

BMW  
GROUP



# General Purchasing Terms and Conditions

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## 01 — **Applicability of general terms and conditions**

- 1.1 These general purchasing terms and conditions are applicable to all orders placed by and agreements with BMW Financial Services Nederland B.V. and BMW Nederland B.V. (hereinafter jointly referred to as "BMW"). They are made available prior to or at the time of concluding an agreement.
- 1.2 Additions to and/or deviations from the agreement(s), order(s) (hereinafter jointly referred to as: "the Agreement"), placed thereunder and/or these general terms and conditions as agreed to between the parties, shall be recorded in writing.
- 1.3 In case of any contradiction between the Agreement (also including the respective order) and these general terms and conditions, the provisions in the Agreement prevail.
- 1.4 The general terms and conditions of the supplier of products and/or services to BMW (hereinafter referred to as "Supplier") in any form whatsoever are expressly rejected.
- 1.5 BMW shall be entitled to amend these terms and conditions, from time to time. BMW will inform Supplier of any changes and provide Supplier with the amended terms and conditions. The amended general terms and conditions apply 5 working days after they have been provided to the Supplier.

## 02 ——— Establishment of agreement

- 2.1 An agreement is established on the date on which it is signed by the authorised representatives of all parties to the Agreement.
- 2.2 On the basis of an agreement, BMW may place orders with a Supplier. BMW is only bound by orders placed in writing.
- 2.3 An order is established when Supplier receives a written order from BMW. Emails are deemed to have been received by Supplier on the same date as they were sent by BMW.

## 03 ——— Engaging third parties

- 3.1 If Supplier wishes to use third parties in the execution of the Agreement BMW must give its prior written consent. BMW will not refuse such permission on unreasonable grounds.
- 3.2 Supplier will specify, in writing, which products and/or services will be supplied by which third parties.
- 3.3 Also when engaging third parties, Supplier remains fully responsible for the fulfilment of its obligations towards BMW. Supplier will ensure that the third parties engaged by it will comply with the Agreement and these general terms and conditions. Supplier indemnifies BMW against and indemnify BMW for any claims and/or damages caused by a third party.
- 3.4 Force majeure of a third party engaged by Supplier shall, in no case, constitute force majeure of Supplier itself in the legal relationship with BMW.

## 04 ——— Term of the Agreement

- 4.1 An Agreement is entered into for a fixed period of time. If no term has been included in the Agreement and the duration does not otherwise follow from the Agreement, a term of one year applies. During that period of one year, BMW shall at any time have the right to terminate the Agreement for any reason with a notice period of one month, by written notice thereof to Supplier, and without obligation to compensate damages and/or costs as a result of this cancellation.
- 4.2 If an Agreement has not been expressly extended, in writing, but if it is still being performed by both parties in practice, the original Agreement will be deemed to have been extended for an indefinite period of time. BMW may terminate an Agreement extended in this way, at any time, for any reason, with due observance of a notice period of one month, by written notice thereof to Supplier, and without obligation to compensate damages and/or costs as a result of this cancellation.

## 05 — Amendment and termination of the Agreement

- 5.1 Until the written acceptance of the Agreement, and taking into consideration Supplier's interests, BMW may, at any time, make any changes it wants to the Agreement. Supplier will reasonably cooperate with a change requested by BMW.
- 5.2 Supplier is obligated to propose changes to BMW, if such changes would be necessary or useful to an effective performance of the Agreement. As soon as BMW gives its written approval, these changes must be implemented by Supplier.
- 5.3 If a change as referred to in Article 5.1 or 5.2 also entails a change to the prices and/or rates, or an extension of the delivery period, Supplier must inform BMW of this together with the change proposed by Supplier (in case of Article 5.1), or immediately after receipt of the change requested by BMW (in case of Article 5.2) while submitting a corresponding quotation. The change will only take effect if parties have made agreements in writing concerning additional or reduced charges and any repayment of the excess amount paid or, if necessary, concerning new delivery periods.
- 5.4 If a change to the Agreement also entails a change in Supplier's rate structure, this will have to be recorded in a separate written Agreement, taking into consideration the additional or reduced charges or rates. The change will only take effect after signing the additional Agreement by BMW.
- 5.5 If the parties fail to make written agreements about the consequences of a change, as referred to in Article 5.3 and/or Article 5.4, BMW has the right to dissolve the Agreement, without obligation to compensate damages and/or costs as a result thereof.
- 5.6 BMW has the right to terminate the Agreement, at any time. This can be done free of charge (without obligation to compensate costs and/or damage), unless Supplier has already started the execution of the Agreement. In case of the latter, BMW will reimburse the costs reasonably incurred by Supplier, provided that these can be substantiated and demonstrated by Supplier.



