

[To be executed on Non Judicial Stamp Paper]

## GENERAL TERMS AND CONDITIONS OF PURCHASE

### DIRECT MATERIALS AND SERVICES

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#### 1. Introduction

1.1 Brembo S.p.A. and/or Affiliates ('Brembo') operate in a highly competitive environment where success is ultimately dependant on Brembo's ability to meet its customers demands timely and effectively, while at the same time fostering an environment-friendly and socially responsible workplace. To this end, Brembo intends to secure the following objectives, which it regards as an essential factor in its choice of partners and suppliers:

- (i) ensuring a reliable and timely supply of goods and maintaining prices at the level of the best purchasing prices available on the relevant market for comparable products;
- (ii) securing goods of the best quality possible, by reference to both the quality of the relevant materials and the standards of the required craftsmanship; and
- (iii) creating a complementary relationship with a view to identifying and promptly addressing any issues as well as identifying any opportunities (including cost savings) to improve the supply chain.

1.2 Acceptance of these general terms and conditions (the 'General T&C') by the supplier constitutes a preliminary and fundamental requirement for the participation in Brembo selection process of its Suppliers. The Supplier is required to accept these General T&C by placing its initials on each page and affixing its signature on the last page. These General T&C, including all Schedules thereto, are incorporated by reference and form part and parcel of the Contract as defined hereinafter.

1.3 By accepting these General T&C, the supplier (the 'Supplier') acknowledges the objectives under art. 1.1 and that Brembo has relied on the Supplier's representations that it can supply goods in accordance with the said objectives.

#### 2. Definitions and Interpretation

2.1 Unless otherwise defined in the body of these General T&C, the following terms shall have the meaning attributed to them as set out below:

'Affiliate' means, in respect of any

person/legal entity, another person/legal entity that directly, or indirectly, controls, is controlled by, or is under common control with, that person/legal entity, where 'control' means the possession, directly or indirectly, of the power to direct or cause the direction of the management of a person/legal entity, whether through the ownership of voting securities, by contract, or otherwise;

**"Applicable Laws"** means all laws, legislation, judgments, decrees, injunctions, writs, orders, rules and regulations of any Governmental Authority.

**'Contract'** means each of the following: Supplier Contract and/or a Purchase Order; and/or a Delivery Schedule and/or a Separate Agreement or a Work Contract as integrated by these General T&C.

**'Contract Work'** means a Separate Agreement setting out the terms and conditions for the Subcontracting Activities.

**'Delivery Schedule'** means, with respect to each Supplier Contract, a written schedule sent by Brembo from time to time incorporating these General T&C, setting out the delivery dates and the quantities of Goods to be supplied.

**'Equipment'** means any equipment, machinery, tools, tooling, jigs, dies, and/or devices required for the production of Goods;

**'Force Majeure'** means an event, or series of related events (e.g., natural catastrophe or cataclysm, civil disturbance/riots, terrorism, mass contamination, financial or political crisis, excluding acts of any government, difficulty in obtaining materials, power failure or breakdown in machinery, labour strikes,

pen downs, go-slows, lock-outs, closures and any other labour disturbances of any nature whatsoever, which fall beyond the parties' control and materially, detrimentally affects the parties ability to perform their respective obligations under the Contract;

**'Goods'** means raw materials, parts, accessories, tools, tooling and spare parts to be supplied by the Supplier under the Contract, including the parts, accessories, tools, tooling and spare parts manufactured by the Supplier pursuant to the Subcontracting Activities;

**"Governmental Authority"** means any central, state, local or other governmental, public or statutory instrumentality, agency, authority, body or entity.

**'IPR'** means all rights to intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how and, in respect of registered intellectual property, all applications for registration of such intellectual property;

**'Subcontracting Activities'** means any Subcontracting activity performed by the Supplier on Materials provided by Brembo to the Supplier.

**"Materials"** means any raw materials and/or semi-manufactured goods provided by Brembo to the Supplier for the purpose of carrying out Subcontracting Activities.

**'Purchase Order'** means a written purchase order for specific quantities of Goods sent by Brembo from time to time, incorporating these General T&C;

**'Separate Agreement'** means a separate, specific agreement between Brembo and the Supplier governing the supply of Goods;

**'Supplier Contract'** means a written agreement setting out agreed commercial conditions for the supply of the Goods (e.g. type and code number of Goods, specifications, prices, discount plan relative to quantity, delivery conditions, lead time, yearly manufacturing capacity granted by the Supplier etc);

**'Technical Information'** means all types of technical or technological information, literature, models, drawings, designs and/or samples that Brembo makes available to the Supplier for the design, testing, development and/or production of Goods.

2.2 In these General T&C and for the purposes of any Contract, any reference to:

- (i) a party or the parties is to a party or the parties (as the case may be) to a Contract;
- (ii) including means 'including without limitation' (with related words being construed accordingly), in particular means 'in particular but without limitation' and other general words shall not be given a restrictive interpretation by reason of their being preceded or followed by words indicating a particular class of acts, matters or things;
- (iii) a document is to that document as supplemented, otherwise amended, replaced or novated from time to time; and

2.3 The following schedules form an integral part of these General T&C:

- (i) Schedule 1 'Procurement Specifications';
- (ii) Schedule 2 'Quality and Environmental Specification for Brembo Suppliers';

(iii) Schedule 3 'Supplier Code of Conduct'.

