

**Special Terms and Conditions for Transport Logistics Services
(status 08/2023)**

**This is an English translation of the German STC and for convenience only.
Only the German version of these STC is legally binding.
In the event of any discrepancy or inconsistency between this English
translation and the German version of these STC, the German version shall
prevail.**

Definitions

In these Special Terms and Conditions ("STC") the terms defined below have the following meaning:

Affiliated Company	As defined in the General Terms and Conditions for Indirect Purchasing.
Agreement	Shall mean the entirety of the contractual arrangements between BMW and the Contractor relating to the Services including all annexes. This shall include but not be limited to the documents listed in Clause 1.5.
BMW	As defined in the General Terms and Conditions for Indirect Purchasing.
BMW AG	As defined in the General Terms and Conditions for Indirect Purchasing.
BMW Group	As defined in the General Terms and Conditions for Indirect Purchasing.
BMW Purchase Order	As defined in the General Terms and Conditions for Indirect Purchasing.
BMW Group Suppliers	The party who is obligated to deliver goods to BMW on the basis of a supply contract within the meaning of the IPC.
Call-Off Purchase order (Abrufbestellung)	As defined in the General Terms and Conditions for Indirect Purchasing.
CIM	Uniform Rules concerning the Contract for International Carriage of Goods by Rail.
CMR	Convention on the Contract for the International Carriage of Goods by Road.
Contractor	As defined in the General Terms and Conditions for Indirect Purchasing.
Contract Term	The term of the Agreement is set out in the BMW purchase order.
Custody Period	The custody period begins with the start of loading the goods and ends with the end of unloading unless stipulated otherwise in the Service Requirements.
Dangerous Goods	Dangerous Goods are goods that have the potential to endanger people, vehicles or legal interests of third parties during the course of standard transportation, warehousing or other activities. In particular, dangerous goods are defined as goods that fall into scope of application of statutes and regulations relating to dangerous / hazardous goods, such as provisions covering dangerous materials, water or garbage.
Goods	Shall mean but not be limited to production material and components, automotive and motorcycle spare parts, lifestyle parts, accessories, tools, motorcycles, vehicles (design models, test vehicles, car bodies) including Dangerous Goods shipped on

behalf of BMW and its Affiliated Companies. Goods shall also include containers, pallets or other (reusable or disposable) packaging.

HGB	Means German Commercial Code ("Handelsgesetzbuch").
In writing or written	As defined in the General Terms and Conditions for Indirect Purchasing.
IPC	Shall mean the BMW Group International Terms and Conditions for the Purchase of Production Materials and Automotive Components as agreed between BMW and the BMW Group Suppliers that can be accessed under B2B portal > Departments > Purchasing > Purchasing – Direct Material > Purchasing Conditions > IPC version 01.12.2022.
Party / Parties	Shall mean one party to the Agreement or both parties respectively.
Request for Quotation (RfQ)	Shall refer to BMW's tendering process. The Request for Quotation contains a general overview of the services required by BMW and stipulates the specifications for quotations by potential contractors.
Special Drawing Rights (SDR)	Shall mean the monetary unit of the reserve assets of the International Monetary Fund.
Services	Shall mean the transport and logistics services including any ancillary and advisory services provided by the Contractor in relation to the Goods, the particulars of which are set out in the annexes ("Service Requirements", "Rate Sheets" etc.).
Service Requirements	Shall mean the requirements that apply to the performance of the Services as stated in the annex "Service Requirements".

