



**General Terms and Conditions of
Purchase of SMR Automotive**

1. Interpretation

The following definitions and rules of interpretation apply in these Purchase Terms.

1.1 Definitions:

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Buyer: SMR Automotive Mirrors UK Limited, registered in England and Wales with company number 03904201 whose registered office is at Castle Trading Estate, East Street, Portchester, Hampshire, PO16 9SD.

Buyer Materials: has the meaning given in clause 7.3(i).

Commencement Date: has the meaning given in clause 3.3.

Contract: the contract between the Buyer and the Supplier for the supply of Goods and/or Services in accordance with these Purchase Terms.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of Control shall be construed accordingly.

Deliverables: all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

Delivery Location: has the meaning given in clause 5.1.

Goods: the goods including (without limitation) parts, materials and assemblies (or any part of them) set out in the Order.

Goods Specification: any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Buyer and the Supplier.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off [or unfair competition], rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order: the Buyer's order for the supply of Goods and/or Services, as set out in the Buyer's purchase order form, or in the Buyer's written acceptance of the Supplier's quotation, as the case may be.

Parts: has the meaning given in clause 19.7.

Purchase Terms: these terms and conditions as amended from time to time in accordance with clause 9.

Services: the services, including any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.

Service Specification: the description or specification for Services agreed in writing by the Buyer and the Supplier.

Supplier: the person or firm from whom the Buyer purchases the Goods and/or Services.

1.2 Interpretation:

- (a) A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its successors and permitted assigns.
- (c) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- (d) Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (e) A reference to writing or written includes fax and email.

2. Scope of Purchase Terms

2.1 These Purchase Terms of the Buyer shall exclusively apply to all of the Buyer's purchases of Goods and Services by means of Orders issued by the Buyer; the Buyer does not accept and shall not be bound by the Supplier's terms and conditions unless their application has been agreed expressly in writing by the Buyer in advance. The Purchase Terms shall also apply in all cases in which the Buyer accepts the Supplier's delivery of Goods or Services without objecting to the conflicting or deviating terms and conditions of the Supplier (whether or not the Buyer is aware of them).

2.2 These Purchase Terms shall apply equally to the purchase of Goods as production material (for the purposes of Buyer's own serial production), as spare parts or as machines, tools and other products unless the applicability of any of the following provisions of these Purchase Terms is expressly limited to individual or specific kinds of Goods.

2.3 The provisions of these Purchase Terms shall prevail over any other or supplementary agreements which the parties may enter into in addition to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.4 All of these Purchase Terms shall apply to the supply of both Goods and Services except where the application to one or the other is specified.

3. Order

3.1 All enquiries of the Buyer with the Supplier about the Supplier's Goods and Services and terms of their supply or the Buyer's requests for quotations by the Supplier do not legally bind the Buyer in any way. The estimated quantities quoted in any price inquiry statement or requests for quotation are indicative only, and do not bind the Buyer, until the Buyer explicitly calls for fixed quantities in any Order or in calls for delivery (as applicable).

3.2 The Buyer's Orders are only binding if they are made in writing. Orders made orally or by telephone are not binding and do not cause under any circumstances a contractual relationship to come into existence. Oral agreements must be confirmed in writing.

3.3 A valid and binding Contract between the Buyer and the Supplier incorporating these Purchase Terms shall be formed by:

- (a) the Buyer's written Order submitted to the Supplier (constituting a purchase offer); and
- (b) the Supplier's express written acceptance of the Order by means of a confirmation of order to be received by Buyer within seven days of the date of the Order; or
- (c) the Supplier's commencement of performance of the Order

at which point and on which date the Contract shall come into existence (**Commencement Date**).

3.4 Any order confirmation by the Supplier which is received later or which differs from the Buyer's Order represents a new purchase offer and must be accepted by the Buyer in writing.

3.5 If the Contract or the Order for Goods specify that the Goods to be delivered shall be designated by calls for delivery such calls for delivery shall become effective 2 days after submission to Supplier, unless the Supplier has objected to them in writing by then.

4. Prices – Terms of Payment

4.1 The price set out in the Order for Goods is a fixed price for the Goods and delivery to the Delivery Location in accordance with the Incoterm specified in clause 5.1, unless otherwise agreed in writing by the parties.

4.2 The price for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Buyer, the price shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

4.3 All amounts payable by the Buyer under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the

Buyer, the Buyer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.

4.4 In respect of the Goods, the Supplier shall invoice the Buyer on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Buyer on completion of the Services.

4.5 Unless credit entry procedures have been agreed with the Supplier, invoices can be processed by the Buyer only if they state – in accordance with the requirements in its Order:

- (a) the order number;
- (b) the article number as quoted in the Order; and
- (c) in the case of tools or investment products the respective project number.