### 3. Interpretation of these General T&C

3.1 The provisions of these General T&C are in addition to and not in derogation of any of the terms and conditions of the other Contract Documents and must be interpreted in a harmonious and mutually explanatory manner so that the supply of the Goods and Subcontracting Activities are according to international standards and best industry practices.

3.2 In the event of any conflict, discrepancy or inconsistency between these General T&C and the documents comprising the Contract referenced herein, the documents shall prevail in this order:

- (i) Purchase Order;
- (ii) Delivery Schedule;
- (iii) Separate Agreement or –Contract Work
- (iv) Supplier Contract;
- (v) General T&C.

3.3 By accepting these General T&C the Supplier expressly waives its own general terms and condition of supply or sale, if any.

### 4. Selection, Ordering and Acceptance

4.1 In order to appoint a Supplier, Brembo entertains consultations with a variety of operators. Consultations are carried out with a view to securing the best Goods possible and achieving Brembo's objectives as set out in the Introduction and in accordance with the principles set out in Schedule 2 'Quality and Environmental Specification for Brembo Suppliers'. Consultations are strictly confidential (and shall be treated in accordance with art. 20 below) and do not constitute, nor shall they otherwise be

- construed as, a promise or commitment to negotiate with any party or buy any goods from any such party.
- 4.2 Upon consultation, Brembo may, at its sole discretion, appoint a consulted party to be a Supplier. The Supplier Contract shall set out the conditions under which Brembo may buy Goods from the Supplier as agreed between Brembo and the Supplier. The Supplier Contract shall become binding on the Supplier and shall be deemed to be accepted on the occurrence of the earlier of the following circumstances:
- (i) Brembo's receipt of a copy of the Supplier Contract signed on behalf of the Supplier; or
  - (ii) the Supplier performing any works or rendering any services in connection with the supply of Goods described in the relevant Supplier Contract.
- 4.3 A Supplier Contract does not oblige Brembo to buy any Goods, it being understood that the conditions set out in a Supplier Contract shall apply to any Delivery Schedule or Purchase Order issued thereunder.
- 4.4 Brembo shall be bound to purchase from the Supplier only the Goods which will be indicated in the Purchase Order or in the 'Blocked Period' identified as such in the Delivery Schedule. Nothing contained herein is intended to create an exclusivity obligations between Brembo and the Supplier and therefore, notwithstanding the execution of the Contract, Brembo retains the right to purchase the Goods from any sources
- 4.5 A Purchase Order shall become binding on the Supplier and shall be deemed to be accepted on the occurrence of the earlier of the following circumstances:
- (i) Brembo's receipt of a copy of the Purchase Order signed on behalf of the Supplier; or
  - (ii) the Supplier performing any works or rendering any services in connection with the supply of Goods.
- 4.6 The Supplier undertakes to have and maintain in place an appropriate tooling and production plan in order to guarantee Brembo the agreed reserved production capacity (if any) and in any event to satisfy Brembo requirements for Goods set out in the Delivery Schedule.
- 4.7 A Delivery Schedule and/or a Purchase Order can be submitted, and accepted, in electronic form according to the procedure, and through electronic means, Brembo may from time to time indicate for these purposes, and the parties waive any defence to the validity and enforceability of any Delivery Schedule or Purchase Order based on the electronic submission, or acceptance, of such Delivery Schedule or Purchase Order.
- 4.8 If Brembo, after the submission to the Supplier of a Delivery Schedule or Purchase Order in accordance with present art. 4, submit another Delivery Schedule or Purchase Order substantially concerning the same supply of Goods, the provisions under art. 5 below shall apply.
- 5. Order Amendments**
- 5.1 Brembo shall be entitled to request changes with respect to the Goods including, but not limited to, specifications, drawings, designs, constructions as well as changes regarding date and place of delivery, packaging, quality, quantity and means of transportation.
- 5.2 If any change requested according to art. 5.1 above results in a significant increase, or a

reduction, of the Supplier's costs or in a potential delay of delivery, the Supplier shall immediately inform Brembo and the parties shall agree in writing the terms and conditions upon which any change so requested shall be implemented.

## **6. Subcontracting Activities**

6.1 In the event that a Works Contract has been executed by the Parties under which the Supplier shall undertake Subcontracting Activities, the following additional provisions shall apply.

6.2 Brembo will deliver the Materials to the Supplier's facilities on the basis of the applicable INCOTERMS 2010 set out in the Supplier Contract.

6.3 Upon receipt of the Materials and before carrying out the Subcontracting Activities the Supplier is required to check the Materials and will inform Brembo within 72 hours after delivery of the Materials of any defect or short delivery of the Materials. If the Supplier fails to inform Brembo within such time period, it shall be presumed that the Materials had no defects in quantity or quality and the Supplier shall be foreclosed from raising any claims regarding the quantity or quality of the Materials thereafter.

