

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

Status 31.03.2014

List of Definitions:

Seller

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

Buyer

means the party which issues a Purchase Order or on whose behalf a Purchase Order is issued or means the buyer signing the Supply Contract.

Delivery Schedule

means any instruction issued by Buyer to Seller specifying the required delivery quantities, place, date and (if relevant) time of delivery of Goods.

Goods

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

Tooling

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

Supply Contract

means any contract formed by Seller's acceptance of a Purchase Order or any contract signed by Seller and Buyer for the purchase of Goods.

Incoterms

means those trade terms published by the International Chamber of Commerce and entitled „Incoterms 2010“.

In writing or written

means a document sent by any means including fax, email and EDI.

Intellectual Property Rights

means patents, design rights, copyrights, trademarks and model designations (whether registered or not and applications for any of the foregoing), know-how, and rights of a like nature, throughout the world.

EDI

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

Purchase Order

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

Affiliated Companies

means those companies affiliated with Bayerische Motoren Werke Aktiengesellschaft, Munich, Germany, (BMW AG) according to Section 15 German Stock Corporation Act (Aktiengesetz) and companies in which BMW AG is directly or indirectly holding at least 50 % of the shares or voting rights. Furthermore, BMW AG shall be deemed to be an Affiliated Company, as far as BMW AG itself is not the Buyer.

Warranty Agreement

means any contract signed by Seller and Buyer with regard to the liability for defects of the Goods.

ISO

means the International Organization for Standardization.

VDA

means Verband der Automobilindustrie (German Association for the Automotive Industry), Berlin, Germany.

BMW Group Standards (GS)

means general rules and requirements of BMW Group.

Provision 1: General

- 1.1 These BMW Group International Terms and Conditions for the Purchase of Production Materials and Automotive Components ("Terms and Conditions") shall apply to the purchase of Goods by Buyer from Seller. Unless expressly provided otherwise in the following Terms and Conditions, the relevant statutory rules of the applicable law according to section 22.1 shall apply.
- 1.2 Seller has read and understands these Terms and Conditions and agrees that Seller's written acceptance of or its performance in relation to a Purchase Order shall constitute Seller's acceptance of these Terms and Conditions.
- 1.3 To the extent that the following Terms and Conditions refer to ISO-norms, VDA-documents or BMW Group Standards, each of these are released on the BMW Partner Portal of BMW Group at <https://b2b.bmwgroup.net> /> My Workspace /> My Applications /> TEREK (Technical Rules and Standards); on request Buyer will provide them to Seller.
- 1.4 To the extent that Seller is obligated under these Terms and Conditions to submit certificates, statements or other verifications, Seller has to provide each of these immediately and with current validity date on the BMW Partner Portal of BMW Group under the following path: <https://b2b.bmwgroup.net> /> My Workspace /> My Applications /> Supplier data maintenance.

A review of or an omission to request such certificate, statement or other verification identified in these Terms and Conditions by Buyer shall not constitute a waiver of any of Seller's obligations under these Terms and Conditions or be construed as an approval of Seller's behaviour.

Provision 2: Purchase Orders

- 2.1 Buyer shall issue a Purchase Order for Goods to Seller. Acceptance of a Purchase Order by Seller is expressly limited to the terms of the Purchase Order, to these Terms and Conditions as well as to an existing framework supply agreement, as the case may be. Unless agreed by the parties in writing, any additional or different terms and conditions are expressly excluded and shall not form part of any Supply Contract. Each Purchase Order accepted by Seller pursuant to Provision 2.2 will constitute a separate and individual Supply Contract. In the case of discrepancy or inconsistency between a Supply Contract and these Terms and Conditions, the Supply Contract shall prevail over these Terms and Conditions.
- 2.2 Seller will forward a written acceptance of the Purchase Order within fourteen (14) working days after Seller's receipt of said Purchase Order. In any event any performance by Seller in relation to a Purchase Order will constitute acceptance of such Purchase Order. In the event that Seller does not forward a written acceptance or does not start performance in relation to a Purchase Order within fourteen (14) working days after Seller's receipt of the Purchase Order, Buyer shall be entitled but not obliged, to revoke such Purchase Order without incurring any liability to 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, released technical product specifications) and the corresponding project specifications (Lastenheft) in all its particulars. If the above named drawings, technical documentation or project specifications contain cross references to other documents without indication of an issue date, the version valid at the time of the production release 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 and place of delivery, packaging, quality, quantity and means of transportation. Such change request shall duly consider Seller's reasonable interests. Seller is under a duty to suggest changes to Buyer, which Seller considers necessary or expedient 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 textual form within fourteen (14) days after its receipt.

In the event that any such change request results in Seller accumulating stock, which is no longer suitable for use by Buyer in series production, Buyer will reimburse the costs actually incurred by Seller in relation to

- finished and semi-finished Goods 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, semi-finished Goods and raw materials included in a buffer stock, which has been required by Buyer in writing,

provided in all cases that 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, drawings, designs, constructions as well as changes regarding the date 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 / province) applicable to the Supply Contract, Buyer may terminate a Supply Contract and/or a relating framework supply agreement immediately by notice to Seller, if Seller:
- commits a breach of the Supply Contract, which is not capable of remedy, or
 - commits a breach of the Supply Contract, which is capable of remedy and fails to remedy the same within thirty (30) days of a notice from Buyer specifying the breach and requiring it to be remedied, or
 - violates applicable law, provided that a continuing collaboration is unreasonable for Buyer because of such violation, taking into account all circumstances and in consideration of both Parties interests
 - offered, promised or gave a bribe or any undue financial or other advantage 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 relating to the Supply Contract.