1. Scope of these Special Terms and Conditions and contractual Framework

- 1.1 The Contractor is experienced in the provision of services for the automotive industry. In particular, the Contractor is familiar with the nature of the Goods to be transported and aware of the processes within the automotive industry (e.g. relevance of reliable just-in-time-delivery and just-in-sequence-delivery for production processes).
- 1.2 These Special Terms and Conditions ("STC") apply to the arrangement and performance of national and international transports of Goods by the Contractor for BMW on all modes of transport (road, rail, air, sea and intermodal) as well as to related logistics services. The Contractor will also provide preparatory services as well as forwarding services (§ 453 HGB) in accordance with the Service Requirements (Annex 1).
- 1.3 These STC shall supplement the "General Terms and Conditions for Indirect Purchasing" ("GTC"), as from time to time amended. The GTC shall apply, including its definitions, unless these STC provide for a separate or more specific rule in derogation from the GTC.
- 1.4 For services that primarily relate to Warehouse Management Logistic Services, the separate Special Terms and Conditions for the provision of Logistics Services (BVB Lagerbewirtschaftung) shall apply.
- 1.5 The documents listed in this Clause 1.5 form an integral part of the Agreement between BMW and the Contractor. Insofar as the negotiation protocol does not contain any provision for the event of a conflict between the individual contract components, the following order of precedence shall apply.
 - a) BMW Purchase Order,
 - b) Final quotation from the Contractor according to the negotiation protocol
 - c) STC,
 - d) GTC,
 - e) Service Requirements,
 - f) Rate sheet(s),
 - g) Further annexes and documents, as noted in the negotiation protocol including referenced documents.



- 1.6 The application of standard terms of the Contractor and/or of the German Freight Forwarders' Standard Terms and Conditions (ADSp) or other national or international standard terms of freight forwarders are explicitly excluded. For clarification, these STC take precedence over deviating provisions in any transport documents.
- 1.7 Mandatory statutory provisions which cannot be deviated from in pre-formulated Terms and Conditions shall take precedence over these STC.

2. Tendering process, and contract conclusion

- 2.1 BMW issues Requests for Quotations via an online tendering platform or via additional methods as communicated by BMW in advance of each Request for Quotation. During the Request for Quotation, the Contractor issues a binding offer in accordance with the negotiation protocol (notwithstanding Clause 2.1 GTC). Upon BMW's corresponding acceptance of the binding offer, the Agreement is concluded. The acceptance of the binding offer occurs via a BMW Purchase Order.
 - 2.1.1 The Agreement sets out the general terms under which the Contractor will perform the Services and constitutes a standing offer for the placement of Call-Off Purchase orders by BMW and its Affiliated Companies according to Clause 2.1 GTC. The placement of Call-Off Purchase orders shall constitute the binding acceptance of the standing offer by the Contractor.
 - 2.1.2 Call-Off Purchase orders may be placed by BMW as well as by its Affiliated Companies according to the Agreement, constituting rights and obligations under such contract only between the Parties to the Call-Off Purchase order.
 - 2.1.3 These STC, as well as all other parts of the Agreement (including but not limited to contractual documents according to Clause 1.5), shall also apply to each Call-Off Purchase order and to all corresponding Services performed by the Contractor.
- 2.2 BMW reserves the right to engage other contractors to provide the Services or similar services at any time and without any obligation to the Contractor.

3. Provision of the Services

- 3.1 By way of supplementation to Clause 3 of the GTC, the following shall apply with regard to the provision of the Services:
 - The Contractor shall provide the Services as stipulated in the Service Requirements and BMW's Purchase Order. The Contractor ensures its ability and willingness to perform the Services with regard to quality, quantity, prices and delivery dates as stipulated in these Service Requirements and to the conditions set out in the Rate Sheet. The remuneration to be paid by BMW for the Services provided by the Contractor is set out in the Rate sheet(s).
 - This remuneration shall be deemed to settle all costs and expenses incurred by the Contractor for the performance of the contracted Services.
- 3.2 The Contractor shall contact BMW to get any additional information it requires for the performance of the Services without undue delay. Where BMW fails to perform, does not fully perform or is delayed in performing duties of cooperation, the Contractor shall immediately alert BMW thereto. In the event a lack of full or belated cooperation by BMW is not immediately notified to the main contact at BMW in writing or in text form by the Contractor, BMW cannot be held responsible for cooperation it has not furnished, not fully furnished or furnished only with delay.
- 3.3 The Contractor shall strictly comply with agreed loading and unloading times and delivery dates. All dates mentioned in the Call-Off Purchase orders shall be regarded as absolutely fixed, with the consequence that after expiry of the delivery date the Contractor is automatically in default without the requirement of a separate reminder/warning ("Mahnung").
- 3.4 The Contractor shall immediately notify BMW about unexpected transport or delivery difficulties and delays as stated in the Service Requirements. The Contractor shall, as far as possible, provide a recommendation as to how

