

## Purchasing Terms and Conditions (August 2022)

## 采购条款和条件 (2022八月)

### I. Scope of the global Purchasing Terms and Conditions of MD ELECTRONICS

- These Terms and Conditions apply to any and all contracts that may be concluded by MD ELECTRONICS at any location (hereinafter referred to as MD) as buyer or ordering party unless expressly agreed otherwise in writing. Only these Purchasing General Terms and Conditions are to apply. Even if MD has failed to explicitly object, general terms and conditions of the seller, supplier or service provider (hereinafter collectively as: supplier) will not be accepted. Such terms will only become an integral part of the contract where MD has explicitly agreed in writing.
- The Purchasing Terms and Conditions of MD also apply to any and all future transactions with the supplier.
- The MD affiliates have the right to order products and services from the supplier subject to the terms and conditions set out in these Purchasing Terms and Conditions. (An "affiliate of MD"/"MD affiliate" means a company in which MD directly or indirectly holds a majority of shares or voting rights.) An independent contractual relationship between the affiliate and the supplier only will be established by each and every purchase order placed by an affiliate as well as any sale and purchase agreement resulting from such purchase order. MD will not be bound by any obligations resulting from such contractual relationship, rather, only the respective affiliate will be bound by contract. MD will not assume responsibility or liability for the its affiliates' obligations.
- MD also has the right to use these Purchasing Terms and Conditions as a basis for placing purchase orders for products and services with affiliates of the supplier. Affiliates of the supplier means companies within the meaning of sections 15 et seqq. of the German Stock Corporation Act (AktG).
- This is without prejudice to any rights of MD beyond those stipulated in the Purchasing Terms and Conditions which MD may have under any provisions of law.

### II. Formation of contract

- Only promises to enter into contract (offers in law of contract) sent to the supplier by MD in writing and/or by data transmission as purchase orders or delivery schedules will be considered to be legally binding.
- Where MD remains silent in response to proposals or requirements submitted by the supplier, such silence is, unless explicitly agreed otherwise in writing, not under any circumstances to be interpreted as consent.

### III. Scope and nature of obligor's obligation

- The scope of the obligation of the supplier as the obligor in the obligational relationship with MD which constitutes an actionable claim of MD as the obligee (Leistungspflicht) will be determined based on the specifications and terms of reference provided at the time of formation of contract or, in the absence of such, on the information provided in offers, quotes, brochures and website content of the supplier.
- Unless explicitly agreed otherwise in writing, deliveries made by the supplier must conform to applicable DIN and/or VDE standards and other standards common in the industry or EU standards (including, but not limited to, Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment and Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles), as amended from time to time. If the goods to be delivered are subject to CE regulations, such as capital goods, they have to be labelled with a corresponding CE marking as well as to possess a CE declaration.
- The parties are deemed to have agreed that the concept of Zero Defects (ZD) is to be consistently implemented by the supplier.
- As far as series parts are concerned, product labels, where applicable, need to include the MD article number concerned.
- MD will only accept delivery of quantities and volumes ordered and the number of pieces ordered respectively. Excess, short or partial delivery will only be accepted upon MD's prior consent. Where excess delivery is made, MD reserves the right to return the quantity delivered in excess at the supplier's expense.
- The following is to apply, in addition, with respect to suppliers of automotive series parts:  
The supplier undertakes to enter any and all data required into the IMDS system (International Material Data System at [www.mdssystem.com](http://www.mdssystem.com)) and, if applicable, the CAMDS (China Automotive Material Data System). Data must be made available before issuance of the initial sample test report (EMPB) or the PPAP documents or concurrently with submission of the initial samples. Data entered must be addressed to the following ID number: "2669".
- The supplier undertakes to comply with the ISO 9001, ISO 14001 and ISO 45001 and, as far as series parts are concerned, further the IATF 16949 standards. In the event of a delivery intended for the accredited MD test laboratory, the supplier also has to work in accordance with ISO 17025. Derogation from this standard must be agreed in writing between MD and the supplier in each individual case.

### I. MD ELECTRONICS 全球采购条款和条件的范围

- 除非另有书面明确约定，否则本条款和条件适用于各地的 MD ELECTRONICS (下称 MD) 作为买方或订购方所订立的任何及所有合同。本通用采购条款和条件唯一适用。即使 MD 未能明确提出异议，也不表示接受卖方、供应商或服务提供商 (以下统称为供应商) 的通用条款和条件。仅在 MD 已明确书面同意的情况下，该等条款才会成为合同的组成部分。
- 本 MD 采购条款和条件也适用于日后与供应商的任何及所有交易。
- MD 关联公司有权根据本采购条款和条件中所规定的条款和条件向供应商订购产品和服务。(“MD 的关联公司/MD 关联公司”是指 MD 直接或间接拥有多数股份或表决权的公司。) 仅在关联公司下达各份采购订单以及因该等采购订单而产生任何买卖协议的情况下，该关联公司和供应商之间才形成独立的合同关系。MD 不受该等合同关系所产生的任何义务所约束，该合同仅对相应的关联公司具有约束力。MD 对其关联公司的义务概不负责。
- MD 也有权根据本采购条款和条件向供应商的关联公司下达采购产品和服务的订单。供应商的关联公司是指《德国股份公司法》(AktG) 第 15 条及以下各条所指的公司。
- 这不影响采购条款和条件中所规定的 MD 根据任何法律规定可享有的任何权利。

### II. 合同的成立

- 仅有 MD 以书面形式和/或采购订单或交付时间表等数据传输方式向供应商作出的订立合同承诺 (合同上的要约)，才会被视为具有法律约束力。
- 如果 MD 对供应商提出的提议或要求保持沉默不作回应，除非另有书面明确约定，否则该等沉默在任何情况下均不得解释为同意。

### III. 债务人义务的范围和性质

- 在与 MD 的债权债务关系中，供应商作为债务人的义务范围构成 MD 作为债权人的可诉讼债权 (Leistungspflicht)，该义务范围将根据合同成立时所提供的规格和职责范围而定。如果并未在合同订立时提供该等内容，则根据该供应商的要约、报价、手册和网站内容而定。
- 除非另有书面明确约定，否则供应商所交付的货物必须符合适用且经不时修订的 DIN 和/或 VDE 标准以及行业内通用的其他标准或欧盟标准 (包括但不限于 2011 年 6 月 8 日关于电气、电子设备中限制使用某些有害物质的欧洲议会和理事会指令 2011/65/EU 以及 2000 年 9 月 18 日关于报废车辆的欧洲议会和理事会指令 2000/53/EC)。如果要交付的货物受 CE 法规管辖 (例如资本货物)，则其必须贴有相应的 CE 标志并具有 CE 声明书。
- 双方均被视为已同意供应商应始终如一地执行零缺陷 (ZD) 的概念。
- 就系列零件而言，产品标签 (如适用) 需要含有相关的 MD 商品编号。
- MD 仅接受订购数量以及相应订购件数的交付。超额交付、短缺交付或部分交付均需获得 MD 的事先同意。如果已超额交付，则 MD 保留将超额交付的数量退回供应商的权利，该退货费用由供应商负担。
- 此外，以下内容适用于汽车系列零件的供应商：  
供应商承诺将任何及所有的所需数据输入 IMDS 系统 ([www.mdssystem.com](http://www.mdssystem.com)) 的国际材料数据系统，以及 (如适用) CAMDS (中国汽车材料数据系统)。数据必须在发布初始样品测试报告 (EMPB) 或者 PPAP 文件之前或者在提交初始样件的同时提供。所输入数据必须填入以下 ID 号：“2669”。
- 供应商承诺遵守 ISO 9001、ISO 14001 和 ISO 45001，且就系列零件而言，还应遵守 IATF 16949 标准。如果要交付给认可的 MD 测试实验室，供应商也必须按照 ISO 17025 进行作业。对于该标准的放宽，MD 和供应商之间必须以书面形式就各种个别情况达成一致。