In case Buyer is entitled to terminate a Supply Contract and/or a relating framework supply agreement in accordance with this Provision 2.6, 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 that party, the other party shall be entitled to terminate the Supply Contract and/or a relating framework supply agreement forthwith by written notice.
- 2.8** Termination of any Supply Contract and/or a relating framework supply agreement under this Provision 2 shall be without prejudice to the accrued rights and liabilities of the parties and shall not affect the coming into or continuance in force of any provision, which is expressly or by implication to come into or to continue in force after such termination.
- 2.9** The volumes set out in any tenders and/or offers are solely assumptions, e.g. for the purpose of price calculation, and do not establish any obligation of Buyer or Affiliated Companies to order such volumes. Delivery quotes set out in any Purchase Order are not in any way related to any volumes in tenders and/or offers.
- 2.10** If it is agreed in the Supply Contract that price elements for raw materials are determined based on raw material indexes (e.g. LME stock-market price), or in risk participation models of specific price adjustment clause (Preisgleitklausel), or of raw material surcharge (MTZ, Materialteuerungszuschlag), or in a market oriented negotiation, then the other price elements shall be considered and negotiated separately from above mentioned raw material price elements.

Provision 3: Delivery Times and Delay

- 3.1** Delivery dates and quantities shall be as agreed according to the Purchase Order and/or Delivery Schedules. Seller acknowledges that delivery times and quantities are of the essence and 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 a Delivery Schedule or an amendment thereto issued by Buyer, unless Seller notifies Buyer of his reasonable objection thereto in writing within the following periods:

- one (1) working day after receipt of the Delivery Schedule or amendment thereto, if the requirements or amendments 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 amendments therein are to come into effect eleven (11) working days to three (3) months (inclusive) after the 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) months after the receipt of the Delivery Schedule or amendment thereto.
- 3.3** Upon notice set out in the Purchase Order and/or Delivery Schedules, Seller shall deliver Goods „just-in-time“, that is, at an appointed time of delivery immediately prior to standard production without delay, such time and timing to be set out in Delivery Schedules, and "just-in-sequence", that is in the correct sequence of delivery, such sequence also to be set out in Delivery Schedules.
- 3.4** Seller agrees to take all actions necessary and appropriate to ensure that Goods are received by Buyer as required under the relevant Supply Contract. Seller will inform Buyer promptly of any occurrence which will or may result in any delay of delivery at any time or which will or may result in Seller's inability to fulfil the quantities specified in the Purchase Order and/or Delivery Schedules. Seller shall also advise Buyer in writing of corrective measures which Seller is taking to minimize the effect of such occurrence.
- 3.5** Except for excusable delay (hereinafter, „Excusable Delay“,) as set forth in Provision 3.6 below, in the event that Seller fails to effect delivery consistent with the delivery dates specified in the Purchase Order and/or Delivery Schedules, Buyer shall be entitled to recover from Seller all losses and damages resulting there from. However, Seller shall not be obliged to reimburse Buyer's losses of profit, unless Seller has exceeded the above delivery dates for a period of more than ten (10) days.
- 3.6** Either of the parties may suspend performance of a Supply Contract during the occurrence of an Excusable Delay, which shall mean any delay not occasioned by the fault or negligence of the delayed party and which results from acts of God or public enemy, restrictions, prohibitions, priorities or allocations imposed by governmental authority, embargoes, fires, floods, seismic sea-waves, typhoons, hurricanes, earthquakes, epidemics, unusual severe weather, delays of similar natural or governmental causes, and strikes or labour disputes (of or involving the delayed party's employees or suppliers) or any other circumstances beyond such party's reasonable control (including preventive risk management). Nothing contained in this Provision 3.6 shall limit either party's rights under other Provisions of these Terms and Conditions. Further, Buyer shall be entitled to obtain the Goods covered by the Supply Contract from other sources for the duration of Seller's inability to perform due to Excusable Delay and to reduce without any obligation to Seller, the quantity of the Goods specified in the Purchase Order and/or Delivery Schedules.
- 3.7** In the event that Seller discovers any fact which may, or could with the passage of time, result in Excusable Delay, Seller will immediately advise Buyer of such fact and use its best endeavours to take all measures and precautions to reduce the effect of the Excusable Delay. In addition, at any time, at Buyer's request, Seller will furnish to Buyer such information as Buyer may request concerning matters which could result in delays as well as safeguard- and/ or contingency plans with respect to those matters. Seller will notify Buyer immediately of any actual or potential labour dispute delaying or threatening to delay timely performance of a Supply Contract or a Delivery Schedule and will include all relevant information.
- 3.8** If the parties agree on a buffer stock to be maintained by Seller, Seller is obliged to notify Buyer at monthly intervals of the latest status of this stock or at any other interval as reasonably requested by Buyer.

Provision 4: Packaging, Shipping

- 4.1** Goods shall be suitably, carefully and appropriately packed in accordance with Buyer's packaging manual („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, any costs incurred by Buyer as a result thereof shall be for the account of Seller.

