

## PURCHASING CONDITIONS FOR SERIES PARTS, SPARE PARTS, AND KTM POWERPARTS

**KTM AG**, a company registered in accordance with Austrian law under Company Register Number FN 107673v with business address at Stallhofnerstraße 3, 5230 Mattighofen, Austria

and

\_\_\_\_\_ [company/name], a company registered in accordance with the laws of  
[country] under Company Register Number \_\_\_\_\_ with  
business address at \_\_\_\_\_ [address]

### 1. GENERAL

- 1.1. These Purchasing Conditions ("PCS") apply to the purchase of series and spare parts, initial samples, prototypes, software, PowerParts as well as tools and devices for their manufacture and use in series production ("Delivery Items") by KTM AG ("KTM") from the Supplier.
- 1.2. Wherever the term "Supplier" is used below, it refers to KTM's contractual partner.
- 1.3. The legal relationship between KTM and the Supplier ("Parties") is exclusively governed by these PCS. The general terms and conditions of the Supplier shall not apply even if KTM has not objected to them in individual cases.

These PCS and the resulting rights and obligations also apply to any supply relationships between the Supplier and Affiliated Companies of KTM. "Affiliated Companies" within the meaning of these PCS means any legal entity under the control of KTM, that controls KTM or that is under common control with KTM. Control exists, if at least 50% (fifty percent) of the shares of equity or voting rights are held or the management and policies of the company are directly or indirectly controlled by virtue of shares of equity, contracts or otherwise.

### 2. SUPPLY CONTRACT

- 2.1. "Supply contract" means any contract that is concluded by means of acceptance by KTM of a binding offer from the Supplier or by means of an order confirmation of a non-binding offer from the Supplier accepted by KTM (in each case, text form is sufficient) or any contract mutually concluded in writing between the Parties for the purchase and supply of Delivery Items.
- 2.2. The Supplier will immediately confirm KTM's acceptance of a binding or non-binding offer. Acceptance is considered to have been confirmed without substantive changes if the Supplier does not object within 5 (five) business days (Monday to Friday) from the date of the acceptance.
- 2.3. Within the scope of the supply contract, KTM is entitled to issue delivery schedules according to the Delivery Schedule Guidelines ([Delivery Schedule Guidelines.pdf.ktmgroup.com](http://Delivery%20Schedule%20Guidelines.pdf.ktmgroup.com)) and has the right to apply business-related deviations to the ordered Delivery Items, in particular but not limited to quantity, time and place of delivery, quality, specifications, drawings, design, construction and packaging. In the event of such deviations, the operational circumstances of the Supplier must be taken into account. Due to its technical expertise, the Supplier is obligated to propose modifications to one or more Delivery Items that are or may be necessary or expedient with regard to statutory or other mandatory requirements. The same applies if KTM requires deviations related to quality, specifications, drawings, design and construction as outlined in this paragraph.
- 2.4. The quantities or delivery periods communicated by KTM prior to the conclusion of the supply contract are merely non-binding reference values (e.g., for price calculations).

### 3. PRICES

The agreed prices are fixed prices. These include, in particular, all Supplier costs for quality management, functional and quality testing, transport, packaging, documentation, labeling

(branding) and any approvals and insurance. Nevertheless, demonstrable and plausible increases in the prices of raw materials shall be taken into account by KTM.

