

BMW Group Special Terms and Conditions for the Purchase of Accessories, Merchandising and Lifestyle Products

Version 11.2022

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.

1. Scope of Application and Integral Parts of the Agreement

1.1. The following Special Terms and Conditions ("STC") apply to the procurement of accessories, merchandising and lifestyle products (hereinafter collectively "Goods") by the Contractor (hereinafter "Contractor") and Bayerische Motoren Werke Aktiengesellschaft (hereinafter "BMW"), unless otherwise agreed in writing.

1.2. These STC shall supplement the "General Terms and Conditions for Indirect Purchasing" ("GTC") in the contractually agreed version. The GTC shall apply, including its definitions, unless these STC otherwise provide for a separate rule or specify a different rule in derogation from the GTC.

2. Delivery and Transfer of Risk

The transfer of risk for the Goods from the Contractor to BMW takes place in accordance with the contractually agreed Incoterm. Unless otherwise agreed between BMW and the Contractor, "DDP" (Delivery Duty Paid) is stipulated for the delivery of Goods.

3. Quality and Documentation

3.1. The Contractor guarantees that a quality management system which complies to the quality standards of DIN EN ISO 9001 (in their current version) is implemented within its own company and within its subcontractors.

3.2. When delivering Goods, the Contractor is obliged to provide BMW with written documentation (e.g. approvals, test certificates, declarations of conformity, operating instructions, etc.), insofar as this has been agreed on or is necessary to comply

with regulatory requirements in contractually agreed BMW sales markets.

3.3. At the agreed time before the first delivery, the Contractor must provide BMW with three initial samples at its own expense, which BMW will immediately check. After successful initial sampling, written approval is given by BMW and the Contractor receives a sample countersigned by BMW, which he must keep for a period of five [5] years from initial delivery.

4. Remuneration, Invoicing and Payment

In addition to clause 9 of the GTC, the following applies:

4.1. If the parties have agreed that payment of the remuneration should not be paid via self-billing procedure, the Contractor must provide BMW with the following information in the invoice in addition to the information required in clause 9.5 GTC:

1. Supplier number of the invoicing party assigned by BMW (8 digits) and, if otherwise:
 - supplier number of the Contractor assigned by BMW (8 digits) and/or
 - supplier number of the recipient of payment assigned by BMW (8 digits);
2. Number of BMW Purchase Order or Change Orders.
3. BMW Part Number and description of the Goods supplied.
4. Date of delivery.
5. In the case of returns: The delivery note number provided by BMW regarding the return shipment.
6. Quantity, size/unit of measure.
7. Price of individual Goods and total invoice price.
8. Price unit, currency unit.
9. Packaging price (per unit of Goods).

10. Amount of Packages, weight (gross/net).
11. Delivery location / unloading Point.
12. Applicable VAT rate, the VAT amount attributable to the fee, total net invoice excluding VAT
13. Origin of Goods.

Any change in (a) payment recipient, (b) invoicing party or (c) order recipient requires the prior written consent of BMW. Any change in the route of Goods or billing from the origin of the Goods to BMW must be notified to BMW in writing in advance. Costs that BMW incurs as a result of failure to comply with the requirements in accordance with this section 4 are to be borne by the Contractor.

5. Packaging and Transport

- 5.1. The Goods must be suitably packaged in a diligent and appropriate manner, in accordance with the "Packaging Manual of the BMW Group" (hereinafter "**Packaging Manual**") and in accordance with the contractually agreed requirements. The Contractor must provide BMW with the packaging data with regard to the required and necessary information in a form specified by BMW. In the event that the packaging data provided by the Contractor is incorrect or incomplete, the Contractor must reimburse BMW all resulting costs. The packaging manual is available at B2B Portal > Departments > Aftersales > Packaging > Packaging Manual Aftersales, or will be sent by BMW upon request.
- 5.2. The "Logistics Requirements for BMW Group Lifestyle Suppliers" also apply, available at B2B portal > Departments > Logistics > Logistics Requirements for Suppliers.; these will also be sent by BMW upon request.
- 5.3. Delivery notes must be issued in writing. The Contractor must comply with BMW's EDI Implementation Guidelines and the requirements of the packaging manual for Goods accompanying documents (physical or electronic documents). BMW's EDI implementation guidelines are available at B2B Portal > Departments > Collaboration > Exchange Logistical Data > ATLAS, or will be sent by BMW upon request.

6. Customs, Origin and Export Controls

In addition to clause 11 of the GTC, the following shall apply:

- 6.1. For customs purposes, the Contractor shall attach a complete commercial invoice according to applicable legal requirements, which shall include information on the description of the Goods,

customs tariff number and origin, in English and in duplicate to the shipping documents. Any deviation from this procedure is only permitted subject to BMW's prior written consent.