## 06 — Delivery periods

- 6.1 Goods and/or services are delivered on the date (including the agreed time), or within the period agreed in the Agreement.
- 6.2 The agreed delivery periods for products and/or services to be delivered are always binding and Supplier is obliged to comply with these. In case of non-compliance, Supplier is automatically in default, with no prior warning and/or notice of default being required.
- 6.3 Supplier will immediately inform BMW, in writing, if it is unable to deliver/perform within the agreed period, or expects to be unable to do so.
- 6.4 In case of delay, for whatever reason, BMW has the right, without prior warning and/or notice of default, to dissolve the Agreement and to engage a third party, such notwithstanding any other rights and/or resources BMW has based on the Agreement, these general terms and conditions and/or the law.
- 6.5 If a delay penalty has been agreed upon in case of exceeding delivery periods, this shall not limit BMW in any way in the exercise of any other rights and/or resources that BMW has towards Supplier based on the Agreement, these general terms and conditions and/or the law. BMW's right to claim penalties for late deliveries does not expire if a delayed delivery of a product, or service has been accepted without reservation.

## 07 — Delivery

- 7.1 Goods are delivered DDP (Incoterms 2020) to BMW at the agreed delivery address, as stated in the Agreement. Services shall be performed at the place specified in the Agreement.
- 7.2 Unless expressly agreed otherwise between the parties, the ownership of the products transfers to BMW at the time of delivery in accordance with the applicable Incoterm, as determined in Article 7.1, unless BMW refuses a product or service in accordance with the provisions in Article 8.1.
- 7.3 The products and services must be of high quality, strictly in accordance with the specifications of the Agreement and comply with the relevant legal provisions.
- 7.4 The products will be packaged by Supplier in a tidy and careful manner, ensuring they are protected against the risk of damage, especially during transport. To enable inspection and storage of the products, Supplier will provide each shipment with all specifications prescribed by BMW on the outside of the packaging. Moreover, each shipment is accompanied by a detailed consignment note. If there is no consignment note, the day on which BMW receives the required consignment note will still be considered as delivery date subject to the provisions of Article 8.1.
- 7.5 Goods and/or services can only be delivered before the agreed date with BMW's prior written consent.
- 7.6 Partial deliveries are not permitted unless agreed in writing.

## 08 — Acceptance

- 8.1 Goods or services received by BMW shall only be deemed to have been accepted by BMW after BMW has sent a written notice to Supplier. The mere receipt of products or services by BMW in no case constitutes acceptance of the same. Also a payment by BMW, even without reservation, can never be considered as an acceptance, in the aforementioned sense, nor can it be considered as a waiver of any rights of BMW.
- 8.2 BMW has the right to check/inspect the products or services at any time (after receipt). Because defects in the products or services may also become apparent after receipt, complaints with regard to the products and/or services can be reported to the Supplier, without a time limit. Articles 6:89 and 7:23 of the Dutch Civil Code are expressly excluded.
- 8.3 BMW has the right to return deviating products at the Supplier's expense and risk and to refuse deviating services.

## 09 — Quality

- 9.1 Along with the delivered products or the performed services, Supplier will provide BMW with detailed written documentation concerning the nature and the composition thereof, if this is necessary to comply with national or international legislation and regulations.
- 9.2 If BMW also requests samples or tests to be performed with the order, Supplier may only start manufacturing the product to be delivered, after BMW's specific written permission to do so, on the basis of the samples or the test results.