4. **DELIVERY DEADLINES, DELIVERY PERIODS, DELAY IN DELIVERY/DEVIATION IN QUANTITY, CONTRACTUAL PENALTY, FORCE MAJEURE**

- 4.1. The delivery dates, deadlines, and quantities stipulated by KTM in the supply contract or delivery schedule are deemed to have been agreed as binding in the absence of an express written objection by the Supplier within 5 (five) business days.
- 4.2. A delivery is on time if the Delivery Items (e.g. in accordance with the delivery schedule) are received in full at the delivery address specified by KTM or have been accepted by KTM at its discretion, including any assembly, provision of documentation, training or commissioning ("Receipt").
- 4.3. KTM reserves the right to reject a delivery or parts thereof or to return it to the Supplier at the Supplier's expense if this is not performed as agreed in the delivery schedule (e.g. premature delivery, partial delivery or excess quantities).
- 4.4. If the Supplier is in default of a delivery, KTM is entitled to (i) demand performance in accordance with the contract and compensation for the damage caused by the delay or (ii) to cancel the contract after a reasonable grace period has elapsed and claim damages for non-performance. In the event of a delay in delivery and irrespective of any fault, the Supplier shall also pay a contractual penalty of 0.5% (half a percent) of the respective value of the order that is delayed for each day commenced, up to a maximum of 5% (five percent) of the respective value of the delayed order. If KTM does not demand a contractual penalty in the event of default, it may alternatively claim replanning costs (minimum EUR 10,000) with regard to production, storage, transport etc. from the Supplier. In order to avoid any possible disadvantage in the event of default by the Supplier, KTM is entitled to source delivery items elsewhere and to reduce the delivery quantities stated in the delivery schedule without any obligation towards the Supplier. The Supplier will reimburse KTM for any (additional) costs that may arise from obtaining an alternative supply of the delivery quantity originally agreed with the Supplier.
- 4.5. Acceptance or payment of a delayed delivery by KTM does not constitute a waiver by KTM of any claims for compensation.
- 4.6. The Supplier will notify KTM in writing immediately upon becoming aware of the risk of a delay in delivery and/or a deviation in quantity, as well as of the measures it has taken to counteract this and will do its utmost to mitigate the associated adverse consequences for KTM.
- 4.7. Each Contracting Party is released from its duty to fulfill its contractual requirements in the event of an uncontrollable incident that is outside their sphere of influence and that makes it impossible to provide the service. An incident is deemed to be uncontrollable where it is outside the control of the party in question, where it could not be foreseen at the time at which the contract was concluded and where the impacts of such an incident could not have been prevented or resolved by the affected party ("Force Majeure"). Only restrictions or prohibitions imposed by state authorities, embargoes, natural disasters, epidemics, or pandemics shall be deemed to be cases of Force Majeure. In order to avoid any possible disadvantage if such events occur, KTM is entitled to source delivery items elsewhere and to reduce the delivery quantities stated in the delivery schedule without any obligation towards the Supplier. KTM will invoice the Supplier for any costs that may arise as a result of obtaining an alternative supply of the delivery quantity originally agreed with the Supplier.

5. **PACKAGING**

The Supplier undertakes to comply with the KTM Packaging Specifications for Suppliers as amended from time to time. The KTM Packaging Specifications for Suppliers are available in the "Agreements" section of the KTM Supplier Management Download Center (<https://ktmgroup.com/en/procurement/>).

6. **SHIPPING, PLACE OF PERFORMANCE, TRANSFER OF OWNERSHIP, DELIVERY DOCUMENTATION, TRANSFER OF RISK**

6.1. The shipping/transport of the Delivery Items, the transfer of risk and the place of performance of the delivery are governed by a separate agreement concluded by the Parties in writing. In the absence of an agreement between the Parties, the following applies: place of performance is Stallhofnerstraße 3, 5230 Mattighofen, Austria. Unless otherwise agreed, transfer of risk takes place upon delivery of the Delivery Items to KTM. Until the Delivery Items are received by KTM, all costs and risks are borne by the Supplier, including any customs and taxes.

6.2. The Supplier must promptly notify the transport company that the Delivery Items are ready for shipping so that Receipt can be guaranteed as agreed.

6.3. The Supplier shall include with every shipment a written delivery note specifying the details of the order transmitted by KTM, such as the order number, order item number, part number, place of delivery and delivery address, as well as an exact description of the contents. In order to avoid confusion with series parts, it is also essential to specify the exact maturity level (such as prototype parts, initial sample parts, sample parts, series parts etc.). If this information is not included in the delivery note, KTM shall be entitled to reject the delivery at the expense and risk of the Supplier. If several items from different delivery schedule are delivered together and a single delivery note is used, clear information must be attached indicating which items are attached to which delivery schedule. With respect to the accompanying documentation for the Delivery Items, the Supplier must comply in full with all legal regulations applicable to the means of transport used (e.g. CMR Directives for the for transportation by land etc.).