6.4 Supplier shall be liable for any non-conforming Goods and/or discarded Goods which may result from the Subcontracting Activities and Brembo shall have no obligation to accept the same.

6.5 In case of art. 6.4 Supplier shall refund the value of the Materials to Brembo and no consideration shall be due from Brembo for the Subcontracting Activities which resulted in non-conforming and/or discarded Goods. The

Supplier shall be liable for incidental and consequential damages sustained by Brembo due to the failed Subcontracting Activities, including loss of profits.

6.6 The Goods resulting from the Subcontracting Activities shall be delivered to Brembo EXW ('Ex Works') under the Incoterms 2010, it being understood that the Supplier shall return to Brembo also non-conforming and/or scrapped Goods appropriately identified as such.

6.7 Upon provision of prior written notice of three (3) working days, Brembo shall have the right to inspect the inventory of Materials and Goods stored at the Supplier's facilities. The Supplier shall indemnify and keep Brembo harmless from any liabilities which Brembo may incur towards the Supplier and /or the Supplier's employees under Applicable Law, and shall provide Brembo with all relevant and necessary documentation and certificates.

6.8 All other provisions of these General T&C, including the Schedules, shall regulate the performance of the Subcontracting Activities, if applicable and unless in contrast with art. 6.

## **7. Delivery and Acceptance**

7.1 Packaging and Labelling - The Goods shall be suitably, carefully and appropriately packaged and labelled in accordance with Schedule 1 'Procurement Specifications' and as per Applicable Law.

7.2 Unless otherwise notified by Brembo, the Goods shall be delivered as per the Delivery Schedule on the basis of DDP (Delivered Duty Paid) under Incoterms 2010 to Brembo's premises.

7.3 Delivery Note - The Goods must be

accompanied by a delivery note setting out all such information and data as is required in Schedule 1 'Procurement Specifications'.

7.4 Time is the essence of the Contract. As time is the essence of the Contract, the Delivery Dates in the Delivery Schedule are firm and are not subject to any extension on any grounds whatsoever including but not limited to the quantity or quality of materials in the ready stock of the supplier. Further, the delivery dates shall not be extended on account of monsoon, heavy rain or other inclement weather, labour strikes, other disruptions of transportation, civil disturbances or acts of a government. Notwithstanding the foregoing, Brembo reserves the right to temporarily suspend, delay or stop the progress of the work herein for business exigencies and the Supplier shall not be entitled to seek any additional compensation due to the same

7.5 PENALTY FOR DELAY - In the event the Supplier fails to supply any part or all of the Goods on the Delivery Dates, the Supplier shall be liable to pay a penalty for delay in the amount of one half percent (0.5%) of the Contract Price for each week of delay subject to a maximum of five percent (5%) of the Contract Price.

7.6 The Supplier shall notify Brembo promptly if any circumstances that may cause a delay arise. In the event of late delivery in addition to above art. 7.5, Brembo may :

- (i) source the necessary Goods from another provider at the cost and risk of the Supplier, or
- (ii) cancel the Purchase Order or the relevant 'Blocked Period' of the Delivery Schedule with immediate effect by notice to the

Supplier.

The above remedies are without prejudice to any other right Brembo may have in connection with the late delivery under these General T&C or the Applicable Law.

7.7 Brembo is entitled to return supplies delivered earlier than the delivery date indicated in the Delivery Schedule or in the Purchase Order at the cost and risk of the Supplier, and shall be reimbursed promptly for any warehousing cost incurred for the storage of such Goods.

7.8 Short Supplies - If, upon delivery, it is found out that the quantity of the Goods delivered does not conform to the Contract, without prejudice to any other rights under the Contract or Applicable Law, Brembo shall have the right but not obligation to:

- (i) accept the excess Goods, reserving the right to modify the quantity of future supplies correspondingly;
- (ii) reject the excess Goods and return them at the cost and risk of the Supplier;
- (iii) demand immediate shipment of any short supplies of the Goods at the cost and expense of the Supplier including by means of express delivery/courier or air shipments if necessary.

7.9 Inspection - The Parties agree that Brembo shall have a reasonable opportunity to inspect the Goods and inform the Supplier of any non-conformity of the Goods to the Contract. The Supplier acknowledges that any defects in the Goods will not be apparent on inspection and will become apparent to Brembo only upon use of the Goods in its manufacturing process. The Parties agree that Brembo shall have a period of fifteen (15)

working days following use of the Goods in its manufacturing process to inform the Supplier of any defects in the Goods and such period shall be deemed to be a reasonable time within the meaning of section 42 of the Sale of Goods Act, 1930. Notwithstanding the foregoing, Brembo shall not be deemed to have accepted any Goods which contain latent defects that become apparent only upon the passage of time. Brembo shall have the right to reject such Goods within a reasonable time after the latent defects becoming apparent.

7.10 Return of Rejected Goods - Brembo shall be entitled to return rejected Goods at the cost of the Supplier to the Supplier's premises for replacement of the Goods. Brembo shall not accept delivery of defective and damaged Goods that require repair or replacement and assumes no responsibility, financial or otherwise in this regard.