## 10 — Payment and invoicing

- 10.1 Unless otherwise agreed in writing, payments shall take place after the written acceptance by BMW of the delivered good or the performed service in accordance with the provisions in Article 8.1 and within 30 days after receipt of a correct invoice, for which the Supplier may only send it after the acceptance, as referred to above.
- 10.2 If products or services are delivered in parts (in accordance with the provisions in Article 7.6), invoicing will only take place after acceptance by BMW of the last part.
- 10.3 If payment is not made within the period referred to in Article 10.1, Supplier must first send BMW a notice of default and grant it an additional period of 14 calendar days to still make payment. If payment is still not made, interest is owed unless BMW has justifiably suspended the payment based on Article 10.4 or may offset based on Article 10.5. Instead of Article 6:119a Dutch Civil Code, Article 6:119 Dutch Civil Code applies.
- 10.4 BMW has the right to suspend outstanding invoices (in whole or in part) or to demand a credit invoice if it discovers a defect in the product or service, or if Supplier otherwise fails to meet one or more of its obligations under the Agreement and/or these general terms and conditions. BMW also has the right to suspend payment for products or services which have become wholly or partially unusable, as a consequence of the disputed products or services.
- 10.5 BMW has the right to offset any amount that Supplier owes to it, whether or not under the Agreement or otherwise, with the invoice of Supplier.
- 10.6 Supplier may only invoke a right of retention or any other suspensory right, when its own claim is not disputed, or has been irrevocably established by a judicial ruling. Supplier is not entitled to suspend delivery of products and/or services as a result of non-payment of any invoice.



- 10.7 Each invoice specifically contains the descriptions of the product or the service and BMW's order number, and is addressed to BMW's financial administration.

## 11 — **Warranty, liability and indemnity**

- 11.1 Supplier guarantees that the delivered products and/or services will be free of any defects of any nature whatsoever.
- 11.2 Supplier will compensate BMW for any direct or indirect damage suffered by BMW, as a result of a failure in the fulfilment of the Agreement and/or these general terms and conditions, or on the basis of an unlawful act and/or any other legal basis. In addition, BMW is entitled to demand repair or replacement from Supplier, without additional costs, notwithstanding any other rights and/or resources BMW has based on the Agreement, these general terms and conditions and/or the law.
- 11.3 If Supplier does not repair or replace, within the period specified by BMW, BMW is entitled to engage a third party to do so at Supplier's expense.
- 11.4 Supplier indemnifies BMW against claims from third parties, including the costs of legal assistance, which are in any way related to the products or services supplied by Supplier, or any shortcoming of Supplier under the Agreement and/or these general terms and conditions. This includes claims arising from delayed delivery of products and/or services by the Supplier.
- 11.5 If the parties have agreed to a warranty period, BMW's complaints will interrupt this warranty period for the non-conforming or defective part of the product or service. After repairs, the warranty period will resume for the part involved.
- 11.6 BMW is only liable in respect of Supplier in case of intent or gross negligence on the part of its management.





## 12 — Information

- 12.1 Supplier will provide BMW with all relevant information.
- 12.2 Supplier is responsible for essential differences, errors and omissions in the information provided to BMW, regardless of whether this has been approved by BMW, and will pay for all additional costs arising from such, unless these can be attributed to incorrect information which has been provided by BMW to Supplier in writing.