6.4. If the Supplier is responsible for the shipment of the Delivery Items, it undertakes to send KTM a dispatch note in good time, stating the exact delivery time, the delivery note information, the means of transport and the name of the forwarding agent/carrier.

6.5. The delivery of Delivery Items to KTM must take place exclusively during the operating hours of the KTM incoming goods department. The operating hours of the KTM AG main production plant (Stallhofnerstraße 3, 5230 Mattighofen), the KTM Spare Part Center, (KTM-Straße 1, 5230 Mattighofen) and the respective logistics centers can be found in the KTM Supplier Management Download Center at <https://ktmgroup.com/en/procurement/>.

6.6. If components are provided by KTM or third parties, the Supplier shall bear the risk for these components respectively from the time of delivery to the Supplier. In cases in which the Supplier returns components to KTM or third parties, the Supplier bears the risk for those components until delivery (including unloading) at KTM or any third party.

6.7. The Supplier must register in advance for deliveries of pallet goods <https://www.cargoclix.com/bajaj-mobility>. Parcel delivery services do not need to complete the registration process.

## 7. **QUALITY**

7.1. The Supplier undertakes to sign the KTM Quality Assurance Agreement ("QAA") within a reasonable period. The QAA is available in the "Agreements" section of the KTM Supplier Management Download Centre (<https://ktmgroup.com/en/procurement/>).

7.2. If KTM is obliged to permit the competent authorities, in particular the authorities responsible for product safety, to inspect its documentation, the Supplier hereby undertakes to provide all reasonable support in this regard at KTM's request. The Supplier further undertakes to grant KTM full access to its records and provide any samples requested if facts arise resulting in reasonable doubt as to quality assurance having been correctly carried out or if required as evidence in cases of damage. The Supplier additionally undertakes to assist KTM in analyzing the records and samples.

## 8. **REACH CHEMICALS REGULATION**

The Supplier undertakes to send material datasheets to KTM via IMDS (International Material Data System) for each Delivery Item. This is required in particular in order to meet the requirements of the REACH European Chemicals Regulation (Regulation (EC) 1907/2006). This applies without exception to all Delivery Items delivered to KTM, including standard and catalog parts, and technical accessories and is part of the standard quality assurance agreement.

## 9. OBSOLESCENCE MANAGEMENT

The Supplier undertakes to select the materials used for manufacturing the Delivery Items with great care and, in particular, to provide for the product life cycle and the possible use of suitable alternative materials, taking into consideration the availability and quality of the materials used. The Supplier must establish a suitable monitoring system for this and ensure that immediate notification is sent to KTM of any discontinuation of the materials used. If the Supplier announces or provides notification of a discontinuation of materials used for the manufacture of the Delivery Items, it undertakes to ensure the continued delivery of the Delivery Items to KTM in the agreed and usual quality. The KTM spare parts supply shall in any case remain unaffected by this (see Section 21). In agreement with KTM, the Supplier will implement suitable measures to enable the availability of the Delivery Items as part of obsolescence management. Here, it may be necessary to carry out revalidation and/or initial sampling of the Delivery Items.

