

TERMS AND CONDITIONS

Seller is hereinafter referred to as "Supplier" and BMW CANADA INC. is hereinafter referred to as "Buyer".

1. **ACCEPTANCE OF ORDER BY SUPPLIER** -Acceptance of this Order by Supplier is expressly limited to the terms and conditions contained in this Order. Any provisions in Supplier's invoices, billing statements, acknowledgment forms or similar documents which are inconsistent with the provisions of this Order shall be of no force or effect unless specifically agreed to in writing by an authorized representative of Buyer. Any of the following acts by Supplier shall constitute acceptance of this Order and all of its terms and conditions: signing and returning a copy of this Order; delivery of any of the goods or performing any of the services which are the subject of this Order; informing Buyer in any manner of commencement of performance; or returning Supplier's own form of acknowledgment.

2. **PRICE AND DELIVERY** - (A) Supplier shall furnish the items and/or services specified on the face of this Order in accordance with the prices and delivery and/or performance schedule specified on the face of this Order. If prices and/or delivery and/or performance dates are not so specified, Supplier shall offer its lowest prices or best delivery and/or performance dates and, upon written acceptance by Buyer, such prices and/or delivery and/or performance dates shall be deemed to have the same force and effect as if initially specified on the face of the Order. All prices shall include all applicable taxes, except sales taxes which are separately shown. (B) Time is of the essence to Buyer and the delivery and/or performance schedule specified on the face of this Order must be strictly observed by Supplier as to time, quality and quantity. Buyer is not obligated to accept partial or excess deliveries and/or performance. In addition to its right to terminate pursuant to paragraph 14(B) (Termination) hereof, Buyer may require Supplier, at Supplier's sole cost and expense, to ship any of the items specified on the face of this Order by air or railway express or by such other means as may be designated by Buyer if Supplier fails to meet the specified delivery and/or performance schedule. Acceptance by Buyer of all or part of the items shall not constitute a waiver by Buyer of its claims arising from delays in delivery and/or performance.

3. **PACKING, MARKING AND RISK OR LOSS** -All items shall be appropriately packaged, marked and otherwise prepared in a manner to obtain the lowest shipping rates and to ensure their delivery to Buyer free of damage and deterioration unless contrary instructions are received in writing from Buyer. Buyer's count will be accepted as final on all shipments not accompanied by a packing slip. Supplier shall bear all risks of loss, damage or deterioration to items covered by this Order until delivery of items to the carrier, if transportation is F.O.B. Supplier, or until acceptance by Buyer, if transportation is F.O.B. Buyer.

4. **INVOICING AND PAYMENT** -Invoices, together with appropriate copies of packing slips, must be mailed promptly and in accordance with the instructions on the face of this Order. Invoices shall clearly indicate the number of the Order and the items to which they relate and be accompanied by an original bill of lading or receipt properly signed by a representative of the appropriate carrier. Payment of Invoices shall not constitute acceptance of the items ordered, and shall be subject to appropriate adjustment for failure of Supplier to meet the requirements of this Order. Buyer may set off any amount owed by Supplier or any of its affiliate companies to Buyer against any amounts payable by Buyer to Supplier under this Order. In no event shall Buyer be liable for late charges, interest or similar charges.

5. **MARKING OF GOODS** -All items will be marked by Supplier in such manner as Buyer may specify. Any items which for any reason are not accepted by Buyer, and which are marked with any trademark (including, without limitation, the name "BMW" or any related logo or emblem), whether or not registered, of Buyer or Bayerische Motoren Werke Aktiengesellschaft ("BMW AG") will be destroyed by Supplier immediately. In no event will Supplier deliver, sell or otherwise dispose of any items so marked or any items which are peculiar to Buyer's design, either as an assembly or any component part of any assembly, to anyone other than Buyer.

6. **USE OF BMW NAME** -Supplier shall not, without the prior written consent of Buyer, in any manner disclose or publish the fact that Supplier has furnished or contracted to furnish to Buyer the items and/or services specified on the face of this Order or use or display the Buyer's name or the name of BMW AG or any trademark referred to in paragraph 5 hereof,

in Suppliers' advertising or any other publication.

7. **PATENTS AND TRADEMARKS** -By accepting this Order Supplier warrants that the items specified on the face of this Order and the sale or use thereof will not infringe upon or contribute to the infringement of any Canadian or foreign patents, trademarks, copyrights, industrial designs or manufacturing processes, except to the extent that any items comply with any detailed design provided by Buyer or bear any trademark of Buyer or BMW AG ("BMW Marks"). In addition, Supplier shall not use any of the BMW Marks without the prior written consent of Buyer, neither as part of its corporate, trade or business names nor in any advertising, sales promotion, press releases or other publicity matters. Supplier acknowledges and agrees that it has no right, title or interest in any of the BMW Marks, and that it will fully indemnify and hold harmless Buyer from any and all claims, losses, damages and other expenses, including reasonable legal fees, that arise or result from Supplier's unauthorized use of a BMW Mark.