8. The supplier undertakes to know and observe the rules set out in the "MD Supplier Code of Conduct" and, if necessary, to instruct and oblige its sub-suppliers accordingly. The "MD Supplier Code of Conduct" is available to the supplier for inspection at [https://www.md-elektronik.com/wp-content/uploads/2022/04/MD-Lieferantenkodex\\_EN.pdf](https://www.md-elektronik.com/wp-content/uploads/2022/04/MD-Lieferantenkodex_EN.pdf).
9. Necessary packaging materials are, unless otherwise agreed, to be provided by the supplier on the basis of the packaging instructions submitted to the supplier. The supplier is to bear the costs that may be incurred for returning any reusable packaging or empties that may be used, as well as for cleaning, repairing and replacing them should this be necessary for wear and tear or because of they were lost.
10. The supplier has to include to his shipment or submit to MD all the relevant documents that are necessary for the delivery such as delivery note, barcode label as specified by the applicable VDA standard (VDA 4994), as amended from time to time, consignment note, commercial invoice, individual invoice for all shipments to European plants including product numbers, as well as possible export declarations for shipments to countries outside the EU in line with the requirements of the country of destination free of charge. Furthermore, the supplier has to submit to MD - if applicable - any documents required for acceptance or release, operation, maintenance, repair and customs clearance such as initial sample test reports, test reports, factory certificates, drawings, plans, lab reports, ELV reports, operating or assembly and/or processing instructions, repair instructions, material and/or test certificates once or on request free of charge. It is imperative for the MD material number to be specified on all delivery documents in which materials included in the shipment are listed.

**IV. Changes in obligor's performance (Leistung)**

1. Where it has become apparent in the course of performance of the contract that it will be necessary or could be advisable to derogate from the originally agreed specifications, the supplier is to notify MD thereof without undue delay. In response to such notice, MD will notify the supplier whether MD intends to agree to the proposed changes or not.
2. MD reserves the right to change the obligor's performance (Leistung) even after formation of contract insofar as the supplier can be reasonably expected to tolerate such change or insofar as this is customary in the industry. When changing the obligor's performance (Leistung), MD agrees to adequately take the effects of such changes into consideration including, but not limited to, effects on costs (higher or lower costs) or delivery dates.
3. The supplier must obtain MD's consent including repeated confirmation of a purchase order already placed before the supplier uses tools, input material or manufacturing processes other than those approved by MD for series parts.
4. MD has the right to terminate the contract at any time by giving written notice, stating the reason for such termination, to the extent that it is no longer possible for MD to use the products ordered within its own business operations, for circumstances that occurred following the formation of contract. Where such a case occurs, MD agrees to compensate the supplier for the partial performance already rendered by the supplier unless it would be possible for the supplier to use the partial performance rendered for other purposes.

**V. Delivery dates and delay in delivery**

1. The delivery date specified in the purchase order or in MD's delivery schedule is deemed to be binding. Delivery date means date of arrival at the MD location specified in the purchase order / delivery schedule. Where, based on the Incoterm agreed upon between the parties, the product needs to be collected by MD, the supplier has the obligation to give MD's forwarding agent timely notice of the readiness of the shipment of goods for collection on behalf of and pursuant to the requirements of the ordering MD location. Early delivery will only be tolerated on agreement and with the prior written consent of MD.
2. The supplier undertakes to notify MD in writing without undue delay, stating the reasons as well as the likely duration of the delay, as soon as it has become apparent for the supplier that it will not be possible to adhere to the delivery schedule.
3. Where it is possible to determine on the basis of the contract the day on which delivery must be made at the latest, the supplier is deemed to be in default as this day goes without delivery having been made; MD does not have the obligation to send the supplier a reminder.
4. Where the supplier's shipment is delayed, MD may exercise its legal rights and remedies without limitations.
5. Without prejudice to the foregoing, MD has the right to claim from the supplier, as from the date of occurrence of the delay in delivery, payment of a contractual penalty totalling 0.5% per week (full week or not) up to a maximum of 5% of the contract value affected by the delay (in total) unless the supplier can provide evidence that MD has, in fact, not incurred or suffered a damage or loss (Schaden) or the actual damage or loss incurred or suffered is significantly lower, i.e. a minimum of 10% lower than the contractual penalty claimed. MD is not to be precluded by the foregoing from providing evidence to the effect that damage or loss in excess of the percentage specified in the first sentence has been incurred or suffered.

**VI. Transfer of risk / documents / customs / export**

1. Unless otherwise agreed in writing or stated in the purchase order, DAP (Delivered At Place MD ordering party's address, Incoterm 2020) is deemed to have been agreed upon as delivery term.

8. 迈恩德的供应商承诺已知晓并遵守“迈恩德供应商行为准则”中规定的规则并且视情况要求其分供方也遵守该准则。“迈恩德供应商行为准则”可在如下网址进行查看 [https://www.md-elektronik.com/wp-content/uploads/2022/04/MD-Lieferantenkodex\\_EN.pdf](https://www.md-elektronik.com/wp-content/uploads/2022/04/MD-Lieferantenkodex_EN.pdf).

9. 除非另有约定，否则供应商应根据向其提交的包装指示提供必要的包装材料。对于退回以及因磨损而必须对其进行清洗、修理和更换或者已丢失的任何可重复使用包装或空罐，由供应商承担据此产生的费用。

10. 供应商必须在其装运中一并随附或者免费向 MD 提交所有必要的交付相关文件，包括但不限于：交货单、适用于经不时修订的 VDA 标准 (VDA 4994) 所指定的条形码标签、托运单、商业发票、发往欧洲工厂所有货物的单独发票 (含有产品编号)，以及在运往欧盟以外国家/地区时可能需要符合目的地要求的出口申报单等。此外，在适用的情况下，供应商必须一次性或应要求免费向 MD 提交验收或发布、运营、维护、维修和清关所需的任何文件，例如初始样品检测报告、检测报告、工厂证书、图纸、计划、实验室报告、ELV 报告、操作或组装和/或处理说明、维修说明、材料和/或检测报告。货物中已列出的所有材料均必须在其交货凭证中注明 MD 材料编号。