## 13 — Confidentiality

- 13.1 Supplier will treat any data which has not been published and which Supplier learns of through its commercial relationship with BMW as being confidential, as well as any information regarding which Supplier should reasonably know or suspect that it is to be treated as such.
- 13.2 The Parties shall not distribute confidential information during or after termination of the Agreement about the commercial activity of the counterparty, its products and/or services, its business plans, its customers or affiliated companies and about the existence, the content and conditions of the Agreement and all information provided in the context thereof, without the prior express written consent of the counterparty.
- 13.3 Drawings, models, designs, diagrams and similar or other documentation obtained or generated during or in the context of the execution of the Agreement (including BMW's intellectual property rights), may not be provided to third parties or made accessible to them by Supplier, without BMW's prior written consent. Reproducing this data is only permitted in the context of the execution of the Agreement and insofar as necessary, and within the limits of the statutory provisions regarding intellectual property. The Supplier shall ensure that its employees and any third parties engaged (subject to the provisions in Article 3.1) are imposed the same confidentiality obligations as referred to in this Article 13.
- 13.4 Whenever a party, its employee(s) and/or an engaged third party acts in violation of the provisions of this Article 13, said party will forfeit an immediately payable penalty of EUR 50,000.00 per event. This does not affect the right to compensation of the actual damages suffered.
- 13.5 The following will not be considered a breach of confidentiality as referred to in Article 13:

- (i) necessary disclosure of information at the request of a competent administrative or judicial authority;
  - (ii) information originating at the time of disclosure from external sources, other than as a result of the breach of a confidentiality obligation.
- 13.6 Supplier may only make its commercial relationship with BMW public, with the prior written permission of BMW.

## 14 — Insurance

- 14.1 The Supplier is obligated to adequately insure and keep itself insured with a reputable insurer in connection with liability risks under the Agreement, these general terms and conditions and/or the law. On BMW's first request, Supplier shall provide copies of the policy conditions and proof of premium payment.

## 15 — Termination of the Agreement

- 15.1 In addition to its legal right to dissolve and any other rights and/or resources BMW has based on the Agreement, these general terms and conditions and/or the law, BMW may terminate the Agreement, in writing, with immediate effect, if:
- Supplier is declared bankrupt or is granted suspension of payment, or otherwise finds itself facing financial difficulties, whether or not indicated by the termination of a line of credit or the offering of a settlement to creditors;
  - Supplier is in breach of its obligations referred to in the Articles 13 and 19 of these terms and conditions;
  - Supplier is relocated abroad;
  - Supplier decides to liquidate its company;
  - Conditions occur at the Supplier that (strongly) increase the risk for BMW and/or make the normal execution of the Agreement(s) virtually impossible;
  - Supplier is affected (directly or indirectly) by sanctions legislation enacted by the United Nations (UN), the European Union (EU) and/or the Dutch government;
  - The Supplier and/or third parties engaged by it are culpably past due with the payment of the applicable wages, VAT, payroll tax, social security premiums and/or employee insurance premiums.
- 15.2 If BMW proceeds to terminate the Agreement in accordance with the provisions in Article 15.1, BMW will only pay for the demonstrably delivered products and/or services, provided that they comply with the Agreement, without prejudice to BMW's right to claim its damages suffered as a result of its cancellation, and without obligation to compensate Supplier for damages and/or costs.
- 15.3 The intellectual property rights or rights of use which result from the Agreement will be transferred to BMW on the date of termination of the Agreement in accordance with Article 16 of these terms and conditions.

