

The following terms are the general terms of delivery and payment of the following companies of the BAUMANN Group:
(a) BAUMANN Springs Ltd, Ermenswil / CH-8630 Rütli; (b) BAUMANN GmbH, Friedrich-List Strasse 131, DE-72805 Lichtenstein; (c) BAUMANN Schlegel GmbH, Friedrich-List Strasse 131, D-72805 Lichtenstein; (d) Prodotti BAUMANN s.r.l. Unipersonale, Via Conicchio 34, IT-25136 Brescia (BS);

(e) Baumann Muelles S.A., Poligono Industrial Gojain C/ Padurea 13, ES-01170 Legutiano; (f) Baumann Ressort SAS, 727 route des Tattes de Borly Boite Postale 3, FR-74380 Cranves Sales; (g) Baumann Springs s.r.o., Na Novém Poli 384/6, CZ-73301 Karviná – Staré Město; (h) Baumann Spring Co. (S) Pte. Ltd., 33 Gul Lane, SG 629427; (i) Baumann Springs (Shanghai) Co. Ltd., 358-2 Shen Xia Road, Jiading District, Forward High Tech. Zone, Shanghai 2011818 CN; (j) BAUMANN SPRINGS USA Inc., 3075 No. Great Southwest, Pkwy. # 100, Grand Prairie, TX 75050 USA; (k) BAUMANN SPRINGS LEÓN S. DE R.L. DE C.V., Kappa 310 y 312, Fracc. Industrial Delta, MEX – 37545 León, Gto. (l) Baumann Springs & Coating Pvt Ltd. 5, Prime Rose Mall, Baner Road Pune, IN 411045

EACH OF THE COMPANIES MENTIONED ABOVE ACTS IN ITS OWN NAME AND ON ITS OWN ACCOUNT

1 Definition

"BAUMANN" is the BAUMANN Group company mentioned in the offer or, if there is an order confirmation, in the order confirmation.

"Customer" is the company that accepts the offer of BAUMANN or the company making BAUMANN an offer for the conclusion of a supply agreement that BAUMANN accepts.

"Product" is the item that must be delivered under a contract concluded between the Customer and BAUMANN.

2 Scope

2.1 The following terms and conditions of business (GTC) only apply to companies, public sector legal entities, and special funds set up under public law.

2.2 The following business terms shall apply exclusively; BAUMANN shall not acknowledge contradictory or divergent terms of the Customer unless (i) this involves purchase terms in accordance with the recommendation of the German Association of the Automotive Industry

(VDA) for general terms and conditions for the procurement of production material and spare parts intended for the automobile in the version of 05/12/2002 or (ii) it has expressly agreed in writing to their application. The following terms shall also apply if BAUMANN carries out the delivery to the Customer without reservations in the knowledge of terms of the Customer that are contradictory or deviate from its terms.

2.3 If the business terms of the Customer correspond to the above-mentioned VDA terms, the latter shall take precedence over these terms if they diverge from the terms of the Supplier.

2.4 In the case of a standing business relationship, these GTC also apply to future contracts.

3 Review of the requirements for products and services

3.1 Where the Customer informs BAUMANN of the intended use of the products or services ordered by it, BAUMANN's offer is based on the assumption that the topics discussed in the following questions are not relevant to the product requested by the Customer, unless the Customer has already provided this information to BAUMANN previously. If one or more of the following questions are relevant, the Customer shall be obliged to point this out to BAUMANN before BAUMANN enters into any obligation towards the Customer.

Are there any requirements that have not been stated in the request regarding

1. The packaging and delivery of the part to the Customer (blister packaging, use of specific packaging material, cleanliness requirements, treatment of Customer's own load carriers);

2. The handling of the part by the Customer (robustness, impact and vibration resistance, drop heights);

3. The storage of the part by the Customer (insensitivity to environmental factors such as light, damp, temperature, air pressure and the inherent shelf life of a part);

4. Production by the Customer;

5. The requirements placed on the part within the overall system (robustness, resistance to jolts and vibrations);

6. The impact of the part on its system environment;

下述条款是以下宝马集团旗下各公司的通用交货和付款条款和条件：(a) BAUMANN Springs Ltd, Ermenswil / CH-8630 Rütli; (b) BAUMANN GmbH, Friedrich-List Strasse 131, DE-72805 Lichtenstein; (c) BAUMANN Schlegel GmbH, Friedrich-List Strasse 131, D-72805 Lichtenstein; (d) Prodotti BAUMANN s.r.l. Unipersonale, Via Conicchio 34, IT-25136 Brescia (BS);

(e) Baumann Muelles S.A., Poligono Industrial Gojain C/ Padurea 13, ES-01170 Legutiano; (f) Baumann Ressort SAS, 727 route des Tattes de Borly Boite Postale 3, FR-74380 Cranves Sales; (g) Baumann Springs s.r.o., Na Novém Poli 384/6, CZ-73301 Karviná – Staré Město; (h) Baumann Spring Co. (S) Pte. Ltd., 33 Gul Lane, SG 629427; (i) Baumann Springs (Shanghai) Co. Ltd., 358-2 Shen Xia Road, Jiading District, Forward High Tech. Zone, Shanghai 2011818 CN; (j) BAUMANN SPRINGS USA Inc., 3075 No. Great Southwest, Pkwy. # 100, Grand Prairie, TX 75050 USA; (k) BAUMANN SPRINGS LEÓN S. DE R.L. DE C.V., Kappa 310 y 312, Fracc. Industrial Delta, MEX – 37545 León, Gto. (l) Baumann Springs & Coating Pvt Ltd. 5, Prime Rose Mall, Baner Road Pune, IN 411045

