



PLASTIC OMNIUM
Auto Exterior division

General Purchasing Conditions

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DEFINITIONS

Affiliated Company(ies), means any company (i) directly or indirectly controlled by a **Party**, or (ii) directly or indirectly controlling a **Party**, or (iii) under the same control as a **Party**. For the purpose of this definition the term "control" means the possession, directly or indirectly, of at least fifty percent (50 %) of the equity ownership or voting rights.

Audit(s), means the quality control(s) or audit(s) described in Article 20.1 "Quality controls – Audits".

Blanket Order(s), means all document(s) by which the **Buyer** orders **Products** and which give their main characteristics without setting forth the duration of the purchase order and the final quantities, such final quantities being ordered by **Releases**.

BGB, means the German Civil Code.

Buyer, means the company which issues a **Purchase Order**, as identified on the **Purchase Order**.

Closed Order(s), also called "Spot Buy(s)", means all document(s), other than a **Blanket Order**, by which the **Buyer** orders **Supplies**.

Contract, means the set of contractual documents concerning the **Supply** and governing the relationships between the **Parties**, as set forth in Article 3 "Contractual documents" below.

GPC, means this document.

HGB, means the German Commercial Code.

Inbound Logistics Specifications, means the Inbound Logistics Specifications of the **Buyer**, which may be found as described in Article 15 "**Buyer policies**" below.

Party or **Parties**, means the **Buyer** and/or the **Supplier**, as the case may be.

Pre-existing Right(s), means any elements of any nature, protectable or not by intellectual property rights, on any medium or in any form whatsoever, which are not derived from the performance of the **Contract**.

Product(s), means all part(s), component(s), equipment(s), tooling, material(s) and any other good(s) and product(s), conforming to the description in the **Contract**.

Purchase Order(s), means any **Blanket Order(s)** or **Closed Order(s)**.

Release(s), also called "Call off", means any instruction(s) issued by the **Buyer** as part of a **Blanket Order**, which specifies firm quantities of **Products** and sets the dates or deadlines for delivery of such **Products**.

Result(s), means any elements other than **Pre-existing Rights**, of any nature, protectable or not by

intellectual property rights, on any medium or in any form whatsoever, derived at any time from the performance of the **Contract** (including but not limited to studies, drawings, software, source codes, know-how).

Service(s), means the services to be provided by the **Supplier**, conforming to the description in the **Contract**.

Statute of Limitations, means the statutory limitation in time pursuant to the BGB, in particular §§ 194 – 218 BGB.

Supplier, means the supplier or the service provider to whom a **Purchase Order** is issued, or who otherwise performs the **Contract**, as identified on the **Purchase Order**.

Supplier Management Guide, means the Supplier Management Guide of the **Buyer**, which may be found as described in Article 15 "**Buyer policies**" below.

Supply(ies), means the **Product(s)** and/or the **Service(s)**.

Tooling, means all tooling, dies, jigs, gauges, assembly equipments, machines, and other miscellaneous equipments and items lent to the **Supplier** by the **Buyer** in accordance with Article 19 "Lending of **Tooling**". Such tooling may be (i) furnished by the **Buyer**, either directly or indirectly, to the **Supplier** to perform the **Contract** or (ii) ordered by the **Buyer** and procured by the **Supplier**. The **Tooling** may be owned by the **Buyer** or as the case may be its customer.

2 SCOPE

- 2.1 The **GPC** shall govern all **Contracts** with the **Buyer** including all future contracts, even if **GPC** are not included in further agreements.
- 2.2 The **GPC** shall prevail over and override any general conditions of sale as well as any provision contained in any invoices and in any other document issued by the **Supplier**, even if the **Buyer** doesn't object these conditions of the **Supplier**. The **GPC** shall control each **Contract** unless their application is otherwise limited by express provisions of a **Purchase Order** or particular conditions issued by the **Buyer**.

3 CONTRACTUAL DOCUMENTS

- 3.1 The **Contract** is composed of the following documents, listed in descending order of priority:
- 1) the **Purchase Order** ;
 - 2) the **Release(s)** ;
 - 3) where applicable, any particular conditions issued by the **Buyer** and their appendices (such as a nomination letter) ;
 - 4) the **GPC** ;
 - 5) **Buyer's** policies as described in Article 15 "**Buyer policies**" ; and
 - 6) any documents issued by the **Supplier**, which the **Buyer** expressly agrees in writing to incorporate into the **Contract**.
- 3.2 If there is a conflict among the terms in the various contractual documents listed in Article 3.1 above, the order of precedence set out in the said Article shall prevail. In case of contradiction within the same contractual document, specific provisions shall prevail over general provisions.

4 PURCHASE ORDERS

- 4.1 The **Supplier** shall acknowledge receipt in writing of the **Purchase Order** within ten (10) working days from the date on which the **Purchase Order** was received by the Supplier.
- 4.2 **Supplier's** commencement of work or performance that is the subject of the **Contract** also shall be an act of acceptance of the **Contract** according to its terms by the **Supplier**, whether or not the **Supplier** has sent a written acknowledgement containing different or additional terms.
- 4.3 In any event, any **Purchase Order** may be cancelled by the **Buyer** at any time prior to receipt by the **Buyer** of a written acknowledgment, by written notice sent to the **Supplier** effective immediately upon the date of receipt of such notice. The **Supplier** shall not be entitled to any compensation or damages of any nature whatsoever in the event of such cancellation.
- 4.4 The **Supplier** shall not fabricate or perform any of the **Supplies** or procure any of the materials or components required in their fabrication, and the **Buyer** shall have no obligation as to the same, except to the extent expressly authorized in **Closed Orders** or **Releases** and for building reasonable safety stocks as required under the security plan (as described in Article 10 "Security plan").

5 RELEASES

- 5.1 Each **Release** shall not constitute a separate order, but an essential part of the **Blanket Order**. Thus, the failure of the **Supplier** to perform any individual **Release** shall constitute a breach of the entire **Blanket Order**.
- 5.2 The **Buyer** may require the **Supplier** to participate in electronic data interchange (EDI) or similar inventory management program, at **Supplier's** expense, for notification of **Releases**, as well as for shipping confirmation and other information.