## 16 — Intellectual property rights

- 16.1 Supplier guarantees that the products and/or services it has delivered are free of any intellectual property right that could belong to a third party, and that BMW does not require any (further) permission from any third party to use (in the broadest sense of the word) the products and/or services supplied by Supplier.
- 16.2 If Supplier has made any materials, including but not limited to, software and work instructions, available to BMW for the performance of the Agreement, while these materials are protected by Supplier's intellectual property rights, Supplier hereby grants BMW a non-exclusive, non-transferable license at no charge to make use of these materials for the duration of the Agreement. Supplier indemnifies BMW against and holds BMW blameless with respect to any claims by third parties regarding (alleged) violations of intellectual property rights with regard to these materials or other items.
- 16.3 Supplier indemnifies BMW against any claims by third parties in connection with the use (in the broadest sense of the word) of products delivered by and services performed by Supplier. Any litigation will be conducted by Supplier in its own name and entirely at its own expense whenever possible. However, this does not affect BMW's right to claim damages and/or to dissolve the Agreement in accordance with the provisions of the Agreement, these general terms and conditions and/or the law.
- 16.4 Any intellectual property rights which pertain to the products delivered and/or services performed during the Agreement, will automatically accrue to BMW and will be deemed to have been transferred to BMW by operation of law and Supplier will, when so requested by BMW, grant its co-operation with regard to the formalities required in connection with this. This will take place on the date of the delivery of the respective products or services, with no additional conditions and at no additional cost. The transfer as described in this Article 16.4 qualifies as a transfer as referred to in Article 3:84 of the Dutch Civil Code.
- 16.5 For the duration of, and after the termination of the Agreement, Supplier will refrain from registering any (intellectual) (property) rights with regard to the delivery products and/or services performed during the Agreement.
- 16.6 To the extent permitted by law, Supplier relinquishes the personality rights as referred to in Article 25(3) of the Copyright Act ["Auteurswet"]. Supplier will ensure that any third parties which Supplier may engage relinquish their personality rights prior to the transfer referred to in Article 16.4, to the extent that this is permitted by law. To the extent that relinquishing personality rights is not possible, Supplier will not lay claim to such, without the prior written permission of BMW.
- 16.7 If the Supplier, its employee(s) and/or a third party engaged by the Supplier acts in violation with the provisions of this Article 16, Supplier is obliged to pay BMW an immediately due and payable penalty of EUR 50,000.00, per event. This does not affect the right to compensation of the actual damages suffered by BMW.

## 17 — Software

- 17.1 The provisions in this Article only apply to Agreements with regard to software. It specifically concerns Agreements regarding the development of (custom) software and granting of a right of use for (standard) software. Custom software also includes: additions to standard software which are created at the request of BMW.
- 17.2 Supplier will make the software available to BMW ready for use in accordance with the Agreement and specifications.
- 17.3 An Agreement that relates to customisation includes, at least:
- 17.3.1 determining in cooperation with BMW the specification of the functions, which must be included in the software;
  - 17.3.2 the design and writing or making the software available based on the functions mentioned in 17.3.1;
  - 17.3.3 the testing and, if necessary, the correcting of the software;
  - 17.3.4 The installation by Supplier of the software in the agreed computer system (both in a test as well as in the final production environment);
  - 17.3.5 the successful termination of the acceptance test and the provision of the documentation required for the use and maintenance;
  - 17.3.6 training in the use;
  - 17.3.7 the dates on which the software is ready in order to be tested, installed and delivered. These dates are hard deadlines. Exceedance results by law in default by Supplier, in which case no notice of default is required.
- 17.4 Supplier is responsible for the compatibility of the software with relevant computer systems and system software.
- 17.5 BMW has the right to test the software after ready-to-use delivery for a period to be determined later by agreement. If no period has been agreed, a period of 20 working days applies.
- 17.6 If, when performing the acceptance test, it appears that the software is defective or does not fulfil the specifications, BMW will inform Supplier of this, in writing.
- 17.7 If Supplier fails to repair the reported defects within a period to be determined later by Agreement, BMW is entitled to dissolve the Agreement, in whole or in part.
- 17.8 Supplier transfers the ownership rights with regard to customised software to BMW, in advance, which transfer is hereby accepted by BMW.
- 17.9 Upon completion of the customised software – or an update, upgrade or new release of the software – Supplier must provide the source code to BMW on a data carrier to be agreed upon, as well as the accompanying documentation.
- 17.10 The Supplier guarantees that no markings (for example, copyright signs) are applied in custom software.
- 17.11 Supplier will only use the know-how obtained by BMW in the development of customised software for third parties after written approval of BMW, under penalty of an immediately payable penalty of €50,000.00, without prejudice to BMW's right to claim compensation for the actual damage suffered.
- 17.12 The Supplier shall deposit the source code of the software - as well as any update, upgrade or new release of the software - at BMW's first request, at the Supplier's expense, with an escrow agent and shall cooperate in the establishment of an escrow Agreement, at the Supplier's expense.
- 17.13 Supplier guarantees BMW uninterrupted use of the software.
- 17.14 BMW is permitted:

17.14.1 to temporarily use the software for tests, implementation preparation and/or development, as well as in the event of a malfunction on other equipment than that for which the user right is granted;

17.14.2 if BMW makes use of the right as determined in 17.14.1, to make two backup copies of the software, with the understanding that these must be completely removed from the temporary equipment as soon as possible after termination of the temporary use.