The Supplier shall be responsible for all consequences resulting from the failure to comply with this obligation provided that it was at fault.

4.6 Unless otherwise agreed in writing payment for the Goods and Services will be made on the last day of the second month following the date of invoice.

4.7 Buyer shall make payment by wire transfer. Other modes of payments as well as credit entry procedures need to be agreed specifically between the parties to be applicable.

4.8 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each date at 2% a year above the Bank of England's base rate from time to time, but at 2% a year for any period when the base rate is below 0%. Where a payment is disputed in good faith, interest is only payable after the dispute is resolved, on sums found or agreed to be due, from the date the dispute is resolved.

4.9 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Buyer to inspect such records at all reasonable times on request.

4.10 The Buyer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Buyer against any liability of the Buyer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. If the liabilities to be set off are expressed in different currencies, the Buyer may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Buyer of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.

5. Shipment, Packaging and Delivery of Goods

5.1 Goods are to be delivered DDP (Delivered Duty Paid) (Incoterms® 2020 Rules) to the address designated by the Buyer (**Delivery Location**) during Buyer's normal working hours.

- 5.2 All Goods shall be suitably packed or otherwise prepared for shipment. No charge is allowed for wrapping, packing, transportation, cartons, boxing, crating, cartage or insurance unless designated on the Order.
- 5.3 The Buyer will specify in each Order the means of delivery; the Buyer may do so specifically by the use of trade terms customary in the automotive industry.
- 5.4 Containers and packing must be supplied free of charge but will be returned, if required, at the Supplier's risk and expense.
- 5.5 Transportation equipment (containers, racks etc.) shall be specified by its number on the transport documents/delivery notes failing which they shall pass into the Buyer's ownership.
- 5.6 All shipments of Goods (or other materials) must be accompanied by a detailed delivery note stating the Buyer's purchase order number, name and quantity and giving full particulars (including the part number) of the Goods (or other materials) supplied.
- 5.7 The Supplier shall also provide the Buyer with such other advice notes, statements and other reasonable documentation as the Buyer may specify from time to time.
- 5.8 In accordance with the applicable European Community Directives the Supplier is obligated to provide a supplier declaration. A certified annual supplier declaration must be submitted at the latest at the time of delivery. This declaration must be renewed without request prior to the expiration of this period. Any changes with respect to the origin must be notified to the Buyer without undue delay. At the Buyer's request, the Supplier must submit an information paper duly certified and cleared through the customs for the delivered Goods. If and to the extent that additional official documents for the use of Goods in accordance with Goods Specification are required for the import or export of the Goods the Supplier undertakes to make those documents available to the Buyer or, as the case may be, to procure them without undue delay.
- 5.9 The Supplier shall not deliver any Goods or other materials in advance of the schedule set forth in the Order, without the Buyer's written permission. The Buyer reserves the right to store at the Supplier's risk and expense all Goods received at the Delivery Location in advance of the schedule shown on the Order until the due date for delivery.
- 5.10 If the Buyer accepts early deliveries on the basis of clause 5.9, the Buyer shall nevertheless not be obliged to make payment earlier than on the due date pursuant to the scheduled delivery.
- 6. Property and Risk**
- 6.1 The property in the Goods will pass to the Buyer upon full payment of the purchase price. Any prolonged or extended retention of the Supplier's title to the Goods is excluded.
- 6.2 Risk of loss remains with the Supplier until delivery of the Goods to the Buyer is completed.
- 7. Supply of Services**
- 7.1 The Supplier shall from the Commencement Date (or such later date(s) specified in the Order) and for the duration of the Contract supply the Services to the Buyer in accordance with the terms of the Contract.
- 7.2 The Supplier shall meet any performance dates for the Services specified in the Order or that the Buyer notifies to the Supplier.
- 7.3 In providing the Services, the Supplier shall:
- (a) co-operate with the Buyer in all matters relating to the Services, and comply with all instructions of the Buyer;
 - (b) perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
 - (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
 - (d) ensure that the Services will conform with all descriptions, standards and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose that the Buyer expressly or impliedly makes known to the Supplier;
 - (e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
 - (f) use the best quality Goods, materials, standards and techniques, and ensure that the Deliverables, and all Goods and materials supplied and used in the Services or transferred to the Buyer, will be free from defects in workmanship, installation and design;
 - (g) obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
 - (h) observe all health and safety rules and regulations and any other security requirements that apply at any of the Buyer's premises;
 - (i) hold all designs, patterns, information, materials, equipment and tools, drawings, specifications and data supplied by the Buyer to the Supplier (**Buyer Materials**) in safe custody at its own risk, maintain the Buyer Materials in good condition until returned to the Buyer, and not dispose or use the Buyer Materials other than in accordance with the Buyer's written instructions or authorisation;
 - (j) not do or omit to do anything which may cause the Buyer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Buyer may rely or act on the Services; and

- (k) comply with the provisions of any agreement between the Buyer and a third party which is notified to the Supplier by the Buyer from time to time.