6 MODIFICATION OF THE CONTRACT

- 6.1 The **Buyer** reserves the right at any time to modify the **Contract** (such as the technical specifications of the **Supply** or the scope of the work covered by the **Contract**), and the **Supplier** agrees to promptly make and implement any such changes.
- 6.2 If such changes have an impact on costs, lead-times or quality, the **Supplier** shall promptly send to the **Buyer** a technical and financial proposal accompanied by appropriate supporting documentation indicating such effects, and the **Buyer** may consider, in its discretion, such proposal as an amendment to the **Contract**.
- 6.3 Should the **Parties** be unable to reach an agreement on such proposal for amendment or the **Supplier** fails to comply with Articles 6.1 and 6.2 above, the **Buyer** expressly reserves the right to either:
- have the modifications implemented by another company, in which case the **Supplier** agrees to provide the **Buyer** with all drawings, technical specifications and any other documents needed to implement such modifications ; or
 - terminate all or part of the **Contract** in accordance with the provisions of Article 34.1 "Ordinary Termination".
- 6.4 The **Supplier** shall not modify the **Supply** (including but not limited to by changing its components, materials, the processes used for its manufacture, or

its place of manufacture) without prior written approval of the **Buyer**.

7 NON EXCLUSIVITY

The **Buyer** is not required to purchase **Supplies** exclusively from the **Supplier** unless the **Contract** expressly states that it is exclusive or similar term.

8 INFORMATION, ADVICE, WARNINGS

The **Supplier** shall, irrespective of the **Buyer's** prior competence or knowledge:

- make any recommendation as to the adequacy of the **Supply's** technical specifications ;
- give the **Buyer** adequate information, advice and warnings in relation to the nature and composition of the **Supply** ;
- provide the **Buyer** with any information and advice necessary for the proper storage and use of the **Supply** ;
- warn the **Buyer** about the risks related to the **Supply**, including in particular concerning health, safety and environment or other hazardous risks ; and
- inform the **Buyer** of any risk of quality shortfall or other deficiency in the **Supply** of which the **Buyer** should be aware, and immediately warn the **Buyer** in case of discovery of a defect in the **Supply**, particularly if such defect could endanger the safety of properties or persons or result in the **Buyer's** customer shutdown.

9 VOLUMES - FLEXIBILITY

9.1 Except for firm quantities specified in **Closed Orders** or **Releases**, quantities that may be indicated in the **Contract** are non-binding estimates provided by the **Buyer's** customer, given for information purposes only and do not represent a commitment of the **Buyer**.

9.2 In response to a request from its customer for an increase or a reduction in parts or components from the **Buyer** for which the **Supply** are required, the **Buyer** may adjust the quantities ordered from the **Supplier** in proportion to such increase or decrease.

9.3 The **Supplier** shall maintain production capabilities and organize its production in such a way as to permit the **Supplier** to respond to the circumstances described in this Article 9 and to supply the **Buyer** in strict conformity with its **Releases**.

9.4 Each of the **Parties** shall bear its own costs resulting from such circumstances. More specifically, the **Supplier** bears the risk of all volume fluctuations and waives any claims related to extra-payment, including but not limited to payment of additional part price amortization (PPA) or payment of PPA before due date, in the event that the forecasted volumes are not reached.

10 SECURITY PLAN

10.1 For **Products** delivered in serial production under a **Blanket Order**, the **Supplier** shall implement and maintain a security plan enabling the **Supplier** to fulfill all of the **Releases** without production interruption for the **Buyer** and its customer.

10.2 Such security plan shall set out in particular, without limitation:

- organization of the production means ;

- safety stocks and stock conditions ; and
- protection of facilities, production means and **Products** against fire.

10.3 The **Supplier** shall communicate its security plan to the **Buyer** in a reasonable time before the date of the Start Of Production (SOP).

11 SPARE PARTS

11.1 The **Supplier** shall supply the **Buyer** with spare parts for the **Products** throughout the term of the **Contract** and for the additional period during which **Buyer's** customer is entitled to order spare parts from the **Buyer**.

11.2 Spare parts shall be manufactured and delivered in accordance with the terms of the **Contract** and the after-sale needs conveyed to the **Supplier** by the **Buyer**.

11.3 The **Supplier** agrees to maintain in good condition the **Tooling** and any other tools and equipments necessary to produce spare parts, as well as all corresponding drawings, designs and manufacturing processes, until the end of the period of time mentioned in Article 11.1 above.

12 COMPLIANCE WITH LAWS

12.1 The **Supplier** undertakes to comply with all applicable laws and regulations, including but not limited to those related to health, safety, environment and labor. In addition, it is the **Supplier's** responsibility to comply with international laws, standards and regulations applicable as regards health, safety, environment, work by minors, illicit, forced or concealed employment, discrimination and human rights.

12.2 Therefore the **Supplier** shall in particular, without limitation:

- ensure that the **Supplies** comply with all laws and regulations in the countries of production and sale of the **Supplies** and, as the case may be, of production and sale of the vehicles in which said **Supplies** are to be incorporated ;
- have and maintain all authorizations necessary to conduct its business, and provide a copy of them when so requested by the **Buyer** ; and
- comply with all of the provisions of the United Nations Global Compact in the areas of human rights, labour standards, the environment, and anti-corruption.

12.3 All consequences of any non-compliance with the provisions of Article 12 "Compliance with laws" (including but not limited to any costs incurred as a result thereof), shall be borne solely by the **Supplier**.

13 ANTI-CORRUPTION COMMITMENTS

13.1 The **Supplier**, (which for purposes of this clause shall include all of the **Supplier's** employees, agents, representatives, affiliates and any person who performs **Services** on behalf of the **Supplier**) agrees with the **Buyer** that it will not, in connection with the Goods and/or **Services** to be supplied under this **Contract**, bribe, or attempt to bribe (which shall include without limitation, any offer of any form of payment, gift or other form of inducement, reward or advantage (whether of money or anything of value)) the **Buyer**, any public or government officials or employees, public international organizations,