17.15 Supplier must take all necessary steps to prevent virus infection in BMW's systems during the work that takes place at BMW, or online on BMW's systems. For the purpose of this article, the term "virus" also includes "logicbombs", "worms" or other foreign elements, which are commonly used by the computer (software) industry.

## 18 — Production tools

18.1 Production tools, such as castings, models, drawings, instruments and diagrams which are made available to Supplier by BMW, or have been prepared at the instruction of BMW (including digital printing files), are provide or returned to BMW, on first request.

18.2 The above-mentioned production tools mentioned in Article 18.1 may not be reproduced or sold, given as security or pledged or reproduced, nor may they be used by or for the benefit of third parties, without the express prior written permission of BMW. The same applies to the products created with these production tools.

## 19 — Know-how / Use of brands and logos

19.1 Supplier may not, without the prior written permission of BMW, proceed to re-use or further develop the know-how, techniques, procedures or methods which have been specifically developed at the request of BMW.

19.2 The use of BMW's name and logos by third parties is not permitted, without the prior written permission of BMW.

## 20 — External linking

20.1 Supplier is not permitted to create a link or connection between BMW's networks and/or (computer) systems and external systems or devices, or to attempt to obtain remote access to such, without the express prior written permission of BMW.

20.2 If BMW has granted permission to bring about such a link or connection, it may only be used to comply with Supplier's explicit obligations under the Agreement.

20.3 If at any time Supplier is faced with a cyber-attack, including but not limited to any of the following types of attacks: ransomware, malware, spyware, virus, hacking, DDos or spoofing, Supplier will immediately report this in the prescribed manner to BMW, so that BMW will be able to take immediate (protective) measures, as required.

20.4 Supplier will take appropriate measures to prevent its (former) employees, or any engaged third parties who use Supplier's resources, from neglecting to observe Supplier's obligations under

Article 20.1, as well as all of BMW's security guidelines, minimum standards and guidelines, and any instructions which BMW may issue, at any time.

- 20.5 In the case of a violation of this Article 20, Supplier is held to pay an immediately payable penalty to BMW of EUR 50,000.00, per event, without judicial intervention being required and without prejudice to BMW's right to claim compensation of the actual damages.

## 21 \_\_\_\_\_ **Notifications**

- 21.1 Correspondence will take place by email, post or courier. The contact details are stated in the Agreement or order.

## 22 \_\_\_\_\_ **Change of control**

- 22.1 If the direct or indirect control of Supplier changes due the full or partial acquisition of shares or assets, BMW will be informed of this by Supplier no later than within five working days after this has been effectuated.
- 22.2 In that case, BMW has the right to terminate the Agreement with immediate effect, without obligation to compensate damages and/or costs as a result of its cancellation, within six months after it has been informed of said takeover by Supplier in writing.

## 23 \_\_\_\_\_ **Pre-employment screening**

- 23.1 Supplier will only involve employees in the performance of the Agreement which Supplier reasonably deems to be trustworthy. For this purpose, the Supplier will perform a background check (or have such performed), at its own expense, prior to the performance of the work and share the result with BMW, on first request. If BMW indicates, with good reasons, why it does not wish a certain person to be involved in the performance of the Agreement, Supplier will replace said person.
- 23.2 Supplier guarantees that it has observed all applicable legislation and regulations with regard to the identification and screening of its new and existing employees and will continue to do so, as long as an Agreement remains in effect between the parties.
- 23.3 On BMW's first request, employees of Supplier who are involved in the execution of the Agreement shall sign a confidentiality Agreement.