8. Late Delivery of Goods and Services

- 8.1 The Goods must be supplied to the agreed delivery address at the agreed delivery dates or within the agreed delivery periods.
- 8.2 The Supplier must immediately notify the Buyer in writing of any and all circumstances which arise or of which the Supplier becomes aware as a result of which the agreed delivery date or delivery periods cannot be kept. Such notification does not release the Supplier from its obligation of delivery on the agreed due date.
- 8.3 If the Supplier fails to deliver the Goods by the applicable date or to perform the Services by the applicable date, or both, the Buyer shall, without limiting or affecting other rights or remedies available to it, have one or more of the following rights and remedies:
- (a) to terminate the Contract by giving written notice provided the Buyer has set a reasonable grace period for the Supplier to still effect delivery, which grace period has expired unsuccessfully and provided the Buyer was not responsible for the event causing the delay;
 - (b) to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;
 - (c) to recover from the Supplier any costs incurred by the Buyer in obtaining substitute Goods and/or Services from a third party;
 - (d) to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided and/or Goods that it has not delivered; and
 - (e) to claim damages for any additional costs, loss or expenses incurred by the Buyer which are in any way attributable to the Supplier's failure to meet such dates, provided the Buyer has issued a reminder demanding delivery from the Supplier following the commencement of delivery default (unless a firm calendar date for delivery had been agreed).

9. Contractual / Technical Changes

- 9.1 Changes to any Contract including changes to quantities, method of shipment, packing, time or place of delivery or changes in the drawings or Goods Specification or the Service Specification must be mutually agreed by the parties and recorded in writing, taking into account and reflecting any resulting increases in costs of, or time required for, the performance of the Contract (if any). With respect to technical modifications, in particular modifications of the Buyer's drawings or specifications, the following provisions of this Clause 9 shall apply in addition.

- 9.2 The Buyer may at all times – also during serial production – request technical modifications of the Goods. Immediately after receipt of the Buyer's request for modification, the Supplier shall submit a cost estimate on possible cost increases or reductions as well as information on deadline shifts, consequences on the weight, function and quality resulting from the modifications. The Supplier is obliged to keep the costs caused by the modifications requested by the Buyer as low as possible.

- 9.3 The Supplier will fulfil the request for modification as soon as the parties have reached an agreement on any increased or reduced costs, the deadline shifts, the consequences on weight, function and quality.

- 9.4 If in the Supplier's opinion technical modifications or deviations are sensible – e.g. due to more efficient production methods or for the improvement and increase of the safety of the Goods or for an adjustment to the engineering progress – the Supplier will propose them to the Buyer; simultaneously information must be given about the consequences on the price, the delivery dates, and any other relevant information. The Buyer shall examine these modification proposals without delay and shall not unreasonably refuse their acceptance.

- 9.5 The Supplier shall not perform any technical modifications until it has received the Buyer's written approval. The procedure concerning the initial sample tests must be repeated with respect to all Goods which are subject to technical modifications after the original product release.

- 9.6 The Buyer's technical documents, drawings and plans must be examined by the Supplier with regard to their completeness and correctness prior to commencement of processing or production. If the Supplier considers them to be incomplete or to contain faults or defects the Supplier is obliged to notify the Buyer accordingly in writing without delay (but in any case prior to commencement of the processing or production); any missing technical documents, drawings or plans must be requested in writing without delay.

10. Quality Management of Goods

The following provisions of this Clause 10 shall apply exclusively to the delivery of production material and/or spare parts.

- 10.1 The Supplier shall presently and in the future maintain a quality management system in accordance with the latest revision of ISO 9001 & IATF 16949 or an alternative a quality management system which corresponds to and is consistent with the standards in the automobile industry according to the latest revision of ISO 9001 & IATF 16949 may be agreed by the parties at the request of the Supplier.

If the Supplier does not meet the quality levels required by any such quality management system, or comply with the requirements of clause 12 and the Supplier does not correct such deficiencies within three months after notification by the Buyer, in addition to any other rights of the Buyer, the Buyer may terminate the Contract immediately without any further obligations to the Supplier.

- 10.2 In accordance with the quality standard of the automobile industry the Supplier is obliged to make

an initial sample test according to the latest revision of ISO 9001 & IATF 16949 at the latest prior to the production release for serial production. This must, in principle, always be made at the Supplier's premises unless the Buyer or its customers (in particular the manufacturer of automobiles) require an exception thereto.

