.

22.5 Upon forty-eight (48) hours notice, Buyer shall be entitled to have access to Seller’s premises during normal business hours and without interfering with Seller’s business in order to inspect all documents, instruments, books and records relating to any Supply Contract or the Goods which are subject of such Supply Contracts, or to Seller’s manufacturing process. The right of access shall be limited to those areas which are necessary for this purpose and confidentiality obligations which may exist towards third parties shall be respected. Save as provided in Clause 9.5, Seller agrees to maintain all such records for at least ten (10) years after the last delivery of the Goods to Buyer. Such is not the case where otherwise agreed or where a longer period is required by law.

22.6 Seller shall not assign the rights or the duties of any Supply Contract and/or a relating framework supply agreement, in whole or in part to any third party without the prior written consent of Buyer.

22.7 To the extent allowed by law, Seller shall at any time, upon reasonable prior written notice, provide BMW with suitable information (in particular quarterly, semi-annual and annual financial statements together with related final reports including appendices and information on key business indicators) required for evaluating the current economic and financial situation of Seller regarding its continuing ability to supply. BMW is obligated to keep this information strictly confidential, unless the respective information is publicly available or becomes available without BMW’s fault.

22.8 Upon written request by BMW, Seller shall share information on non-financial indicators such as environment, employee, and social concerns, attention to human rights and combating corruption and bribery as well as the underlying strategies and processes according to recognized standards, e.g. in the form of a sustainability report in accordance with GRI or DNK compliance declaration. If due to statutory requirement Seller is obligated to inform on its non-financial performance indicators, then the forwarding of such corresponding report will suffice.

22.9 Seller warrants that the information provided with regard to its economic and financial situation as per Clause 22.7 as well as in reference to its non-financial performance indicators according to Clause 22.8 is accurate, complete and – with regard to any date referred to in the documentation or information – current and fairly represents its actual economic, financial and non-financial condition. Seller warrants that all financial statements of Seller have been/are prepared in accordance with accounting principles generally accepted in its jurisdiction.

22.10 Seller warrants that at the time of the conclusion of the Supply Contract it has not filed an application for the institution of insolvency proceedings, and that there is no indication that such

proceedings are likely to be warranted or instituted; Seller further warrants that there is no indication that it is insolvent or over-indebted or is facing impending insolvency or over-indebtedness, which would provide grounds for the institution of insolvency proceedings. Seller further warrants that it has not ceased making payments, either permanently or temporarily, or entered into negotiations with creditors for an out-of-court settlement or a deferment of payment in order to avert its inability to pay triggering the commencement of insolvency proceedings.

23. ***Governing Law; Place of Venue and Jurisdiction***

23.1 The terms of any Supply Contract (including these Purchase Terms and Conditions), also regarding its interpretation, shall be governed by and construed in accordance with the laws of the country (and state or province, if applicable) of Buyer's principal place of business. The purchase terms and conditions set out in the United Nations Convention for the International Sale of Goods (CISG) are hereby expressly excluded.

23.2 The parties agree that the courts having jurisdiction over Buyer's principal place of business shall have exclusive jurisdiction and venue for any action or proceedings commenced under any Supply Contract. This choice of court agreement does not apply for claims in accordance with Clause 11.8 or other contractual or statutory antitrust damage claims. The parties consensually waive the right to a jury trial.

23.3 In the event that a third party brings to court a claim against Buyer or one of its Affiliated Companies for damages for personal injury or property damage resulting from a product defect ("Product Liability") or because of an infringement of Intellectual Property Rights, Buyer may at its discretion, conduct at such court of venue the proceedings necessary to enforce indemnification from Seller or seek recourse against Seller. In such a case the applicable laws of the forum state shall exclusively govern the rights and obligations of the parties involved.