7.11 Buffer Stocks - The Supplier shall maintain a buffer stock of Goods at its own cost as is necessary to ensure continuity of supplies and to cope with variations in planned quantities up to the maximum quantities set out in the entire Delivery Schedule, but in any case not less than the quantity of Goods indicated in the Binding Forecast of the Delivery Schedule. Brembo reserves the right to request an increase of the buffer stock, at the Supplier's cost, within the maximum quantities previously indicated. Upon use, the buffer stock must be immediately replenished by the Supplier.

7.12 Title & Risk of Loss - Transfer of title to and property in the Goods along with the risk of loss shall pass to Brembo upon delivery at Brembo's premises in accordance to the

applicable Incoterms. Brembo shall not be responsible for any damage or loss caused to the Goods during transit and before delivery at Brembo's premises.

## **8. Consignment Stock Scheme**

8.1 Upon written agreement with the Supplier, Brembo shall be entitled to apply the Supplier shall be required to deliver the Goods on the basis of the following consignment stock scheme as outlined below.

8.2 The consignment stock scheme shall provide that:

- (i) the Supplier will required to deliver the quantity of Goods indicated by the Purchase Orders to the warehouse or plant indicated by Brembo;
- (ii) within 60 (sixty) days from the delivery Brembo shall have the option to withdraw in full or in part the Goods or return them to the Supplier;
- (iii) transfer of title to and property in the Goods shall occur upon withdrawal;
- (iv) Brembo shall submit a report of the withdrawn Goods and Supplier shall issue the relevant invoice on the basis of such report.

8.3 Special terms of the consignment stock scheme shall be agreed in a separate Consignment Stock Agreement.

8.4 The application of the above consignment stock scheme shall not entitle the Supplier to claim any increase in the prices of the Goods.

## **9. Quality**

9.1 The Supplier shall perform the required PPAP (Production Parts Approval Process), which shall be successfully completed before any Goods are supplied. The PPAP shall be carried out as provided for, and according to

- the requirements set out in, Schedule 2 'Quality and Environmental Specification for Brembo Suppliers'.
- 9.2 Supplier undertakes to strictly comply with all the quality requirements under Schedule 2 'Quality and Environmental Specification for Brembo Suppliers', both during the selection process and the performance of any Delivery Schedule or Purchase Orders.
- 9.3 Supplier agrees that upon seventy-two (72) hours advance written notice and during normal business hours, Brembo shall have the right to inspect the Supplier's facilities and premises, in order to ensure compliance with the provisions of Schedule 2.
- 10. Pricing and Payment Terms**
- 10.1 The Contract Price set forth in the Purchase Order or the Supplier Contract, as the case may be, in respect of any Goods are fixed and final. The Contract Price of the Goods includes packing, forwarding, insurance and carriage, freight, delivery, customs duties, special additional duties, countervailing duties, clearing charges and all transportation costs up to the address of the Brembo plant or other location which appears on the face of the Purchase Order. The Contract Price of the Goods includes excise, octroi, cess and any other taxes or duties of any nature whatsoever except for VAT, GST and CST as applicable.
- 10.2 It shall be the obligation of the Supplier to timely provide Brembo with the necessary C Forms and any other documentation under the VAT/GST/CST laws so as to ensure that the most beneficial rate of VAT/GST/CST is levied on the Goods.
- 10.3 No Price Escalation – The Contract Price is not subject to any price escalation on any grounds whatsoever. The Supplier shall not have the right to increase its prices for any increase in materials, parts, labour, transport, changes in work or delivery schedules, currency fluctuations, changes in duties, taxes, acts of a government or changes in government policy or any other costs of any kind arising for any reason beyond the control of the Supplier after the date of the Contract, including for but not limited to the failure of Brembo to give the Supplier adequate information or instructions. While quoting the Contract Price and agreeing the Price Review Mechanism, the Supplier is deemed to have taken into account the possibility of any rise in prices or materials due to commercial exigencies.
- 10.4 The Supplier's Invoices must list the Goods, the applicable GST/CST rate and set out all such information and data as is required in Schedule 1 'Procurement Specifications'. Supplier shall be entitled to issue the relevant invoices after the performance of the Delivery.
- 10.5 Brembo shall pay the Contract Price of the Goods within the term set forth in Supplier Contract and/or in the Purchase Order, after the Delivery of the Goods as per the Contract. Provided that Brembo may at any time and without notice deduct, set-off, or recoup any Supplier's claims for money due or to become due from Brembo against any claims that Brembo has or may have arising out of this or any other transaction between Brembo and the Supplier. Under no circumstances shall payment be made in advance of the delivery of the Goods.
- 10.6 Brembo shall make the payment of the Contract Price by bank transfer