## 10. PAYMENT, INVOICING, OFFSETTING

- 10.1. After Receipt, the Supplier will send its invoices electronically to [accounting@ktm.com](mailto:accounting@ktm.com) or via EDI. The invoices must meet the requirements of § 11 UStG ("Austrian Value Added Tax Act") and in particular contain the following information:
  - Order number, order item, part number, part description and Supplier number
  - Delivery note number of the Supplier
  - Date of shipment and place of delivery
  - Additional delivery costs (customs duties, packaging, transport, insurance)Invoices that do not contain the required information or feature errors of content and/or form, which are likely to delay the invoice verification process, may be rejected by KTM and will not be due for payment. Any resulting costs, in particular input tax deductions refused by the tax authorities, shall be borne by the Supplier. In this case, the new due date for payment will be calculated from the date of receipt of a new invoice that is free of any errors in terms of content and form.
- 10.2. Unless otherwise agreed, payment shall be made by bank transfer. Any transfer fees will be shared between KTM and the Supplier (expense option "SHA" – "shared"). Transfers will take place once a week on a business day specified by KTM and will include all invoices that are correct, verified and due by that business day. Transfers shall be made to the bank account provided to KTM for the Supplier. A change to the Supplier's bank details must be notified to KTM in writing and confirmed by KTM in writing in accordance with the established process in order to become valid.
- 10.3. Payment will be made within 90 (ninety) days of receipt of the invoice into the bank account provided to KTM, subject to Receipt of the Delivery Items. Until the contractual obligation has been duly performed in full, KTM shall be entitled to withhold payment or to a reimbursement if payment has already been made.
- 10.4. KTM is entitled to an offset even if its claims (e.g. due to default, inadequate quality and compensation) are not yet due, are contested or are payable in a foreign currency. The Supplier is not entitled to cede its claims against KTM to third parties unless KTM agrees to this in writing in advance.
- 10.5. At KTM's request, the Supplier agrees to switch to the credit procedure in accordance with § 11 (7) and (8) UStG. A separate agreement shall be signed in this regard.

## 11. TERMS AND CONDITIONS FOR TOOLING

The Supplier undertakes to comply with the KTM Terms and Conditions for Tooling ("TCT") as amended from time to time. The TCT are available in the "Agreements" section of the KTM Supplier Management Download Center (<https://ktmgroup.com/en/procurement/>).

## 12. STATUTORY WARRANTY

- 12.1. The Supplier warrants that the Delivery Item has the contractually specified and generally expected properties. The specifications stated in the supply contract are warranted properties. The Supplier warrants that the Delivery Item complies with the state of the art in science and

technology with regard to design and production. The Supplier further warrants that all product safety provisions applicable internationally (in particular in the EEC, USA and Asia) and in Austria have been met. Furthermore, the Supplier warrants that the Delivery Item complies with the samples on which they are based.

- 12.2. The warranty period for all Delivery Items begins upon Receipt and ends 4 (four) years after Receipt. This provision is subject to longer warranty periods based on national laws and regulations in the respective markets where the final products incorporating the Delivery Items are distributed.
- 12.3. The Supplier waives its objection to a delayed notification of defects.
- 12.4. At KTM's election, the Supplier undertakes to improve or replace the defective Delivery Items ("**Supplementary Performance**"). The Supplier also undertakes to remedy such defects including by working in multiple shifts or at overtime or production hour rates if this is necessary for urgent operational reasons at KTM. KTM is not obliged to accept more than 1 (one) Supplementary Performance. If a Delivery Item is repeatedly delivered in a defective condition, KTM shall be entitled to terminate all supply contracts with the Supplier.
- 12.5. If the Supplier does not immediately fulfill its warranty obligation in accordance with 12.4, KTM will be entitled to remedy the defects itself or through third parties at the expense and risk of the Supplier ("**Substitute Performance**"), or to demand a reduction in the price, or to declare a rescission of the contract and return the Delivery Items to the Supplier at the Supplier's expense and risk.
- 12.6. In the event that a defect in the Delivery Item is remedied – including by replacement, repair, etc. of defective parts – the warranty period for the entire Delivery Item starts again.

### **13. GENERAL LIABILITY**

- 13.1. The Supplier shall be liable to KTM and all KTM-Affiliated Companies in accordance with statutory provisions for any form of fault and for all types of personal and property damage as well as financial losses.
- 13.2. Where permitted by law, KTM shall be liable to the Supplier only for intentional or grossly negligent conduct, with the exception of personal injuries for which it is already liable in cases of slight negligence.