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

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

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

- c) Should further official documents or documents of accredited inspection bodies (e.g., Partner Government Agency, CCC or InMetro certification) be required for the intended use of the Goods as per BMW's specifications (including the project specifications) in the case of imports or exports, for the type approval or for the proof of product conformity, the Contractor shall at its own cost procure such documents for BMW without delay and make them available to BMW via the transmissions system prescribed by BMW (e.g., post, email, exchange server, IT system).

- 6.2. The Contractor shall make a binding communication to BMW of the non-preferential and preferential origin of the Goods as well as any modification thereof by either:

- using the BMW Group application Central Supplier Solicitation Tool (CALLISTO) or other applications made available via the B2B-Portal and submitting the required origin data electronically within fourteen (14) days of the receipt of BMW's request, or
- in exceptional cases and after written consent by BMW, communicating the origin data in written form within fourteen (14) days after receipt of BMW's request but at the latest by the time of the first delivery of the Goods. The written form is maintained if an authorized representative of the Contractor signed by hand in the original or,

if permitted by the respective agreements of origin, the Contractor sends the origin data to BMW by email or electronically via the respective EDI interface.

Without prior written approval from BMW, origin declarations printed upon the business forms of the Contractor will not be recognized by BMW, unless required by law.

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

Insofar as the respective preferential agreement offers the possibility of issuing proof of origin for multiple shipments, this shall be transmitted by the Contractor as described in this section. The Contractor is obliged to obtain the necessary registrations or permits (e.g., from customs authorities) on its own responsibility.

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

- 6.3. The Contractor shall provide BMW with all such support as may be necessary to enable BMW to reduce or minimize its obligation to pay customs duties. The Contractor shall examine existing customs suspensions or punitive tariffs (e.g., "exclusions" under US law) and notify BMW. If these customs suspensions are applicable, they shall be applied for. Upon BMW's request, the Contractor commits to implement, particularly in the EU, customs procedures with commercial impact pursuant to Art. 210 of regulation (EU) No. 952/2013 (European Customs Code), to carry out Goods origin investigations for his Goods and to obtain appropriate preliminary evidence in its supply chain (in UK: GBEORI Statement on Origin for multiple shipment (SoO fmS) Callisto) or submit declarations (affidavits) pursuant to customs rules of third countries in close coordination with BMW. If the Contractor participates in an US Foreign Trade Zone, MX IMMEX or comparable program (hereinafter "Programs"), then the Contractor undertakes towards BMW that it will comply with all applicable legal standards and regulations in connection with such Programs, as well as timely and in correct form, and with complete and correct content, provide BMW with all necessary information for its compliance with its duties under such Programs.

In addition, the Contractor shall inform BMW in writing of applicable anti-dumping measures (e.g.,

for aluminum, steel) and punitive tariffs on imports into the corresponding importing countries.

- 6.4. For any and all questions and instructions arising out of or required in connection with customs and declarations of origin, the Contractor shall contact BMW's respective customs department.

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

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

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

7. Warranty

In deviation from clause 12 of the GTC, the following shall apply:

- 7.1. The Contractor warrants that the Goods shall be free of defects according to the applicable law and particularly warrants that the Goods are suitable for the use intended under the contract, as contractually defined. The Contractor further warrants that the Goods shall comply with all laws and regulations in the relevant sales markets

related to the Goods. Compliance with test specifications and any BMW approvals does not release the Contractor from its obligation to deliver defect-free Goods.

If there is a valid warranty agreement that applies to the assignment, this warranty agreement applies instead of clauses 7.2 to 7.5 below. In all other cases, the legal consequences of the delivery of defective Goods are governed by these STC.

In the event of any contradictions between (a) the contract, (b) the warranty agreement and (c) these STC, the documents apply in the order set out above.

- 7.2. The warranty period for all Goods starts at the time of delivery and ends on the earlier of the following dates:
- a) upon expiry of the warranty period to which the end user of the Goods is entitled, or
 - b) On the fifth (5th) anniversary of the delivery date of the Goods.

The provisions of this clause 7.2 apply subject to longer warranty periods due to national provisions of the sales markets to which the Goods are delivered.

- 7.3. If a warranty rate of more than 1% (based on the total quantity delivered per calendar year) is exceeded, the Contractor undertakes to identify and initiate corrective product-specific measures to improve quality in consultation with BMW Quality Management. The measures must be approved by BMW Quality Management before implementation as part of an initial sample process (Section 3.3).
- 7.4. As far as possible, defective Goods within the meaning of this clause 7 will be made available to the Contractor by BMW at the latter's request and at the expense of the Contractor.