- any such difficulties or delays can be avoided or mitigated. BMW must also be notified of any eventual disagreements between the Contractor and BMW Group Suppliers.
- 3.5 The Contractor must comply with transport related instructions of BMW. This does not apply if carrying out such instructions would constitute a breach of a legal regulation or create the risk of significant damage to the Goods. In such cases, the Contractor shall inform BMW without undue delay and request instructions.
- 3.6 The Contractor shall comply with the Key Performance Indicators ("KPIs") and agrees to the bonus / malus system as both set out in the annexes.
- 3.7 Notwithstanding Clause 3.1, it is expressly stipulated that the Services in this Agreement shall include such supplementary or ancillary services as are necessary and/or required to enable the Contractor to perform its obligations in terms hereof. The Contractor shall at its own cost and expense furnish any and all equipment necessary for the provision of the Services. The Contractor must ensure that such equipment is suitable for performing the Services and is compliant with all applicable legal requirements.
- 3.8 The Contractor is familiar with the nature, condition and packaging of the Goods. The Contractor shall contact BMW to get any additional information it requires for the performance of the Services according to Clause 3.1 without undue delay. In particular, the Contractor is responsible for ensuring compliance with all applicable national and international laws and regulations regarding the transport of Dangerous Goods. Further details are stipulated in the Service Requirements and/or additional annexes.
- 3.9 The Contractor shall be responsible for the condition, completeness and security of the Goods from the start of loading until the end of unloading ("Custody Period") unless stipulated otherwise in the Service Requirements.
- 3.10 Unless stipulated otherwise in the Service Requirements, the Contractor shall check the Goods for completeness and for externally visible damage prior to loading and unloading and shall immediately notify BMW of any such damage or incompleteness. If the Contractor does not immediately notify any incompleteness or damage concerning the Goods to BMW in accordance with the Service Requirements, the Goods will be deemed to have been taken over by the Contractor completely and without damage or deficiency.
- 3.11 The Contractor shall hold all authorizations, licenses and permits that are required for the provision of the Services.
- 3.12 The Contractor agrees that, during the Contract Term, it will cooperate with third parties commissioned by BMW in order to coordinate the provision of the Services with the services and systems of such a contracted third party.
- 3.13 If a BMW Group Supplier breaches its obligations under Clause 4.5 d) of the IPC, the contractor must assert such claims directly in relation to the BMW Group Supplier.
- 3.14 Unless stipulated otherwise in the Service Requirements, the Contractor is responsible for preparing in a complete and correct manner and for carrying along all transport related documents that are required by law or requested by BMW. This includes any customs or export control documents or licenses that might additionally be required, due to unplanned stop overs or transit routes. If any documents must be prepared by BMW or if the Contractor requires the assistance of BMW, the Contractor will inform BMW accordingly and without undue delay and request instructions. Upon request by BMW, the Contractor shall hand over such documents for inspection.
- 3.15 If the Services include sea freight services, the following shall apply:
- The Contractor shall only use vessels that comply with (at least) the DTV Classification and Age Clause of 1990. In case a vessel does not comply with this DTV Classification and Age Clause, the Contractor is obliged to inform BMW prior to loading goods onto such vessel.
 - The Contractor must not use semi container nor break bulk vessels and all shipments must be booked with internationally recognized and reliable carriers which are either major international shipping lines and/or operate their own vessel.
- 3.16 In addition to Clause 19 GTC: BMW is Partner of the Collaborative Platform Responsible Trucking, an initiative to improve the working conditions of truck drivers in the road transportation and logistics sector. The Contractor shall comply with the current version at the time of contracting of the Truck Transport Social Guidelines that can be

accessed at <https://www.csreurope.org/responsible-trucking> and shall use its best efforts to also comply with any future amendments of these guidelines.