## 24 — Hiring of personnel

- 24.1 In case of the hiring of personnel by BMW, Supplier undertakes, in addition to the obligations from Article 23, to comply with the applicable laws and regulations. This includes, but is not limited to: the Law on dealing with Sham Constructions (WAS), any applicable CLA, the Act on the Allocation of Workers by Intermediaries (WAADI), the Labour Act for Foreign Nationals (WAV) and, if applicable, in case of the deployment of seconded employees from other EU countries, the Act on Employment Conditions of Seconded Employees in the European Union (WagwEU). If BMW requests the Supplier to provide further information in order to fulfil the obligations under these laws and regulations to be able to comply, the Supplier will comply with this on first request.
- 24.2 The Supplier is at all times responsible for the fulfilment of its obligations under the tax and social security legislation.
- 24.3 As soon as BMW requests such, Supplier is obliged to demonstrate sufficiently that it has taken care of the payment of the correct wages and the payment of the VAT, wage tax, social security premiums and employee insurance premiums that are due. On BMW's first request, Supplier will cooperate with a review, sample and/or audit, so that BMW can verify whether Supplier complies with the applicable laws and regulations including the WAV, WAS, WagwEU and the General Data Protection Regulation. In this context, Supplier grants BMW access to the necessary systems and underlying data to facilitate BMW carrying out (or having carried out) the above-mentioned checks.
- 24.4 The Supplier shall ensure that the obligations from paragraphs 1 to 3 of this article are imposed on all third parties with whom it enters into contracts in the context of the execution of the Agreement, with the prior consent of BMW. In that case, the Supplier stipulates that these third parties, in turn, impose the respective obligations on their respective contracting parties.
- 24.5 Supplier will submit to BMW, on first request, or at least every 3 months, an NEN 4400 statement or a "Declaration of payment behaviour Chain and Hirers Liability" of the tax authorities that is not more than 3 months old, as long as the Agreement continues.
- 24.6 Supplier must also submit a statement from a chartered accountant to be appointed by Parties, at BMW's first request, in which it is determined that Supplier has fulfilled the obligations under or pursuant to the tax and social security legislation over the underlying period.
- 24.7 The costs for the above-mentioned statements are for the account of the Supplier.
- 24.8 The Supplier indemnifies BMW from any liability, including any penalty charges, legal costs and/or otherwise, regarding obligations of the Supplier and/or the employer of the labour force engaged by the Supplier that arise from the tax legislation, the social security legislation as well as employment conditions claims of its employees regarding work performed for the execution of the Agreement.
- 24.9 Without prejudice to the provisions of paragraph 6, BMW is at all times authorised to withhold the amounts of VAT, payroll tax, national insurance premiums, employee insurance premiums and/or any interest and fines charged thereon from the payments to Supplier and to pay such directly on behalf of Supplier to the tax authorities and/or implementing institutions or to deposit such in a G-account. In these cases, BMW shall be discharged by Supplier by payment thereof, insofar as these amounts are concerned.



## 25 — **Non-solicitation of employees**

- 25.1 For the duration of an Agreement and for twelve months after it has been terminated, Supplier shall not, either directly or through a third party, approach or (attempt to) recruit any employees of BMW or its affiliated businesses which were involved in the performance of the Agreement without the prior written permission BMW. This provision does not apply to general approaches and recruitment which are not specifically aimed at employees of BMW or its affiliated businesses.

## 26 — **Compliance**

- 26.1 Supplier will observe the prevailing applicable legislation and regulations. This also applies to all BMW policies provided to Supplier that are important for the execution of the Agreement, including the BMW Group Legal Compliance Code. Supplier will, in no way, damage BMW's name or reputation.

## 27 — **Environment and working conditions**

- 27.1 Supplier is aware that BMW wants to limit the environmental burden of its operations. Supplier guarantees to strictly observe all legislation with regard to environmental protection and a safe and healthy working environment.
- 27.2 Supplier will prevent or limit any harm due to environmental pollution, as a result of the performance of the Agreement. In case of environmental pollution caused by Supplier, Supplier will indemnify BMW against any claims by third parties arising from this pollution.
- 27.3 Supplier guarantees that the products or services supplied to BMW have been produced or provided, in accordance with the ILO Core Labor Conventions and the applicable national legislation in this regard.