- 4.2** Delivery notes shall 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".
- 4.3** The following Provisions 4.4 to 4.7 apply for Supply Contracts with Incoterms "FCA" or "EXW" only.
- 4.4** All shipments have to be carried out by the transport provider specified by Buyer. Buyer reserves the right to choose the mode of transport.

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 transport provider at the agreed place of loading to delivery at the specified Buyer's place of delivery.

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

- Shipping location and specific loading point
- Quantity, type and BMW packaging identification numbers of all loading units
- Gross weight and dimensions per loading unit
- Agreed date and time of delivery at Buyer
- Buyer's place of delivery and unloading point (including address and number) and plant code.

In the event that the notification of readiness for dispatch completed by Seller contains incorrect or incomplete information, any additional costs incurred by Buyer as a result thereof shall be for the account of Seller.

- 4.5** Domestic courier, express and parcel shipments (CEP-shipments) within Germany have to be carried out by CEP-service providers specified by Buyer. Outside Germany all domestic and international CEP-shipments have to be carried out by CEP-service providers solely with the agreement of Buyer.
- 4.6** Emergency transports at the expense of Buyer are only permitted on special request of Buyer's material planning departments.
- 4.7** The return of empty containers and pallets shall be on Buyer's account unless otherwise agreed. In principle a pallet exchange does not take place.

Provision 5: Transfer of Risk

Unless otherwise agreed between the parties in writing, the time at which the risk of damage to or loss of the Goods shall pass to Buyer shall be 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.

Provision 6: Notification of Deficiencies

Buyer shall conduct an incoming goods inspection only in respect of externally visible transport damages, the quantity of containers according to the loading list and in regard of deviations in identity of the delivered Goods from the Goods specified in the shipping documents and notify Seller of any such deficiencies without undue delay. Apart from that, Buyer shall conduct an inspection of incoming Goods, which is in compliance with the technical specifications ISO/TS 16949 „Quality management systems, particular requirements for the application of ISO 9001: 2008 for automotive production and relevant service parts organizations“(hereinafter called „ISO/TS 16949“) and notify any deficiency of Goods once the deficiency has been discovered by Buyer in the ordinary course of its business.

Provision 7: Settlement of Accounts and Payment

7.1 The invoicing of Seller will be done via self-billing invoices by way of EDI, unless otherwise agreed.

Seller does not need to send additional invoices to Buyer because invoicing will be done based on the receipt of Goods and the terms agreed in the Supply Contract. For customs purposes, only a commercial invoice in English shall be attached by Seller to the shipping documents of import deliveries in duplicate. Such invoice shall include the data as set out in Provision 7.2 and additional data as described in Provision 8.

7.2 If the parties have agreed that Seller's accounts will not be invoiced via self-billing invoices, a commercial invoice shall be submitted by Seller. The original invoice shall be sent to Buyer's incoming invoice verification department or (if specified on the relevant Purchase Order) to its payment address. Such invoices shall comply with the requirements of the national law referred to in Provision 22.1, including in particular, but not limited to, the requirements of the applicable taxation legislation of the relevant country. If requested by Buyer, Seller shall transfer all invoices electronically (e-Invoicing). The invoices shall in particular include the following data:

- Seller's full corporate name, full registered address and registered number;
- Buyer's full corporate name and full registered address;
- Buyer's supplier number of the invoicing party (8-digit); and, if different:
 - Buyer's supplier number of the Seller (8-digit) and/or
 - Buyer's supplier number of the payee (8-digit);
- In case of intra community (EU) supplies:
 - VAT identification number of Buyer
 - VAT identification number of Seller;
- In case of national deliveries within Germany:
 - VAT number or national tax number of Seller;
- In case of national deliveries within the United Kingdom:
 - VAT number of Seller
 - When ordered by BMW AG: British VAT ID of BMW AG (GB748003249);
- In case of national deliveries within Austria:
 - VAT number of Seller
 - When ordered by BMW AG: Austrian VAT ID of BMW AG (ATU31792209);
- Origin of the Goods;
- VAT rate and VAT amount, total charge excluding VAT;
- Reference to tax exemptions;
- Charges split according to VAT-rates;
- Date of invoice;
- Running unique sequential invoice number;
- Specification (quantity with scale unit/type) of delivery or service rendered;
- In case of prepayments/advance payments: the date of receipt of remuneration;
- Any reduction of charges agreed in advance, if not already accounted for; lower VAT value has to be stated;
- Buyer's Purchase Order number / Buyer's Purchase Order modification number;
- Buyer's item number;
- Delivery note number indicated by Seller;
- Date of delivery of the Goods (explicitly stated on the invoice), delivery address / point of unloading;
- In case of re-delivery relating to prior delivery by Buyer: Delivery note number indicated by Buyer with respect to the said prior delivery;
- Value of consignment (price per item and total price);
- Price unit, currency unit;
- In case of national deliveries within the UK not being invoiced in GBP then, in addition to the currency values, the VAT and net values shall be recorded in GBP and the rate of exchange used shall be shown;
- Price of packaging (per unit of Goods);
- Number of packages, weight (gross/net).

Invoices which fail to meet the requirements of this Provision 7.2 may be rejected by Buyer. Seller will be notified and costs arising therefrom will be passed on to Seller. In that event 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 Provision 7.2.

