

## 1 Relevant conditions

The legal relationship between the Principal and the provider of services and/or goods ("Agent") shall exclusively be subject to these GTCP. Any changes or amendments shall only be valid if made in writing and signed by both parties. The same shall apply with regard to any waiver of this written form requirement. Section 127 paras. (2) and (3) of the German Civil Code ("BGB") shall apply.

1.2 Principal hereby object to any counter confirmation, counter offer or other reference by the Agent to its general terms and conditions, any dissenting terms and conditions of the Agent shall only apply if the Principal has confirmed the same in writing.

## 2 Order

2.1 Agreements (order and acceptance) including, but not limited to delivery calls as well as their changes and amendments shall only be valid if made in writing and signed by both parties, the latter shall apply with regard to any waiver of this written form requirement; clause 1.1, last sentence, of the GTCP shall apply accordingly. For organizing reasons order confirmations have to be declared on the forms attached to the orders. Should the occasion of necessary supplements arise, they can be made on this form. Delivery calls can also be made via remote.

2.2 If the Agent does not accept the order within two (2) weeks after receipt, the Principal is entitled to cancel it. Delivery calls are binding at the latest if the Agent does not reject such calls within one (1) week after receipt of it.

2.3 The Principal has the right to request from the Agent, to the extent reasonable and technical possible, a change of the scope of services to be provided and/or goods to be delivered, even concerning the objects of the delivery being constructed. In this context the consequences relating in particular, but not limited to additional costs or reduced costs as well as the date of performance have to be agreed upon mutually in an appropriate form.

## 3 Payment

3.1 Unless otherwise agreed upon in writing, payment has to be made within 14 days from the delivery and receipt of the invoice with three (3) % discount or net within 60 days from receipt of the invoice. In the case of the acceptance of premature performance of services and/or deliveries the date when payment is due depends on the agreed date of performance and/or delivery.

3.2 If the performed service and/or deliveries are faulty, the Principal is entitled to hold back the payment proportionately to the value until the correct fulfilment.

3.3 Without prior written agreement by the Principal, which shall not be refused unreasonably, the Agent is not entitled to assign his claims or to grant a debit authorization to a third party. In the case of an extended retention of title the consent is considered to be granted.

## 4 Notice of defects

4.1 The Agent has an effective quality management system which complies with the requirements of IATF 16949, or after DIN EN ISO 9001, VDA 6.1 or QS 9000. Any output control of the product, in particular, but not limited to the necessary dimensional inspection and the functional performance test, only takes place at the business site of the Agent.

4.2 Principal will inspect incoming goods only with respect to externally apparent defects and externally apparent deviations in identity or volume. Principal will give notice of such defects without undue delay. Furthermore, we will also give notice of defects as soon as such defects have been detected in the ordinary course of business. With respect to the foregoing, the Agent hereby waives the right to assert that the defects have been asserted too late.

## 5 Secrecy

5.1 The parties – each individually - undertake to keep all information, made accessible mutually, in particular, but not limited to evident commercial and technical details which they get to know from the business relation, as well as information relating to production tools pursuant to para. 14.1 of the GTCP, strictly confidential as company or business secret. Confidential Information according to the aforementioned sentence shall only be used by the receiving party for the purposes of executing the agreement; any further use for other purposes is strictly prohibited. The secrecy obligation pursuant to para. 5.1. of the GTCP shall survive the completion of this contract; it shall cease if and to the extent the respective confidential information loses its character as company or business secret, in particular, but not limited to any case of time lapse or due to any disclosure towards the public domain.

5.2 Subcontractors shall be legally bound accordingly.

5.3 The parties may only advertise its business relationship with the prior written consent of the other party.

## 6 Dates of performance of service and/or delivery and terms of performance of service and/or delivery – delay

6.1 The agreed dates and terms are legally binding. The performance of the service and/or the Principal's receipt of the goods is authoritative for the respect of the dates of performance of the service and/or delivery or the terms of performance of the service and/or delivery. The Agent has to provide the services and/or the goods punctually, with regard to goods with respect to the usual time for loading and dispatch.