### **14. PRODUCT LIABILITY**

- 14.1. The Parties refer to the relevant statutory provisions of the Product Liability Law (PHG) in effect at the time of KTM's or a KTM-Affiliated Company's claim.
- 14.2. If third parties take legal action against KTM, the Supplier is obliged to join the court proceedings on the side of KTM as an intervening party after receiving a third-party notice in such proceedings. KTM shall remain in control of the proceedings. Upon KTM's request, the Supplier shall make all the documents available to KTM that are required for the legal proceedings. The Supplier shall only make its own submissions to the court after prior coordination with KTM. If third parties make extrajudicial claims against KTM, KTM shall be entitled to include the Supplier in discussions with these third parties. KTM shall remain in charge of the settlement negotiations. In each of these two cases, the Parties shall endeavor to conclude an agreement setting out the conditions under which the Parties allocate responsibility and liability for defending such third-party claims or lawsuits and the resulting financial burdens between themselves.
- 14.3. If KTM compensates a third party for damages, whether through settlement, acknowledgment, or legally binding judgment, the Supplier shall indemnify and hold KTM harmless. This shall not apply if the Supplier proves that the Delivery Item was not defective when the KTM product with the integrated Delivery Item was placed on the market, or that the Delivery Item was not the cause of the damage. Outside the scope of product liability, this also applies if the Supplier did not culpably caused the damage.
- 14.4. Consent to Jurisdiction: For purposes of any proceeding or claim brought by KTM, and/or its affiliates, to enforce the Paragraphs above against Supplier in the United States of America, Mexico, or Canada (collectively, "**North America**"), Australia or New Zealand, Supplier hereby consents to submit to the jurisdiction and venue of the court exercising jurisdiction over the

underlying claim or proceeding against KTM, and/or its affiliates. Supplier further waives, and agrees not to plead or make, any claim or objection that any such action or proceeding brought in said court has been brought in an improper or inconvenient forum.

14.5. Service of Process: In the event a claim or proceeding arises in North America, Australia and New Zealand as described in Paragraph 14.4. above, Supplier hereby irrevocably waives, and further agrees not to plead or make, any claim or objection to the absence of a summons or of service of process. Supplier further acknowledges and agrees that, while Supplier waives its right to plead or make any claim or objection to the absence of a summons or of service of process, Supplier must timely file an appearance and a responsive pleading in the presiding court. The statutorily mandated time period for Supplier to timely file its responsive pleading and/or motion will commence as of the date upon which Supplier receives KTM, and/or its affiliates', transmission of the summons and/or complaint via e-mail.

## **15. RECALL**

15.1. The Supplier is obligated to continuously monitor the product and repeatedly assess the risk of its Delivery Items. The Supplier must promptly notify KTM without delay of any functional defects and/or identifiable hazards related to the Delivery Items that could endanger life and limb of end customers.

15.2. If either the Supplier's Delivery Item is unsafe or dangerous, or it is a KTM product in which the Delivery Item is installed causing the KTM product to be unsafe or dangerous, the Supplier shall promptly respond upon KTM's request. Subsequently, if KTM initiates either a recall of KTM products from KTM dealers or a recall of KTM products already in the possession of end customers – regardless of whether KTM undertakes these product safety measures voluntarily or as mandated by authorities – the Supplier shall defend, indemnify and hold harmless KTM against all resulting costs, damages, losses, claims and expenses (including court, defense, prosecution costs and any costs, damages, losses, expenses incurred by End Customers). Clause 12.2. does not apply. This obligation does not apply if the Supplier proves that the respective Delivery Items comply with product safety regulations and were not, on the basis of other statutory provisions, the cause of the measure taken and KTM confirms this view in writing.

15.3. Provisions 15.1 and 15.2 apply accordingly if, instead of being unsafe or dangerous a danger, the Delivery Items exhibit merely quality defects and KTM initiates a voluntary KTM workshop action based on a "Technical Information/KTM TI" (silent market action).

## **16. INSURANCE**

16.1. The Supplier is obligated to obtain and maintain an appropriate professional and product liability insurance from reputable and solvent insurance companies, commensurate with the order volume and assumed obligations. The Supplier ensures that the insurance contract or policy explicitly covers the markets of Canada and USA for the risk coverage of its product liability, with sufficient and market-customary insurance limits.