7.3 Any change of (a) the recipient of payment, (b) the invoicing party or (c) the party receiving the Purchase Order has to be agreed to by Buyer in writing in advance. 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 Provision 7.3 will be passed on to Seller.

- 7.4** In the event that accounts are settled via self-billing invoices, payment of Goods or services delivered or rendered in accordance with contract will be made after Goods receipt, acceptance or confirmation of service, within 40 days net in full.
- 7.5** In the event that accounts are not settled via self-billing invoices, payment of Goods or Services delivered or rendered in accordance with contract will be made after receipt of a verifiable invoice which is compliant with Buyer's requirements, within 40 days net in full.
- 7.6** Payment is made either by bank transfer or by cheque, as specified by Buyer.
- 7.7** Where Goods are not supplied in accordance with the Supply Contract, Buyer shall be entitled to withhold payment of the respective amount of the price until Seller has fulfilled its obligations in full.
- 7.8** Buyer shall have the right to refuse performance if such performance would constitute a breach of applicable laws by Buyer.
- 7.9** Seller may not assign its claims or receivables hereunder without the prior written consent of Buyer.
- 7.10** Payment by Buyer for any Goods does neither indicate nor constitute acceptance of such Goods.
- 7.11** Buyer shall be entitled to offset or recoup claims against receivables of Seller and also receivables that are assigned from Seller to any third party. In addition, Buyer is entitled to offset or recoup its receivables against Seller's claims against any of the following companies:
- BMW AG;
 - BMW Hams Hall Motoren GmbH;
 - BMW Motoren GmbH;
 - BMW (UK) Manufacturing Ltd.;
 - Rolls-Royce Motor Cars Ltd.;
 - Swindon Pressings Ltd.;
 - BMW Manufacturing Co., LLC.;
 - BMW (South Africa) (Pty) Ltd.

Moreover, Buyer is entitled to offset or recoup against Seller's claims with receivables of any of the above named companies which any such company may claim against Seller.

Provision 8: Customs, Origin and Export Control

- 8.1** For customs purposes Seller will attach a commercial invoice in English to the shipping documents in duplicate. Any simplification of that procedure is only permitted subject to Buyer's prior written consent.

In the case of deliveries incurring customs duty, the invoice shall specify as separate items:

- cost of items not included in the price (such as commissions, brokerage, cost of licenses, cost of means of production, Buyer's contributions);
- cost of items included in the price (such as cost of assembly and freight cost);
- value of repairs carried out, broken down into cost of materials and wages.

Even if deliveries are made free of charge, an indication of value is still required with the additional note „For Customs Purposes Only“. Either the invoice or the delivery note shall include the reason why the delivery is made free of charge (e.g. sample deliveries).

Should further official documents be required in the case of imports or exports for the intended use of the Goods delivered, Seller shall procure such documents for Buyer without delay and make them available to Buyer at Seller's cost.

- 8.2** Seller shall be obliged to notify Buyer of the non-preferential and preferential origin of the Goods by either:
- using the application Origin and Preference Portal (OPAL) on the Partner Portal of the BMW Group (path: <https://b2b.bmw.com>) and submitting the required origin data by electronic means (preferred option), or
 - notifying the origin data in written form (e.g. European Union (EU): long-term supplier declaration pursuant to regulation (EC) No. 1207/2001 or (US): CBP Form 434 (NAFTA decla-

ration of origin) within fourteen (14) days starting with the receipt of Buyer's request letter. In case of first time supply, the origin data shall be supplied in writing by the time of first supply at the latest. The written form requires the handwritten signature of an authorised representative of Seller.

Without prior written consent of Buyer, declarations of origin on Seller's own company letter-head will not be accepted by Buyer.

Seller shall inform Buyer immediately in writing of any change of origin of Goods.

If Seller supplies Goods, which get a preferential treatment in the import country, Seller shall provide a declaration of origin suitable to that supply (e.g. Form sheet A, EUR 1). This certificate is required with every such shipment.

If a proof of origin is required by virtue of local import rules in the country of import, Seller shall also 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, in particular in the EU, customs procedures with commercial impact pursuant to Art. 84 of regulation (EC) No. 2913/92 (Customs Codex) or submit declarations (affidavits) pursuant to customs rules of third countries in close co-ordination with Buyer.

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

Unless otherwise agreed, customs clearance shall be the responsibility of Buyer. If Seller assumes responsibility for customs clearance 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 policies and conditions. Seller shall, on Buyer's request, provide reasonable evidence, such as certificates or statements (for example in the AEO security declaration, C-TPAT or other related programs), 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 from a dispatch location or via an airport which is situated in a member state of the European Union by air freight (also as substitute for a standard sea freight supply), Seller shall hand over the Goods to a 'regulated agent' in terms of art. 3 sec. 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 (EC) No. 185/2010 on a passenger plane without further security checks according to annex 6.2 of regulation (EC) No. 185/2012. If the dispatch location of Seller is certified as 'known consignor' in terms of art. 3 sec. 27 Regulation (EC) No. 300/2008 or as 'regulated agent' in terms of art. 3 sec. 26 of Regulation (EC) No. 300/2008, Seller has to inform Buyer about this. Seller shall announce any foreseeable changes or threats of this status to the purchasing department of BMW AG instantly.