- political parties, or private individuals or other entities ("Relevant Party").
- 13.2 The **Supplier** represents and warrants to the **Buyer** that it has not, prior to the date of this **Contract**, bribed or attempted to bribe any Relevant Party in order to secure any business from the **Buyer** whether in connection with this **Contract** or otherwise.
- 13.3 The **Supplier** acknowledges and agrees on behalf of all of the **Supplier's** employees, agents, representatives, affiliates and any person who performs services on behalf of the **Supplier** that it is familiar with and will abide by the anti-bribery and anti-money laundering laws in all the countries in which it is incorporated or established and in which it does business.
- 13.4 The **Supplier** agrees that it will not take or knowingly permit any action to be taken that would cause the **Buyer** to be in violation of any applicable anti-bribery or anti-money laundering laws.
- 13.5 The **Supplier** agrees that its books, records and all accounts shall accurately reflect any and all payments in respect of transactions of the **Supplier** whether under this **Contract** or otherwise, and the **Buyer** (and the **Buyer's** authorized representatives) shall have the right to inspect and audit the **Supplier's** books, records and accounts at any time on prior written notice.
- 13.6 The **Supplier** shall refuse any and all remuneration to third parties if such remuneration does not correspond to an actual service for a justified amount duly posted in its accounts.
- 13.7 The **Supplier** shall ensure that any subcontractor or other person associated with it as to perform works, **Services** or delivery of Goods in connection with the **Supplier's** performance of its contractual obligations to the **Buyer**, does so only on the basis of a written contract that impose or secure the same level of commitments with regard to anti-corruption, anti-bribery, anti-kickback, and other similar conduct, activities, or business practices.
- 13.8 If the **Supplier** discovers that it has or may have violated any of the provisions in this clause, the **Supplier** shall immediately notify the **Buyer** and cooperate with any investigations by the **Buyer** into such matters.
- 13.9 Without prejudice to the generality of clauses above, the **Supplier** covenants with the **Buyer** to establish and at all times maintain and implement such anti-bribery policies and procedures as may be required to ensure that it prevents bribery or attempted bribery taking place on the **Supplier's** behalf.
- 13.10 The **Supplier** agrees that in addition to the **Buyer's** termination rights set out elsewhere in this **Contract**, the **Buyer** may immediately terminate this Agreement in the event of a breach of this clause by the **Supplier**.
- 13.11 Without prejudice to the **Buyer's** rights to be indemnified elsewhere under this **Contract**, the **Buyer** shall not be required to make any payments to the **Supplier** that might otherwise be due from the **Buyer** if such payments are related to a transaction in connection with which the **Supplier** has breached this clause.
- 14 HAZARDOUS MATERIALS**
- 14.1 Warning**
- 14.1.1 In the event that hazardous or restricted materials are an ingredient or part of the **Products**, the **Supplier** will give the **Buyer** sufficient warning in writing (including, without limitation, through appropriate labels on all **Products**, containers and packaging, Material Safety Data Sheet, and certificates of analysis) at the latest at the time the **Products** are shipped.
- 14.1.2 The **Supplier** shall in particular, without limitation, inform the **Buyer** of any special handling instructions that are needed to advise carriers, the **Buyer**, and their employees how to take appropriate measures while handling, transporting, processing, using or disposing of such **Products** and of containers and packing used for their transportation.
- 14.2 Compliance with laws**
- The **Supplier** agrees to comply with all laws and regulations related to hazardous or restricted materials.
- 14.3 CMR substances**
- 14.3.1 The **Supplier** shall comply with the European Community regulation "REACH" (EC 1907/2006) on chemicals and their safe use.
- 14.3.2 In particular, the **Supplier** shall register, if necessary, the substances contained in the **Supply** in accordance with the REACH regulation. Such registration shall take into account the use of the substances by the **Buyer** by including such use in the assessment of chemical safety.
- 14.3.3 The **Supplier** undertakes to hand over quarterly to the **Buyer** an update on said substances, based on the model which may be found at <https://suppliers-ae.plasticomnium.com> or by contacting the **Buyer**.
- 14.3.4 The **Supplier** represents and guarantees that the Supply does not contain any CMR (Carcinogenic, Mutagenic, Reprotoxic) substances of category 1A and 1B, as defined in REACH regulation.
- 15 BUYER POLICIES**
- 15.1 The **Supplier** shall conform to all policies established or directed by the **Buyer** or **Buyer's** customer.
- 15.2 **Buyer's** policies include in particular, without limitation, the **Supplier Management Guide** and the **Inbound Logistics Specifications**. **Buyer's** policies may be found at <https://suppliers-ae.plasticomnium.com> or by contacting the **Buyer**.
- 15.3 The **Supplier** is responsible for keeping current regarding the terms of **Buyer's** policies.
- 16 CERTIFICATIONS**
- 16.1 The **Supplier** shall be certified to the standards set out in the **Supplier Management Guide**.
- 16.2 Accreditations shall include the **Supply** and be awarded by an independent and duly authorized body.
- 16.3 In the event that the **Supplier** is not certified to ISO 14001 or OHSAS 18001 standards in accordance with the **Supplier Management Guide**, at the effective date of the **Contract**, the **Supplier** will make its best efforts to obtain such accreditations within a reasonable period of time.
- 16.4 The **Supplier** shall inform the **Buyer** without undue delay of any potential or actual change in its

accreditation status and of the steps taken in response.

17 WORK PERFORMED WITHIN BUYER'S SITES

17.1 Before any work is undertaken within any of **Buyer's** sites by the **Supplier**, the **Supplier** shall make contact with the **Buyer** in order to:

- determine the conditions in which the **Supplier** will perform such work ; and
- agree on a prevention plan as to health and safety risks related to such work.

17.2 The **Supplier** shall comply and ensure that all of its employees and representatives comply with the aforementioned prevention plan as well as all policies and procedures in force at the **Buyer's** site regarding health and safety. The **Supplier** shall provide any document evidencing such compliance, upon first request of the **Buyer**.

17.3 If the **Supplier** does not comply with any of these obligations, the **Buyer** reserves the right to refuse the **Supplier** access to or presence on the site.

18 EMPLOYEES

18.1 The **Supplier** shall be responsible for the supervision, management and remuneration and choice of its employees for the performance of the **Contract**.

18.2 The **Supplier** undertakes to employ, for the performance of the **Contract**, only duly trained and qualified personnel.

19 LENDING OF TOOLING

19.1 Ownership - Risks

19.1.1 The **Tooling** shall be the exclusive property of the **Buyer** or of its customer.

19.1.2 The **Tooling** shall not be subject to any attachment, lien, claim of title, or procedure of sequestration and shall be identified by the **Supplier** as the **Buyer's** exclusive property (or as the case may be that of its customer) by whatever appropriate means including but not limited to by affixing in a visible manner a plate indicating who is the owner of the **Tooling**.