- (NEFT/RTGS). Under no circumstances shall any part of the payment of the Contract Price be made by cash.
- 10.7 Brembo shall be entitled to a full refund and reimbursement of any part or all of the Contract Price paid for non-conforming Goods.
- 10.8 In the event of breach of Contract by the Supplier, Brembo shall be relieved of any payment obligations hereunder until the breach is remedied.
- 10.9 In event of art. 10.8, Brembo shall not be liable to the Supplier for any loss, including any interest on arrears for late payment, resulting from the withholding of payments. This provision is in addition to and not in derogation of any and all other remedies that are available to Brembo under the Contract and under Applicable laws.
- 11. Custom, Origin and Export Control**
- 11.1 The Supplier shall notify Brembo in writing of materials or components used in the production of any Goods, which the Supplier buys in a country other than the country where such Goods are delivered to Brembo and of any duty included in the price of the same Goods. The Supplier shall furnish Brembo with any documentation and information necessary to establish the country of origin, comply with the destination country's rules of origin requirements and any special trade programs.
- 11.2 The rights to and benefits of any duty drawback and export credits shall, to the extent permitted, be automatically transferred to, and become the property of, Brembo. The Supplier shall provide assistance as is necessary to obtain refunds or to drawback any duty, taxes or fees paid, and to receive export credits.
- 11.3 Customs duty and customs brokers' fees shall be the Supplier's sole responsibility as set forth under art. 7.2. Should the Supplier Contract or the Purchase Order expressly indicate a different Incoterms 2010, customs duty and customs brokers' fees will be determined accordingly.
- 11.4 The Supplier shall assist Brembo in determining timely release, customs clearance and entry, licencing requirements and the proper minimum duty to be paid upon importing the Goods into the destination country, provided that it is a Brembo responsibility. If a licence is required for importing/exporting Goods, the Supplier shall assist Brembo in obtaining any such license.
- 12. Force Majeure**
- 12.1 In the event of Force Majeure, the party affected shall immediately notify the other setting out the causes thereof and the impact on the performance of its obligations.
- 12.2 The parties shall meet as soon as reasonably possible to agree any variation to the Contract as is necessary or appropriate to cater for the consequences of the Force Majeure event, provided that the party affected shall not be responsible for the obligations impaired by the Force Majeure event for as long as the interference continues.
- 12.3 If the parties cannot agree on a variation to the Contract within forty-five (45) days from the occurrence of the Force Majeure event or such event continues for a period of forty-five (45) days, then either party shall be entitled to terminate the Contract by notice in writing to the other without any liability other than with respect to obligations which, at the date the

event of Force Majeure first happened, had already fallen due.

### **13. Warranty**

13.1 In addition to and not in derogation of the implied warranties available under Applicable Law, the Supplier expressly warrants as follows:

- (i) The Seller has good title to the Goods free from any encumbrances.
- (ii) The Goods are free from faults or defects and conform to the Technical Information and any other relevant drawings, descriptions, designs, samples or specifications provided by Brembo.
- (iii) The Goods comply with all applicable statutory requirements and regulations under Applicable Law.
- (iv) The Goods are fit for the particular purpose required by Brembo, that is, for use in Brembo's manufacturing processes and are merchantable. The Supplier acknowledges that Brembo has made known to the Supplier the particular purpose for which the Goods are required, has reasonably relied on the Supplier's skill or judgment and the Goods are of a description which is in the course of the Seller's business to supply.

13.2 Warranty Period - The warranty period (hereinafter the "Warranty Period") shall expire on the later of the following:

- (i) the expiry of any warranty provided by Brembo to end-customers of the Goods, or products into which the Goods are incorporated; or
- (ii) Five (5) years after the delivery date.

13.3 In the event of breach of warranty which occurs at any time during the Warranty Period,

Brembo shall (in addition to any other remedy) have all of the following rights (at the Supplier's cost and expense) to:

- (i) perform, even by appointing a third party, any quality tests/ performance tests on the Goods at the Supplier's expense; or
- (ii) reject the Goods affected or, if the parties have agreed to a tolerance margin and the tolerance margin is exceeded, reject the entire batch of which the affected Goods are part; or
- (iii) demand immediate replacement of such Goods or, if the parties have agreed to a tolerance margin and such margin is exceeded, replacement of the entire batch of which the affected Goods are part.
- (iv) Recover the defective Goods by means of supplementary work if the Supplier is not able to provide immediate replacement;

13.4 Notice of Claim - Brembo has the right to serve notice of breach of warranty on the Supplier stating its claims and demands within 60 days of becoming aware of the defect and/or fault affecting the Goods from the beginning of the Warranty Period up to one year after the expiry of the Warranty Period provided that the breach of warranty occurred during the Warranty Period.