6.2 The Agent shall immediately inform the Principal of any threatening or existing delay in performance of service and/or delivery, the reasons for such delay and the anticipated duration of such delay. The foregoing shall not affect the occurrence of a default of the Agent as debtor.

6.3 In the case of any default of the Agent as debtor, the Principal has the right to demand a financial compensation (flat-rate compensation). It amounts for each calendar day of delay 0,15% of the order value excluding VAT, however not exceeding an aggregate amount of 10%; any liability of the Agent shall not apply, if and to the extent to which the Agent is not responsible for the breach of duty. The Agent has the right to submit evidence to the Principal proving that no damage at all or only considerably lower damage was caused by the delay. Any further claims of the Principal, irrespective on what legal grounds, remain unaffected.

## 7 Force majeure

Force majeure, strikes, troubles, administrative measures and other unforeseeable, inevitable and serious events free the contracting parties from the liabilities for services for the period of the incidents or for the extent of their effects. This is also valid if the events happen when the contracting party concerned is in default. The contracting parties are obliged, to the extent reasonable and possible, to give

without undue delay the necessary information and to adapt the obligations in good faith to the changed situation.

## 8 Quality, documentation, environmental protection and transport

8.1 The established technical rules, the safety regulations and the agreed technical data have to be respected by the Agent for all services. Changes concerning the items to be provided and/or delivered require the prior written consent of the Principal. The way of cooperation in the field of quality, like for example first samplings and documentation, is legally binding defined in the Agreement on Quality Assurance of Purchased Items, unless otherwise agreed explicitly.

8.2 The contracting parties inform each other about possibilities concerning quality, energy effectiveness or environmental improvement. Besides the Principal hands over to the Agent information concerning the relevant safety regulations if desired.

8.3 The Agent shall comply with VDA Volume 1 "proof of leadership - Guidelines for documentation and archiving of quality requirement always in his current valid revision. In particular, but not limited to, and as far as technical documents or separate agreements are concerned and especially for example if vehicle parts are marked with „D“ the Agent has to record on special papers when, how and by whom the delivered items were checked concerning the characteristics which have to be documented and which were the results of the required. The test documents have to be kept on file for twenty years and have to be handed over to the Principal if necessary. Subcontractors, as far as legally possible, shall be legally bound accordingly by the Agent.

8.4 If competent authorities which are responsible for the vehicle safety exhaust fumes regulations or something like that demand an insight into the production process and the Principal's test reports the Agent agrees, upon the Principal's request, to grant to them the same rights in his company as well as all reasonable support.

8.5 The Agent is requested to take note of and to promote on a sustainable basis the environmental and energy policies of the Principal in the context of the contractual relationship. The Principal indicates that as a selection criterion for any kind of goods, the energetic performance and the energy efficiencies class (if available) is used.

8.6 The Agent has to comply with all relevant statutory and regulatory requirements, as well as the requirements according to the environmental and energy management.

In particular, but not limited to, the Agent complies with the provisions of the European Union and of the Federal Republic of Germany, as amended from time to time, e.g. the European Union Regulation 1907/2006, the law about the withdrawal and ecological disposal of electro- and electronic equipment (ElektroG), as well as the German Ordinance on the Transfer, Return and Environmentally Sound Disposal of old vehicles.

Hazardous materials are to be packed and marked in compliance with the applicable laws and regulations as amended from time to time; they are to be accompanied by the corresponding latest version of the material safety data sheets. Dangerous goods are also to be packed, marked and transported in compliance with the applicable laws and regulations of the respective countries (including transit countries) as amended from time to time. Either the dangerous goods classification or, where appropriate, the phrase "not dangerous goods" are to appear on the delivery note.

Unless otherwise agreed, the CE-symbol must be affixed to items in a clearly visible position. The declaration of conformity and the hazard analysis must accompany all items.

8.7 The Agent will inform the Principal about relevant, through legislation, in particular by the REACH Regulation, caused alterations of the product, its supply, use or quality immediately and agree upon suitable measures with the customer in individual cases. The same applies as soon as the Agent recognizes or should have recognized that it can lead to such changes.