上面提及的各个公司实行独立核算。

1 定义

“宝马”指报盘或订单确认书（如有）中所提之宝马集团公司。

“客户”指接受宝马报盘的公司，或者为订立宝马接受的供货协议向宝马发出报盘的公司。

“产品”指根据客户与宝马之间订立的合同必须交付的产品。

2 范围

2.1 下面的商业条款和条件（GTC（通用条款和条件））只适用于公司、公共部门合法实体和按公共法设立的专项资金。

2.2 以下是专门适用的商业条款；客户的矛盾条款或分歧条款除非（i）与德国汽车工业协会

VDA）汽车所用生产材料和备件的采购通用条款和条件2002年12月5日版本中的推荐相一致，或者（ii）是经过明确书面同意的采购条款，否则宝马将不承认。如果宝马在明知客户条款有矛盾或分歧的情况下，无保留地向客户交货，那么下面的条款也将适用。

2.3 如果客户的商业条款符合上面提及的与德国汽车工业协会条款，那么如果这些条款与供应商的条款有分歧，则以德国汽车工业协会的条款优先。

2.4 对于长期的业务关系，这些GTC也适用于未来的合同。

3 审查产品和服务要求

3.1 如果客户通知宝马其订购的产品或服务的预定用途，则宝马假设以下问题中讨论的主题与客户要求的产品无关，且报盘基于该假设，除非客户先前已经向宝马提供过此信息。如果以下一个或多个问题是相关的，则客户有义务在宝马对客户履行任何义务之前向宝马指出这一点。