## 28 — **Processing and protection of personal data.**

- 28.1 Supplier shall observe all applicable laws and regulations when processing the personal data that Supplier receives, acquires or otherwise has access to in connection with the (execution of the) Agreement, whether or not directly originating from BMW ("Personal Data"). In any case, it concerns the General Data Protection Regulation (GDPR) and the GDPR Implementation Act.
- 28.2 Supplier shall implement appropriate technical and organisational security measures to ensure a level of security appropriate to the risk, taking into account, in particular, processing risks resulting from destruction, loss, alteration or unauthorised disclosure of or access to the Personal Data, whether accidentally or unlawfully.
- 28.3 Supplier is only permitted to process Personal Data at the instruction of BMW. Supplier is expressly not permitted to process Personal Data outside of the instruction which is or will be given by BMW. If Supplier qualifies as a processor as referred to in Article 4 paragraph 8 GDPR, Supplier shall, at BMW's first request and prior to Supplier's processing of Personal Data, enter

into a processing agreement in which Supplier's processing of Personal Data is arranged. This processing agreement shall form an integral part of the Agreement between the parties.

- 28.4 Supplier will comply with all instructions from BMW regarding the processing of the Personal Data
- 28.5 Supplier does not provide the Personal Data to third parties, without BMW's prior written consent, or does not provide third parties with access to such.
- 28.6 Supplier shall immediately inform BMW of any breach of the security of the Personal Data processed by Supplier, as referred to in Article 4 paragraph 12 GDPR (hereinafter: "Data Breach"). In that case, Supplier will follow all of BMW's instructions.
- 28.7 Supplier indemnifies BMW against any claims from third parties (including fines imposed by a supervisory authority), due to a breach of applicable legislation and regulations concerning the protection of Personal Data, or due to violation of the processing agreement.

## 29 \_\_\_\_\_ **Corporate Social Responsibility**

- 29.1 Supplier is aware that BMW attaches great importance to corporate social responsibility (hereinafter referred to as "CSR") and actively uses a CSR policy itself for this purpose. Supplier undertakes to be responsible for the effects of its activities on the environment and the society in which it operates. In this context, the Supplier must record its own CSR policy and any CSR action plan in writing. At BMW's first request, Supplier informs BMW of its CSR activities.

## 30 \_\_\_\_\_ **Escalation**

- 30.1 Parties will do their utmost to resolve any disputes arising from the Agreement, in first instance, by mutual consultation. BMW reserves the right to bring preliminary relief proceedings or preliminary injunction proceedings before the competent court, at any time.

## 31 \_\_\_\_\_ **Applicable law and competent court**

- 31.1 The Agreement, these general terms and conditions and to all (outside) contractual obligations arising from or related thereto, with the exclusion of the international private law conflict rules, are governed by Dutch law. The applicability of the Vienna Sales Convention is expressly excluded.
- 31.2 All disputes with regard to, arising from or in connection with the Agreement, these general terms and conditions or any (extra-)contractual obligations are exclusively settled by the competent court in The Hague or Breda, this at the discretion of BMW.

## 32 — Other provisions

- 32.1 The nullity of any provision of these terms and conditions does not affect the validity of the other provisions. In that case, the parties agree that they will replace the provision that is void by a valid provision with consequences corresponding to the objective of the Agreement.
- 32.2 Supplier's claims against BMW cannot be transferred to a third party, without BMW's prior written permission. This provision excludes the portability as referred to in Article 3:83(2) of the Dutch Civil Code.
- 32.3 Supplier is never authorised to bind BMW, in any way whatsoever (whether or not by representation), in the broadest sense of the word, without the explicit prior written approval of BMW.
- 32.4 Articles 7, 10-13, 16, 17, 19, 25, 28 and 31 shall not be affected by cancellation or other termination of the Agreement and shall continue to apply.

This is a translation of our Dutch general terms and conditions, for convenience purposes only. The original Dutch text will be binding and shall prevail in case of any discrepancy between the Dutch text and the English translation.



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