10.3 Notwithstanding Clause 10.2 and at the Buyer's request, the Supplier will furnish the Buyer with test samples of such products as may be reasonably required by the Buyer to determine if the Supplier's manufacturing is being performed in accordance with the Goods Specification furnished by the Buyer. These test samples will be provided at no cost to the Buyer.

10.4 Interruptions in the quality management process – also with regard to parts concerned which are purchased or processed by third parties – must be notified to the Buyer without undue delay.

10.5 For use in serial production a target value is determined for the quality ppm and reviewed on a monthly basis. The Supplier bears the responsibility not to exceed at any time the required quality failure rate (without prejudice to any of the Buyer's possible warranty claims which are not affected thereby).

10.6 The Buyer may, upon reasonable notice, during normal business hours, make reasonable inspections, at such intervals as the Buyer deems necessary, of the facilities where the Supplier manufactures Goods.

10.7 The Buyer may terminate this Contract, effective after written notice to Supplier, if the Supplier fails to maintain the agreed quality standards for a period of three months.

10.8 Inspection or testing as aforesaid shall not be deemed to constitute acceptance of the Goods or any part thereof nor shall it relieve the Supplier from complying with any and all of the express or implied conditions in the Order.

10.9 The Supplier is obliged to supply the Buyer for a period of 15 years after discontinuation of serial production with spare parts which correspond with the contractually agreed quality required for the respective serial delivery. This obligation shall also apply to materials, raw materials, vendor parts or components which the Supplier purchases from third parties.

10.10 The Supplier agrees before delivery to furnish the Buyer in writing with a list by name and description of any harmful or potentially harmful properties or ingredients in the Goods and thereafter information concerning any changes in such properties or ingredients. The Buyer will rely on the supply of such information from the Supplier in order to satisfy its own obligations under relevant health and safety requirements.

11. Inspection of Goods

11.1 In view of the quality management system adopted by the Supplier pursuant to clause 10.1 the parties agree that the Buyer's inspection of incoming Goods shall be replaced by their examination by the Supplier prior to the dispatch of the Goods to Buyer. For these purposes the parties agree further:

- (a) the Buyer will inspect the Goods on delivery only with regard to their identity (correspondence with the Goods listed

in the relevant Order or call for delivery), completeness (additional or short delivery in relation to the amount of the requested Goods listed in the Order or call for delivery), transport damage or other extrinsically noticeable damage.

- (b) the Buyer will notify to the Supplier in writing any possible wrong or poor delivery or any such damage without delay. Otherwise the Buyer is not obliged to inspect the delivered Goods upon their delivery; the outgoing inspection of the Goods is effected by the Supplier at its premises instead.

- (c) In so far as the Buyer detects any defects at a later date, the Buyer will notify the Supplier thereof in writing without delay.

11.2 Pre-delivery inspection

11.3 Prior to delivery to the Buyer, the Supplier shall adequately inspect and test the Goods and if the Buyer so requires the Supplier shall furnish the Buyer with test certificates. The Supplier shall allow the Buyer or its authorised representative on prior notice and during normal business hours unrestricted access to any area of any premises where the Goods or any part are being manufactured or stored or where any of the Buyer's Goods are being kept in order that the Buyer or its authorised representative may test or inspect the Goods or verify conformance of the Goods with the Goods Specification. The Supplier shall afford the Buyer or its authorised representative such use of the Supplier's equipment and employees as is reasonable in the circumstances in order to facilitate such inspection, testing or verification. No inspection or testing by the Buyer pursuant to this clause 11 shall imply any acceptance of the Goods by the Buyer or in any way relieve the Supplier of its obligations and duties under the Contract or otherwise.

12. Warranty

The following provisions of this clause 12 shall apply exclusively to the delivery of production material and/or spare parts (to all other Goods relevant applicable statutory provisions and implied clauses shall apply):

12.1 The Supplier warrants:

- (a) the compliance with the Goods Specification in the Buyer's documentation, drawings and plans
- (b) the conformity of the Goods with the initial samples released by the Buyer,
- (c) the existence of the features as contained in the signed initial sample test report,
- (d) that the used/chosen materials and/or vendor parts are free from defects and suitable,
- (e) the absence of defects in the Goods with respect to design, materials and workmanship which nullify or reduce