**IV. 债务人履约变更 (Leistung)**

1. 如果在履行合同的的过程中明显有必要或建议放宽最初约定的规格，则供应商应立即将该情况通知 MD。MD 将在收到该等通知后，通知供应商其是否同意有关变更的提议。
2. 即使可以合理预期供应商可容忍该等变更或者该情况为行业惯例，MD 仍然保留变更债务人履约 (Leistung) 的权利。如果变更债务人的履约 (Leistung)，则 MD 同意充分考虑该等变更的影响，包括但不限于对成本 (成本增加或减少) 或交付日期的影响。
3. 供应商必须先取得 MD 的同意 (包括再次确认已下达的订单)，才能将未经 MD 批准的工具、原料或制造工艺用于系列零件。
4. 如果 MD 在合同成立后，不可能继续在其自身的业务运营中使用已订购的产品，则其有权在已发出书面通知说明终止原因的情况下随时终止合约。如果发生该等情况，除非供应商有可能将已履约部分用于其他目的，否则 MD 同意就供应商已履约的部分作出补偿。

**V. 交付日期及交付延误**

1. 采购订单或者 MD 的交付计划表中指定的交付日期被视为具有约束力。交付日期是指送达采购订单/交付计划表中指定 MD 地点的日期。根据双方同意的《国际贸易术语解释通则》，供应商有义务就 MD 需要收取的产品，将代表并符合下单 MD 公司要求的货物装运已准备就绪以供收取的情况，及时通知 MD 的货运代理。只有在获得 MD 事先书面同意的情况下，才能提前交付。
2. 供应商承诺在明显无法按照交付计划表交货时，立即以书面形式通知 MD，并说明理由以及可能的延误时间。
3. 如果可以根据合同确定最迟的交付日期，则供应商将在并未于该日交付货物的情况下被视为违约，而 MD 并无义务就此向其发出提醒。
4. 如果供应商的装运有所延误，则 MD 可以不受限制地行使其合法权利和补救措施。
5. 在不影响上述规定的情况下，MD 有权向供应商提出索赔，合同违约金金额为自交付延误之日起，每周按受延误影响合同价值的 0.5% (无论是否已满一周) 计算，最多不超过该等价值的 5% (合计)。除非供应商能够提供证据证明 MD 实际上并未产生或遭受损害或损失 (Schaden) 或该实际损害或损失明显较低，即至少比索赔的合同违约金低 10%。上述规定并不妨碍 MD 提供证据表明已产生或遭受超过第一句中所述百分比的损害或损失。

**VI. 风险转移/单证/海关/出口**

1. 除非另有书面约定或采购订单中另有说明，否则 DAP (在 MD 订购方地址的所在地交付，《2020 年国际贸易术语解释通则》) 被视为已约定的交付条款。

2. Each and every delivery is to be accompanied by a delivery note stating the purchase order number as well as the purchase order item. Invoices are to be sent to MD at the same time as the goods are dispatched. Order confirmations, delivery notes, dispatch notes and invoices must specify MD's purchase order number, part number or cost centre number. On the delivery note, the supplier is to provide information on customs tariff number and country of origin at item level.
  3. With respect to each shipment, the supplier is - unless otherwise agreed - to comply with the customs and/or NAFTA obligations, the requirements as to origin marking and labelling, the requirements of the country of destination regarding invoicing and documentation as well as the requirements as to evidence for VAT purposes. Unless otherwise agreed in writing on a case-by-case basis, the supplier is to obtain any export licences and permits that may be required. Where specifically agreed otherwise, the supplier is to obtain the necessary information that MD requires to obtain these licences and permits. The supplier also has the obligation to inform MD without undue delay if the delivery, or parts thereof, is/are subject to export restrictions under German or any other law.
  4. The supplier agrees to fully exempt MD from liability against any and all claims that may be asserted against MD by public authorities or any other third parties for the supplier's non-compliance with export control obligations and undertakes to indemnify MD against any and all losses and costs that may be incurred as a result.
  5. It is the duty of the supplier to check whether i) the products are included in the export list or dual-use regulation in accordance with German export regulations and, if so, under which export list number they are listed and whether an export licence will have to be obtained for them, and ii) whether they are subject to US Export Control Regulations. If the products are subject to US Export Control Regulations or Export Administration Regulations, the corresponding Export Control Classification Number (ECCN) and, if applicable, exclusions/exemptions from Export Control Regulations or export licence (e.g. license exception)) must be indicated. Based on applicable legal requirements, all delivery notes and invoices must clearly state the product classification according to export control regulations. If the goods are not included on the German export list (schedule AL to the Foreign Trade and Payments Ordinance) and/or US Commerce Control List, this information must also be stated on the commercial documents (e.g. AL number: N/A, ECCN No.: N/A). Alternatively, this information may also be sent by e-mail to the following e-mail address: [emea.trade.compliance@md-elektronik.de](mailto:emea.trade.compliance@md-elektronik.de).
  6. MD will perform the contract subject to the proviso that no obstacles preventing MD from performance exist under national or international foreign trade regulations or embargos and/or any other sanctions.
  7. Suppliers with a registered office in the European Community or in Turkey have the obligation to provide MD with evidence of the preferential status of the goods supplied by means of a supplier's declaration, using the text prescribed by law, as far as possible with a long-term supplier's declaration. Supplier declarations which do not meet the legal requirements will not be accepted. Relevant evidence is to be provided and submitted by the supplier without MD having to specifically ask for it. The supplier is to bear any and all costs (e.g. for customs duties) that may arise from failure to submit proof of preferential origin. The supplier also has the obligation to make reliable statements on the non-preferential origin (according to ISO-ALPHA-2 Code) of the goods supplied and to provide suitable evidence thereof where required.
  8. The supplier has the obligation to inform MD promptly in writing if declarations for products having preferential origin status or non-preferential origin documents, or part thereof, become invalid, or if any changes occur.
  9. The supplier undertakes to safeguard punctual delivery to MD by participating in the relevant international security programmes (e.g. C-TPAT/ AEO or Air Cargo Security). Where the supplier does not participate in any of these security programmes, the supplier agrees to issue a declaration of security already with the first shipment. Declarations of security must be made available repeatedly at annual intervals.
2. 每次交付均应附有注明采购订单号以及采购订单项目的交货单。发票应在发货的同时寄送给 MD。必须在订单确认函、交货单、发货单和发票上注明 MD 的采购订单号、零件号或成本中心号。供应商应在交货单上的项目级别栏提供有关海关关税号和原产国的信息。
  3. 除非另有约定，否则对于每批货物，供应商均应遵守海关和/或 NAFTA 义务、原产地的标记和标签要求、目的地有关发票和文件的要求以及有关增值税证明的要求。除非另有根据具体情况而定的书面约定，否则供应商应取得可能需要的任何出口许可和许可证。除非另有明确约定，否则供应商应获得 MD 为取得这些许可和许可证所需的必要信息。供应商也有义务在交付或部分交付受到德国或任何其他法律的出口限制时立即通知 MD。
  4. 对于公共当局或任何其他第三方就供应商并未遵守出口管制义务的行为而向 MD 提出的任何及所有索赔，供应商完全同意免除 MD 的责任，并承诺赔偿 MD 因此而产生的任何及所有损失和费用。
  5. 供应商有责任检查 i) 根据德国出口规定，产品是否已列入出口清单或两用条例，如果已列入，则其列于哪些出口清单编号之下以及是否必须为其取得出口许可证；和 ii) 产品是否需要遵守美国出口管制法规。如果该产品需要遵守美国出口管制法规或出口管理条例，则其必须注明相应的出口管制分类号 (ECCN，以及在适用的情况下，许可证例外之类的出口管制法规或出口许可证除外情况/豁免)。根据适用的法定要求，所有交货单和发票均必须根据出口管制法规明确标明产品分类。如果货物并未列入德国出口清单 (《德国对外贸易和支付条例》的附表 AL) 和/或《美国商业管制清单》中，则该信息也必须在商业单证中注明 (例如，AL 号：N/A，ECCN 号：N/A)。或者也可以通过电子邮件将该信息发送到以下电子邮件地址：[emea.trade.compliance@md-elektronik.de](mailto:emea.trade.compliance@md-elektronik.de)。
  6. MD 将在不存在国家或国际对外贸易条例或禁运和/或任何其他制裁的条件下履行本合同。
  7. 在欧洲共同体或者土耳其拥有注册办事处的供应商，有义务通过供应商申报，使用法律规定的文本向 MD 提供所供应货物优惠待遇的证据，并尽可能附上长期供应商申报。不符合法定要求的供应商申报将不予接受。供应商应在无需 MD 专门提出要求的情况下提供并提交相关证据。供应商应承担因未能提交优惠原产地证明而可能产生的任何及所有费用 (例如关税)。供应商也有义务对所供应货物的非优惠原产地 (根据 ISO-ALPHA-2 代码) 作出可靠的声明，并在需要时提供适当的证据。
  8. 如果具有优惠原产地待遇或非优惠原产地文件的产品或部分产品申报失效，或者如果发生任何变化，则供应商有义务及时以书面方式通知 MD。
  9. 供应商承诺通过参与相关的国际安全计划 (例如 C-TPAT/AEO 或航空货运保安)，确保按时向 MD 交付。如果供应商并未参与任何上述安全计划，则其同意已在第一批货物中发出保安声明。必须每年定期重复提供保安声明。