关于以下事项的请求中是否有任何未在产品和服务要求中予以说明

1. 零件的包装和交付客户（泡罩包装、使用特定包装材料、清洁度要求、处理客户自供货箱）；

2. 客户对零件的搬运（坚固性、抗冲击性和抗震性、跌落高度）；

3. 客户对零件的存放（对光照、湿度、温度、气压和零件固有保质期等环境因素不敏感性）；

4. 客户进行的生产；

5. 对含有零件的整体系统的要求（坚固性、抗颠簸性和抗震性）；

6. 零件对其系统环境的影响；

7. 系统环境对零件的影响；

8. 与时间有关的因素，如特定安装条件下的磨损或材料疲劳；

9. 整体系统对零件的影响；

10. 零件对整体系统的影响；

11. 用户对整体系统的影响（例如脏工作服、电机总用量、用户教育水平低于平均值）；

12. 法律规定的限制，限于客户已知的范围；

13. 预期用途将受到不同于影响空间、时间或技术要求方面的通常预期用途或者需要特别指出的因素（例如气候条件、平均使用时间、缺乏稳定的电网）的影响；

14. 可能影响特定的区域、气候和法律条件下的预期用途的因素；

15. 不包括在与整个系统的环境有关的订单范围内、可能影响功能和/或使用寿命的因素（例如附近高压线路的电磁干扰）；

16. 客户以不同于通常预期质量和/或用途的方式使用消耗品和附件；

17. 必须由我们交付的零件在安装或进一步加工后必须满足机械阻力、热阻

7. The impact of the system environment on the part;
8. Time-related factors such as wear and tear or material fatigue in the specific installation conditions;
9. The impact of the overall system on the part;
10. The impact of the part on the overall system;
11. The impact of the user on the overall system (e.g. dirty work clothes, gross motor usage, below-average educational level of the user);
12. The impact of legal provisions, to the extent that this is known to the Customer;
13. The intended use will be affected by factors that are different from those that affect the usual intended use in terms of space, time or technical requirements or that need to be specifically pointed out (e.g. climatic conditions, average period of use, lack of a stable electricity grid);
14. Factors that could influence the intended use under the specific regional, climate and legal conditions;
15. Factors not included in the scope of the order related to the environment of the overall system that could impact the function, functionality and/or useful life (e.g. electromagnetic interference by high-voltage lines in the vicinity);
16. The Customer's use of consumables and accessories in a manner that deviates from the usual intended quality and/or use of these consumables and accessories;
17. The part that has to be delivered by us has to meet requirements after installation or further processing with regard to mechanical, thermal or electrical resistance, electrostatic compatibility, handling, etc., that could require the modification of the part;
18. What interface parameters are needed for validation, including test process, test methods and test media;
19. Does the Customer know of any legal or official requirements that deviate from the generally assumed requirements?
- 3.2 In derogation of section 8.4.2.2 and section 8.6.3 IATF, the parties agree that BAUMANN is not obliged to investigate the legal and official requirements in the destination countries identified by the Customer. According to the prevailing view of the courts and the literature, this is the exclusive obligation of the Customer.
- 4 Offers - offer documents, order confirmation**
- 4.1 If the Customer places an order without the order including supplements, restrictions or other changes compared with a valid, binding offer of BAUMANN, acceptance of the offer shall take effect as soon as BAUMANN receives the order unless BAUMANN revoked its offer before receipt.
- 4.2 Acceptance of an order shall take effect if BAUMANN despatched an order confirmation and it does not include any supplements, restrictions or other changes compared with the order.
- 4.3 BAUMANN reserves its ownership and intellectual property rights to all illustrations, drawings, calculations and other documents. This shall also apply to those written documents designated as "confidential." Such documents may only be forwarded to third parties with the explicit written consent of BAUMANN.
- 5 Prices, payment terms**
- 5.1 All prices of BAUMANN shall be EXW INCOTERMS 2010® plus the legally valid VAT at the time of invoicing unless a divergent INCOTERM clause is agreed. All ancillary costs, e.g. costs for freight, insurance, export, transit, import and other approvals and certifications shall be at the expense of the Customer. The Customer must also bear all kinds of taxes, charges, duties and customs duties.
- 5.2 If the manufacturing costs increase by more than 5% after the conclusion of a contract due to wage increases, increases in energy prices, customs duties or other costs, the cost share included or not included in the price as originally agreed may be adjusted to the change in costs. This shall not apply if the changes occurred within six weeks of the conclusion of the contract. The claim to a price adjustment shall take effect when one of the parties requests the price adjustment in writing. If the parties cannot come to an agreement regarding the price adjustment, the Supplier may terminate the contract in whole or in part by giving three months' notice. BAUMANN may also use alternative procurement sources in order to maintain the price that was originally agreed. If delivery to the Customer after a change in procurement sources should only be permitted after a renewed sampling, the Customer shall pay the sampling costs.
- 或电阻、静电兼容性、搬运等方面的要求，这些可能需要对零件进行改造；
18.验证时需要的接口参数，包括测试程序、测试方法和测试介质；
19.客户是否知晓任何偏离一般假设要求的法律或官方要求？
- 3.2 与IATF（国际汽车工作组）第8.4.2.2条和第8.6.3条的规定背离，合同各方同意宝马没有义务调查客户确定的目的地国家的法律和官方要求。根据法院和文献的普遍看法，这是客户的专有义务。
- 4 报价、报价文件、订单确认**
- 4.1 如果客户下的订单与宝马的有效且具约束力的报盘相比不包括补充、约束条件或其他变更，则在宝马收到该订单时报盘即视为已生效，除非宝马在收到订单前撤回其报盘。
- 4.2 如果宝马发出的订单确认书与订单相比没有任何补充、约束条件或其他变更，则接受订单应生效。
- 4.3 宝马保留对所有插图、图纸、计算结果和其他文件的所有权及知识产权。这也适用于那些被定为“confidential(机密)”的书面文件。有宝马明确的书面同意才可以将这类文件转寄给第三方。
- 5 价格、付款条件**
- 5.1 除非商定了与国际贸易惯例有分歧的条款，否则宝马的所有价格应该是 EXW INCOTERMS 2010®价加上开具发票时的法定增值税。所有附带的费用，如运费、保险费、出口费、转运费、进口和其他许可和证照费应由客户承担。客户也必须承担所有的税、收费、关税。
- 5.2 如果由于工资上涨、能源价格上涨、关税或其他成本而使制造成本增加超过5%，则原先商定的价格中包含或未包含的成本分摊可根据成本变化做调整。如果成本变化发生在合同订立后六周内，则本规定不适用。价格调整要求应在一方书面要求调整价格时生效。如果合同方不能就价格调整达成一致，则供应商可提前三个月通知，终止全部或部分合同。宝马还可使用替代采购来源以维持原先商定的价格。如果采购来源发生变化，只有重新采样后方可向客户交货时，则客户应支付采样成本。
- 5.3 除非另有明确约定，否则报价和发票的货币应是供应商工厂方的货币。
- 5.4 除非另有约定，否则收到发票时要付款。信贷可被撤回，发票开具后30天内应支付发票款项。如果合同约定了现金折扣，给予折扣应根据所有之前应付发票的结算。
- 5.5 对于所有的付款方式，宝马或对供应商有要求的第三方可以划掉款项的日期应被视为收到款项的日期。
- 5.6 如果客户拖欠支付购买价格，则所有未付款项将按照高于基本利率每年9个百分点的利率支付拖欠利息；宝马保留收取更高利率和/或要求进一步支付损害赔偿金的权利。
- 5.7 根据合同，客户须支付购买价并接受货物。如果客户不能按照本协议或法律完成其某项义务，那么宝马可停止所有交货或停止履行合同，并保留自己其他的合法索赔权利。
- 5.8 如果协议订立后很清楚宝马的付款要求因合作方的实力不足造成无法支付，宝马可以拒绝履行协议并为客户确定一个合适的期限，在这个期限内，客户必须货到现金付款或为未偿的付款金额提供抵押。如果客户拒绝货到现金付款或不能提供任何相应的抵押，那么宝马在适当期限到期后有权撤销协议并索赔损失。
- 5.9 如果未约定有约束力的订单数量，那么宝马必须按用户指明的不具约束力的订单数量（目标数量）为基础进行计算。
- 5.10 如果客户接受低于目标数量的订单，那么宝马有权相应提高单价。
- 5.11 如果宝马无可否认地提供了不合格的货物，则客户仍应有义务就货物的合格部分付款，除非客户对部分交货没有兴趣。
- 6 所有权的保留**
- 6.1 在收到业务往来客户的所有付款前，宝马将保留对货物的所有权。
- 6.2 宝马声称保留和扣押货物不应被视为对协议的撤消，除非宝马对此有明确的书面陈述。
- 6.3 客户将有权在业务正常发展过程中转售交付的货物；然而，客户这时应将其来自向宝马转售货物而产生的所有债权按宝马与客户之间商定的采购金额（含增值税）偿付，不论转售的货物是未经加工还是加工过。在转售后，客户被授权收集这些债权。这不影响宝马自己收取这些债权的权利；然而，只要客户完成其付款义务并不再欠款，宝马不应收取这些债权。然而，如果情况是这样，那么宝马可要求客户公开转让的债权及其债务方，提供收取债权所需的所有信息，移交相关文件并通知转让的债务方（第三方）。
- 6.4 客户对货物的加工或转换应代供应商执行。如果交付的货物与不属于宝马的其他货物一起被加工，那么在加工时，宝马将按交付货物与其他加工货物的价值比例获得新货物的共同所有权。
- 6.5 如果交付的货物与不属于宝马的其他货物不可分割地混合在一起，那么在加工时，宝马将按交付货物与其他混合货物的价值比例获得新货物的共同所有权。客户应保护宝马的共同所有权。
- 6.6 客户不得将货物典当，也不得将其作为抵押品。倘若出现第三方抵押和

- 5.3 Unless otherwise expressly agreed, offers and invoices shall be in the currency of the supplier factory.
- 5.4 Unless otherwise agreed, invoices shall be due upon invoice receipt. Subject to revocation of the grant of credit, invoices shall be payable net within 30 days of the invoice date. If a cash discount was contractually agreed, granting of a discount shall depend on the settlement of all previously due invoices.
- 5.5 The day on which BAUMANN or third parties with a claim against the Supplier can dispose of the amount shall be regarded as the day of receipt of payment in the case of all means of payment.
- 5.6 If the Customer falls in arrears with the payment of the purchase price, all outstanding amounts shall earn interest in arrears at 9 percentage points p.a. above the basic interest rate; the right to charge a higher interest rate and/or claim further damages is reserved.
- 5.7 In accordance with the contract, the Customer is obliged to pay the purchase price and accept the goods. If the Customer fails to meet one of its obligations according to this agreement or the law, BAUMANN may retain all of its deliveries or performance without prejudice to its additional legal claims.
- 5.8 If it becomes clear after conclusion of the agreement that the payment claim of BAUMANN is endangered by lack of capacity of the partner, BAUMANN may refuse performance and determine an appropriate period for the Customer within which the latter must pay cash on delivery or provide security to the amount of the outstanding claim. If the Customer refuses cash on delivery payment or fails to provide any corresponding security, BAUMANN shall be entitled to rescind the agreement after expiry of an appropriate period and demand damages.
- 5.9 If no binding order volume has been agreed, BAUMANN must base its calculation on the non-binding order volume (target volume) indicated by the Customer.
- 5.10 If the Customer accepts less than the target quantity, BAUMANN shall be entitled to increase the unit price appropriately.
- 5.11 If BAUMANN indisputably supplied defective goods, the Customer shall nevertheless be obliged to make the payment for the fault-free portion of the delivery unless the Customer has no interest in the partial delivery.