- the value or the suitability of the Goods for the contractually presumed use,
- (f) the compliance with the latest state-of-the art of science and technique,
- (g) that all work will be carried out with skill and care and be suitable for the purposes indicated or to be reasonably inferred from the Goods Specification and as may be made known by the Buyer to the Supplier prior to the Contract being entered into.
- 12.2 Any Goods supplied or installed under the Contract shall be so formulated, designed, constructed, finished and packaged as to be safe, without risk to health and in compliance with all applicable laws and regulations.
- Any Goods which are (or will be upon supply in the European Community) within the scope of the CE marking requirements of any relevant EC Directive or local laws implementing the same shall satisfy the relevant requirements and shall bear a properly affixed CE mark, have a certificate of conformity and all necessary technical specifications.
- Goods must meet all relevant health and safety requirements applicable to Goods both in the state or form supplied to the Buyer and when combined with other goods. It is the responsibility of the Supplier to acquaint itself with the purpose for which the Goods are to be supplied.
- 12.3 If defective Goods or parts thereof are discovered by Buyer prior to commencement of the production (processing, installation or fitting) the following shall apply:
- (a) The Supplier must, at the Buyer's option, deliver without delay defect-free new products or remedy (repair) the defective Goods. Any possibly required sorting work or other reworking, will be carried out by Supplier in coordination with Buyer at Buyer's premises.
- (b) All costs incurred in connection with the delivery of the defective Goods (sorting, transportation, costs for remedying, investigating (including research and development efforts) the causes of defects etc.) shall be borne by the Supplier.
- 12.4 If a defect is discovered after the commencement of production, the provisions of Clause 12.3 shall initially apply; in addition thereto, the following shall apply:
- (a) If a defect is discovered before the end products are delivered to the Buyer's customers, then the Supplier shall bear in addition to the costs for remedying or replacement also the costs for the disassembling and assembling as well as for any reworking (cost of labour, cost of materials, costs for further tools required).
- (b) If a defect is discovered only after the end products have been delivered to the Buyer's customers, then the Supplier shall bear in addition the proportion of the costs incurred for taking back and/or field measures which correspond to or reflect the causal or fault contribution of the Supplier. The Buyer shall inform the Supplier upon occurrence of such defects and on the further procedure and measures to be taken.
- 12.5 The Buyer is entitled to remedy any defects itself or to have this carried out by a third party or may procure replacement from a third party if
- (a) the Supplier is at default with the replacement or remedy,
- (b) the defect was discovered before the commencement of production and this is required in cases of special urgency to prevent substantial disadvantages, e.g. shutdown of the conveyer.
- The Supplier must be informed about this situation without delay. Costs incurred in connection therewith shall be borne by the Supplier.
- 12.6 Irrespective of and in addition to the remedies listed in clauses 12.3 – 12.5 the Buyer shall be entitled to the following further remedies:
- (a) The Buyer may cancel/rescind the purchase Order and/or Contract if it has notified the Supplier of the defects setting a reasonable grace period to remedy the defects which grace periods has expired unsuccessfully. The setting of such grace period is not necessary:
- (i) if the Supplier refuses any of the remedies of Clause 12.3 (repair or replacement delivery),
- (ii) if the Supplier's attempt to repair the defect or to deliver replacement products without defects has failed, or
- (iii) if it is unreasonable for the Buyer considering all the circumstances to grant such grace period to the Supplier;
- (b) The Buyer may reduce the agreed and invoiced purchase price by the amount by which the market value of the Goods without defect is decreased in proportion to the market value for the defective goods, provided the other requirements listed under 12.6(a) are fulfilled;
- (c) The Buyer is entitled to full compensation of any damage incurred by the Buyer due to the defectiveness of the Goods delivered provided the Supplier was at fault in causing such defects.
- 12.7 Except for Goods which are integrated into automobiles and which are thereafter exported to North America (USA, Canada, Puerto Rico) the warranty period for defects shall end upon the expiry of 36 months from the first registration date

of the cars or from installation of spare parts or 42 months from the delivery to the Buyer's customers, whichever period expires first.

For the Goods to be exported to North America (USA, Canada, Puerto Rico) after the integration into the automobiles the warranty period for defects shall end upon expiry of 60 months from the first registration date of the car or installation of the spare parts or 66 months from the delivery to the Buyer's customers, whichever period expires first, at the latest, however, after 70,000 kilometres.

13. Quality Management of Services

13.1 If the Supplier has supplied Services that do not comply with the requirements of clause 7.3 then, without limiting or affecting other rights or remedies available to it, the Buyer shall have one or more of the following rights and remedies:

- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) to return the Deliverables to the Supplier at the Supplier's own risk and expense;
- (c) to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services (if paid);
- (d) to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
- (e) to recover from the Supplier any expenditure incurred by the Buyer in obtaining substitute Services or Deliverables from a third party; and
- (f) to claim damages for any additional costs, loss or expenses incurred by the Buyer arising from the Supplier's failure to comply with clause 7.3.