- 3.17 By way of supplementation to Clause 7.6 GTC, a Party may only invoke Force Majeure if it immediately notifies the other Party of the alleged Force Majeure event in writing. The notification must include an explanation of the precise effect of the alleged Force Majeure Event on the ability to perform the Services (including an explanation of all measures taken to limit the effect of the alleged Force Majeure event) and a detailed explanation as to why the alleged Force Majeure Event was unpredictable and could not have been avoided, even by utmost care (e.g. by using alternative routes or different modes of transport).

4. Supply Chain Security

- 4.1 By way of supplement to Clause 3 of the GTC, this Clause 4 shall apply with regard to supply chain security.
- 4.2 The Contractor shall ensure supply chain security and observe all applicable legal requirements and conditions with regard to the provision of the Services. The Contractor especially warrants and guarantees to be certified within AEO S/-F, C-TPAT or a similar program that complies with the WCO SAFE Framework criteria. Alternatively, the Contractor may provide BMW with an AEO Security Declaration. Evidence of the certificate / AEO Security Declaration must be provided in pdf format to BMW via the B2B Portal prior to the conclusion of the Agreement. The Contractor will inform BMW without undue delay in case of withdrawal or loss of one of those security related certificates.
- 4.3 The Contractor furthermore guarantees to support BMW in the course of governmental audits, especially but not limited to validations and revalidations performed by customs authorities in the United States, European Union, United Kingdom, Mexico, South Africa and Canada and to take all reasonable measures and implement all requirements communicated by BMW to comply with such supply chain programs. Especially, this includes implementation and performance of 7 Point Container Inspections, personnel screening, export controls, physical security as well as securing all freight against contraband smuggling, terrorism, human smuggling, theft, piracy, proliferation as well as ensuring compliance with all customs related regulations. Incidents related to supply chain security (e.g., broken seals) are to be reported to BMW (aео@bmw.de) immediately.
- 4.4 The Contractor furthermore warrants and undertakes to bind any subcontractor in accordance with the afore mentioned requirements in writing and to independently perform checks for compliance with such requirements and to provide BMW with a copy of certificates or other documents proving such checks of subcontractors upon request. Subcontractors that do not hold a certificate / AEO Security Declaration and are not willing to provide it and/or disagree to required audit-/security countermeasures may not be engaged as subcontractors for the provision of the Services. If subcontractors submit a certificate / AEO Security Declaration but fail to comply with a requirement (such as an incident) of the various safety programs, this must be reported immediately to BMW (aео@bmw.de), which can request actions to prevent further violations.
- 4.5 Individual country-specific requirements for carriers (e.g. GVMS Profiles for transports to the United Kingdom or ACI Filing for the Arab Republic of Egypt) must be met by the Contractor without specific requests by BMW.

5. General Liability of the Parties

- 5.1 Subject to clauses 4 and 5 of these STC, the liability of the Contractor is determined by the applicable mandatory statutory provisions or international conventions.
- 5.2 The Contractor shall be liable for any breach of its contractual duties (including all annexes). This applies in particular to any liability of the Contractor for the arrangements for the transport of goods (Speditionsvertrag).
- 5.3 The Contractor shall be responsible for the due and timely performance of the Services and for the acts and omissions of its employees, vicarious agents and/or subcontractors.
- 5.4 If it is foreseeable that the Contractor is unable to perform the Services as agreed, BMW is entitled (but not obliged) to arrange all necessary steps directly (e.g. air freight as backup solution). BMW may charge the Contractor the additional costs for engaging other contractors, if BMW has set a reasonable deadline prior to arranging the necessary steps directly. The requirement to set a deadline shall not apply if the Contractor has seriously and definitively refused performance and/or if special circumstances exist that, having weighed the interests of both