8. **INSPECTION** -All items shall be subject to Buyer's final inspection and testing on Buyer's premises. In the event Buyer wishes to inspect or test any items covered by this Order on Supplier's premises, Buyer shall give Supplier reasonable notice and Supplier shall provide, without additional charge, reasonable facilities and assistance for such inspections and tests. If Buyer reasonably determines that any items covered by this Order are defective or otherwise not in conformity with the requirements of this Order, Buyer, by written notice to Supplier, may (a) rescind this Order as to such items, b) accept such items, at an agreed reduction in price, (c) retain and correct the defects or non-conforming aspects of such items, at the sole cost and expense of Supplier, or d) reject such items and require the delivery of replacements. Supplier shall pay Buyer for expenses incurred in correcting defective or non-conforming items. Rejected items will be returned to Supplier at Supplier's request and risk of loss, and Supplier shall pay Buyer for all packing, handling, sorting and transportation expenses incurred in connection with rejected items. Delivery of replacements shall be accompanied by written notice specifying that such items are replacements and such delivery shall be at Supplier's sole cost and expense. If Supplier fails to deliver required replacements in accordance with the delivery date specified by Buyer, Buyer may replace or correct such items and charge Supplier with the expense incurred thereby or terminate this Order. No inspection, failure to inspect, tests approval or acceptance of items ordered shall relieve Supplier from liability for (i) defects or other failure to meet the requirements of this Order, (ii) latent defects, (iii) fraud, (iv) such gross mistakes as may amount to fraud, or (v) failure by Supplier to meet its warranty obligations hereunder. The rights granted to Buyer under this Paragraph are in addition to any other rights or remedies provided elsewhere in the Order or by law.

9. **CHANGES** -Buyer may at any time, by written order, make changes in any of the following: (a) the drawings, designs and/or the specifications applicable to the items and/or services specified on the face of this Order, (b) the method of shipment and/or packing and (c) the place of delivery and/or performance. Supplier shall be deemed to have accepted Buyer's proposed changes without additional cost to Buyer and without extension of Supplier's time for performance unless Supplier, within ten (10) days following receipt of Buyer's notice of change, notifies Buyer in writing of the need for any equitable adjustment in the price of the items and/or the time and/or for performance.

10. **WARRANTIES** -In addition to any other express or implied warranties, Supplier warrants that the items and/or services furnished pursuant to this Order will be (a) free from defects in workmanship and materials, including, without limitation such defects as could create a hazard to life or property, (b) free from defects in design, except to the extent that such items comply with any detailed design provided by Buyer, (c) fit and sufficient for the purpose intended or stated on the face of this Order, (d) in conformity with all samples furnished to Buyer and all other specification, descriptions and/or requirements set forth or incorporated herein, and (e) suitable for use under, be manufactured in accordance with and, where required, be registered under, all applicable Canadian federal, provincial and local laws and all orders and regulations including, without limitation, all laws regarding occupational safety, health and fair labour standards. In the event that any items do not conform to all of the warranties contained in this paragraph or implied by law, Buyer shall have the same remedies, and Supplier will have the same obligations with respect to Buyer's costs and expenses as provided in

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paragraphs 8 (Inspection) and 12 (Indemnification) hereof. Any replacement items shall, from the date of delivery thereof, be subject to the provisions of this paragraph to the same extent as items initially furnished pursuant to this Order. The warranties and remedies under this paragraph shall exist notwithstanding the acceptance by Buyer of all or part of the items with respect to which such warranties and remedies are applicable.

11. **TITLE** -Unless otherwise specified on the face of this Order, Supplier warrants that, at the time of sale, it will convey to Buyer full title to the items covered by this Order, free and clear of any and all liens, claims, encumbrances and interests of third parties, including, without limitation Supplier's subcontractors and suppliers.

12. **INDEMNIFICATION** -Supplier will indemnify and hold harmless Buyer and Buyer's agents, employees and customers from and against any and all claims, damages, liabilities, costs and expenses, including reasonable legal fees, arising out of or resulting from (a) any injury to person or property caused by any actual or alleged defect in the items or services covered by this Order or any act or omission of Supplier or Supplier's agents or employees with respect to such items or services or (b) the alleged existence by any third party of any state of facts concerning the items covered by this Order which, if true, would constitute a breach by Supplier of any representation, warranty or other obligation of Supplier hereunder. In the event that any legal proceeding shall be instituted or that any claim or demand shall be asserted in respect of which indemnification may be sought, Buyer shall promptly notify Supplier, and upon Buyer's request, Supplier shall undertake the defence thereof at its own expense. Supplier agrees that any controversy between itself and Buyer concerning its obligations hereunder may be litigated in the same forum and concurrently with any lawsuit against Buyer and any third party to which such controversy may relate and Supplier agrees to appear in such forum and submit to the jurisdiction thereof.