19.1.3 As long as the **Tooling** is in possession of the **Supplier**, the **Supplier** shall bear the risks of loss of and damage to the **Tooling** and keep the **Tooling** insured at its replacement value for the benefit of the **Buyer** and/or **Buyer's** customers.

19.2 Use

19.2.1 The **Supplier** shall ship, install and start up the **Tooling** in its premises at its own expense and risk.

19.2.2 The **Tooling** shall be used exclusively for the performance of the **Contract**, in accordance with state of the art and **Buyer's** recommendations and procedures.

19.2.3 The **Supplier** shall not modify, destroy, copy, reproduce, or replace the **Tooling**, or move the **Tooling** from **Supplier's** premises, without **Buyer's** prior written approval.

19.3 Repairs - Maintenance

19.3.1 The **Supplier** shall keep the **Tooling** in good working condition and make any necessary repair and maintenance at its own expense.

19.3.2 The **Supplier** agrees to promptly inform the **Buyer** of any malfunctioning or damage caused to the **Tooling** or suffered thereby, as well as of any event

likely to require the **Tooling** to be replaced or which could cause a stoppage in the supply of the **Products**.

19.3.3 The **Buyer** shall have the right to enter into **Supplier's** premises during the **Supplier's** working days and hours, provided that a twenty four (24) hours notice is given, to inspect the **Tooling** and **Supplier's** records with respect to the **Tooling**.

19.4 Defects - Damages

19.4.1 The **Buyer** shall never be held liable for any hidden defects of which it is not aware, affecting the **Tooling** and making them unfit for their intended use and shall not therefore indemnify the **Supplier** for any loss or damage arising as a result of such defects.

19.4.2 More generally, the **Buyer** shall not be held liable for damage caused to or by the **Tooling**.

19.5 Return

19.5.1 Immediately upon **Buyer's** request and without payment of any kind, the **Supplier** will return the **Tooling**, and will comply with **Buyer's** instructions relating to its return, including but not limited to the method and location for its return.

19.5.2 The **Supplier** is responsible for labor and other costs incidental to the return of the **Tooling**.

19.5.3 The **Supplier** will cooperate with the **Buyer** to ensure smooth return of the **Tooling** and will provide the **Buyer** with access to all facilities at which the **Tooling** is located.

19.5.4 The **Supplier** herewith expressly waives:

- any right to additional notice or process relating to **Buyer's** exercise of its rights under this Article 19.5 "Return" ;
- any lien or other rights that the **Supplier** might otherwise have on any of the **Tooling** ; and
- any objection to the **Buyer's** repossession and removal of the **Tooling** for any or no reason, including insolvency proceedings.

20 CONTROLS

20.1 Quality controls - Audits

20.1.1 At any time during the term of the **Contract** upon twenty four (24) hours' prior notice, the **Buyer** may carry out **Audits** on-site during the **Supplier's** normal working hours. The purpose of such **Audits** will be to check if the **Supplier** complies with the **Contract**. **Audits** may be carried out by a third party on behalf of the **Buyer**. **Audits** shall not unnecessarily interfere with the **Supplier's** performance of the **Contract**.

20.1.2 The **Supplier** agrees to cooperate fully with the **Buyer** (or the third party acting on behalf of the **Buyer**) in order to facilitate the **Audit**, most particularly by granting access to any location, installation, documentation or information requested and by answering all relevant questions.

20.1.3 As part of the **Audit**, the **Buyer** (or the third party acting on behalf of the **Buyer**) may take random samples of the **Supplies** manufactured or being manufactured by the **Supplier** in order to confirm compliance with quality standards set forth in the **Contract**.

20.1.4 If the **Audit** shows non-compliance with the **Contract**, the **Supplier** shall undertake without undue delay all measures recommended by the **Buyer**. Most particularly, the **Supplier** undertakes to make all necessary quality improvements to the **Supplies** in order to achieve the quality standards

set forth in the **Contract**, should the **Audit** establish that such quality standards are not met.

20.1.5 These quality **Audits** shall not reduce the **Supplier's** contractual liability in any manner whatsoever, and further they shall not affect the **Buyer's** right to subsequently reject all or part of the **Supply** on delivery.

20.2 Financial review

20.2.1 Upon reasonable notice to the **Supplier**, the **Buyer** or a third party designated by the **Buyer** may review the financial condition of the **Supplier** and its **Affiliated Companies**.

20.2.2 The **Supplier** will fully cooperate in such review and will promptly provide copies of or access to requested documents, including without limitation financial records and statements, forecasts, business plans, banking contacts and loan documents, and will make its financial managers available for discussions during reasonable business hours.

20.2.3 The **Buyer** and any designated third party will keep confidential any non-public information about the **Supplier** obtained in a financial review in accordance with the provisions of in Article 32 "Confidentiality".

21 SHIPPING AND DELIVERY

21.1 Delivery terms

Unless otherwise specified in the **Contract**, the **Products** shall be shipped DDP - place of delivery (Delivered Duties Paid, Incoterms, latest edition).

21.2 Packing - Labeling

21.2.1 The **Supplier** is responsible for packing and labeling the **Products**.

21.2.2 Each packaging unit shall legibly show on the outside each of the information required to be shown by the label specifications set out in the **Inbound Logistics Specifications**.

21.2.3 The packaging shall be suitable for the **Products** and means of transport used to ship the **Products**, so as to prevent all potential damage to the **Products** during transportation, handling and storage at the destination site.

21.2.4 Packaging and labeling shall be in compliance with the specifications set forth in the **Contract** as well as state of the art and all applicable laws and regulations.

21.3 Shipping documents

A detailed delivery slip in two (2) copies shall accompany the delivery. The delivery slip shall give each of the following information:

- all details which allow the identification of the **Products** and their quantitative verification ;
- the bundling and the nature of the packaging ; and
- all information given on the packaging unit as set forth in Article 21.2.2 above.

22 DELIVERY LEAD TIMES

22.1 Time of delivery and performance of the **Supply** is of the essence of the **Contract**. Deliveries shall be made on working days and during normal working hours, at the date specified in the **Contract**. No deliveries will be accepted outside of these times unless prior approval is obtained from the **Buyer**.

22.2 In the event of early delivery, the **Buyer** shall be entitled to either return the **Supply** to the **Supplier** or

otherwise to store the same until it is taken back by the **Supplier**, at the exclusive risk and cost of the **Supplier**.