- Parties, justify immediate steps by BMW. In cases of a dispute regarding the amount of additional costs, the Contractor bears the burden of proof that the additional costs were, beyond a certain level, unreasonable. In assessing the requirement to set a deadline and the reasonableness of the additional costs, the circumstances of the individual case, in particular the market conditions, a particular time pressure and the requirements of BMW production processes will be taken into account. BMW's rights to claim further damages or terminate the Agreement shall remain unaffected.
- 5.5 Within its liability, the Contractor shall fully indemnify and hold harmless BMW against third party claims (including proceedings by public authorities) raised against BMW in connection with the performance of the Services and shall use its best efforts to support BMW in the defense against such claims. This includes any loss, damage, liability, cost and expense (including reasonable attorneys and other legal fees) incurred by BMW.
- 5.6 In order to ensure a predictable and comprehensive settlement of damages resulting from interruptions of production, the Parties agree on liquidated damages for any interruption of production at BMW that is caused by a culpable breach of contract on part of the Contractor or its auxiliaries or vicarious agents. The specific amount of the liquidated damages shall be agreed upon on a project-related basis and will be laid out in the negotiation protocol. In any event, the Contractor shall be entitled to prove that no damages or only lesser damages resulted from the interruption of production. BMW shall be entitled to prove that higher damages resulted from the interruption of production. BMW's right to claim further types of damages remains unaffected.

6. Liability of the Contractor during the transport of goods

- 6.1 This clause 6 applies to the liability of the Contractor as a carrier during the Custody Period.
- 6.2 The liability of the Contractor is determined by the German Commercial code (HGB) insofar as no mandatory statutory provisions or international conventions (i.e. CMR) take precedence.
- 6.3 The Contractor shall document all losses and damages and immediately report them to BMW in writing. Further details regarding this reporting process are stipulated in the Service Requirements.
- 6.4 The Contractor shall bear the burden of proof that damages occurred have not been caused by it or its auxiliaries or its vicarious agents. In addition, the Contractor shall bear the burden of proof for any circumstances which exclude or mitigate its liability.
- 6.5 The liability of the Contractor for loss of or damage to the goods on all modes of transport during the Custody Period is extended to 40 SDR for each kilogram of gross weight of the goods insofar as no mandatory statutory provisions or international conventions (e.g. CMR) take precedence.
- 6.6 The Parties may agree on a method for the calculation of the value of the Goods within the meaning of section 429 HGB. The specific amounts shall be agreed upon on a project-related basis and will be laid out in the negotiation protocol.
- 6.7 In case of damages, the decision to repair or replace will be made by BMW, taking into account all the circumstances of each individual case. If BMW cannot use the Goods for the production of vehicles or as spare parts due to legitimate product safety concerns (e.g. suspected damage of the Goods from an accident during the Custody Period), it shall be presumed that the Goods only have scrap value.
- 6.8 Liability for damages caused by delay shall be governed by the applicable statutory provisions or international conventions.
- 6.9 An unlimited liability of the Contractor according to statutory provisions or international conventions (e.g. §§ 435, 507 HGB, Art. 29 CMR, Art. 36 CIM etc.) remains unaffected.
- 6.10 According to the applicable statutory provisions or international conventions (e.g. Art. 24 and Art. 26 CMR, Art. 34 and 35 CIM etc.), BMW may demand an increased liability for specific goods. The details will be set out in the negotiation protocol. In such case, the Parties shall take the increased liability into account when calculating the freight rates. The Contractor shall be obliged to enter the respective details in the consignment note.