13.2 These Purchase Terms shall extend to any substituted or remedial Services supplied by the Supplier.

13.3 The Buyer's rights and remedies under the Contract are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.

14. Indemnity

14.1 The Supplier shall indemnify the Buyer against all liabilities, costs, expenses, damages and losses including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses suffered or incurred by the Buyer arising out of or in connection with:

- (a) any claim made against the Buyer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services (excluding the Buyer Materials);

(b) any claim made against the Buyer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, or the Deliverables; and

(c) any claim made against the Buyer by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services.

14.2 This clause 14 shall survive termination of the Contract.

15. Insurance

15.1 During the term of the Contract, the Supplier shall maintain in force, with a reputable insurance company:

- (a) general / public liability insurance and product liability insurance to cover property damage and bodily injury including consequential losses thereof;
- (b) if Goods are supplied: automobile recall and extended product liability insurance to cover financial losses such as mounting/demounting labour and transportation in case of public recall or in case of service action in case of serial field claim; and
- (c) if Services, Deliverables and/or engineering is supplied: professional indemnity to cover negligence, property damage and bodily injury including consequential losses thereof;

each with a limit of at least £5 million GBP per occurrence, to cover the liabilities that may arise under or in connection with the Contract. The Buyer may, depending on the specific risk exposure, request higher limits. The Supplier shall, on the Buyer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

15.2 If the Supplier is not able to provide evidence of the insurance policies within two weeks of being requested, the Buyer is entitled to take out such insurance at the Supplier's expense.

16. Recall Campaigns

16.1 The Supplier is obliged to reimburse any expenses which result from or in connection with a recall campaign carried out by the Buyer. The Buyer shall inform the Supplier - to the extent possible and reasonable - about the contents and scope of the recall actions to be carried out and shall offer the Supplier the chance to comment thereon. All other statutory claims remain unaffected.

16.2 In the event that:

- (a) the Buyer, any of the Buyer's customers, and/or any car manufacturer (OEM) determines that a recall campaign or owner notification program is necessary to comply with a law, regulation, order or other government requirement, or as a safety measure to avoid personal injury or death; or

(b) within the Buyer's reasonable exercise of its business judgment, such recall campaign or owner notification

program is necessary for business purposes, costs, including but not limited to labour, transportation and traceability costs, shall be apportioned on the basis of the causal or fault contribution respectively attributable to the Buyer and the Supplier,

the Buyer shall inform the Supplier - to the extent possible and reasonable - about the contents and scope of the recall actions to be carried out and shall provide to the Supplier the possibility to comment thereon. All other statutory claims remain unaffected.

For the purposes of Clauses 16.1 and 16.2, a recall campaign is defined as a systematic effort to locate Goods that are in breach of the Buyer's or the Buyer's customers' and/or any automobile manufacturer's warranties or otherwise required to be recalled to inspect and correct or replace such Goods or parts of Goods as necessary.

17. Documents / Confidentiality

17.1 The Buyer retains all property rights to documents, product specifications, pictures, drawings, calculations and other documents provided for the performance of its order; these documents shall not be disclosed to any third party without the Buyer's express written approval. They shall be used exclusively for the performance of the Buyer's Orders and must, as they represent the Buyer's confidential business information, be especially protected. On completion of the Contract those documents shall be returned to the Buyer without any specific request, unless otherwise agreed. Blueprints or models may also not be retained; the same shall apply if no Contract materializes or the Contract is dissolved retroactively.

17.2 The use of the drawings, reports, specifications, trade secrets, processes, and/or other data furnished is strictly limited to the purpose for which it is transmitted. Rights to all ideas, and features of novelty or invention described in the data supplied, to the extent originating with the Buyer, and all design, manufacturing, reproduction use and sales rights regarding the same, are the property of and reserved to the Buyer. The Supplier shall not, without prior written consent of the Buyer disclose, reproduce, or use such data for any purposes other than those for which the material is supplied. The Supplier commits itself to demand the same guarantees of its own suppliers.

17.3 Each party may disclose the other party's confidential information as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

17.4 This confidentiality obligation shall apply for a period of three years following termination of this Contract.

18. Intellectual Property Rights

18.1 The Supplier is responsible that in connection with its delivery no Intellectual Property Rights of any third party in its respective country of origin as well as within the United Kingdom, the Federal Republic of Germany, the European Union, America and Australia are breached.

18.2 The Supplier grants to the Buyer, or shall procure the direct grant to the Buyer of, a fully paid-up, worldwide, non-exclusive, royalty-free licence

during the term of the Contract to copy and modify the Deliverables (excluding Buyer Materials) for the purpose of receiving and using the Services and the Deliverables.

18.3 The Buyer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy any materials provided by the Buyer to the Supplier for the term of the Contract for the purpose of providing the Services to the Buyer.