22.3 Any expenses, including premium shipping expenses, necessary to meet the required delivery dates shall be the **Supplier's** sole responsibility. In addition, the **Supplier** shall be liable for any costs or expenses which the **Buyer** shall incur as a result of any late deliveries, including all costs or expenses resulting from disruptions to **Buyer's** or its customer's production facilities (i.e. line shutdowns, off-lined products, etc.).

23 ACCEPTANCE OR REJECTION OF THE SUPPLY

23.1 Acceptance of the Supply

23.1.1 **Services** shall be deemed accepted by the **Buyer** only upon **Buyer's** execution and delivery of a completion certificate or other written evidence of compliance of **Supplier's** performance under the **Contract** (such as a statement of work).

23.1.2 **Buyer's** failure to assert a claim or reserve shall not be considered as an acceptance of the **Supply** and shall not, under any condition, be deemed as a waiver by the **Buyer** of its right to assert any claim in the future.

23.1.3 The receipt or the acceptance by the **Buyer** of any study, design, drawing, material, process, specifications or Initial Sample (IS) does not release the **Supplier** from liability for defect, damage or loss, and does not imply acceptance of the **Supply** delivered and/or to be delivered. Payment for nonconforming **Supply** shall not constitute an acceptance of the **Supply**.

23.2 Notifications pursuant to § 377 HGB

22.2.1 Defect or non-conformity are in any case deemed to have been notified by the **Buyer** in time pursuant to § 377 HGB if the **Supplier** is informed thereof within two (2) weeks from the date of delivery of the **Supply**. Hidden defects are in any case also deemed to have been notified in time pursuant of § 377 HGB if the **Supplier** is informed thereof within two (2) weeks after discovery.

22.2.2 With the **Supplier's** receipt of the **Buyer's** written notification of defect, the Statute of Limitations is suspended. If parts of the **Supply** are replaced or repaired, the Statute of Limitations commences again for the replaced or repaired parts, unless, on the basis of the **Supplier's** behavior, it can be assumed that such did not consider itself liable for the measures but rather provided replacements or repairs on a goodwill or similar basis.

23.3 Nonconforming Supply

The **Buyer** will hold nonconforming **Supplies** for disposition in accordance with **Supplier's** reasonable written instructions and at **Supplier's** cost and risk. **Supplier's** failure to provide written instructions, within four (4) working days after notice of nonconformity, or such shorter period as may be reasonable under the circumstances, shall entitle the **Buyer**, at **Buyer's** option, to charge the **Supplier** for storage and handling, or to dispose of the goods without liability to the **Supplier** (including by returning them to the **Supplier**).

24 ADMINISTRATIVE FEES

24.1 If the **Supply** is delivered late or in the event of nonconforming **Supply**, the administrative fees set

out in the **Supplier Management Guide** shall immediately and without any notice, become due and payable to the **Buyer**.

- 24.2 The administrative fees established in the **Supplier Management Guide** and otherwise in the **Contract** shall not be deemed to constitute a compensation for the loss or damage to which it relates, but a reasonable estimate of **Buyer's** administrative costs associated with late delivery or nonconforming **Supply**. They do not affect the **Buyer's** right to claim damages in accordance with Article 27 "Liability" and/or to terminate all or part of the **Contract** in accordance with the provisions of Article 34 "Termination".

25 PRICE, INVOICING AND PAYMENT TERMS

25.1 General provisions

- 25.1.1 The **Supplier** acknowledges herewith having received all information required for the determination of the price. Unless otherwise stated in the **Contract**, prices shall be firm and non-revisable. No price increase shall become effective without the prior written consent of both **Parties**.

- 25.1.2 The **Price** compensates the **Supplier** for all its expenses, disbursements, costs, charges (including quality containment) and obligations of any kind under the **Contract**.

25.2 Invoicing

The invoice shall comply with all legal and regulatory obligations. In addition, it shall include all details that allow the identification and control of the **Supply**, in particular purchase order number, **Supply** number, quantity of the **Supply** and the billing address. The invoice must be sent in two (2) counterparts to the billing address specified in the **Purchase Order**, and shall not be included with deliveries. If any of this information is not provided, then **Buyer's** payment deadlines shall be extended by the period of the delay.

25.3 Factoring

In the event that the **Supplier** uses factoring for the management of its invoices, the **Supplier** shall solely assign its debts to a same factoring company for all **Contracts**. Should the **Supplier** assign such debts to several factoring companies, the **Buyer** shall not be held liable for any late payment or any payment mistake caused by this situation, and the **Supplier** shall indemnify and hold the **Buyer** harmless from and against any costs or damages resulting thereof. In no event this Article shall be construed as the acceptance by the **Buyer** of factoring and of the assignment by the **Supplier** of the debts owed by the **Buyer**, or as a waiver of any of **Buyer's** rights under the **Contracts**.

25.4 Payment terms

The **Supplies** will be paid in accordance with the payment terms and by the payment means set out in the **Purchase Order**.

25.5 Late payment

- 25.5.1 Late fees in the event of late payment, as the case may be, shall be calculated based on the legal interest rate in force plus 1 (one) point. Such interest rate shall be applied *pro-rata temporis* to the overdue amounts, without capitalisation.

- 24.5.2 Payment of such late fees shall be deemed as fully compensating the **Supplier** for any damages related to overdue payments and the **Supplier** shall not be

entitled to claim further damages or any other compensation.

25.6 Set-off

In addition to any right of set-off or recoupment provided by law, the **Buyer** reserves the right to set off any amount owed by the **Supplier** or any of its **Affiliated Companies** to the **Buyer** or any of its **Affiliated Companies** for whatever reason against any amount owed by the **Buyer** or any of its **Affiliated Companies** to the **Supplier** or any of its **Affiliated Companies** in connection or not with the **Contract**.

26 WARRANTY

- 26.1 The **Supplier**, as an expert in its field, represents, warrants and covenants to the **Buyer** that the **Supply** shall be:

- in compliance with all applicable laws as defined in Article 12 "Compliance with laws" ;
- in compliance with the agreed specifications (i.e. drawings and all other documentation defining the **Supply** and its design features) and the state of the art ;
- regarding specifications not explicitly set forth in the **Contract**, in conformity with the initial samples (IS) approved by the **Buyer** ;
- merchantable and fit for the particular purposes for which the **Supply** are intended, and as safe as can reasonably be expected ;
- free from any apparent or hidden defect of design (to the extent the **Supply** is designed by the **Supplier**), manufacture and operation ; and
- free from any encumbrances, rights, and privileges of any third party.