7. Processing of claims

- 7.1 BMW is entitled to commission third parties (e.g. Bavaria Wirtschaftsagentur GmbH, München) with the processing of claims. Such third party (e.g. Bavaria Wirtschaftsagentur GmbH, München) shall be entitled to assert claims against the Contractor on behalf of BMW AG and/or its Affiliated Companies. All claims for damages and/or notices of liability (e.g. "Haftbarhaltungen"), including those within the meaning of Section 439 (3) HGB, shall be treated as if they were made for and on behalf of BMW AG and/or its Affiliated Companies. This shall also apply if it is not expressly mentioned in the claim for damages and/or the notice of liability.
- 7.2 The claims by BMW or on behalf of BMW shall be resolved within 5 weeks after receipt of a notice of liability issued by BMW or on behalf of BMW. The Contractor must bring forward any objections against the asserted claims in writing [or text form] towards BMW or to the third party commissioned by BMW within those 5 weeks at the latest. After the expiration of the 5 weeks and the absence of reasoned objections by the Contractor, the claim by BMW or on behalf of BMW is deemed to have been accepted by the Contractor and BMW is entitled to debit the amounts to the Contractor's credit account. BMW or the third party commissioned by BMW shall be obliged to expressly inform the Contractor of this legal consequence in the notice of liability. The claim shall not be deemed to have been accepted if the Contractor proves that it was impossible or not reasonably possible to raise the objections within the 5 weeks. The Contractor shall inform BMW or the third party commissioned by BMW hereof without undue delay.
- 7.3 Should any lost Goods be recovered, the Contractor shall immediately inform BMW thereof. BMW already hereby requests the Contractor to return the recovered Goods against reimbursement of the compensation or parts of the compensation and subject to any further claims for damages of BMW. Section 424 (4) HGB shall be excluded. This Clause 7.3 (2) shall not apply to empty containers: in respect of empty containers, section 424 (3) HGB shall apply.

8. Insurance

In deviation from Clause 18 of the GTC, the following shall apply: Clause 18.1 sentence 2 and Clause 18.2 shall not apply.

9. Contract Term, Termination of Contract

By way of supplementation to Clause 6 of the GTC, the following shall apply:

- 9.1 If a term is agreed for the provision of the Services, the term results from the BMW Purchase Order. The term is set out in the BMW Purchase Order.
- 9.2 An ordinary termination of the Agreement shall only be permitted if the parties have agreed on this in the negotiation protocol.
- 9.3 If and to the extent that the use of KPIs has been agreed for the Services to be provided by the Contractor, an important reason within the meaning of clause 6.5 of the GTC is given in the event of repeated breach by the Contractor.
- 9.4 In the event of a significant change for the business relationship between BMW and the Contractor within the meaning of Clause 1.3 GTC, BMW may terminate the contract, if BMW
- a) has legitimate reason to believe that the Contractor is controlled by a competitor of the BMW Group after the significant change,
 - b) has reasonable doubts that the capacity or financial stability to provide Services in accordance with the contract no longer exists after the significant change, or
 - c) has reasonable doubts that confidentiality obligations will not be complied with after the significant change.
- 9.5 If the Contractor is responsible for the termination, BMW is not obliged to pay any indemnity payment. The Contractor shall not be entitled to any claims for retention, performance or compensation on the occasion of such termination.

- 9.6 Any Call-Off Purchase order placed before the termination of this Agreement shall remain in force until it has been completed, insofar as the notice of termination does not state otherwise.

10. Invoicing and Payment

By way of supplementation to Clause 9 of the GTC, the following shall apply:

- 10.1 The Contractor agrees to take part in the BMW Invoicing and Payment process as stipulated in the Annex "Freight Cost Settlement", and possibly supplemented by Annex "Remuneration & Settlement" and Annex "Service Requirements".
- 10.2 BMW shall not be liable to the Contractor for any additional costs or expenses resulting from or in the context of the implementation of the BMW Invoicing and Payment processes. Furthermore, BMW reserves the right to replace the systems through a new system during the term of the Agreement.
- 10.3 For clarification: If the Contractor does not deliver the Goods, BMW shall not be obliged to pay any remuneration for the affected services.