8.8 The Agent is obliged to submit all information with undue delay to the Principal, which the latter requires at his absolute discretion, so that he can fulfill the applicable domestic and international legal requirements regarding conflict minerals, e.g. Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act as well as possible EU legislation measures or measures based thereon, respectively, e.g. requests for information (including those on the part of Principal's customers) to the extent necessary. For this purpose, the Principal shall have the right in individual cases to demand the vote and implementation of appropriate measures by the Agent. Paragraph 8.7, Sentence 2, of the GTCP shall apply accordingly.

8.9 Packaging materials are to be reusable or recyclable. They are to be without CFC's, to be chlorine-free, chemically inactive, groundwaterneutral, and nontoxic when incinerated. Packaging materials are to be marked with recognized recycling symbols such as RESY or with material symbols such as PE. The Agent undertakes to remove its waste, packaging materials etc. on its own responsibility and free of charge for the Principal. In the event that the Agent fails to comply with this obligation, the Principal will carry out the disposal at the Agent's expense without further grace period.

## 9 Liability for defects and other liability

9.1 The Principal shall be entitled to the statutory defect claims without restriction. The period of limitation is 36 months, beginning when risk passes over.

9.2 Otherwise, the Agent is liable under the statutory provisions without any limitation or exclusion in terms of the grounds or the amount.

9.3 Any payment of the Principal does not imply that he acknowledges the delivery and/or service as according to contract or as free of defects.

9.4 The consent of the Principal to the Agent's technical documents and/or calculations does not affect his liability for defects.

## 10 Product liability and Recall

10.1 If and to the extent to which any third party has a claim towards the Principal and/or any of its affiliates based on the manufacture, delivery, storage, or use of the delivered items, the Agent has the stipulation to indemnify and hold harmless the Principal from such claims or liability, provided that the respective damage was caused by a defect in a delivered item which was object to the contract. In cases where liability depends on the responsibility this is only valid if and to the extent to which the Agent is to blame for it pursuant to section 280 para. 1, sen-

tence 2, BGB. If and to the extent to which the Agent is responsible for the reason of the damage, he bears the burden of proof.

10.2 In such cases, the Agent undertakes to bear all costs and expenses, including, but not limited to the costs of a possible legal action or recall. Moreover, the statutory law shall apply.

10.3 The duty of indemnification and refund shall not apply, if the underlying incident shall have probably been caused through gross negligence or willful misconduct by the Principal, any, of its employees, representatives, agents or any affiliate.

#### **11 Execution of works**

Persons who execute works on the Principal's ground within the framework of the fulfilment of the contract shall respect the internal rules and regulations of the Principal. The liability for accidents that happen to these persons on the Principal's ground shall be excluded, provided that such liability for an accident was not caused through willful misconduct or gross negligence by our legal representatives or agents.

#### **12 Passing of risk**

12.1 If nothing else agreed, the delivery has to be DDP.

12.2 The delivery paper has to contain the order number and order date. In case of partial shipment, it has to be noted exactly. If not, the Agent takes responsibility for delays in this reason.

#### **13 License towards the Principal; Indemnification in connection with any infringement of Property Rights**

13.1 The Agent grants to the Principal the non-exclusive, transferable, worldwide and perpetual right to use, to integrate into other products and to distribute the delivered goods, partial deliveries thereof and/or performance of the Agent. The Agent undertakes not to assert his intellectual property rights to oppose any use of delivered goods and/or services.

13.2 The Agent is liable for claims resulting from infringements of protective rights and applications of such rights (protective rights) when using the delivered items according to the contract of which at least one of the protective rights family is published either in the Agent's mother country by the European Patent Office or in one of the states China, Federal Republic of Germany, France, Great Britain, Austria or in the USA. Sections 280 para. 1 sentence 2 and 254 BGB remain unaffected.

With regard to the performance of services para. 13.2, first subparagraph, of the GTCP shall apply accordingly, provided that the usage of the performed services occurs in compliance with the provisions of the contract and such usage infringes any third-party industrial property rights and/or know how, which is not eligible for industrial property right-protection, but without any limitation in place respectively.