**VII. Prices and payment**

1. The price indicated in the purchase order is deemed to be binding and, unless otherwise agreed in writing, includes packaging as well as transportation costs by analogy with Incoterm 2020 DAP MD ordering party's address. No extra fees may be charged in arrears.
2. Invoices may only be processed to the extent they identify the complete postal address, MD order number, MD part number, order quantity and agreed price, otherwise they will be considered not to have been received as they may not be processed. The requirements stipulated by law for proper invoicing must be complied with.
3. In case of delivery of faulty goods or inadequate performance, MD has the right to withhold payment until conforming performance has been made without MD losing the right to deduct any discounts, cash or otherwise, or like concessions that it may be entitled to from the invoice total.
4. Unless otherwise agreed in writing, payment for goods or services accepted without complaint or objections is to be made net within 90 days of the invoice date.

**VIII. Warranty / quality / minimum life / service life**

1. The supplier, in capacity of guarantor, agrees to assume a contractual guarantee vis-à-vis MD to the effect that any performance rendered by the supplier will be state-of-the-art, conform to applicable statutory provisions as well as the rules, norms, standards and regulations stipulated by public authorities, social accident insurance institutions as well as trade associations, with the guarantor being held

**VII. 价格与支付**

1. 除非另有书面约定，则在采购订单中标明的价格被视为具有约束力，且其中包括比照《2020 年国际贸易术语解释通则》中所述 DAP (在 MD 订购方地址交付) 的包装以及运输费用。拖欠款项不收取任何额外费用。
2. 发票仅能在标明完整的邮政地址、MD 订单号、MD 零件号、订单数量和约定价格的情况下予以处理，否则可能会在不予处理的情况下被视为未收到。必须遵守法律规定的要求，正确开具发票。
3. 在交付有缺陷的货物或未充分履约的情况下，MD 有权在供应商做出符合要求的履约前不予付款，且无损 MD 享有的从发票总额中扣除任何折扣、现金或其他或者类似优惠的权利。
4. 除非另有书面约定，否则对于无投诉或无异议验收的货物或服务，应在发票日期后 90 天内付清其款项。

**VIII. 保修/质量/最低寿命/使用寿命**

1. 供应商以担保人的身份同意对 MD 承担合同规定的担保，该担保内容为供应商提供的任何履约均为使用最先进技术、遵守适用的法律规定以及公共机构、社会意外保险机构和行业协会规定的规则、规范、标准和规定，即使



responsible for non-conformity of performance even in the absence of fault or intent. The supplier must obtain the prior written consent of MD for derogating from these rules and regulations on a case-by-case basis. Warranty obligations established by statute will not be limited by any such consent given.

The supplier, in capacity of guarantor, also agrees to assume a contractual guarantee vis-à-vis MD even in the absence of fault or intent to the effect that any and all capital goods and services that may be supplied or rendered will conform to the requirements specified above as well as the respective purchase order and, if applicable, conform to specifications, drawings, CAD data, descriptions or samples transmitted or specified by MD, are fit for purpose and capacity as intended and include any and all markings, labelling and certification that may be required for using them for such purposes at the intended place, location or site.

2. The supplier agrees to notify MD, in writing without undue delay, of any reservations the supplier may have as to the type of design contemplated by MD. Changes may only be implemented subject to MD's written consent. This is without prejudice to the binding nature of the originally scheduled delivery date.
3. Within the scope of the incoming goods inspection, MD will only check the identity and quantity of goods based on the delivery documents and it will only check the shipment for the existence of patent damage in transit. MD agrees to notify the supplier of any defects or non-conformities which are not directly noticed when performing the incoming goods inspection described above as soon as such defects or non-conformities have been discovered in the ordinary course of business. In this respect, the supplier waives its right to plead the defence of delay in notification of defects or non-conformities. The supplier agrees to organise its quality management and quality assurance measures in such a way as to take such reduced scope of performance of incoming goods inspection by MD into consideration.
4. The supplier agrees to adopt the zero-error goal and must continuously optimize its performance accordingly. If MD discovers deficiencies, MD will notify supplier promptly. Within 24 hours, MD is to be notified of the initial or any final analysis results and of the measures that have immediately been taken on the basis of an 8D report. MD must receive a completed 8D report no later than ten (10) working days after issuing the complaint. MD reserves the right to unilaterally reduce the Supplier's invoice related to costs from complaints and, if necessary, issue an adequate credit note after clarification of the matter.
5. MD is not deemed to have waived any warranty claims by accepting or approving of any samples or specimen samples submitted.
6. It is agreed that, in the following cases, MD itself is to have the right, after having notified the supplier thereof, to remedy the defect at the expense and risk of the supplier or to cause third parties selected by MD to remedy the defect: if i) there is a risk of more extensive loss or damage being caused or incurred, ii) otherwise there is a risk that MD, in turn, will be in delay with delivery to its customers, iii) the supplier failed to remedy the defect or perform work properly within the time allowed for performance, iv) the supplier refused to remedy the defect, v) MD is required by law or orders given by public authorities to prevent a risk or vii) MD may, for other reasons, not reasonably be expected to tolerate repair or replacement.
7. Claims for defects or non-conformities are to become statute-barred once a period of eighty-four (84) months has expired since initial registration of the vehicle or installation of spare parts unless the law stipulates a longer period of limitation for claims for defects or non-conformities.  
  