6 Reservation of title

- 6.1 BAUMANN shall reserve title to the delivery items until receipt of all payments from the business association with the Customer.
- 6.2 Assertion of the reservation of title and attachment of the delivery items by BAUMANN shall not be regarded as rescission of the agreement unless this is expressly stated by BAUMANN in writing.
- 6.3 The Customer shall be entitled to resell the delivery items in the normal course of business; however, it shall now assign all claims accruing to the Customer from the resale to BAUMANN to the amount of the purchase price agreed between BAUMANN and the Customer (including VAT), irrespective of whether the delivery items are resold without or after processing. The Customer shall be authorised to collect these claims after their assignment. This shall not affect the authority of BAUMANN to collect these claims itself; however, BAUMANN shall undertake not to collect these claims as long as the Customer meets its payment obligations properly and is not in arrears. However, if this is the case, BAUMANN may demand that the Customer disclose the assigned claims and their debtors, provide all information required for collection, hand over the associated documents and notify the debtors (third parties) of the assignment.
- 6.4 Processing or conversion of the goods by the Customer shall always be carried out for the Supplier. If the delivery items are processed with other items that do not belong to BAUMANN, BAUMANN shall acquire co-ownership in the new item in proportion to the value of the delivery items to the other processed items at the time of processing.
- 6.5 If the delivery items are inseparably mixed with other items that do not belong to BAUMANN, BAUMANN shall acquire co-ownership in the new item in proportion to the value of the delivery items to the other mixed items at the time of processing. The Customer shall safeguard the co-ownership for BAUMANN.
- 6.6 The Customer may neither pledge, nor assign the delivery items as security. In the event of attachment and seizure or other disposition by third parties, the Customer must inform
- 扣押或其他处置的情况, 客户必须立即告知宝马并提供保护宝马权利所需的所有资料 and 文件。必须向执行官员或第三方指出宝马的所有权。
- 6.7 抵押品的变现价值超出抵押索赔20%以上的, 宝马应根据客户的要求释放宝马有权获得的附带抵押品。宝马负责选择要释放的抵押品。

7 交货范围、交货日期、交货量

- 7.1 遵守约定的交付和履行日期将意味着所有的技术问题已被澄清, 客户的付款或其他义务已准备好或已提前被满足。如果情况不是这样, 那么周期将被适当延长。如果客户要求重新设计或产品变更, 那么交货期的计算将暂停。客户一批准变更, 交货期就再次开始计算。
- 7.2 除非另有约定, 为了使宝马遵守交货期, 发货或提货准备就绪的通知必须是有决定性的。
- 7.3 宝马应按其交货能力向客户供应合同货物。
- 7.4 在不影响使用的情况下才允许部分交货。
- 7.5 如果客户因不可抗力、无能为力的情况和恶劣的气候条件违反合同, 那么交货期应延长。
- 7.6 生产相关的增加或减少量应允许在10%的总订单数量。合同总价应按其程度变化。

8 船运、风险转移

- 8.1 如果订单确认未出现异议, 那么就同意了工厂交货 (ex works) 方式。
- 8.2 为了使宝马遵守交货期, 对发货或提货准备就绪的通知必须是有决定性的。
- 8.3 除非另有约定, 否则被告知准备好发货的货物必须立即由客户验收。如果客户违反该义务, 宝马有权自行决定发送货物给客户, 由客户承担费用; 或将货物储存在合作伙伴或第三方的仓库中, 由合作伙伴承担费用和风险。
- 8.4 除非另有约定, 否则如果货物未按EXW INCOTERMS 2010@交付, 那么货物风险转嫁到第一承运人。

9 知识产权

- 9.1 客户应有义务立即告知宝马第三方对交付产品工业产权的所有权请求, 并将合法辩护权留给宝马。宝马有权应第三方的工业产权要求进行产品更改并自行承担费用, 即使在货物交货并收到付款后。
- 9.2 如果宝马被工业产权所属的第三方禁止制造或交货, 除非宝马对工业产权的侵犯负责, 否则宝马有权在客户和第三方澄清合法地位前停止工作。如果对宝马来说因延误使得订单的延续不再合理, 宝马将有权撤销。
- 9.3 客户应向宝马保证所提供的服务免于侵犯第三方的权利。客户应就所有相应的第三方索赔赔偿宝马。

10 延迟交货的责任

- 10.1 如果宝马未能依照协议完成其交付货物的义务, 并且按照 § 286 (2) No. 4 German Civil Code (BGB) 或 § 376 German Commercial Code (HGB) 的定义, 相关的采购合同是固定日期的交货交易, 以及客户尚有兴趣继续履行合同, 那么除非宝马对违反合同不负责, 否则宝马应依法规定负相应的责任。
- 10.2 如果宝马未能依据协议完成交付义务, 则如果客户根据宝马委托机构或代表的故意或重大疏忽提出损失索赔, 那么宝马应根据法律规定承担责任。如果宝马在责任范围内未被指控有任何故意的合同违约, 那么损害赔偿责任人应限于可预见的、通常发生的损失。
- 10.3 如果宝马未能依照协议完成其交付货物的义务, 则如果宝马因过错违反了基本合同义务, 应根据法律规定承担责任。这种情况下, 如果宝马未被指控有任何故意的合同违约, 那么赔偿责任应只限于可预见的、通常发生的损失。
- 10.4 这将不影响其对过失造成对生命、身体或健康伤害的法律责任。
- 10.5 除非上面另有规定, 否则延期交货的额外责任应被排除。