13.3 The Agent shall hold the purchaser and his sub purchasers free and harmless of all liabilities resulting from making use of such protective rights. Sections 280 para. 1 sentence 2, and 254 BGB remain unaffected.

13.4 This is not valid if the Agent has produced according to drawings, models or similar other descriptions and indications handed over by the Principal and if he doesn't know or if he doesn't have to know in the context of the products developed by him that this violates protective rights.

13.5 The contracting parties bind themselves to inform each other immediately about violation risks that have become known and alleged cases of violation and to give each other the opportunity to work mutually against corresponding claims.

#### **14 Production tools, Ownership**

14.1 Models, moulds, patterns, samples, tools, data models, software and other production items, which are owned by the Principal and made available to the Agent or in the expenses of which the Principal shares considerably, shall only be used for the fulfilment of the corresponding contract with the Principal. The duplication of these items is only allowed within the framework of operating requirements and copyright.

14.2 Production tools related to the order which were produced or bought by the Agent on the Principal's expenses become the Principal's property after the payment. The Agent keeps the production tools for the Principal.

14.3 Materials and parts provided by the Principal remain his property and shall be stored separately, labeled and managed free of charge. Provided materials and parts may only be used for their intended purpose. The processing of materials and the assembly of parts is undertaken for the Principal. There is mutual agreement that the Principal is co-owner of the total product manufactured by using the Principals' materials and/or parts in the ratio of the value of the provided materials and parts, which are held in safekeeping for the Principal by the Agent.

14.4 Insofar as the Principal remunerates the Agent for development work in the form of a one-time payment, allocation to piece price or by other means, the Agent hereby grants the Principal a non-exclusive, irrevocable, transferable right, unlimited in terms of time, place and content, to use copyright-protected results arising in connection with the development work and performance of services and/or delivery to the Principal (e.g. designs, drawings, sketches, layouts, blueprints, plans, design data, information) in any way, free of charge, and to amend, edit and disseminate them.

14.5 Para. 5.2 of the GTCP shall apply accordingly.

#### **15 Insurance**

The Agent has available an appropriate financial loss insurance, a product liability insurance and recall insurance for possible damages. The Agent shall maintain the aforementioned insurances and - upon request - provide evidence to the Principal at any time. The insurances according to this paragraph shall cover all affiliates of the Agent to the extent to which these are engaged in any of the deliveries and/or services under or in conjunction with any agreement between the parties.

#### **16 Inspection of Facilities**

To the extent to which the Principal or one of its customers would like to do this, the Principal or the respective customer - each individually - has the right, by prior announcement, to receive access to the production facilities of the Agent during the ordinary course of business, in order to evaluate the performance of services and/or production of the contractual products on its own expense. The right of access and inspection refers to all other Agent's facilities, equipment and documentation relating to the performance of services and/or manufacture, storage and delivery of contractual products and all components thereof as well as any

contractual product prior or during its shipment to the Principal. The Principal or its customer are allowed to engage an independent third party in order to exercise such audit on its own expense.

#### **17 Software**

17.1 The Agent shall deliver the necessary number of copies of the software for the exercise of the contractual rights to use and exploit granted to Principal herein in machine readable form at its option either stored on a type of data storage media in common use at the time or transferred by remote data transfer. Principal shall receive software documentation as electronic document in English or German and one copy of the user manual per copy of the software as electronic document in English or German; software documentation and user manual shall describe the functionalities of the software in such a way, that a professionally qualified user with corresponding previous knowledge can make use of the software.

17.2 Software developed for the Principal shall be provided to him with the source code with a manufacturer's documentation.

17.3 For software developed for the Principal and the related documentation and parts thereof and all other work results, the Agent shall procure and grant to the Principal an irrevocable, exclusive, worldwide and perpetual right of use, for each known type of use, including the right to reprocess, reproduce, change, expand and grant of simple rights of use to third parties.