18.4 All Buyer Materials are the exclusive property of the Buyer.

18.5 If, contrary to clause 18.1 a third party shall assert claims against the Buyer due to a breach of Intellectual Property Rights, the Supplier is obliged to indemnify the Buyer upon first written request from these claims. Without the prior approval of the Supplier, the Buyer shall not enter into any agreements with such third party, in particular conclude a settlement agreement.

18.6 The Supplier's indemnity obligation refers to all expenses which the Buyer might necessarily incur due to or in connection with any claims asserted against the Buyer by third parties.

18.7 The limitation period is ten years, calculated as of the conclusion of the Contract.

19. Buyer's Proprietary Interests in Tools or Parts

19.1 All Buyer Materials supplied by the Buyer, or if acquired by the Supplier at the Buyer's cost and expense (and to be reimbursed by the Buyer or to be included in the price to be paid for the Goods) and relating to, or for use in, or the manufacture of the Goods shall remain or become the sole property of the Buyer. The Supplier expressly agrees that the same will not be used in manufacture or design for the account of third parties, without prior written consent of the Buyer.

19.2 The Supplier is obliged to carry out in time all possibly required service and inspection works of the Buyer Materials as well as all maintenance and repair services at its own costs. The Supplier must notify the Buyer immediately of any breakdown; if the Supplier culpably fails to do this, any claims for damages remain unaffected.

19.3 The Supplier shall keep the Buyer Materials separate and apart from all property of other persons and shall clearly mark the Buyer Materials "Property of Buyer". The Buyer Materials shall not be removed from the Supplier's premises without the written instructions of the Buyer except for the purpose of fulfilling the Contract. All such Buyer Materials shall be returned to the Buyer at termination, cancellation or completion of the Order or any contract, unless the Buyer shall otherwise direct in writing.

19.4 The Buyer is granted irrevocable authority to enter upon the Supplier's premises or other premises where Buyer Materials are located by its employees or agents to take possession of Buyer Materials and (if necessary) to dismantle Buyer Materials from anything to which they are attached.

19.5 The Supplier hereby agrees to indemnify the Buyer against loss of or damage to the Buyer Materials during the time they are in the Supplier's possession, custody or control. During such time the Supplier shall adequately insure Buyer Materials in the name of and for the benefit of the

- Buyer at the Supplier's expense with a reputable insurance company against loss or damage arising from any cause whatsoever at replacement value and shall produce to the Buyer on demand the policies of such insurance and the receipts for premiums paid thereon.
- 19.6 The Supplier shall keep the Buyer Materials free of all mortgages, charges, liens or other encumbrances and will procure that any such security over the Buyer Materials is discharged forthwith.
- 19.7 To the extent the Buyer provides parts or materials (**Parts**) to the Supplier, the Buyer hereby reserves its title in respect of such Parts. Processing or transforming of such Parts by the Supplier are carried out on the Buyer's behalf. If the Buyer's retained Parts are processed together with other items which are not owned by the Buyer, the Buyer shall acquire the co-ownership in the new product in proportion of the value of the Buyer's Parts (purchase price plus value added tax) to the other processed items at the time of processing.
- 19.8 If the Parts provided by the Buyer are inseparably mixed with other items that are not owned by the Buyer, the Buyer shall acquire co-ownership in the new product in proportion of the value of its retained Parts (purchase price plus value added tax) to the other mixed items at the time of mixing. If the mixing takes place in such a way that the items of the Supplier are to be considered to be the main items then it is agreed that the Supplier transfers co-ownership to the Buyer on a pro rata basis; the Supplier shall store and keep the Buyer's sole ownership or co-ownership on the Buyer's behalf.
- 19.9 All Parts furnished by the Buyer under a Contract (except that which becomes normal industrial waste) shall be returned in the form of parts or unused material and the Supplier shall exercise reasonable care in the safeguarding of all such materials until so returned. The Supplier's spoiled or surplus material manufactured to the Buyer's design must be so defaced or destroyed that it cannot be used for the purpose for which it was designed.
- 20. Cancellation of Orders / Contracts**
- In case of long term Contracts concerning the delivery of Goods the following provisions on term and termination shall apply:
- 20.1 The Buyer is entitled to terminate such Contracts with six months' written notice.
- 20.2 In those cases in which the Buyer's customer cancels its Orders without cause or exceptionally, the Buyer is entitled, without prejudice to its right of termination pursuant to Clause 20.1, to mutually enter into any other arrangement with the Supplier to reflect such circumstances.
- 20.3 Quantities which are manufactured by the Supplier prior to such arrangement shall be accepted and paid for by the Buyer up to a maximum of three months' need (30 days finished product plus 30 days raw material). Quantities manufactured in excess thereof will be exclusively for the Supplier's risk and account.
- 20.4 Each party is entitled to terminate a Contract for good cause at any time without observing any notice periods. Good cause shall exist, in particular, in the following cases:
- (a) Suspension of payments by one party, initiation of insolvency proceedings over the assets of one party or its dismissal for lack of assets or liquidation of one of the parties, one party has had a bankruptcy order made against it or has made an arrangement or composition with its creditors or otherwise taken the benefit of any statute for the time being in force for the relief of insolvent debtors or has suffered or allowed any execution whether legal or equitable to be levied on his property or obtained against it or (being a body corporate) has had convened a meeting of creditors (whether formal or informal) or has entered into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation or has a receiver manager administrative receiver or administrator appointed of its undertaking or any part thereof or a resolution has been passed or a petition presented to any Court for the winding-up of such party or any proceedings have been commenced relating to the insolvency or possible insolvency of a party;
- (b) Breach of substantial contractual obligations; in case of any breach which may be remedied, however, only after the innocent party has requested the other party to remedy the breach in writing, warning the other party of an imminent termination for good cause and setting a reasonable grace period of at least four weeks which period has expired without success;
- (c) One party due to a change of Control comes under the Control of a competitor of the other party.
- 21. Consequences of termination**
- 21.1 On termination of the Contract, the Supplier shall immediately deliver to the Buyer all Deliverables whether or not then complete, and return all Buyer Materials. If the Supplier fails to do so, then the Buyer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 21.2 Termination or expiry of the Contract shall not affect the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 21.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.
- 22. Force Majeure**