11 质量缺陷责任

- 11.1 对于已明确规定的产品, 如果被接受的、生产涉及的公差被遵守, 产品应没有技术缺陷。只有经明确的书面同意, 客户才可以援引客户拟援用的申请。
- 11.2 除非宝马明确规定手册和产品目录中包含的信息和插图是有约束力的, 否则这些信息和插图只是通常的工业近似值。
- 11.3 除非合同方另有约定, 否则货物应符合发货方所在国的规定。非发货方所在国的其他国家的标准要求必须经过明确的书面同意。
- 11.4 明显的缺陷必须立即报给宝马并予以指责。如果存在属宝马责任的缺陷, 那么由宝马自行决定是否进行后续的改进或替换。如果出现要后续改进的情况, 宝马将有义务承担消除缺陷需要的所有费用, 特别是运输费、差旅费、人工费和材料费—由于货物已被带到另一地点, 但这些成本不得高于

BAUMANN of this immediately and provide it with all information and documents that are necessary to safeguard its rights. The title of BAUMANN must be pointed out to the execution officials or third parties.

- 6.7 BAUMANN shall undertake to release the collateral security to which it is entitled on the request of the Customer to the extent that the realisable value of the security exceeds the claims to be secured by more than 20%. BAUMANN shall be responsible for the selection of the securities to be released.

7 Scope of delivery, delivery date, delivery volumes

- 7.1 Observance of the agreed delivery and performance dates shall presume that all technical questions have been clarified and payments or other obligations of the Customer are available or have been met in good time. If this is not the case, the period shall be extended appropriately. Redesigns and article changes requested by the Customer suspend the running of the delivery periods. They shall only begin running again once the Customer has approved the changes.
- 7.2 Unless otherwise agreed, notification of readiness for despatch or collection shall be decisive for observance of the delivery date by BAUMANN.
- 7.3 BAUMANN shall supply the Customer with the contractual goods in accordance with its delivery possibilities.
- 7.4 Partial deliveries shall be permissible insofar as this does not lead to any disadvantages for use.
- 7.5 The delivery period shall be extended by the duration of the hindrance if the Customer infringes the agreement and in the event of force majeure, strike, non-culpable incapacity and inclement weather conditions.
- 7.6 Production-related additional or reduced quantities shall be permitted within a tolerance of 10% of the total order quantity. The total price agreed shall change according to their extent.

8 Shipment, transfer of risk

- 8.1 If nothing else emerges from the order confirmation, delivery "ex works" shall be agreed.
- 8.2 Notification of readiness for despatch or collection shall be decisive for observance of the delivery date or delivery period by BAUMANN.
- 8.3 Unless otherwise agreed, goods notified as ready for despatch must be accepted immediately by the Customer. If the Customer infringes this obligation, BAUMANN shall be entitled at its discretion to despatch the goods to the Customer at the expense of the Customer or store the goods at the expense and risk of the partner on its premises or those of third parties.
- 8.4 If the goods are not delivered EXW INCOTERMS 2010®, the risk shall pass upon transfer of the goods to the first transport person, unless otherwise agreed.

9 Intellectual property rights

- 9.1 The Customer shall undertake to inform BAUMANN immediately of industrial property right claims of third parties concerning the products delivered and to leave the legal defence to BAUMANN. BAUMANN shall be entitled to carry out the changes required due to the industrial property right claims of third parties at its own expense, even in the case of goods delivered and paid for.
- 9.2 Should BAUMANN be prohibited from manufacture or delivery by a third party by reference to an industrial property right belonging to the latter, BAUMANN shall be entitled to stop the work until clarification of the legal position by the Customer and the third party unless BAUMANN is responsible for the industrial property right infringement. Should continuation of the order no longer be reasonable for BAUMANN as a result of the delay, it shall be entitled to rescission.
- 9.3 The Customer shall guarantee BAUMANN that the services provided are free from third-party rights. It shall indemnify BAUMANN against all corresponding third-party rights.

10 Liability for delayed delivery

- 10.1 If BAUMANN fails to meet its obligation to deliver the goods in accordance with the agreement and the underlying purchase agreement is a transaction for delivery by a fixed date as defined by § 286 (2) No. 4 German Civil Code (BGB) or § 376 German Commercial Code (HGB) and the interest of the

履行地。如果宝马选择进行后续改进，则客户必须根据宝马的要求，将货物送至制造商工厂以进行后续改进。

- 11.5 如果整改失败，客户可要求降价或撤销合同。
- 11.6 如果客户已根据零件类型和用途将有缺陷的零件制造成其他物件或附加到其他物件，则宝马有义务对整改中涉及移除有缺陷零件并以修理后或无缺陷新零件替换缺陷零件的工作对客户进行补偿。如果宝马根据 § 439 第4款 BGB被允许拒绝客户选择的整改类型，则上述规定不适用。除其他原因外，如果整改成本超过无缺陷产品价值的150%，宝马可拒绝客户选择的整改类型。
- 11.7 如果宝马以欺诈手段隐瞒缺陷或假装保证货物质量，那么宝马将为质量缺陷承担相应法律规定的责任。
- 11.8 如果客户根据宝马委托机构或代表的故意或重大疏忽提出损害赔偿，那么根据法律规定宝马将就缺陷承担责任。如果在缺陷责任的框架内宝马未被指控有任何故意的合同违约，那么损害赔偿责任应只限于可预见的、通常发生的损失。
- 11.9 如果宝马有过错地违反了基本的合同义务，那么宝马应依据法律规定承担法律责任。这种情况下，如果宝马未被指控有任何故意的合同违约，那么赔偿责任应只限于可预见的、通常发生的损失。
- 11.10 过错造成生命、身体或健康伤害的质量缺陷责任将不受影响，产品责任法规定的责任也不受影响。
- 11.11 除非上面另有规定，否则质量缺陷责任应被排除。
- 11.12 依照 § 437 BGB提出的索赔将在风险移交后的12个月过期，除非涉及的项目按其正常用途与建筑并造成其有质量缺陷。
- 11.13 根据 §§ 478, 479 BGB，交货追索权的限制周期将不受影响；其期限将是自不良品交货起算起的5年。