8.6 Seller shall inform Buyer of any export restrictions applicable in the country of manufacturing and/or dispatching of the Goods and Tooling. Seller shall inform Buyer if the Goods and Tooling are subject to any export/re-export license under US-law/US-regulations. If Seller is located in the European Union, Seller shall inform Buyer about any obligation to obtain an export license with respect to Dual-Use Goods as well as munitions subject to the European export control restrictions and the national codifications of the export control restrictions. Seller shall advise Buyer about the classification number applicable (e.g. ECCN - Export Control Classification Number for US products, "AL-Number" for Goods listed in the German Export Control List, etc.) and any license exceptions available for the Goods and Tooling. Seller shall provide information directly to BMW AG, department of customs and export control. On Seller's request, Buyer will provide a declaration/notification document for Seller's convenience.

Provision 9: Quality

9.1 Seller shall be certified to the latest edition of "ISO/TS 16949" and comply with it; the certification has to be proved to Buyer through submission of a respective certificate. Buyer and Seller may agree on variations of the requirements in sentence 1 in writing.

9.2 A series process quality evaluation (as defined in this Provision 9.2) („Series Process Quality Evaluation“) 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.

For the purposes of this Provision 9 a Series Process Quality Evaluation is a performance test of Seller's manufacturing process, including its production plants, equipment and machines and its production logistics processes, under series conditions and according to the requirements of Buyer, 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 Series Process Quality Evaluation 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 of Supplies”, as the same may be amended or replaced from time to time.

- 9.3** In case of a conflict between the Supply Contract and ISO/TS 16949 or the above-mentioned VDA publication the Supply Contract shall prevail.
- 9.4** In the event that any authorities responsible for vehicle safety standards demand inspection of the manufacturing 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** Upon Buyer's request Seller shall make available to Buyer all quality records. Quality records are documents and any other data, which relate to specified requirements and the effectiveness of Seller's quality system.

Seller shall retain such quality records for at least fifteen (15) years following the end of series supply relating to Goods with specially marked drawings („D“ or „L“) and relating to Goods with critical features (as agreed between both parties), or for at least three (3) years following the end of series supply in any other case, unless a longer period is otherwise required by law.

For guidance on this issue, see the publication “Leitfaden zur Dokumentation und Archivierung von Qualitätsanforderungen / Code of practice for the documentation and archiving of quality requirements and quality records” of the VDA.

- 9.6** Seller shall ensure that all and any of its sub-contractors are contractually bound towards Seller to comply with the terms of Provisions 9.2 – 9.5 and Provision 9.8 Sentence 1.
- 9.7** If Seller repeatedly or seriously violates the agreed quality and/or quantity objectives (in particular criteria of escalation according to overview b2b-Portal /> Departments /> Quality /> Homepage /> processes and IT-systems or as the case maybe project claims of the Service Interface Agreement, LSV), Buyer shall be entitled to take supporting action for failure analysis and the correction of failure within an escalation process (especially support by QMT, LQS and/or value stream management). Seller undertakes to assist hereby and to reimburse Buyer's actual, but not unreasonable costs incurred on the occasion of 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 an inspection report settlement (Prüfberichtsabrechnung) or other suitable invoice documents.
- 9.8** Any change of the location of manufacture or of the dispatch location of the Goods requires the prior written consent of Buyer, which may not be unreasonably withheld. Any costs which are incurred by Buyer due to the non-observance of this rule 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 his supply chain in terms of Sentence 1 above or of any changes of sub-suppliers in his supply chain which are or become known to him.

Provision 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 contractually stipulated use. 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, this Warranty Agreement shall apply in lieu of the following Provisions 10.2 – 10.5. In all other cases the consequences of the delivery of defective Goods shall be governed by these Terms and Conditions.

In the case of any discrepancy or inconsistency between (1) the Supply Contract, (2) the Warranty Agreement and (3) these Terms and Conditions, the documents shall prevail over each other in the order detailed above.

- 10.2** For all Goods the warranty period begins on the date of delivery and ends on the sooner of:
- (i) the expiry of any warranty provided to end-customers of the Goods, or products, into which the Goods are incorporated; or
 - (ii) the fifth (5th) anniversary of the delivery date.

The terms of this Provision 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 Good 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 Good, 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) to return defective Good at Seller's cost.

If the same Goods are repeatedly delivered in a defective condition, Buyer shall have the right to rescind 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 any case described under this Provision 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** At Seller's request the defective Goods will be made available to Seller at Seller's cost, if possible.