In derogation from the above, a warranty period of twenty-four (24) months is agreed to apply to capital goods. The warranty period is to run from acceptance of the capital goods at the final location to be occurred.  
  
In addition, any warranty period already running for any delivered parts that could not remain in operation during the inspection of the defect/non-conformity and/or remedying of the defect is to be extended by the time of the business interruption. In the event of delivery of goods free of defect, remedying of defect or proper re-performance of work, the statutory warranty period for repaired or replacement parts is agreed to start anew upon completion of remedying of defect/redone work or delivery of the replaced parts to MD.
8. Unless otherwise agreed, all products are deemed to have a minimum shelf life of one (1) year from delivery to MD prior to processing by MD.
9. The products must, generally, be designed in such a way as to ensure that they are functional over the lifetime of the vehicle, i.e. for at least fifteen (15) years from the date of initial registration or a kilometric performance of at least three hundred thousand kilometres (300,000 km) of the vehicle. Where a shorter service life is agreed for a product in writing on a case-by-case basis, such service life must, as a minimum, cover the entire warranty period. A functional failure of a product in the vehicle before expiry of the respective applicable service life is generally to be regarded a defect with respect to which the supplier may not invoke the defence of expiry of the warranty period.
10. Where a complaint has been made, the supplier is to prepare, without undue delay, however, no later than twenty-four (24) hours following the complaint, an 8D report and to initiate, without undue delay, an immediate response to rule out further complaints as well as to notify MD of any such measures taken. The completed 8D report must be submitted to MD by the supplier no later than ten (10) working days after issuance of the complaint.
11. MD is to recover outlay incurred by MD due to the defectiveness of the goods by the supplier paying the following fee per warranty case: warranty case at MD undertakings in Europe: EUR 75.- warranty case at MD undertakings in Asia: CNY 750.-

不存在过失或故意，担保人也应对不合格的履约负责。供应商必须在根据具体情况获得 MD 事先书面同意的情况下，才能减损上述规则和规定的效力。法律规定的保修义务不受任何该等同意的限制。

供应商仍以担保人的身份，同意在不存在错误或故意的情况下对 MD 承担合同规定的担保。该担保内容为所供应的任何及所有资本货物和服务，均符合上述特定要求以及相应的采购订单，以及（如适用）MD 发送或指定的规格、图纸、CAD 数据、描述或样品，并适用于预期目的和能力，且包括出于该等目的而在预期地点、位置或场所使用所需的任何及所有标记、标签和证书。

2. 供应商同意，如果其对 MD 拟设计的类型有任何保留意见，则立即书面通知 MD。未经 MD 书面同意，不得实施任何变更。这不影响最初预定交付日期的约束性。
3. 在待收货物检查范围内，MD 仅会根据发货凭证检查货物的特性和数量，且仅会检查货物是否存在运输中造成的明显损坏。MD 同意在日常业务过程中，一旦发现在待收货物检查时未能直接注意到的任何缺陷或不合格，即刻将该等情况通知供应商。就此而言，供应商放弃其以延迟通知缺陷或不合格情况为由进行辩护的权利。供应商同意组织其质量管理和质量保证措施，以便 MD 缩小待收货物检查的执行范围。
4. 供应商同意以零误差为目标，并且必须据此不断优化其履约。如果 MD 发现缺陷，则及时通知供应商。供应商应在 24 小时内告知 MD 初步或任何最终的分析结果，以及已根据 8D 报告立即采取的措施。MD 应在提出投诉后十 (10) 个工作日内收到完整的 8D 报告。MD 保留单方面从供应商发票中扣除相关投诉费用，并且如有必要，在澄清问题后出具足量贷记单的权利。
5. 不应将 MD 验收或满意任何所提交样品或标本样品的行为视为其放弃任何保修索赔。
6. 双方同意，在以下情况下，MD 本身有权在就该情况通知供应商后，自行对缺陷进行补救，但费用和 risk 应由供应商承担，或者由 MD 选择的第三方对缺陷进行补救：i) 存在引起或造成更大范围损失或损坏的风险；ii) 存在转而导致 MD 延误对其客户交付的其他风险；iii) 供应商未能对缺陷进行补救或者未能在履约宽限时间内正确履约；iv) 供应商拒绝绝对缺陷进行补救；v) 法律规定或公共当局下达命令要求 MD 预防风险；或者 vii) MD 出于其他原因而不合理预期可以容忍维修或更换。
7. 对缺陷或不合格的索赔时效期将在自车辆初始登记或安装备件起八十四 (84) 个月届满，除非法律对缺陷或不合格的索赔有更长的时效期规定。  
  
在不减损上述规定效力的情况下，双方同意为资本货物提供的保修期为二十四 (24) 个月。保修期从在最终地点发生的资本货物验收时算起。  
  
此外，对于在缺陷和/或不合格检查和/或缺陷补救期间无法继续运行的任何已交付零件，其保修期将相应延长到业务中断时间。  
如果交付的货物没有任何缺陷、已采取补救措施或适当地重新开始运作，则双方同意在在缺陷补救完成/重新运作或向 MD 交付更换零件后，重新开始计算经维修或更换零件的法定保修期。
8. 除非另有约定，否则所有产品的最低保质期均被视为从向 MD 交付，再由 MD 进行加工时算起一 (1) 年。
9. 一般而言，产品的设计方式必须确保其在车辆的使用寿命即自车辆初始登记之日起至少十五 (15) 年内或至少三十万公里 (300,000 km) 的行驶公里数内，能够正常运作。如果根据具体情况而书面约定缩短产品的使用寿命，则该产品的使用寿命必须至少涵盖整个保修期。在相应的适用使用寿命期满之前，车辆中产品的功能故障通常被视为缺陷，而供应商不得就该缺陷援引保修期届满的抗辩。
10. 供应商应在 MD 提出投诉后二十四 (24) 小时内编制一份 8D 报告，并为防止产生进一步投诉而立即做出回应，以及将所采取的任何该等措施通知 MD。供应商必须在 MD 提出投诉后十 (10) 个工作日内将完整的 8D 报告交给 MD。
11. MD 将按照以下费用标准，就各个保修个案向供应商追偿由于其货物缺陷而导致 MD 所发生的支出：  
MD 在欧洲的保修个案：75 欧元

warranty case at MD undertakings in Mexico: MXN 1,500.-  
MD has the right to submit evidence of having incurred a higher claim for recovery of expenses. Likewise, the supplier may, at its liberty, submit evidence to the effect that the actual claim for recovery of expenses is lower than the amount claimed or that no expenses have been incurred at all.