### **14. Indemnity and Insurances**

14.1 The Supplier undertakes to defend, indemnify and hold harmless Brembo on demand against:

- (i) any liabilities, losses, damages, expenses (including without limitation fees of counsel and experts) and other costs, including loss of profits, incurred in connection with any breach of, or non-compliance by the Supplier with the Contract; and

- (ii) any claim resulting from injury or death of any person and damage or loss of any property, including but not limited to financial loss and loss of profits caused by defective Goods or otherwise arising from any act, omission or negligence of the Supplier (or any person acting on its behalf) as well as any costs incurred in connection with vehicle recall and customer satisfaction campaigns (including but not limited to retrofitting and repair, subsequent delivery and installation and removal of the defective goods).
- 14.2 In addition to the indemnity obligations set out in art. 14.1 above, the Supplier shall cooperate with Brembo in dealing, and take such actions as Brembo may reasonably request in connection with any recall or campaign which Brembo may carry out.
- 14.3 The Supplier shall procure and maintain at its sole expense for as long as it supplies Goods to Brembo and for five years after the termination of the Contract the following insurance with a primary carrier with an excellent rating from an internationally rating agency:
- (i) Product liability insurance;
- (ii) Product recall insurance including direct first party recall, third party recall, whether requested by Brembo, any Authority or any Brembo customers including any service campaign.
- Brembo reserves the right to request any further insurance coverage to the Supplier in addition to what provided for in this art. 14, and the right to request an increase of the policy limits if they results as non-adequate according to the business requirements.
- 14.4 The above Insurance policies shall name Brembo as 'Loss Payee' and/or as 'additional insured', be primary and not excess over or contributory with any other valid, applicable, and collectible insurance in force for or maintained by Brembo or Brembo's customers and provide that Brembo be given thirty days prior written notice of cancellation or material change in coverage. The Supplier waives, and shall cause its insurers to waive, any right of subrogation or other recovery against Brembo.
- 14.5 The Supplier will notify Brembo in writing no less than thirty (30) days prior to cancellation, termination, or material changes of any one policy. At least ten (10) days before the inception or the expiration of an insurance policy required hereunder, the Supplier will deliver to Brembo a certificate of insurance or equivalent proof of insurance.
- 14.6 Brembo may at any time require the Supplier to furnish evidence of the foregoing insurance.
- 15. Technical Information and IPR**
- 15.1 Technical Information is and will remain the exclusive property of Brembo and may be used solely to produce Goods to be supplied to Brembo under the Contract.
- 15.2 The Supplier undertakes to:
- (i) keep Technical Information confidential in accordance with art. 20 below, and promptly return it to Brembo at its request;
- (ii) not to reproduce or copy any Technical Information other than within the limits expressly authorised by Brembo; and
- (iii) not to use any Technical Information or other information based, in whole or in part, on Technical Information to produce any goods other than the Goods.
- 15.3 Before execution of a Supplier Contract, the

- Supplier shall advise Brembo in writing if any relevant Goods are covered by any Supplier's IPR, and, if so, which IPR it is subject to, provided that failure by the Supplier to communicate such rights shall constitute a waiver of such IPR with respect to Brembo.
- 15.4 Except for any rights communicated in accordance with art. 15.3 above, if the Supplier creates new IPR in connection with the execution of the Contract, the Supplier will advise Brembo and, upon request, will make available to Brembo all documentation and information relating to such IPR. Brembo shall automatically be granted a non-exclusive, world-wide, royalty free, irrevocable and perpetual licence for the use of such IPR. The Supplier shall register (or take whichever other steps as is necessary to protect) the new IPR as directed by Brembo, or alternatively shall allow Brembo to do so in the name and on behalf of the Supplier.
- 15.5 The Supplier represents, warrants and guarantees that the production, use and sale of Goods do not infringe any third-party IPR. The Supplier shall bear the cost of any third-party claims and shall defend, indemnify and keep Brembo harmless with respect to any such claims or any other action (including any attempt of confiscation) which may be initiated by any third party against Brembo.
- 16. Specific Equipment and Materials**
- 16.1 If Brembo provides, or buys and subsequently makes available, Equipment to a Supplier other than on the basis of a specific contractual arrangement, the following provisions shall apply.
- 16.2 Any Equipment provided to the Supplier shall remain the exclusive property of Brembo. The Supplier shall be liable in the event of its loss, destruction or damage. The Supplier shall:
- (i) record and mark the Equipment as being the property of Brembo;
  - (ii) provide adequate insurance coverage against risks of fire, theft, vandalism, natural disasters, unauthorised modification and other insurable risks of loss or damage;
  - (iii) keep the Equipment with the highest care and ensure proper maintenance;
  - (iv) advise Brembo immediately of any need for extraordinary maintenance, repairs or replacement of parts, it being understood that the performance of such repairs or replacement will be authorised by Brembo and carried out at its own cost; and
  - (v) not transfer Equipment outside the Supplier's own plants, nor use the Equipment for any reason other than the execution of the Contract.
- 16.3 If the Supplier is required to manufacture or develop, or buy, any Equipment in order to be able to supply any Goods, the cost of such Equipment, as well as any contribution by Brembo (in the form of an increase of the price applicable to the relevant Goods or otherwise), shall be agreed between the Parties and set out in the relevant Supplier Contract. In addition, the following provisions set forth in art. 16.4 shall apply.
- 16.4 The Equipment referred to in art. 16.3 shall be kept and maintained by the Supplier with the highest care in the interest of Brembo, provided that:
- (i) Brembo shall acquire ownership of, and title to, this Equipment upon payment to the Supplier in full of the lower of: (i) net book

value (i.e. book value minus depreciation applied in accordance with applicable accounting standards) and (ii) liquidation value; and

- (ii) upon payment as provided in art. 16.3 above, the Supplier grants to Brembo a non-exclusive, world-wide, royalty free, irrevocable and perpetual licence with respect to any IPR of the Supplier incorporated into, or necessary for the use of, the relevant Equipment.