- 26.2 The warranty term shall continue for such period as set out in the **Purchase Order** or the particular conditions issued by the **Buyer**. If no such period is set out, the warranty term shall continue:

- (i) for the warranty period offered by the **Buyer** to its customers for the products into which the **Supply** is incorporated ;
- (ii) if the **Supply** is not designed to be incorporated into products of **Buyer's** customer but is dedicated to a specific vehicle (such as assembly means), for the lifetime of the vehicle ; or
- (iii) in any other case as those described in paragraphs (i) and (ii) above, for no less than twenty four (24) months as from acceptance of the **Supply** in accordance with Article 23.1 "Acceptance of the **Supply**".

- 26.3 In the event of an extension of the contractual warranty given by the **Buyer** to its customer, the **Buyer** may, at any time, require a corresponding extension by the **Supplier**.

- 26.4 This warranty shall be in addition to any implied or statutory warranties at law or any other commercial warranty that may be provided by the **Supplier** to the **Buyer**.

27 LIABILITY

- 27.1 The **Supplier** is liable for all direct, indirect, incidental or consequential damages incurred by the

- Buyer** resulting from the **Supply** and/or **Supplier's** failure to perform the **Contract**.
- 27.2 The **Supplier** agrees to indemnify the **Buyer** from and against any and all damages set forth in Article 27.1 above. The **Supplier** is liable for all third party claims with regard to personal and property damages which can be traced back to faulty **Supply** delivered by the **Supplier** and he is obliged to release the **Buyer** from any liability resulting there from. If the **Buyer**, or the **Buyer's** customers, are obliged to recall **Supply**, which was delivered by the **Supplier**, from third parties, then the **Supplier** shall bear the entire costs resulting from this action.
- 27.3 The **Supplier**, as an expert in its field shall have full responsibility for its technical decisions, regardless of the level of assistance provided by the **Buyer** in the performance of the **Contract**.
- 27.4 Upon the request of the **Buyer**, the **Supplier** shall participate, at its own expense, in any audit or testing procedure related to the **Supplies** initiated by the **Buyer** or its customer.
- 26.5 All exclusions or limitations of **Buyer's** liability pursuant to these **GPC** do not apply to the liability of the **Buyer** for deliberate or grossly negligent behavior. Furthermore all exclusions or limitations of **Buyer's** liability do not apply to death, bodily harm or damages to health. Finally, the exclusions or limitations of liability do not apply for the breach of important contractual duties or to liability pursuant to the Product Liability Act. The aforementioned also applies to exclusions or limitations of liability of the **Buyer's** institutions, legal representatives, employees or other assistants for deliberate or grossly negligent behavior.
- 28 INSURANCE**
- 28.1 The **Supplier** agrees to procure and maintain, at its own costs and expense, throughout the term of the **Contract**, property, product liability and general commercial liability insurance policies, from a financially sound and reputable insurance company, which adequately cover **Supplier's** liability under the **Contract** but which does not need to cover punitive or other similar damages.
- 28.2 The **Buyer** is entitled to require certain insurance coverage amounts and limits to be procured by the **Supplier** for the benefit of **Buyer**, and such insurance coverage shall not be construed or interpreted as a limitation to the **Supplier's** liability.
- 28.3 In any event, the **Supplier** shall procure insurance to insure against personal injury and damage to property while operating on the **Buyer's** site in amounts reasonably estimated to cover potential losses but in no amount less than 2.000.000 € per occurrence. The **Buyer** shall be named as an additional insured and loss payee on such policies.
- 28.4 Before commencing performance of the **Contract** and afterwards upon first request of the **Buyer**, the **Supplier** shall furnish to the **Buyer** the following documents showing compliance with this Article 28:
- insurance certificates indicating that the above requirements have been complied with and certifying the existence, capital, guarantees, duration and renewal dates of the insurance policy or policies ; or
 - certified copies of the insurance policy or policies and proof of payment of the premiums.
- 28.5 The **Supplier** shall inform the **Buyer** immediately in the event of termination or modification of the insurance coverage for any reason whatsoever. If such termination or modification is likely to affect the **Supplier's** ability to pay compensatory damages as required by Article 27 "Liability", the **Buyer** shall be entitled to terminate all or part of the **Contract** in accordance with the provisions of Article 34.2 "Termination for breach".
- 29 TRANSFER OF TITLE**
- 29.1 Unless otherwise specified in the **Contract**, ownership of the **Supply** is transferred at the date of acceptance of the **Purchase Order** by the **Supplier**.
- 29.2 The **Supplier** agrees to conspicuously mark and to segregate, in the name and on behalf of the **Buyer**, the **Supply** as it is manufactured. The **Supply** shall not be commingled with the **Supplier's** own inventory or other supplies to be delivered to other customers.
- 29.3 The **Supplier** acknowledges that the **Buyer** is the owner of all samples, models, prototypes, **Tooling** produced by the **Supplier** for the performance of the **Contract**.
- 29.4 No reservation of title clause proposed by the **Supplier** shall be effective against the **Buyer**. The **Supplier** shall assure that no reservation of title clause shall be asserted by its sub-contractors for any element delivered by them and which is part of the **Supplies**.
- 29.5 Neither the **Supplier** nor its subcontractors shall establish or pursue enforcement of any lien rights on the **Supply** whether statutory or otherwise.
- 30 TRANSFER OF RISKS**
- Transfer of risks shall occur upon delivery of the **Supply** in accordance with the Incoterm referenced in Article 21.1 "Delivery terms".
- 31 INTELLECTUAL PROPERTY RIGHTS**
- 31.1 Results**
- 31.1.1 The **Results** shall be the exclusive property of the **Buyer**.
- 31.1.2 Therefore, the **Supplier** shall transfer exclusively to the **Buyer** the ownership of the **Results**, irrevocably and for the whole duration of the protection of the intellectual property rights, in the entire world, without scope or purpose limitations. Such transfer shall occur progressively, as the **Results** are being obtained.
- 31.1.3 The price of the **Supply** includes the remuneration of the **Supplier** for such transfer of ownership.
- 31.2 Pre-existing rights**
- 31.2.1 To the extent required for the use of the **Results** by the **Buyer**, the **Supplier** shall grant a non-exclusive, fully paid-up, irrevocable, worldwide license of its **Pre-existing Rights**.
- 31.2.2 Such license shall include a right to use, represent, reproduce, adapt and modify the **Pre-existing Rights**, as well as the right to sublicense to others and/or to transfer or assign such license.
- 31.2.3 The price of the **Supply** includes the remuneration of the **Supplier** for the grant of such license.
- 31.3 Infringement**
- 31.3.1 The **Supplier** undertakes not to use, for the performance of the **Contract**, intellectual property

rights of any third party without the express prior written consent of such third party and disclosure of such use and consent to the **Buyer**. All royalties or fees based on the use of such third-party's intellectual property rights shall be at the sole cost of the **Supplier**.