Provision 11: Liability and Indemnity

- 11.1** Unless otherwise provided by these Terms and Conditions Seller shall be liable for damages and losses actually incurred by Buyer and occasioned 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 will indemnify, defend and hold Buyer and the Affiliated Companies harmless against liability, costs, damages, losses and expenses (including court costs and legal expenses) occasioned by or arising out of any claim for death, personal injury and/or property damage, which results from (a) any defect in the Goods; (b) Seller's breach of any term of the Supply Contract and/or a relating framework supply agreement; or (c) the fault or negligence of Seller, or (d) failure to comply with any applicable law, statute, regulation, ordinance or promulgation.
- 11.3** If Seller's employees, agents, sub-contractors or other representatives (hereinafter „Representatives“) are on or present at any premises of Buyer, Seller shall, without prejudice to Seller's liability for agents and other auxiliaries according to applicable statutory rules, be and is responsible for the acts and omissions of his Representatives within or about Buyer's premises and agrees to indemnify, defend and hold Buyer harmless against liability for damage to property or injury or death to persons (including court costs and legal expenses) arising out of acts or omissions of the Representatives whether pursuant to a Supply Contract or otherwise. The indemnity in this Provision 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 will hold Buyer and the Affiliated Companies harmless against liability, costs, damages, losses, claims and expenses (including court fees and legal expenses) occasioned by or arising out of any action to recall any vehicle, Goods, or

any product into which Goods have been incorporated. While making a decision for such action to recall, Buyer will exercise reasonable discretion and duly regard 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 indemnification provided for in these Terms and Conditions, Buyer shall provide written notification thereof to Seller. Seller shall provide Buyer with such reasonable assistance in the response and prosecution of any defence as Buyer may request.
- 11.6** In the event of any claim against Buyer or one of the Affiliated Companies by a third party 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 of the violations set out in Provision 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 defence of any such Third Party Claim or suit and the financial burdens arising therefrom.
- 11.7** This Section 11 shall apply irrespective whether the costs, damages, losses, claims and expenses mentioned above are incurred by or addressed against Buyer or the Affiliated Companies. However, Seller shall not be liable according to this Provision 11 insofar as the liability, costs, damages, losses, claims and expenses mentioned are caused by negligence or intentional acts of Buyer or an Affiliated Company.
- 11.8** If Seller has culpably engaged in any improper or illegal conduct in respect to the contractual supplies, which constitutes an unlawful restraint of competition according to applicable anti-trust rules, then Seller shall pay to Buyer 8 % of the net invoice amount of the supplies affected by such improper or illegal conduct as liquidated damages, unless Seller can prove that Buyer has suffered no or only lower damage. This obligation shall survive termination or fulfilment of the Supply Contract and/or a relating framework supply agreement. Any other or additional contractual or statutory claims of Buyer shall remain unaffected hereby; in particular, Buyer may claim higher damage against relevant proof thereof.

Provision 12: Designation of Goods; Publications

- 12.1** Seller shall mark the Goods as required by Buyer.
- 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 any marketing or other medium 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 inform Buyer in good time prior to the statement concerned.

Provision 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. Insofar as Intellectual Property Rights or copyright laws related to the Tooling arise in the course of the development of the Tooling, Buyer and the 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 and geography. 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 and which shall include the use by Buyer for the purposes of series production and the corresponding use by the Affiliated Companies as well as by third parties on behalf of Buyer or the 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, at 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) (in relation to finished Tooling) the outstanding portion of the agreed total costs; or (ii) (in relation to 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 at 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 (in terms of Provision 11.3) shall remain the property of Buyer. Seller shall mark such Tooling as the property of Buyer. Such Tooling shall not be sold, assigned by way

of security, pawned, mortgaged, charged or otherwise encumbered or disposed of without the express prior written consent of Buyer.

If a Tooling is provided to Seller or completely funded 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. Unless Buyer bears only an insignificant share in the product development costs for the Goods to be supplied and/or if Buyer contributes necessary Intellectual Property Rights respectively necessary know-how which Seller does not have at its disposal and which he cannot obtain under reasonable conditions, this contribution may not be used by Seller for the production of Goods for the supply to third parties without prior written consent of Buyer.

- 13.3** Tooling owned by Buyer will be insured by Buyer, unless otherwise agreed in writing between Buyer and Seller.
- 13.4** Seller has to prove and substantiate that there is adequate insurance cover for the Tooling owned by Seller. Maintenance by Seller of such insurance coverage shall be without prejudice to Seller's liability under any Supply Contract and/or a relating framework supply agreement.
- 13.5** Seller shall treat all Tooling, regardless of ownership, with due care and diligence, constantly keeping it ready for operation and in compliance with the latest design status. Seller shall be responsible in particular for the correct and accurate dimensions of the Tooling especially of gauges. Buyer agrees to help Seller in examining and correcting the gauges made available to Seller, insofar as such items are not used as check gauges.
- 13.6** Unless otherwise agreed in writing, the cost for the continuing repair, maintenance and readiness of the Tooling in immaculate condition shall be borne by Seller in all respects.
- 13.7** Notwithstanding Buyer's right to demand surrender of Tooling owned by Buyer, Seller shall be entitled to retain such 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.
- 13.8** 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 after termination of Seller's supply of the Goods for Buyer's series production. Seller's obligation to retain such Tooling shall expire once the foresaid fifteen (15) years retention period has ended and Seller has notified Buyer in writing. Seller shall ensure that any and all sub-contractors are contractually bound to adhere to the requirements under this Provision 13.8.
- 13.9** In the event that Buyer issues a Purchase Order for Tooling, Seller shall immediately provide Buyer with all available information with regard to such Tooling as demanded in the BMW "Quotation Analysis Form" (QAF) and the BMW "Tooling Analysis Form" (WAF).

No later than the time that initial samples of the Goods are produced by means of such Tooling, Seller shall provide Buyer with (1) information concerning such Tooling as demanded 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.