16.2. The Supplier shall provide KTM with the requested insurance documents, which are further specified in separately concluded agreements, in German and/or English.

16.3. Any changes in insurance arrangements, particularly the termination of insurance policies or reduction of insurance limits, must be promptly communicated in writing to KTM.

16.4. Unless otherwise stipulated in the jointly agreed delivery terms, the Supplier shall instruct any carrier/forwarder engaged by them to obtain sufficient transport liability insurance. The Supplier shall indemnify and hold harmless KTM in this regard.

## **17. CONFIDENTIALITY (NDA)**

The Non-Disclosure Agreement of Bajaj Mobility AG ("NDA") must be signed by the Supplier before the PCS are signed. The NDA is available in the "Agreements" section of the KTM Supplier Management Download Centre (<https://ktmgroupp.com/en/procurement/>).

## **18. PRODUCT LABELING AND ADVERTISING**

- 18.1. The Supplier labels the Delivery Items according to KTM's specifications. The application and specific design of the Supplier's brand or logo on the Delivery Items are separately agreed upon with KTM. The Supplier is not allowed to deliver items with KTM labeling to unauthorized third parties. This also applies to any packaging.
- 18.2. Unless specifically agreed upon in writing by the Parties, the use of the business relationship between KTM and the Supplier for advertising purposes, as well as the use of names, logos, trademarks, equipment, product designations or company letterheads is not permitted.

## **19. TERMINATION OF THE CONTRACT**

- 19.1. Unless otherwise agreed, contracts between the Parties may only be terminated in writing without notice and with immediate effect due to good cause. In particular, the Parties are entitled to terminate summarily without giving prior notice in the following cases ("good cause"):
  - A competitor of KTM acquires, participates in, or holds shares in the business or assets of the Supplier
  - In cases of repeated failure to meet delivery deadlines
  - In cases of Repeated (End) Customer complaints
  - If the opening of insolvency or comparable proceedings is rejected for lack of assets/cost coverage or the requirements for the opening of insolvency or comparable proceedings are not met
  - In the event of a serious violation of these PCS, of the CoC or other written agreements between the Parties (e.g. NDA, QAA, TCT etc.)
  - In other circumstances that jeopardize the proper and planned production process of KTM and its preparations, which fall within the Supplier's sphere of responsibility.
- 19.2. Ordinary termination is expressly excluded.
- 19.3. In the event of extraordinary termination by the Supplier, KTM has the right to receive a sufficient final supply of stock.

## **20. INTELLECTUAL PROPERTY, PROPRIETARY RIGHTS, OTHER RIGHTS**

- 20.1. Intellectual property is protected by intellectual property law. Intellectual property refers to the right to an immaterial commodity (intellectual creations). It includes, in particular, inventions (patents), creative works (such as music, literature, books, poems, films, art, computer programs, software, photographs etc.), trademarks, industrial designs and models, as well as geographical indications of origin. Only proprietary rights can be granted for intellectual property, transfer of ownership cannot take place.
- 20.2. The Supplier shall defend, indemnify and hold harmless KTM and its Affiliated Companies from all liabilities, costs, damage, claims and expenses (including court and legal costs, as well as settlements regarding such claims and complaints) arising from any third-party claims or lawsuits against KTM due to the goods or their use by KTM or its customers breach on third-party industrial property rights or copyrights. Without prejudice to the foregoing, the Supplier is not liable if the breach arises from the production of goods in compliance with KTM's instructions, and the Supplier could not, despite the requisite level of care customary within the industry, have known that following those instructions would lead to a breach of industrial property rights or copyrights of a third party.
- 20.3. The Parties shall promptly inform each other of any infringements of proprietary rights or related risks. At KTM's request, the Supplier is prepared to disclose all the proprietary rights that are owned by it or its subcontractors and that are used in the development or production of the Delivery Items or relate to these in any other way.
- 20.4. Both Parties are entitled to pass on technical documentation of the other Contracting Party to the extent required at the request of the authorities.
- 20.5. The Supplier, following an appropriate appointment, grants KTM or its representatives access to the necessary documents, instruments, books, and records relating to the relevant supply contract. The Supplier commits to retaining records for a minimum period of 10 (ten) years after the last delivery of the Delivery Items to KTM