8. Tooling

- 8.1. If a Purchase Order of Tooling is placed, the BMW Group's "Terms for Transfer of Title of Production Means" referred to in this Purchase Order shall apply.
- 8.2. Whether or not a Purchase Order of Tooling has been placed Seller has the following obligations:
- 8.2.1. The Contractor shall prove evidence of adequate insurance coverage for the Tooling. Such insurance coverage shall not affect the Contractor's liability, for example under a Contract.

8.2.2. The Contractor shall treat the Tooling with due care and diligence and keep it continuously in working condition and in compliance with the latest design status. The Contractor shall be responsible for the correct and accurate dimensions of the Tooling, particularly of gauges. At the Contractor's request, BMW shall support the Contractor in examining and correcting the gauges provided to the Contractor by BMW, unless they are used as check gauges. Unless agreed otherwise in writing, the cost for the continuing repair, maintenance, and readiness of the Tooling in unobjectionable condition shall be borne by the Contractor in all respects.

8.2.3. The Contractor shall maintain Tooling for a period of five (5) years following the end of the Contractor's supply of the Goods in good working condition ready for the continued supply of Goods. The Contractor will inform BMW (purchasing department) in writing three (3) months before the end of the retention period.

- 8.3. The Contractor must ensure that all of its subcontractors are contractually obliged to comply with the provisions of clause 8.2 and that this obligation is passed on accordingly along the supply chain.

9. Spare Parts

Whether or not a Contract remains in effect, the Contractor undertakes to supply BMW or third parties designated by the latter with spare parts in sufficient quantities, for a period of five (5) years after the end of delivery of the Goods by the Contractor or for a shorter period specified in writing by BMW. The Contractor must ensure that its subcontractors comply with the provisions of this clause 9 and that this obligation is passed on accordingly along the supply chain.

10. Labelling of Good, Trademarks, Logos

By way of supplementation to clause 17.9 of the GTC, the following shall apply:

- 10.1. The Contractor shall mark the Goods as BMW requires.
- 10.2. Neither party shall use the other party's copyrights, logos and/or trademarks without prior written consent of the other party.

as the claim is caused by BMW's negligence or intentional misconduct.

11. Insurance

By way of supplementation to clause 18.1 of the GTC, the following shall apply:

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

12. Liability and Damage Compensation

12.1. If the Contractor breaches an obligation under the contract, BMW may claim compensation for the resulting damage, unless otherwise provided by these STC. This shall not apply if the Contractor is not responsible for the breach of duty, but the relevant statutory provisions require the Contractor's responsibility.

The Contractor shall indemnify, defend and hold BMW and its Affiliated Companies harmless against all liabilities, costs, damages, losses and expenses (including in- and out-of-court costs, legal fees and expenses) occasioned by or arising out of any legal claim for death, personal injury and/or property damage, which results from or are attributable to (a) defective Goods or any product in which this defective Good was assembled (b) the Contractor's breach of its obligations under the Contract, (c) intentional misconduct or negligence of the Contractor or (d) the Contractor's non-compliance with any applicable law, statutes, regulation, provisions or notices.

12.2. If the Contractor's employees, agents, Subcontractors or other representatives (hereinafter "**Representatives**") are on BMW's premises, the Contractor shall be and is, without prejudice to the Contractor's liability for agents and other auxiliary persons according to applicable statutory rules, responsible for the acts and omissions of its Representatives on or in the proximity of BMW's premises, and shall indemnify, defend and hold BMW harmless against liability for damage to property or injury or death to persons (including in- and out-of-court costs, legal fees and expenses) arising out of acts or omissions of the Representatives whether pursuant to performance under a Contract or otherwise. The duty to indemnify in this Clause 12.2 shall not apply insofar

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

12.4. If a third party asserts a claim against BMW (hereinafter "**Third Party Claim**"), which may be the subject of the indemnification provided for in this Clause 12, the Contractor shall provide BMW with appropriate and reasonable assistance in the defense and prosecution of claims upon BMW's request.

12.5. If a third party asserts claims against BMW or one of its Affiliated Companies for death, personal injury and/or property damage, which, according to the third party's allegation, was caused by (a) defective Goods or any product in which this defective Good was assembled, (b) the Contractor's breach of its obligations under the Contract, (c) intentional misconduct or negligence on the part of the Contractor or (d) the Contractor's non-compliance with any applicable law, statutes, regulations, provisions or notices, the Contractor and BMW shall in good faith, immediately attempt to reach an agreement specifying the terms under which the Contractor and BMW would apportion responsibility and liability for the defense of any such Third Party Claim or Third Party action as well as the financial burdens arising therefrom.

12.6. This Clause 1s shall nonetheless apply whether the stated costs, damages, losses, claims and expenses mentioned above are incurred by BMW itself or its Affiliated Companies. However, the Contractor shall not be liable according to this Clause 12 insofar as the liabilities, costs, damages, losses, claims and expenses mentioned are caused by negligence or intentional misconduct of BMW or one of its Affiliated Companies.