#### **17. Designation of Goods and Publications**

17.1 The Supplier shall mark the Goods as required by, and in accordance with Schedule 1 'Procurement Specifications'. Neither party shall use any of the other party's proprietary names, logos, trade names, trademarks or service marks without the prior written consent of the party, which owns or controls such proprietary names or trademarks.

17.2 Without Brembo's prior written consent, the Supplier shall not publish in any manner (through any marketing or other media) that the Supplier has contracted with or has been supplying Goods to Brembo, other than as required by applicable laws or regulations.

#### **18. Spare Parts**

18.1 The Supplier shall make and sell to Brembo Goods (or parts thereof) for use as spare parts in connection with Brembo's service, after-market and warranty requirements for a period of ten (10) years after the end of production of the relevant Goods.

18.2 The price of such Goods (or parts thereof) shall, for as long as they are used in the production of Brembo's products, be the same as the price payable under the last Supplier Contract for corresponding Goods (or parts

thereof).

#### **19. Termination**

19.1 Brembo shall be entitled to terminate a single Purchase Contract, and/or Delivery Schedule, or its entire business relationship with the Supplier upon seven (7) days prior written notice in any of the following circumstances where the Supplier:

- (i) Fails to deliver the Goods on a Delivery Date or otherwise breaches the Contract;
- (ii) abandons or repudiates the Contract; or
- (iii) fails to commence the deliveries as per the Delivery Schedule; or
- (iv) is or become unable to fulfil its obligations under the Contract;
- (v) files any petition for voluntary winding up in a court, any of its creditors file a petition for winding up of the Supplier in a court or winding up procedures are commenced by a court or the Supplier makes any arrangement with its creditors or commits any act of bankruptcy or any liquidator or an administrator is appointed over the whole or any part of the Supplier's business or assets;
- (vi) The Supplier is charged with any crime in connection with its business activity by any governmental authority, or
- (vii) The Supplier breaches the Ethics Code or any law relating to anti-bribery or use of child labour.

19.2 If any of the foregoing events occur, then Brembo shall be entitled to terminate the Contract forthwith with no liability upon its part except for payment of Goods which have been accepted prior to the date of termination.

19.3 The Contractor shall not be released from any of its obligations or liabilities under the

Contract. The rights conferred and the deliveries made by the Contractor till then as per the Contract shall not be affected.

19.4 Any such termination shall not affect the liability of a party with respect to any obligations which, at the date of termination, had already fallen due.

19.5 In the event of termination of the Contract, Brembo shall be entitled to claim any and all damages resulting from the material breach as provided under Applicable Law including loss of profits.

## **20. Confidentiality**

20.1 The Supplier shall not divulge or otherwise make available to any third party any information of any type and in whatever form (including Technical Information), which the Supplier has acquired, or is otherwise available to it, as a result of, or in connection with, the Contract.

20.2 The obligation of the Supplier shall continue in effect until the relevant Technical Information becomes publicly available or otherwise enters the public domain without the Supplier's fault.

20.3 Any communication to third parties as to the existence and content of the Contract by any means (press, radio, TV, other media) must previously be agreed by the parties in writing.

## **21. Compliance**

21.1 The Supplier shall:

- (i) be responsible for obtaining, paying for and maintaining in force all applicable licences, consents, permits and approvals of all regulatory authorities whatsoever which are or may be necessary or advisable in connection with the conduct of their businesses as per

Applicable Laws;

- (ii) abide by all the provisions and regulations under Applicable Laws in connection with the conduct of their businesses.

21.2 Brembo is a company which performs its business activities in accordance with its own Code of Ethics and, in observance to the relevant principles of Corporate Governance and Compliance, has adopted a proper compliance program in order to prevent corporate criminal liability according to applicable laws, an Anti-Bribery Code of Conduct, a Code of Basic Working Conditions and a Policy on non-discrimination and diversity; those documents are available online at [www.brembo.com](http://www.brembo.com) » "Company" » "Corporate Governance" » "Codes and Policies".

21.3 Brembo wishes to cooperate and make business only with companies who shares such ethical approach. Pursuant to the importance that for Brembo hold business ethics, social responsibility and the compliance of the legal framework in performing its business activity, the Supplier commits to comply with the principles stated in the Code of Ethics and in other Codes of Conducts and Policies from time to time issued by Brembo and available on Brembo's website, and generally to transparency, fairness and loyalty principles. Notably, the Supplier shall refrain from and shall develop a control system in order to prevent the commission of any action or engaging in any practice which may result in a breach of any anti-bribery or anti-corruption laws, environmental laws, labor and labor safety laws. Moreover, the Supplier shall adopt an

adequate control system, in order to prevent the commission of such violations.