12. During the period from receipt of MD's written formal notice of defect by the supplier (with the notice reaching the sphere of control of the recipient in such a way that in normal circumstances the recipient may be expected to shortly take note of the statement) until the supplier takes the decision to reject the claims or gives notice of remedying of defect or otherwise states that the supplier will not continue to negotiate on the claims, the limitation period for warranty claims will be suspended, i.e. this period will not be included in the calculation of the limitation period of the warranty claims.
13. MD reserves the right to return to the supplier, at the supplier's expense, any and all products in derogation of MD's specifications in return for a credit note, refund or replacement.

**IX. Liability / limitation period**

1. The supplier's liability is agreed to be governed by sections VIII and X. It is not possible to exclude liability, even for slight negligence.
2. The limitation periods pursuant to section VIII have been agreed to apply; the limitation periods may not be reduced.

**X. Product liability**

1. Where MD is held liable for violation of official safety regulations or on the basis of domestic or foreign product liability rules and regulations for a fault in an MD product which is wholly or partly attributable to faulty goods of the supplier, MD has the right to assert a claim against the supplier for recovery of such loss or damage (Schaden) to the extent that it was caused by the goods delivered by the latter; alternatively, MD may demand that it be indemnified on first demand against the claims made by the third party. Where MD has the obligation to organise a recall campaign in relation to third parties due to a fault in a product supplied by the supplier, the supplier agrees to bear any and all costs incurred in connection with the recall campaign as specified in the preceding sentence. Where MD is to be held responsible, the supplier as the liable party also agrees to compensate MD for the costs of any precautionary replacement or recall campaign that may be required in the specific circumstances, even where such campaign has not been implemented based on a statutory or official order, with the amount payable by the supplier being reduced by the percentage by which MD as the aggrieved party contributed towards the loss or damage.
2. Where capital goods may not be used by MD for the purpose contemplated in the contract because the supplier intentionally or negligently failed to make proposals or provide advice or made faulty proposals or provided faulty advice either prior to or following formation of contract or because of intentional or negligent breach of other collateral contractual obligations - including, but not limited to, instructions for how to use and maintain the item supplied, the provisions of section VIII apply. This is without prejudice to the right to assert additional statutory rights.
3. The supplier undertakes to maintain an extended, appropriate product liability insurance policy, covering the costs of installation as well as removal, and recall campaign insurance with an appropriate overall sum insured for personal injury/damage to property with respect to series parts and to confirm such insurance cover in writing once a year without having to be prompted to do so. The sum insured is deemed to be appropriate within the meaning above if it amounts to half its annual turnover generated by the supplier in its business relationship with MD, however, to a minimum of five million euros (EUR 5,000,000.00). This is without prejudice to any other claims for damages MD may have.
4. The supplier agrees to maintain a quality assurance system which is suitable in terms of nature and scope as well as state-of-the-art and, upon request, to provide MD with evidence of such system being in place. To the extent MD deems it necessary to do so, the supplier agrees to enter into a quality assurance agreement with MD to this effect.

**XI. Spare parts supply**

1. The supplier agrees to make sure that spare parts for the items supplied are available for a period of at least fifteen (15) years following end of serial production; if the serial production has not yet been phased out, spare parts must be available for a period of at least fifteen (15) years following termination of the contract with MD.
2. As far as capital goods are concerned, spare parts and service must be available for MD for a period of fifteen (15) years following delivery.

**XII. Customer nominated parts**

If the products are procured from the supplier and MD itself has not taken a commercial decision to do so, but rather because a MD customer nominated the supplier's products ("customer nominated parts"), the following rules are to apply:

1. When or before placing the first purchase order, MD agrees to inform the supplier in an informal way of the fact that these parts are customer nominated parts. It suffices to inform the supplier once the first time; it is not necessary to renew or repeat such notice.

MD 在亚洲的保修个案：750 元人民币  
MD 在墨西哥的保修个案：1,500 墨西哥比索  
MD 有权提交证据，证明已发生更高费用追偿索赔额。同样，供应商可以自由提供证据，证明实际的费用追偿索赔额低于所要求的金额，或者根本没有发生任何费用。

12. 从供应商收到 MD 的正式书面缺陷通知书（在通知到达接收者控制范围时，在正常情况下可以预期接收者会很快注意到该声明）起，到供应商决定拒绝索赔或发出缺陷补救通知，或以其他方式声明供应商将不再继续就索赔进行谈判为止，保修索赔的时效期予以暂停，即该期限将不纳入保修索赔时效期的计算。
13. MD 保留将任何不符合 MD 规格的产品退回供应商以换取贷记单、退款或更换的权利，由此产生的费用由供应商承担。

**IX. 责任/时效期**

1. 供应商的责任受第 VIII 和第 X 条的规定所约束。即使只存在轻微过失也不排除其责任。
2. 约定适用第 VIII 条的时效期；时效期不得缩短。

**X. 产品责任**

1. 如果供应商提供的次品全部或部分导致 MD 的产品出现故障，从而令 MD 被以违反公共安全规定或根据德国或外国生产责任规定和条例而被追究责任，则在该等损失或损害是由供应商所交付货物引起的情况下，MD 有权向供应商提出索赔，追索该等损失或损害 (Schaden)，或者 MD 可以在第三方第一次要求索赔时，要求获得相应赔偿。如果由于供应商供应的产品出现故障而导致 MD 有义务向第三方组织召回活动，则供应商同意承担与前句所述召回活动有关的任何及所有费用。如果 MD 被追究责任，则作为责任方的供应商还同意赔偿 MD 在特定情况下可能需要进行的任何预防性更换或召回活动的费用，即使该活动并未根据法律规定或官方命令进行，供应商也应按比例向作为受损方的 MD 支付由此产生的损失或损害。
2. 如果由于供应商在合同成立之前或之后出于故意或过失而未能提出建议或者提出或提供错误的建议，或者出于故意或过失而违反其他相关的合同义务（包括但不限于如何使用和维护所提供物品的说明），而导致 MD 未能将资本货物用于合同的预期用途，则该情况适用于第 VIII 条的规定。这不影响主张其他法定权利的权利。
3. 供应商承诺为系列零件保持一份适当的延长性产品责任保单，涵盖安装和拆除费用以及召回活动保险，并为人身伤害/财产损失投保适当的总保额，且每年无需催促即以书面形式确认一次该等保单。如果保额达到供应商在与 MD 的业务关系中所产生年营业额的一半，且不低于 500 万欧元 (EUR 5,000,000.00)，则被认为是上述所指的适当。这不影响 MD 可能提出的任何其他损害赔偿要求。
4. 供应商同意维持一个在性质和范围以及最先进技术等方面均适用的质量保证体系，并应 MD 要求提供该等体系落实到位的证据。在 MD 认为有此必要的情况下，供应商同意就此与 MD 签署质量保证协议。

**XI. 备件供应**

1. 供应商同意，保证在批量生产结束后至少十五 (15) 年内提供所供应物品的一系列备件，如果尚未逐步淘汰该批量生产，则必须在与 MD 终止合同后至至少十五 (15) 年内提供备件。
2. 就资本货物而言，必须在交付后十五 (15) 年内为 MD 提供备件和服务。