Provision 14: Spare Parts

- 14.1** Whether or not a Supply Contract remains in effect, Seller will at the request of Buyer provide Buyer or Buyer's nominee(s) with sufficient quantities of Goods for use as spare parts for a period of fifteen (15) years after termination of Seller's supply of the Goods for Buyer's series production or for such lesser period of time as Buyer shall require in writing. Seller shall ensure that its sub-contractors comply with this Provision 14.1.

One year before expiration of the above mentioned deadline, Seller shall submit proposals in writing to Buyer for a economically reasonable supply with spare parts for the time afterwards. Seller's proposals shall be based on Buyer's estimated future demands, which will be provided to Seller by Buyer upon written notice.

- 14.2** During the term of a Supply Contract for Buyer's series production, the price of the Goods used as spare parts shall be equal to the series price agreed in the Supply Contract. However, during the extended term as set out in Provision 14.1 above, the price shall be determined by mutual negotiation.
- 14.3** Buyer and the Affiliated Companies shall be entitled to purchase Goods used as spare parts directly from Seller's sub-contractors or from any other third party.

- 14.4 Seller shall comply with the requirements stated in the BMW Group Standard GS 90022 "Distribution parts-requirements, documentation". 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.

Provision 15: Intellectual Property Rights

- 15.1 Seller shall indemnify, defend and hold Buyer as well as the Affiliated Companies harmless from and against all liabilities, costs, damages, claims and expenses (including court costs and legal expenses and 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 the Intellectual Property Rights of such third party. Notwithstanding the foregoing, Seller shall not be liable to the extent that the infringement results from the manufacture of the Goods in accordance with instructions received from Buyer and Seller taking the level of care that is customary in the industry could not have known that following these instructions would result 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 not to be unreasonably withheld, in the defence of any such claims or actions. Seller will assist Buyer in its investigation, defence 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 agrees to consult with Buyer and to 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 Provision 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 defence of any such claims or actions.
- 15.3 Upon Buyer's request, Seller shall specify any and all Intellectual Property Rights known or becoming known to him, 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 the needed steps to insure for Buyer a non-infringing source of supply, which may involve securing the needed licenses (if any), redesign of the product (subject to any contract requirements and qualification obligations), or other steps Seller deems necessary to ensure that a non-infringing product is delivered to Buyer.

Provision 16: Electronic Data Interchange („EDI“) and Information Security

Seller shall comply with the requirements set out in Buyer's „EDI Implementation Guidelines“.

Upon Buyer's written request, Seller shall comply with the international information security standard ISO 27001, which shall be attested by means of a certificate.

Provision 17: Confidentiality

- 17.1 Seller and Buyer undertake to keep strictly confidential all and any information that they directly or indirectly have received from each other within their business relationship and not to make available such information to any third party. Notwithstanding the foregoing, Buyer may disclose such information to the Affiliated Companies.
- 17.2 The confidentiality obligations under this Provision 17 shall also apply to all employees and any other person who may be involved in the project on behalf of the Parties hereto, regardless of kind and legal basis of the respective cooperation. Seller and Buyer hereto undertake to impose respective confidentiality obligations on those employees and persons, if that is not the case yet.
- 17.3 The confidentiality obligations under this provision shall not apply to the extent that the respective information is publicly available or becomes publicly available without fault of the receiving party, or is or was lawfully received from any third party, or is already known by the receiving party, or must be disclosed according to mandatory law, always provided that, prior to such

disclosure according to mandatory law, the receiving party shall notify the disclosing party of a required disclosure, unless such notice could not reasonably be given.

- 17.4 The confidentiality obligations of this Provision 17 shall survive the expiration or termination of any Supply Contract.

Provision 18: Insurance

- 18.1 Seller shall at, its own expense, obtain and maintain a general insurance as well as products liability insurance and a recall insurance with reputable and financially responsible insurance companies which are at an appropriate level in line with the industry standard and which adequately cover Seller's liability towards Buyer and third parties.

Seller shall immediately provide Buyer with evidence of the existence and the extent of coverage of such insurances at any time upon Buyer's request.

- 18.2 Existence of any insurance contract shall not limit Seller's obligation under any Provision of these Terms and Conditions.
- 18.3 Save to the extent to which Seller is not obliged to do so pursuant to any applicable Incoterm under Provision 5, Seller will cause any carrier engaged by Seller to insure his carrier's liability.

Provision 19: Environment

- 19.1 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 the effort and expense of transportation and logistics. For the quantitative assessment of Seller's resource efficiency Seller shall on Buyer's request provide the following information relating to the total annual scope of orders placed by and supplied to Buyer and the Affiliated Companies during its manufacturing phase:

- Total energy consumption in MWh;
- CO₂ emissions from energy generated in house and externally in metric tons;
- Total water consumption in m³;
- Process wastewater in m³;
- Waste for disposal in metric tons;
- Waste for recycling in metric tons;
- VOC emissions (volatile organic compound) in metric tons.