21.4 Without prejudice to the other provisions of these General T&C and in addition to what provided for under art. 19 or in any other provisions of these General T&C, Brembo shall have the right to suspend or terminate the Contract with immediate effect in the event that the Supplier does not comply with the abovementioned principles of conduct and/or is charged with criminal offence in relation to its business activity, being it considered a breach of the Supplier's contractual obligations. Any such termination shall not affect the liability of a party with respect to any obligations which, at the date of termination, had already fallen due, it being understood the Brembo shall be entitled to be reimbursed for the damages caused by the conduct of the Supplier and be indemnified for any claim or action raised by third parties in relation to such conduct.

21.5 Brembo may request the Supplier from time to time to certify in writing its compliance with the present art. 21.

## **22. Environment, Social Responsibility and other Ethical Standards**

22.1 The Supplier shall use the resources and facilities necessary for production of the Goods (including materials, energy and water) efficiently and shall reduce the environmental impact of such production (in particular with respect to waste, wastewater, air pollution and noise) to a minimum. The Supplier shall establish, according to the provisions of Schedule 2, and maintain a certified environmental management system in accordance with the requirements of ISO

14001. The Supplier is responsible for registration and, where necessary, authorisation or notification of chemical substances contained in Goods in accordance with the statutory requirements that apply to the market concerned (e.g. REACH, EU).

22.2 Brembo actively promotes an environment-friendly, socially aware and sustainable work place and demands that the Supplier adheres to, and act by, the same standards and principles. In particular, Brembo actively promotes an environment-friendly, socially aware and sustainable work place and demands that the Supplier adheres to, and act by, the same standards and principles. In particular, Brembo and the Supplier shall at all times endeavor to be inspired by The UN Universal Declaration of Human Rights, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the OECD Guidelines for Multinational Enterprises. The principles listed in Schedule 3 'Supplier Code of Conduct' are of particular importance and must be adhered to at all times.

## **23. Miscellaneous**

23.1 Access to Records - Brembo shall have the right by serving prior notice on the Supplier to access, and make copy of, all of the Supplier's information, books, records, payroll data, receipts, correspondence, and other electronic and non-electronic documents relating to the Goods, the Supplier's obligations under the Contract, any payment made to the Supplier, or any claim made by the Supplier, as reasonably required for the purpose of auditing or verifying the Supplier's performance of, and compliance with, the

- terms of the Contract. The Supplier shall preserve this information and these documents for the period indicated in the Schedule 2.
- 23.2 The Supplier shall cause its Affiliates, employees, agents and other representatives as well as its own suppliers and subcontractors to comply with the obligations and restrictions set out in the Contract.
- 23.3 Processing of personal data - Any processing of personal data is subject to the provisions of Information Technology Act, 2000, Information Technology (Reasonable security practices and procedures and sensitive personal data or information) Rules, 2011 or any future amendments to these statutes including any new statute time being in force in future.
- 23.4 Amendments - Any waivers or amendment must be executed by the Parties in writing in order to be valid.
- 23.5 No Assignment -The Contract (including any credit thereunder) may not be assigned, sub-contracted or otherwise transferred by the Supplier, in whole or in part, without the prior written consent of Brembo.
- 23.6 Inspection - Without prejudice to any audit right provided in Schedule 2, upon reasonable prior notice Brembo and/or Brembo customer shall be entitled to inspect Supplier facilities in order to audit Supplier compliance with any provisions of the Contract.
- 23.7 No Waiver - No delay in exercising or non-exercise by a party of any right, power or remedy under the Contract shall impair, or otherwise operate as a waiver or release of, that right, power or remedy.
- 23.8 Survival of Articles - The expiration or termination of the Contract shall not affect the Supplier's obligations, representations and warranties, and Brembo's rights under the Contract with respect to Goods delivered or ordered prior to such expiration or termination. Without limiting the foregoing Articles 13, 14, 15, 16, 17, 19, 20, 23 and 24 shall survive termination or expiration of the contract and these General T&C.
- 23.9 Severability - In the event of any provision of the Contract being found or deemed invalid or unenforceable, such provision shall be considered severable from the remainder of the Contract and the general validity of the Contract shall not be affected, and the parties shall subsequently use their best endeavours to agree on a valid replacement provision, which to the extent legally permissible, achieves the same purpose(s) as the original one.
- 23.10 Notices – a notice required to be given by either party to the other under the Contract shall be in writing addressed to that other party at its address set forth in the Supplier Contract or Purchase Order.
- 23.11 Overriding effect: It is mutually agreed to between the parties that the Contract shall have a overriding effect over all prior, contemporaneous and subsequent correspondence between the Parties and no such correspondence shall be binding on the Parties.
- 23.12 The Supplier expressly states that he has read and understood these General T&C, including all Schedules hereto and agrees to the provisions herein as evidenced by the signature of the Supplier below.
- 24. Governing Law and Jurisdictions**

- 24.1 Applicable Law - the law applicable to this Contract is Indian law.
- 24.2 Choice of Forum – Any and all disputes arising under this Contract shall be subject to the jurisdiction of the courts at Pune, Maharashtra.
- 24.3 The parties expressly exclude the application of the United Nations Convention on Contracts for the International Sale of Goods.

For and on behalf of

[insert name of the Supplier]

For and on behalf of

Brembo Brake India Pvt. Ltd.