**XII. 客户指定零件**

如果 MD 本身并未作出从供应商处采购产品的商业决策，而是由于 MD 的客户指定采购供应商的产品（“客户指定零件”），则适用以下规则：

1. MD 同意在下达第一个采购订单时或之前，以非正式的方式通知供应商这些零件是客户指定的零件。MD 在第一个订单中通知供应商一次即可；不需要重新作出或重复该等通知行为。

2. The supplier is aware of the fact that, as far as the procurement of customer nominated parts is concerned, MD has substantially limited commercial options. The supplier therefore agrees and acknowledges that stricter liability rules will apply to customer nominated parts than to products reviewed and selected by MD itself.
3. The warranty period for customer nominated parts is eighty-four (84) months from the date of initial registration of the motor vehicle in which the customer nominated part was installed.
4. If an MD customer notifies MD of a defect or non-compliance of a customer nominated part, such defect/non-compliance will be presumed to have arisen in the supplier's sphere of control and it will also be presumed that the supplier is to be held responsible for it. The supplier has the right to provide evidence to the contrary.
5. The supplier agrees to hold MD harmless and indemnify MD at first request from and against any and all claims that may be made against MD for legal or material defects in a customer nominated part plus to fully defend MD against any such claims at the supplier's expense.

**XIII. Intellectual property rights**

1. The supplier assumes a contractual guarantee to the effect that any and all supplies made are free and clear of third-party intellectual property rights and that, in particular, no patents, licences or other property rights held by third parties are infringed by delivery and utilisation of the items supplied, with the supplier as the guarantor being held responsible for any non-conformity even in the absence of fault or intent. In this context, the supplier is aware that the products supplied by the supplier may be used around the globe.
2. The supplier holds MD and MD's customers harmless and indemnifies MD and MD's customers from and against any and all claims that may be asserted by third parties for infringement of property rights, if any, and also agrees to bear any and all costs that may be incurred by MD for this reason.
3. MD has the right to obtain permission to use the items and services supplied from the holder at the supplier's expense unless disproportionately high costs would thus be incurred by the supplier.

**XIV. Retention of title, provision, samples, models, tooling**

1. MD retains ownership of any and all parts provided to the supplier. Prior agreement with MD is required for processing or transforming at the supplier's premises in derogation from processing or transformation agreed with MD. Where MD processes items provided by the supplier, combines two or more such moveable things with each other in such a way that they become essential parts of a uniform thing or intermixes such things in a way that they cannot be separated (finishing), MD is to be deemed the manufacturer and to become, by operation of law, the owner (Eigentümer) of the product at the latest upon completion of finishing.
2. MD retains ownership as well as any intellectual property rights with respect to samples, models, tooling, product information, documents, etc. paid for or provided by MD. The supplier has the obligation to use the samples, models, tooling exclusively for the purpose of manufacturing the goods ordered by MD and, upon request, to return any and all of them at any time unless the supplier still needs them for completing specific orders for MD. Any copies made by the supplier must be proven to be destroyed in such a case. This is without prejudice to the right to routinely create back-up copies or the duty to comply with legal obligations to retain documents.
3. The supplier also has the obligation to affix proof of ownership by MD to any and all samples, models, tooling, product information, documents etc. that may be transferred by MD.
4. Orders for tooling are subject to MD's supplementary terms and conditions for tooling orders.
5. The supplier may only reserve ownership to the extent the reservation of ownership relates to MD's payment obligations for the specific products with respect to which the supplier retains title. Extended reservation of title and prolonged reserved ownership, in particular, are agreed to be inadmissible.

**XV. Confidentiality**

1. The supplier undertakes to keep confidential any and all information arising from such contractual relations unless such information is generally known, has been lawfully acquired from third parties or has been developed by third parties independently, and to use the information exclusively for the purposes of this contract. Proprietary information includes, but is not limited to, technical data, purchase quantities, prices as well as information on products and product developments, on current and future research and development projects, customer data as well as any and all MD business information.
2. The supplier furthermore has the obligation to keep confidential any and all illustrations, drawings, calculations and other documents received and to disclose them to third parties only with the express consent of MD unless the information therein contained is generally known.
3. The supplier agrees to also impose the confidentiality obligations above on its employees and sub-contractors.

2. 供应商知悉：就客户指定零件的采购而言，MD 的商业选择范围非常有限。因此，供应商同意并确认，与经 MD 本身审查和选择的产品相比，客户指定零件将适用更严格的责任规则。
3. 客户指定零件的保修期为装入客户指定零件的车辆首次登记之日起八十四 (84) 个月。
4. 如果 MD 的客户就客户指定零件的缺陷或不合格向 MD 发出通知，则该等缺陷 / 不合格将被视为是在供应商的控制范围内发生的，而供应商也被视为对此负有责任。供应商有权提供相反的证据。
5. 供应商同意，在 MD 首次就收到因客户指定零件的法定或重大缺陷而针对 MD 提出的任何及所有索赔作出要求时，让 MD 免于遭受损害并向 MD 作出赔偿，且自费针对该等索赔为 MD 进行充分辩护。

**XIII. 知识产权**

1. 供应商承担合同规定的担保，保证任何和所有供应品均不含第三方知识产权，特别是交付和使用所供应的物品不会侵犯第三方拥有的专利、许可或其他财产权，即使不存在故障或故意，供应商作为担保人也应对任何不合格负责。在此背景下，供应商知悉其所供应的产品可能在全球范围内使用。
2. 就第三方提出的侵犯财产权的任何及所有索赔（如有），供应商应使 MD 和 MD 的客户免受该索赔损害并作出相应赔偿，且同意承担 MD 由此产生的任何及所有费用。
3. MD 有权获得使用所供应物品和服务的所有人许可，但费用由供应商承担，除非供应商因此产生不成比例的高额费用。

**XIV. 保留所有权、提供物品、样品、模型、工具**

1. MD 保留提供给供应商的任何及所有零件的所有权。如果在供应商处进行的加工或改造需要放宽与 MD 约定的标准，则必须先与 MD 达成一致。如果 MD 对供应商所供应物品进行加工，将两种或以上该等可移动物品相互组合变成同一物品的必要部分，或者以无法分离的方式混合该等物品（最终加工），则 MD 应被视为制造商，并根据法律规定，最迟于完成最终加工时成为产品的所有者 (Eigentümer)。
2. 对于由 MD 支付或提供的样品、模型、工具、产品信息、文件等，MD 保留其所有权和任何知识产权。供应商有义务仅将该样品、模型和工具专门用于制造 MD 订购的货物，并要求随时退还任何及所有样品、模型和工具零件，除非供应商仍然需要用其来完成 MD 的特定订单。在这种情况下，供应商提供必须提供已销毁任何副本的证明。这不影响定期创建备份副本的权利或遵守法定义务保留文件的义务。
3. 供应商也有义务在 MD 可能向其转让的任何和所有样品、模型、工具、产品信息和文件等上张贴 MD 的所有权证明。
4. 模具订单应以 MD 有关模具订单的补充条款和条件为准。
5. 供应商仅能在 MD 对供应商保留所有权的特定产品负有付款义务的相关情况下保留所有权。特别是，不允许延长所有权的保留和长期保留所有权。