31.3.2 The **Supplier** shall release the **Buyer** from any third party claim arising out of actual or alleged infringement, unfair competition or similar claim related to the use (a) by the **Supplier** of any third party's intellectual property rights for the performance of the **Contract** and/or (b) of the **Supply** and/or the **Results** by the **Buyer** or its customers or suppliers. Consequently the **Supplier** shall reimburse the **Buyer** for any costs borne in connection with such claims, which exist independently of a fault of the **Supplier**.

31.3.3 In the event that the **Buyer** or its customers or suppliers are obliged to cease the use of all or part of the **Supply** and/or the **Results**, then without prejudice to any other claim or right that the **Buyer** may have under the **Contract** or at law, the **Supplier** undertakes to immediately implement one of the following measures, at its sole expense and at the choice of the **Buyer**:

- obtain for the **Buyer** and its customers and suppliers the right to continue to use the **Supply** and/or the **Results** without restrictions and at no additional expense ; or
- replace or modify the **Supply** and/or the **Results** so that it will no longer be infringing but it remains in full compliance with the requirements of the **Contract**.

32 CONFIDENTIALITY

32.1 The **Parties** undertake to keep strictly confidential and secret all information (including but not limited to business or financial or technical information), belonging to, or held by one of the **Parties** and disclosed to the other **Party**, or to which the latter has access to, in connection with the **Contract**. Such confidential information shall not be used for any other purpose than carrying out the **Contract**.

32.2 However, information shall not be considered as confidential if such information:

- is already known by the receiving **Party** or has been developed by the receiving **Party** independently from its access to the information;
- has been legally obtained by the receiving **Party** from a third party not subject to a confidentiality obligation with the disclosing **Party** ; or
- is already or becomes public knowledge without fault of the receiving **Party**.

32.3 The receiving **Party** shall not be liable for the disclosure of confidential information where such **Party** is under a legal or regulatory obligation to make such disclosure (including but not limited to if such disclosure is made to a competent judge or tax authorities), but limited to the extent of that legal or regulatory obligation.

32.4 Except as otherwise specified in Article 31 "Intellectual Property Rights" above, the receiving **Party** undertakes not to claim any intellectual property rights whatsoever based on the confidential information.

32.5 The **Parties** undertake to comply with these obligations of confidentiality and non-disclosure, and shall ensure that their employees and agents do the

same, throughout the duration of the **Contract** and for a further period of five (5) years after expiry or termination of the **Contract**.

33 TERM OF THE CONTRACT

33.1 The **Contract** shall enter into force on the date specified in the **Contract**, or if no date is specified, when the **Purchase Order** is accepted by the **Supplier** in accordance with Article 4 "**Purchase Orders**".

33.2 **Blanket Orders** are concluded for an unlimited period. In any event, the **Contract** may be terminated in accordance with the provisions of Article 34 "Termination" below.

34 TERMINATION

34.1 Ordinary Termination

For **Blanket Orders**, the **Buyer** shall be entitled to terminate the **Contract** in its entirety or in part, without liability of any nature whatsoever to the **Supplier** or payment of any compensation, upon one (1) month prior written notice to the **Supplier**.

34.2 Termination for breach

34.2.1 In the event that either **Party** fails to perform the **Contract** in accordance with its terms, the other **Party** may terminate the **Contract**, by mail with proof of receipt, without liability of any nature whatsoever to the defaulting **Party** or payment of any compensation, if the defaulting **Party** does not correct such breach within one (1) month after receipt of formal notice by mail with proof of receipt. Termination shall be effective at the date mentioned in the notice of termination.

34.2.2 The **Buyer** shall be entitled to terminate the **Contract**, in its entirety or in part, without liability of any nature whatsoever to the **Supplier** or payment of any compensation, upon written notice, if any of the following or comparable events occur:

- (i) opening of an insolvency procedure of the **Supplier** ;
- (ii) filing of petition in bankruptcy by the **Supplier** or by a creditor;
- (iii) appointment of a receiver or trustee for the **Supplier** ;
- (iv) the **Supplier** needs accommodations from its lender, the **Buyer**, or other customers, financial or otherwise, in order to meet its obligations under the **Contract** ;
- (v) substantial or imminent deterioration of the **Supplier's** assets ;
- (vi) cessation of payment by the **Supplier**.

34.3 Miscellaneous

The provisions above shall be in addition to any other rights of the **Buyer** to cancel or terminate the **Contract** in accordance with Articles 36.5 and 37.4.

35 EFFECTS OF TERMINATION OR EXPIRATION OF THE CONTRACT

35.1 After termination or expiration of the **Contract**, those terms of the **Contract** which by their nature are to survive termination shall remain in full force and effect.

35.2 Upon termination or expiration of the **Contract**, the **Supplier** shall promptly deliver to the **Buyer**:

- the **Tooling**, in accordance with Article 19.5 "Return" ;
- upon request of the **Buyer**, inventories of raw materials and parts (at their purchase price), work-in-process (at their cost price) and/or finished **Products** (at the price set out in the **Contract**) ; and
- all **Results**, models, prototypes and any other items owned by the **Buyer** under the **Contract**.