<p>Events which are unforeseeable, unavoidable and lie beyond the sphere of influence of the Supplier and for which the Supplier is not at fault, such as acts of God, war, natural disasters or labour disputes (e.g. strike or lockout), shall release the Supplier for the duration of such event from its obligation to make timely delivery or perform timely. Periods agreed upon shall be extended by the length of such disturbance; the Buyer shall be informed of the occurrence of such disturbance in a reasonable manner. If the end of such disturbance is not foreseeable, or should it continue for more than one month each party is entitled to terminate the Contract.</p>	23.8	No partnership or agency	Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
<p>23. Miscellaneous Provisions</p>	23.9	Entire agreement	The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
<p>23.1 In performing its obligations under the Contract, the Supplier shall:</p> <p>(a) comply with all applicable laws, statutes, regulations and codes from time to time in force; and</p> <p>(b) comply with any mandatory policies.</p>	23.10	Third party rights	Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
<p>In the event any provision of these Purchase Terms is found to be invalid, illegal or unenforceable, such provision shall be deemed to be modified or restricted to the extent necessary to make such provision valid, legal and enforceable. If such modification or restriction is not possible, the nullity of one or more of the present clauses will not affect the validity of the others or the validity of the Contract.</p>	23.11	Variation	Except as set out in these Purchase Terms, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the parties or their authorised representatives.
<p>23.2 The Supplier may not assign any Order or Contract, or any part thereof, without the prior written consent of the Buyer.</p>	24.	Notices	24.1 Any notice [or other communication] given to a party under or in connection with the Contract shall be in writing and shall be:
<p>23.3 The Supplier must not retain one or more subcontractors for the discharge of all or part of any Order without the Buyer's prior written consent.</p>	(a)	delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or	
<p>23.4 In performing its contractual obligations the Supplier must comply with the statutory and official regulations concerning environmental protection.</p>	(b)	sent by fax to its main fax number or sent by email to the address specified in Order.	
<p>23.5 The ingredients (heavy metals) which are relevant in accordance with the European Community End of Life Vehicles Directive (ELV) shall be entered in the IMDS-Database by the Supplier at its own costs and are, thus declared.</p>	24.2	Any notice or communication shall be deemed to have been received:	
<p>23.6 If the Supplier moves its production facilities or manufacturing premises it shall give the Buyer reasonable advance notice thereof, consult with the Buyer on any consequences regarding the manufacturing and delivery of the Goods and, in particular, arrange for new initial sample presentation of the Goods on the completion of such move.</p>	(a)	if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;	
<p>23.7 Waiver</p>	(b)	if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; and	
<p>A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.</p>	(c)	if sent by fax or email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume.	
<p>23.7 Waiver</p>	24.3	This clause 24 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.	

25. Governing Law, Jurisdiction, Place of Performance

- 25.1 The contractual relations between the Buyer and the Supplier shall be governed by the laws of England and Wales.
- 25.2 Each party irrevocably agrees, for the sole benefit of the Buyer that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation. Nothing in this clause shall limit the right of the Buyer to take proceedings against the Supplier in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.
- 25.3 The place of performance for all obligations under any contract is the Delivery Location as indicated in the Order.