**XV. 机密**

1. 供应商承诺对该等合同关系中产生的任何及所有信息保密，除非该等信息为众所周知、已从第三方处合法获取或已由第三方独立开发，并且仅将该信息用于本合同目的。专有信息包括但不限于技术数据、采购数量、价格以及有关产品和产品开发的信息、有关当前和日后研究与开发项目的信息、客户数据以及所有的 MD 业务信息。
2. 供应商还有义务对收到的所有图解、图纸、计算和其他文件予以保密，并除非其中所含信息为众所周知，否则仅在获得 MD 明确同意的情况下将其披露给第三方。
3. 供应商同意还将向其雇员和分包商施加上述保密义务。



**XVI. Assignment**

The supplier's existing claims against MD may only be assigned with valid effect vis-à-vis MD to the extent MD is given prior written notice thereof and MD has given its consent in writing.

**XVII. Competitiveness**

1. In order to ensure the competitiveness of both parties as well as to safeguard mutual benefits, the supplier undertakes to disclose the product and manufacturing-specific cost structures as well as any and all factors affecting the costs (referred to as open-book calculation and disclosure of tooling costs).
2. In order to promote the competitiveness of both parties, the supplier must ensure cost-effective delivery of the best quality on an ongoing basis. For this purpose, prices are to be adjusted to market trends and, as is common in the automotive industry, to be geared towards the requirements of the MD customer. The supplier also has the obligation to independently identify, recommend, implement and pass on additional potential for cost reduction on an ongoing basis.
3. Products must be competitive. Where MD receives an offer from a competitor for a product at better terms and conditions, MD agrees to inform the supplier thereof. The supplier agrees to submit a comparable offer within five (5) working days of receipt of such notice. If the supplier fails to do so within the time allowed for submission of a comparable offer, MD has the right to completely undo legally binding orders, taking into account any purchase commitments that may have been agreed.

**XVIII. Final provisions**

1. The supplier does not have the right to pass on the order or parts of the order to third parties including, but not limited to, sub-contractors, without obtaining MD's prior written consent.
2. As soon as a temporary bankruptcy or insolvency administrator has been appointed for the supplier's affairs or bankruptcy/insolvency proceedings have been commenced regarding the supplier's assets, MD has the right to rescind the contract (Rücktritt) in part or as a whole.
3. Unless otherwise agreed in writing between the parties, these Purchasing Terms and Conditions are exclusively to be governed by national law (if applicable, law of the state/province) applicable at the registered office of the ordering MD location, as evidenced by the address indicated on the purchase order. Application of the UN Convention on Contracts for the International Sale of Goods (CISG) or other conflict of law provisions is hereby excluded.
4. Unless otherwise agreed between the parties in writing, the delivery address of the respective MD undertaking that placed the purchase order is the relevant place of jurisdiction as well as place of performance of delivery and services. MD reserves the right to commence proceedings at any other permitted place of jurisdiction.
5. Where individual clauses of these Purchasing Terms and Conditions are or become legally invalid, the validity of the remaining provisions is not to be affected by such partial invalidity. The invalid clause is to be replaced by a valid clause which corresponds to the meaning and purpose of the severed part to the greatest possible extent.
6. Individual agreements made with the supplier on a case-by-case basis (including collateral agreements, supplements and amendments) in any case take precedence over these Purchasing Terms and Conditions. The specific terms of any such individual agreement will be determined on the basis of a written contract or confirmation by MD in textual format (Textform) unless evidence may be provided to the effect that the written contract or confirmation are not to prevail.
7. Changes, amendments, cancellations and supplements to/of these Purchasing Terms and Conditions must be made in writing to be legally valid and effective. This also applies to a waiver of this written form requirement, if any.
8. The English version is the original version of these Purchasing Terms and Conditions. Where there are any discrepancies between the English and Chinese versions, the English version is deemed the only version which has legally binding effect.

- End of text of General Terms and Conditions -

**XVI. 转让**

仅在前先向 MD 发出书面通知并获得 MD 书面同意的情况下，供应商对 MD 现有索赔的转让才对 MD 有效。

**XVII. 竞争力**

1. 为确保双方的竞争力并维护共同利益，供应商承诺披露产品和制造专用的成本结构，以及影响成本的任何及所有因素（称为“工具成本的公开计算和披露”）。
2. 为提高双方的竞争力，供应商必须确保持续提供具有成本效益的最佳品质货物。为此，价格将根据市场趋势进行调整，并（如汽车行业的惯例）与 MD 客户的需求接轨。供应商也有义务持续独立地确定、推荐、实施并传达降低成本的其他可能性。
3. 产品必须具有竞争力。如果 MD 收到产品竞争对手提供的条款和条件更为优越的报价，则 MD 同意将该情况告知供应商。供应商同意在收到该等通知后五 (5) 个工作日内提交与其相当的报价。如果供应商未能在规定时间内提供与其相当的报价，则 MD 有权完全撤消具有法定约束力的订单，同时对可能已经达成的任何采购承诺加以考虑。

**XVIII. 最终条款**

1. 未经 MD 事先书面同意，供应商无权将订单或部分订单转交给第三方，包括但不限于分包商。
2. 一旦供应商的事务已指定临时破产管理人，或者已就供应商的资产启动临时破产/破产程序，则 MD 有权部分或全部撤销合同 (Rücktritt)。
3. 除非双方另有书面协议，否则本采购条款和条件仅受下单 MD 公司注册办事处所在地（以采购订单上注明的地址为证）的适用国家法律（如适用，则为州/省法律）管辖。本采购条款和条件不适用于《联合国国际货物销售合同公约》(CISG) 或其他有冲突的法律规定。
4. 除非双方另有书面协议，否则下达采购订单的相应 MD 所承诺的交货地址（所在地）即为拥有相应管辖权的司法管辖区，并且是交付和服务的履约地点。MD 保留在任何其他允许的司法管辖区提起诉讼的权利。
5. 如果本采购条款和条件中的个别条款在法律上或将在法律上无效或失效，则其余条款的有效性将不受该部分无效条款的影响。将尽可能用符合该分割部分的意义和目的的有效条款代替无效条款。
6. 在任何情况下，根据具体情况与供应商达成的个别协议（包括附加协议、补充协议和修订协议）均应优先于本采购条款和条件。任何该等个别协议的具体条款将根据 MD 的书面合同或确认函以文本格式 (Textform) 确定，可提供证据证明书面合同或确认函不具优势的情况除外。
7. 对本采购条款和条件的变更、修订、作废和补充，仅在以书面形式进行的情况下才具有法律方面的合理效力。本书面形式要求也适用于弃权（如有）。
8. 本采购条款和条件的原文以英文书就。如果英文版本与中文版本之间存在任何不一致之处，则英文版本被视为唯一具有法律约束力的版本。

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