36 FORCE MAJEURE

- 36.1 Any delay or failure of either **Party** to perform its obligations will be excused if and to the extent that the **Party** is unable to perform specifically due to any event or occurrence beyond its reasonable control and without its fault or negligence, such as: acts of God except for those mentioned in Article 35.2; restrictions and prohibitions imposed or actions taken by a governmental authority; embargoes; fires; explosions; natural disasters; riots; wars; sabotage; inability to obtain power; or court injunction or order. The *eiusdem generis* doctrine is excluded.
- 36.2 The change in cost or availability of materials, components or services based on market conditions, supplier actions, labor disruptions (such as lockouts, strikes and slowdowns) or contract disputes will not excuse **Supplier's** performance, and the **Supplier** assumes these risks.
- 36.3 Without undue delay after the occurrence, the **Party** affected by the force majeure event will provide written notice describing such event and assuring the other **Party** of the anticipated duration of the delay or failure to perform and the time when the delay or failure will be cured.
- 36.4 During the delay or failure to perform by the **Supplier**, the **Buyer** may at its option and at **Supplier's** expense:
- (i) purchase **Supplies** from other sources and reduce its schedules to the **Supplier** by such quantities, without liability of any nature whatsoever to the **Supplier** or payment of any compensation ;
 - (ii) require the **Supplier** to deliver to the **Buyer** at **Buyer's** expense all finished goods, work in process and parts and materials produced or acquired for work under the **Contract** ; or
 - (iii) have the **Supplier** provide **Supplies** from other sources in quantities and at a time requested by the **Buyer**, at the price set forth in the **Contract**.
- 36.5 If requested by the **Buyer**, the **Supplier** shall, within ten (10) calendar days following **Buyer's** request, provide adequate assurances that the delay shall not exceed thirty (30) calendar days. If the delay lasts more than thirty (30) calendar days or the **Supplier** does not provide adequate assurance that the delay will cease within thirty (30) calendar days, the **Buyer** may terminate the **Contract** in its entirety or in part, without liability of any nature whatsoever to the **Supplier** or payment of any compensation, upon receipt of a written notice.

37 SUBCONTRACTING – ASSIGNMENT – CHANGE OF CONTROL

- 37.1 The **Supplier** shall not subcontract, in whole or in part, the performance of the **Contract** to any third party without the prior written consent of the **Buyer**. Even if such consent is given, the **Supplier** shall be

solely liable for the complete performance of the **Contract** in accordance with its terms and shall cause its subcontractors to comply with the **Contract**.

- 37.2 If the **Supplier's** subcontractor or carrier brings legal action directly against the **Buyer** or its **Affiliated Companies** for payment of services carried out as part of the **Contract**, the **Buyer** expressly reserves the right to offset the amounts claimed by the said subcontractor or carrier against any amounts owed to the **Supplier** or its **Affiliated Companies** under the **Contract**, in accordance with Article 25.6 "Set-off" above.

- 37.3 The **Supplier** shall not transfer or assign in whole or in part its rights and obligations arising under the **Contract** for any reason whatsoever without the **Buyer's** prior written consent.

The **Buyer** may transfer or assign in whole or in part its rights and obligations arising under the **Contract** to any of its **Affiliated Companies** or to a third party acquiring all or part of the **Buyer's** business (further to a merger, split-off, asset transfer or by any other means).

- 37.4 The **Supplier** shall immediately notify the **Buyer** in the event of change of control, which means occurrence of one of the following events:

- the shareholder(s) owning more than fifty percent (50%) of the voting shares of the **Supplier** at the effective date of the **Contract** subsequently hold(s) less than fifty percent (50%) of the voting shares ;
- the shareholder(s) having the voting control at the board of directors (or any similar organ) of the **Supplier** at the effective date of the **Contract** subsequently does (do) not have the voting control at the board of directors (or any similar organ) of the **Supplier** ;
- the **Supplier** enters into an agreement of merger or consolidation pursuant to which the shareholder(s) of the **Supplier** owning more than fifty percent (50%) of the voting shares of **Supplier** or having the voting control at the board of directors (or any similar organ) of the **Supplier** at the effective date of the **Contract**, subsequently hold(s) less than fifty percent (50%) of the voting shares or does (do) not have the voting control at the board of directors (or any similar organ) of the entity resulting from such a merger or consolidation ; or
- the sale and/or transfer by the **Supplier** of a substantial part of its assets used to perform the **Contract**.

In the event of such change of control, the **Buyer** shall be entitled to terminate the **Contract** in its entirety or in part, without liability of any nature whatsoever to the **Supplier** or payment of any compensation, upon receipt of a written notice. Termination shall be effective at the date mentioned in the notice of termination, at the earliest upon receipt of the notice.

38 JURISDICTION – APPLICABLE LAW

- 38.1 The **Contract** shall be governed by the laws of Federal Republic of Germany but excluding conflicts of laws principles. The **Parties** expressly waive the application of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

38.2 Any claims or disputes arising out of or relating to the **Contract** or a breach of the **Contract** including disputes concerning the validity of the **Contract** shall be exclusively settled in the competent courts sitting in Munich as far as permitted by law, even in the event of joinder or multiple defendant(s).

39 MISCELLANEOUS

39.1 Entire agreement

The **Contract** constitutes the entire agreement between the **Parties** with respect to the matter contained in the **Contract**, and it supersedes all prior oral or written representations and agreements. Any modification, variation or cancellation of the **Contract** shall be binding between the **Parties** only if it is part of a subsequent written agreement executed by the duly authorized representatives of the **Parties**. The requirement of the written form also applies for any modification, variation or cancellation of this clause.

39.2 Independence of the Parties

The **Contract** has been concluded between independent **Parties** and none of its provisions shall be interpreted as giving either of the **Parties** the right or mandate to act on behalf of the other **Party** nor as implying any association, partnership or society between them.

39.3 Severability

If any term(s) of the **Contract** is (are) invalid or unenforceable under any statute, regulation or other rule of law, such term(s) shall be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with such statute, regulation or rule, and the remaining provisions of the **Contract** shall remain in full force and effect. In such a case, the **Parties** undertake to renegotiate such invalid or unenforceable term(s) in order to restate valid and enforceable provision(s) as nearly as possible to the original intention of the **Parties**.

39.4 No Implied waiver

The failure of either **Party** at any time to require performance by the other **Party** of any provision of the **Contract** shall not be considered as constituting a waiver of any such provision or of any other provision. Any waiver by either party of a breach of any term, provision or condition of the **Contract** shall not constitute a waiver of any subsequent breach of the same or any other term, provision or condition of the **Contract**.

39.5 Remedies

The remedies described in the **Contract** shall be cumulative and in addition to any other remedies provided in law.

39.6 Language

The **GPC** are written in English and in German. In case of difficulties in the interpretation of the **GPC** between the English version and the German version, the English version shall be the prevailing version between the **Parties**.