12 总体责任

- 12.1 按照§223 BGB，因有其他责任违约或因有材料损害赔偿的侵权索赔要求，宝马将根据第十部分的5、6、7和8节承担额外的损害赔偿赔偿责任。不论索赔的法律性质如何，特别是对于协议订立后立即出现的错误引起的索赔，附加责任将另外排除。
- 12.2 如果宝马的损害赔偿赔偿责任由于本条而被排除或限制，那么对于宝马的代表和委托机构、人员、工人、员工的人员赔偿责任，也予适用。
- 12.3 对于产品质量缺陷，18个月的免费期应作为所有不受索赔追诉时效限制的追诉时效。它从无重大疏忽的客户应已获得损失情况和知道谁造成损失的时间开始。

13 工具、设备

- 13.1 除非另有约定，工具或其他设备（模板、模型等等）的发票将与交付货物的发票分立。
- 13.2 如果在工具或设备的生产期间，客户暂停或终止合作，那么到那时为止产生的所有制造费用应由客户承担。
- 13.3 除非另有明确的书面约定，否则由宝马制造或获得的工具或设备将仍然是宝马的财产。
- 13.4 一般来说，工具成本或成本分摊应与货物的货值分开发票。除非另有约定，否则交付首样时必须付工具或设备的费用；如果未要求付款，那么首次交货时必须付。
- 13.5 在完成客户最终交货后，宝马将保证将这些工具或设备保留3年。如果客户在期限到期前告知一年内会发订单过来，那么宝马将有义务为这段时间保留工具或设备。否则，供应商可以自由处置工具或设备。

14 反诉、可转让性

- 14.1 仅当客户的反诉已经被确立为具有法律约束力，是无可争议的，或者被宝马承认，那么客户有资格获得补偿。此外，如果客户的反诉是基于相同的合同关系，那么客户只有权实施其扣押权。
- 14.2 客户只能经宝马批准转让其在与宝马缔结的合同中的权利。

15 宝马的撤回权；终止无固定期限合同

- 15.1 宝马有权部分或全部撤销协议，除非出现非宝马责任的无法预见的事件——该事件严重改变了经济重要性或履行内容或者事件对宝马的运营有重大影响，以及出现非宝马责任的无法对证的情况，这样部分撤销对客户来说是不合理的，就无法部分撤销。本条款不影响任何其他法定撤回权利。
- 15.2 对这种撤回，客户将没有对损失索赔的权利。如果宝马希望使用撤销权，则必须告知客户，即使原本已经同意延长交货期。
- 15.3 宝马可为无固定期限合同提供三个月的终止通知。

16 数据隐私

Customer in continued contractual fulfilment has not lapsed, BAUMANN shall be liable according to the statutory provisions unless the latter is not responsible for the contractual breach.

- 10.2 If BAUMANN fails to meet its obligation to deliver the goods in accordance with the agreement, it shall be liable according to the statutory provisions if the Customer asserts claims to damages based on intent or gross negligence of the representatives or vicarious agents of BAUMANN. If BAUMANN is not accused of any intentional breach of contract within the context of this liability, the liability for damages shall be limited to the foreseeable, typically occurring losses.
- 10.3 If BAUMANN fails to meet its obligation to deliver the goods in accordance with the agreement, it shall be liable according to the statutory provisions if it culpably breached an essential contractual obligation. If BAUMANN is not accused of any intentional breach of contract in this case, the liability for damages shall be limited to the foreseeable, typically occurring losses.
- 10.4 This shall not affect liability on account of culpable injury to life, body or health.
- 10.5 Unless otherwise regulated above, additional liability for delayed delivery shall be excluded.

11 Liability for defects

- 11.1 Insofar as a product has been specified, it shall be free of technical defects if acknowledged production-related tolerances are observed. The Customer may only invoke an application it intended if this was expressly agreed in writing.
- 11.2 The information and illustrations included in the brochures and catalogues are customary industry approximate values unless they were expressly designated by BAUMANN as binding.
- 11.3 Unless the parties have agreed otherwise, the goods shall correspond to the agreement if the goods correspond to the regulations of the sender country. Normative requirements in countries other than the sender country must be expressly agreed in writing.
- 11.4 Obvious defects must be reported immediately to BAUMANN and reprimanded. If a defect exists for which BAUMANN is responsible, subsequent improvement or replacement delivery shall be made at the discretion of BAUMANN. In the event of subsequent improvement, BAUMANN shall be obliged to bear all expenses required for the purpose of defect elimination, especially transport costs, travel, work and material costs to the extent these costs are not higher due to the purchase item having been brought to another place than the place of performance. If BAUMANN chooses subsequent improvement, the Customer must make the item available for subsequent improvement in the manufacturer's factory at the request of BAUMANN.
- 11.5 If the rectification fails, the Customer can either demand a price reduction or withdraw from the contract.
- 11.6 If the Customer has built the defective part into another item or attached it to another item in accordance with its type and purpose of use, BAUMANN shall be obliged to compensate the Customer for the work involved in removing the defective parts and replacing them by repaired or new defect-free parts as part of its rectification. This shall not apply if BAUMANN is allowed to refuse the type of rectification that was selected by the Customer pursuant to § 439 paragraph 4 BGB. Among other reasons, BAUMANN can refuse the type of rectification selected by the Customer if the rectification costs amount to more than 150% of the value of the defect-free item.
- 11.7 BAUMANN shall be liable for defects according to the legal provisions if it fraudulently concealed the defect or assumed a guarantee for the quality of the item.
- 11.8 BAUMANN shall be liable for defects according to the legal provisions if the Customer asserts claims to damages based on intent or gross negligence of the representatives or vicarious agents of BAUMANN. If BAUMANN is not accused of any intentional breach of contract within the framework of defect liability, the liability for damages shall be restricted to the foreseeable, typically occurring losses.
- 11.9 BAUMANN shall be liable for defects according to the legal provisions if it culpably infringed an essential contractual obligation. If BAUMANN is not accused of any intentional breach of contract in this case, the liability for damages shall be limited to the foreseeable, typically occurring losses.
- 11.10 Defect liability on account of culpable injury to life, body or health shall be unaffected as well as liability according to the Product Liability Act.