13. **LIMITATION OF LIABILITY** -In no event shall Buyer be liable to Supplier or Supplier's assistants or any third party for any incidental, indirect, special or consequential damages arising out of, or in connection with, this Order, whether or not the Buyer was advised of the possibility of such damage.

14. **TERMINATION** -(A) At its option, Buyer may terminate all or a part of this Order upon prior written notice to Supplier. Upon such termination Buyer shall pay to Supplier (a) the price stated on the face of this Order, for items completed at the time of such termination and not yet delivered, (b) the out-of-pocket costs incurred by Supplier for items in progress which cannot reasonably be used by Supplier in producing goods for itself or for its other customers, and (c) the costs of settling all claims arising out of the Supplier's termination of orders and sub-contracts relating to the performance of the work terminated; provided, however, that payments made under this paragraph shall not exceed the aggregate price specified on the face of this Order less payments made or to be made for items delivered to or services performed for Buyer prior to such termination. (B) By written notice to Supplier, Buyer may terminate all or a part of this Order, subject to the provisions of paragraph 15 (Force Majeure), upon (a) the refusal or failure of Supplier to make deliveries of the items covered by this Order in accordance with the specified delivery or performance schedule, unless Supplier shall cure any such default of failure in delivery and/or performance within ten (10) days after receipt of notice of termination, (b) any other default by Supplier in the performance of this Order, (c) the institution of any proceedings by or against Supplier under any bankruptcy act, insolvency law or any law for the relief of debtors, (d) the appointment of or application for a receiver for Supplier, or (e) an assignment by Supplier for the benefit of its creditors. Upon termination pursuant to this paragraph, Buyer shall pay to Supplier the price stated on the face of this Order for (i) items previously delivered for which payment has not been made and (ii) items completed at the time of such termination and subsequently delivered in accordance with this Order.

15. **FORCE MAJEURE** -Neither Buyer nor Supplier shall be liable for any failure to perform in accordance with the terms of this Order due to acts of war, sabotage, strikes, fires, freight embargoes, floods, explosions, epidemics or other causes or events beyond the control and without the fault or negligence of Buyer or Supplier, as the case may be, provided, however, that Supplier shall furnish Buyer with prompt written notice of any actual or potential labour dispute of which it has knowledge and which is delaying or threatens to delay the performance of this Order. In the event Supplier is

unable to perform due to any of the foregoing events, Buyer shall be entitled, in addition to its right to terminate pursuant to paragraph 14 (A) (Termination) hereof, to (a) obtain the items covered by this Order from such other sources as Buyer may determine for the duration of Supplier's inability to perform and (b) reduce pro tanto, and without any obligation to Supplier, the quantity of the items specified on the face of this Order.

16. **CONFIDENTIAL INFORMATION** -The contents of this Order and all related commercial and technical information of Buyer shall be kept secret and confidential by Supplier and will not be divulged by Supplier to any third party or employed by Supplier otherwise than in connection with this Order. Unless otherwise agreed in writing, no commercial or technical information disclosed in any manner or at any time by Supplier to Buyer shall be deemed secret or confidential and Supplier shall have no rights against Buyer with respect thereto, except such rights as may exist under any applicable patent law.

17. **MISCELLANEOUS** -(A) No waiver of any breach of any provisions of this Order shall constitute a waiver of any prior or subsequent breach or an amendment or modification hereof. No course of dealing of Buyer nor any delay or omission of Buyer to exercise any right or remedy granted under this Order shall operate as a waiver of any rights of Buyer and every right and remedy of Buyer provided herein shall be cumulative and In addition to any other remedies expressly provided herein or now or hereafter existing in law. (B) If any provision of this Order is found to be illegal or otherwise unenforceable by any court or other judicial or administrative body, such provision shall be limited to the extent necessary so that it will not render this Order unlawful or otherwise unenforceable and the remaining provisions of this Order shall remain in full force and effect. (C) This Order shall be governed and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Buyer and Supplier hereby irrevocably submit to the jurisdiction of the courts of the Province of Ontario. (D) This Order contains the entire agreement of the parties. No change, modification, rescission or waiver shall be binding on Buyer unless it is in writing signed by a duly authorized representative of Buyer.