17.4 If the acquisition of a right of use pursuant to para. 17.3 of this GTCP hereof is conflicted by rights of third parties to third-party programs or other third-party work products incorporated in the delivered goods and/or services, the Agent and the Principal will contractually agree on the scope of the Principals' right of use in a reasonable way.

17.5 The Agent is not entitled to reproduce, process or to make other use of the work results produced for the Principal, neither in full nor in part. The ownership of the Agent with regard to his existing intellectual property remains unaffected.

17.6 The Agent is not entitled to publish any of the work results of any nature produced for the Principal - neither in full nor in part.

17.7 The Agent shall procure and/or grant to the Principal the non-exclusive, transferable, worldwide and perpetual right to use the delivered software for integration in other products, to copy it, to have used it and to have copied it by the Principals' affiliated companies and by his distributors.

17.8 The Agent shall procure and/or grant to the Principal the non-exclusive, transferable, worldwide and perpetual right to license the rights of use under paras. 17.3 and 17.7 of the GTCP hereof to the Principals' affiliated companies, to his final customers and distributors and to grant other rights of use.

17.9 If the procurement and granting of a right referred to in § 15 (3), (7) and (8) hereof is legally not possible, the Agent shall inform the Principal in writing before conclusion of the contract. In doing so, the Agent shall also state the reasons why the procurement and granting of the right is legally not possible.

17.10 Where standard-software has been passed on the basis of a remuneration, the Principal has the non-exclusive and non-transferable right to use, to copy, to revise and to decompile the standard-software for own purposes respectively without limitation in place, but, depending on the respective license agreement, without or with limitation in time.

The right to copy the standard-software granted to the Principal herein is limited to the installation of the standard-software on a computer system which is in the Principal's immediate possession and to fulfill the purpose of use and a copy thereof which is required for the loading, display, running, transfer or storage of the standard-software as well as to the right for an authorised person to make a copy for security backup purposes, as stated in sec. 69 d para. (2) UrhG (German Copyright Act).

The right to revise the Standard-software granted to the Principal herein is limited to the maintenance or reinstatement of the agreed functionality of the standard-software.

The right to decompile the standard-software granted to the Principal herein is only granted under the terms of section 69e para. (1) nos. 1 to 3 UrhG and within the limits of section 69e para. (2) nos. 1 to 3 UrhG.

17.11 The Agent warrants that no portion of the software delivered to the Principal contains, at the time of delivery, any malware intended or capable to (i) permit access of the Agent or any third party to the Principals' computer systems without his authorization; (ii) read, write, copy, change, disable, damage or erase any software or data on the Principals' computer systems without his authorization; or (iii) perform any other actions with, on or in the Principals' computer systems without his authorization.

#### **18 General provisions**

18.1 The Principal requires that the Agent and its subcontractors comply with the Code of Conduct of the Principal referring to supplier, which is made available on the website of the Agent under [www.shw.de](http://www.shw.de).

18.2 If one contracting party stops payment or if insolvency proceedings concerning his fortune or judicial or extrajudicial composition proceedings are applied for the other party is entitled to withdraw from the contract for the unfulfilled part. The same shall apply, if and to the extent to which the financial conditions of one party is significantly deteriorating.

18.3 If and to the extent to which any provision of this agreement is invalid or unenforceable, then this shall not affect the validity of the other provisions. In lieu of the invalid provision the respective statutory provisions shall apply; the unenforceable provision shall be deemed to be substituted by a suitable and equitable provision which, to the extent legally permissible, comes as close as possible to the intent and purpose of the unenforceable provision. Sentence 1 and the second part of sentence 2 shall apply accordingly, if the parties have, unintentionally, failed to address a certain matter in this agreement.

18.4 This agreement shall be governed by and construed in accordance with the laws of the Federal Republic of Germany without making reference to its conflicts of laws; moreover, the Vienna Sales Convention (CISG) dated April 11, 1980 shall not apply.

18.5 Place of performance for the obligations arising from or in connection with this agreement shall be the seat of the ordering branch office.

18.6 Exclusive place of jurisdiction for all disputes arising out or in connection with this agreement shall be the local court of Ellwangen (Germany).