- 16.1 客户承诺向其名义或代表其与宝马通信的人员取得具有法律效力的声明，同意宝马收集、存储、处理和使用他们的个人数据以处理和执行先前敲定的交易以及正在进行的交易，并为新合同和类似业务关系奠定基础。在这种情况下，个人数据特别包括他们的联系数据，如姓名、地址、公司职位、电话号码、电子邮件地址等，以及与特定技术诀窍、有关会议场地和时间的信息以及类似数据。
- 16.2 客户承诺向其名义或代表其与宝马通信的人员取得具有法律效力的声明，明确同意宝马将其个人数据转发给第三方以处理和执行先前敲定的交易以及正在进行的交易，并为新合同和类似业务关系奠定基础。
- 16.3 客户承诺向其名义或代表其与宝马通信的人员取得具有法律效力的声明，明确同意宝马仅须在相关人员明确要求时删除这些人员的个人数据。
- 16.4 这里的“具有法律效力”是指客户必须自己确定，根据数据保护立法和一般义务法，有效的声明必须满足的条件。
- 16.5 如果客户无法获得这些声明，则其有义务以书面形式明确告知宝马。
- 16.6 如果客户违反此通知义务，或者如果客户取得的声明随后被证实为全部或部分无效，则客户应就第三方针对宝马主张的所有此类索赔赔偿宝马。这不影响宝马关于损害赔偿的相关法定权利要求。
- 16.7 在所有其他方面，宝马应根据《联邦数据保护法》处理客户的个人数据。

17 履行地、仲裁法庭、其他事项

- 17.1 除非另有明确约定，履行地为宝马的注册地。
- 17.2 如果客户是商人、公法合法实体或公法特殊基金，那么与合同相关的所有争议或其有效性将最终依据德国仲裁机构的仲裁法令决定，不诉诸于普通法庭。
- 17.3 如果宝马在欧洲，仲裁地为苏黎世。如果宝马在亚洲，仲裁地为香港。如果宝马在北美或南美，仲裁地为纽约。谈判的官方语言为德语。
- 17.4 必须有三个仲裁人。
- 17.5 适用提起仲裁程序时有效的仲裁规则（下载地址：www.dis-arb.de）
- 17.6 如果这些一般条款和条件的任何一个条款，或某个条款的一部分是无效的或成为无效的，那么其余的条款或某个条款的剩余部分将保持有效。

18 国际合作伙伴

如果客户的经营场所在国外，如下条款将作为对上面条款的补充，若适用则作为上面的豁免条款。

- 18.1 只使用德国法律。
- 18.2 如果有矛盾的合同报价和申报承兑，根据供应商的最终申报条款，该货物将被当作新报价的货物。
- 18.3 如果宝马须承担某项特定义务，则其仅在发生缺陷交货且同意进行更换交货时有义务进行更换交货。
- 18.4 如果客户在货物实际交货后最晚12个月内不通知宝马，那么客户将失去对不合格的合同货物行使权利的权利。
- 18.5 如果第17章节的规定与其余的付款通用条款和条件相冲突，那么第17章节的条款优先适用。
- 18.6 合同语言是德语。如果合同方使用其他语言，那么德语版本将优先。

说明：

我们存储客户的个人数据并遵守法律规定。存储数据是为了处理和执行先前已完成的交易以及正在进行的交易，并为新合同和类似业务关系奠定基础。

在法定条款的限制范围内，客户可要求供应商提供其存储的有关客户个人数据的信息。

如果客户认为供应商的行为违反了适用法律，则必须直接联系供应商。如果该投诉合理，供应商应立即纠正违规行为。在这种情况下，不需要发出惩戒警告函或在法院提起诉讼。我们必须指出，没有任何重复风险是指，如果客户发出惩戒警告函或提起法院诉讼以主张违反现行法律行为，则必须自行承担由此产生的费用。

- 11.11 Unless otherwise regulated above, defect liability shall be excluded.
- 11.12 Claims according to § 437 BGB shall become statute-barred twelve months after the passage of risk unless the items involved are used for a building according to their normal manner of use and caused it to be defective.
- 11.13 The period of limitation in the case of delivery recourse according to §§ 478, 479 BGB shall remain unaffected; it shall be five years calculated from delivery of the defective item.

12 Overall liability

- 12.1 According to Section X, paragraphs 5, 6, 7 and 8, BAUMANN shall be liable for additional claims to damages, irrespective of the legal nature of the claim asserted, especially for those arising from fault upon conclusion of the agreement, on account of other breaches of obligation or on account of tortious claims for the compensation of material damage pursuant to § 823 BGB. Additional liability shall otherwise be excluded.
- 12.2 If the damages liability of BAUMANN is excluded or restricted on account of this section, this shall also apply with regard to the personal damages liability of personnel, workers, employees, representatives and vicarious agents of BAUMANN.
- 12.3 An exclusion period of 18 months shall apply to the limitation of all claims that are not subject to limitation on account of a defect of an item. It shall begin from knowledge or from the time from which the Customer without gross negligence ought to have obtained knowledge of the loss and the identity of the person who caused the loss.