- 19.2 In addition, Seller shall provide on Buyer's request data for a life cycle assessment relating to Goods or parts thereof (including data with regard to the material input) according to the data collection format for life cycle assessment of the VDA.
- 19.3 Seller shall establish and maintain a certified environmental management system in accordance with the requirements of "ISO 14001" or an acknowledged and certified environmental management system derived from "ISO 14001" no later than two years following Purchase Order placement and provide evidence to Buyer by submission of a corresponding certificate.
- 19.4 Seller shall comply with the requirements of the BMW Group Standard GS 93024 "Recycling of motor vehicles-Recycling-optimized vehicle design". On Buyer's request a recycling concept has to be provided.
- 19.5 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 91003 "Marking of parts - Marking of materials").
- 19.6 Polymer materials contained in Goods shall comply with the BMW requirements for Goods derived from the respective statutory targets or standards for hydrocarbon emissions of vehicles throughout the entire life cycle of the Goods. The production processes for Goods shall be adapted to comply with such BMW requirements.
- 19.7 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.

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

The declaration of constituent substances/materials in the material data sheet for the respective Goods in the International Material-Data-System IMDS (<http://www.mdssystem.com>) – for e.g. series development, type approval and initial sampling inspection – as defined in BMW Group Standard GS 93008-1 “Substances of concern-Prohibited and declarable substances in materials and components” constitutes an integral element of the scope of delivery and has to be met by Seller.

In the event that Goods are chemical substances, preparations or materials, Seller shall provide Buyer with “Safety Data Sheets” for these Goods.

For Goods, which are labelled 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 a safety information, for example according to VDA datasheet 290.

- 19.8** Seller shall ensure that all and any of its sub-contractors are contractually bound to comply with the terms of this Provision 19.

Provision 20: Social Responsibility

For Buyer it is of paramount importance that corporate activities take account of the social responsibility to employees and society as a whole. This applies both to Buyer itself and to its suppliers. Buyer and Seller acknowledge their compliance with the principles and rights set by the International Labour Organisation (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 labour,
- Positive and negative freedom of association,
- Elimination of discrimination on the basis of gender, 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 law,
- Compliance with occupational health and safety standards,
- Protection from individual arbitrary personnel measures,
- Maintenance of employability by basic and advanced training,
- 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 (living wage),
- Implementation of equal opportunities and family-friendly policies,
- The protection of indigenous rights,
- Ban on bribery and blackmail,
- Compliance with current laws and regulations.

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

It shall be Seller’s responsibility to cause all and any of its sub-contractors to act according to the regulations of this Provision 20.

Provision 21: General/Miscellaneous

- 21.1** No amendment, modification, termination or waiver of any provision of these Terms and Conditions or of any Supply Contract, and no consent to any departure by either party therefrom, shall under any circumstances be effective unless the same shall be in writing 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 demand on Seller in any event,

case or occurrence, shall of itself entitle Seller to any other or further notice or demand in any similar or other circumstances.

- 21.2** The headings of the various Provisions of these Terms and Conditions are solely for convenience and shall not be used for the purposes of interpreting the same.
- 21.3** If any Provision hereof or any part Provision is or is held by any competent court or authority to be invalid or unenforceable, such Provision or part Provision will be deemed severed and omitted, the remaining portions hereof continuing in full force and effect. 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 Terms and Conditions is not materially altered.
- 21.4** 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 Terms and Conditions shall operate as a waiver of such rights, and every right and remedy of Buyer provided herein shall be cumulative, concurrent and in addition to any other further rights and remedies available at law or in rules of equity applicable in accordance to the applicable legal system.
- 21.5** 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 Seller's manufacturing process. The right of access shall be limited to those areas which are necessary for this purpose. Save as provided in Provision 9.5, Seller agrees to maintain all such records for at least ten (10) years after the last delivery of the Goods to Buyer, unless otherwise agreed or unless a longer period is otherwise required by law.
- 21.6** Seller shall not assign the benefit or the burden 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.
- 21.7** Upon reasonable prior written notice, Seller shall at any time provide BMW AG with suitable information (in particular quarterly, semi-annual and annual financial statements together with related reports , appendices and information on key business ratios) required for evaluating the current economic and financial situation of Seller and its continuing ability to supply. BMW AG is obligated to keep this information strictly confidential, unless the respective information is publicly available or becomes available without BMW AG's fault.
- 21.8** Seller warrants that the information provided with regard to its economic and financial situation as per Provision 21.7 is accurate, complete and – in respect of any date referred to in the documentation or information – current and fairly represents its actual economic and financial condition. Seller warrants that all financial statements of Seller have been/are prepared in accordance with accounting principles generally accepted in its jurisdiction.
- 21.9** 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 instituted; Seller further warrants that there is no indication that it is insolvent or overindebted or is facing impending insolvency or overindebtedness, 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 over-indebtedness triggering the institution of insolvency proceedings.

Provision 22: Governing Law; Place of Venue and Jurisdiction

- 22.1** The terms of any Supply Contract (including these Terms and Conditions) shall be governed by and construed in accordance with the laws of the country (and state/province, if applicable) of Buyer's principal place of business. The terms and conditions set out in the United Nations Convention for the International Sale of Goods (CISG) are hereby expressly excluded.
- 22.2** The parties agree that the courts having jurisdiction over Buyer's principal place of business shall have exclusive jurisdiction for any action or proceedings commenced under any Supply Contract.
- 22.3** Notwithstanding Provisions 22.1 and 22.2 above, in the event that a third party brings to court a claim against Buyer or an Affiliated Company for death, 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 the court procedures necessary to enforce the indemnification against Seller in terms of these Terms and Conditions. In such a

case the laws of the forum state shall govern exclusively the rights and obligations of the parties involved.