13 Tools, equipment

- 13.1 Unless otherwise agreed, the manufacturing costs for tools and other equipment (forms, patterns, etc.) shall be invoiced separately from the goods to be delivered.
- 13.2 If the Customer suspends the cooperation or terminates it during the production of the tools or equipment, all manufacturing costs that have arisen up to then shall be at its expense.
- 13.3 Unless otherwise expressly agreed in writing, the tools or equipment manufactured or procured by BAUMANN shall remain the property of BAUMANN.
- 13.4 Tool costs or cost shares shall in general be invoiced separately from the value of the goods. Unless otherwise agreed, they must be paid for upon transfer of the first sample; if this is not required, upon the first delivery of goods.
- 13.5 BAUMANN shall undertake to preserve the tools or equipment for three years after the final delivery for the Customer. If the Customer gives notice before expiry of this period that orders will be placed within a period of up to one additional year, BAUMANN shall be obliged to preservation for this period. Otherwise it may freely dispose of the tool or equipment.

14 Counterclaims, transferability

- 14.1 The Customer shall only be entitled to offset if its counterclaims have been established as legally binding, are undisputed or acknowledged by BAUMANN. Moreover, the Customer shall only be authorised to exercise its right of retention if its counterclaim is based on the same contractual relationship.
- 14.2 The Customer can only assign its rights from agreements concluded with BAUMANN with the approval of BAUMANN.

15 BAUMANN's withdrawal right, termination of open-ended contracts

- 15.1 BAUMANN shall be entitled to rescind the agreement as a whole or in part, unless partial rescission would be unreasonable for the Customer, in the event of an unforeseeable incident for which BAUMANN is not responsible that considerably changes the economic importance or content of the performance or has a considerable effect on the operations of BAUMANN and in the event of impossibility that emerges in retrospect and for which BAUMANN is not responsible. This clause shall not affect any other statutory rights of withdrawal.
- 15.2 The Customer shall have no claims to damages on account of such rescission. If BAUMANN wishes to make use of the right of rescission, it must inform the Customer of this, even if initially an extension of the delivery period had been agreed.

- 15.3 BAUMANN can give three months' notice of termination for open-ended contracts.

16 Data privacy

- 16.1 The Customer undertakes to obtain legally effective declarations from all persons who communicate with BAUMANN in its name or on its behalf in which these persons agree that BAUMANN may collect, store, process and use their personal data for the purpose of processing and performing previously finalised transactions as well as ongoing transactions and to lay the groundwork for new contracts and similar business relationships. In this context, personal data in particular include their contact data, such as: name, address, position in the company, telephone number, email address, etc., as well as data pertaining to specific know-how, information about venues and times of meetings and similar data.
- 16.2 The Customer undertakes to obtain legally effective declarations from all persons who communicate with BAUMANN in its name or on its behalf in which these persons expressly agree that BAUMANN may forward their personal data to third parties for the purpose of processing and performing previously finalised transactions as well as ongoing transactions and to lay the groundwork for new contracts and similar business relationships.
- 16.3 The Customer undertakes to obtain legally effective declarations from all persons who communicate with BAUMANN in its name or on its behalf in which these persons expressly agree that BAUMANN only has to erase the personal data of these persons at the express request of the person in question.
- 16.4 Legally effective in this sense means that the Customer must itself determine the conditions that must be met by an effective declaration pursuant to data protection legislation and the general law of obligations.
- 16.5 The Customer is obliged to expressly inform BAUMANN in writing if these declarations are not available to the Customer.
- 16.6 If the Customer breaches this obligation to notify or if it subsequently proves that the declarations obtained by the Customer are ineffective, either in whole or in part, the Customer shall indemnify BAUMANN for all claims in this regard that are asserted by third parties against BAUMANN. This shall not affect BAUMANN's related statutory claims for damages.
- 16.7 In all other respects, BAUMANN shall treat the Customer's personal data in accordance with the Federal Data Protection Act.

17 Place of performance, arbitration court, miscellaneous

- 17.1 Unless explicitly agreed otherwise, the place of performance is the registered office of BAUMANN.
- 17.2 If the Customer is a businessperson, public law legal entity or public law special fund body, all disputes arising in connection with this agreement or its validity shall be finally decided according to the Arbitration Ordinance of the German Institution of Arbitration (DIS) to the exclusion of recourse to the regular courts.
- 17.3 If BAUMANN is located in Europe, the seat of arbitration is Zurich. If BAUMANN is located in Asia, the seat of arbitration is Hong Kong. If BAUMANN is located in North or South America, the seat of arbitration is New York. The official language for negotiation is German.
- 17.4 There must be three arbitrators.
- 17.5 The arbitration rules that are valid when the arbitration proceedings are filed apply (can be downloaded at: www.dis-arb.de)
- 17.6 If any provision or part of a provision of these GTC should be or become ineffective, the remaining provisions or part of a provision will remain effective.

18 International contracting partners

If the Customer has its place of business abroad, the following shall apply in supplement and if applicable in derogation of the above:

- 18.1 German law applies exclusively.
- 18.2 In the event of contradictory contractual offers and acceptance declarations, the delivery shall be regarded as a new offer according to the terms of the last declaration of the Supplier.

- 18.3 If BAUMANN owes a specific obligation, it shall only owe a replacement delivery in the event of a defective delivery if it consents to this.
- 18.4 The Customer shall lose the right to invoke the non-conformity of the goods with the agreement if it does not notify BAUMANN at the latest within 12 months of the goods actually being delivered.
- 18.5 If the provisions of Section 17 contradict the remaining general terms and conditions of payment, the provision of Section 17 shall take precedence.
- 18.6 The contract language is German. If the contractual partners use another language in addition, the German wording shall take precedence.

Note:

We store personal data of our customers and comply with the legal provisions. Data are stored for the purpose of processing and performing previously finalised transactions as well as ongoing transactions and to lay the groundwork for new contracts and similar business relationships.

Within the limits of the statutory provisions, the Customer may request information about its personal data stored by the Supplier. The Customer must contact the Supplier directly if it believes that the Supplier's conduct is in breach of the applicable laws. If this complaint is justified, the Supplier shall immediately remedy the breach. There is no need for a disciplinary warning letter or court action in such cases. We have to point out that the absence of any risk of repetition means that the Customer shall have to bear the resulting costs itself if it should issue a disciplinary warning letter or instigate court action to assert the breach of current legislation.