20.6. If the direct cooperation in the business relationship with KTM results in new inventions or designs, all the proprietary rights belong to KTM. If the Supplier has made a significant contribution to the development at its own expense, it shall be entitled to a proportionate share of the proprietary rights unless otherwise agreed. The Supplier already commits to entering into a separate development contract with KTM within the framework of any development projects. This development contract will include arrangements for cost allocation, change requests and the scope of the usage rights to be granted. Unless otherwise contractually agreed in the contract, development services are subcomponents of a larger overall project. In overall projects, KTM is always responsible for project management and development responsibilities in all project areas and development stages from both technical and organizational perspectives. The allocation of these development services is made under explicit guidelines by KTM. These services are therefore in-house research services within the meaning of § 108c (2) line 1 EStG ("Austrian Income Tax Act") and therefore represent research expenses incurred by KTM that are subsidized by subsidies.

## **21. SPARE PARTS**

- 21.1. The Supplier undertakes to supply KTM, upon request, with sufficient quantities of the Delivery Items for use as spare parts for a period of 10 (ten) years after receipt of the goods of the last delivery schedule for KTM series production.
- 21.2. The price, terms and any additional costs specified in the most recent valid supply contract or delivery schedule apply.

## **22. AUDIT**

- 22.1. Supplier development information: To the extent legally permissible, the Supplier must, upon written request from KTM or KTM-authorized third parties (subject to confidentiality obligations) provide suitable information that is subject to confidentiality, in particular regarding processes of production planning, supply chain management, quality, general business situation, financial data etc. Additionally, the Supplier must grant KTM or KTM-authorized third parties access to company premises subject with a 3 (three) business-day advance notice.
- 22.2. Financial information: To the extent legally permissible, the Supplier must, upon written request from KTM, or KTM-authorized third parties (subject to confidentiality obligations) provide suitable information (in particular quarterly, semi-annual and annual statements, plus the associated final reports including annexes and information on key company figures) that enables KTM to assess the current economic and financial situation of the Supplier with regard to its ongoing delivery capability. The mutually agreed NDA apply between the Parties.
- 22.3. Compliance audit: KTM or KTM-authorized third parties (subject to confidentiality obligations) are entitled, subject to prior notification, to check, at the Supplier's premises, compliance with the Code of Conduct of the Bajaj Mobility AG ("CoC"), in particular as regards non-financial performance indicators related to environmental, employee and social issues, respect for human rights and efforts to fight corruption and bribery and the underlying strategies and processes pursuant to recognized standards, and in particular European Directives. For this purpose, the Supplier discloses its production sites and grants access to the relevant documents KTM may share this with customers and authorities, on request, provided this is required to comply with statutory or contractual obligations. Where the Supplier is obliged on the basis of statutory requirements to report on non-financial performance indicators, the submission of a corresponding report is sufficient in this regard (e.g. sustainability report). In the event of reasonable suspicion, KTM may carry out a compliance audit at any time, upon request. The Supplier bears the costs for the compliance audit if a breach of the CoC is identified.
- 22.4. The Supplier warrants that the information that it provides in relation to Section 22. in its entirety is correct, complete and up to date as of the time specified in the documents or disclosures and gives a true picture of the Supplier's economic, financial and non-financial situation. The Supplier warrants that the company accounts are and have been consistently drawn up in compliance with the accounting principles generally accepted under its legal system. The Supplier warrants that,

at time of conclusion of these PCS, they had not made an application for the opening of insolvency proceedings and that there is no threat that such proceedings will be initiated.

22.5. The Supplier further warrants that there are no reasons for insolvency based on an inability to pay, the threat of an inability to pay or over indebtedness. The Supplier has not temporarily or definitively ceased payments or entered into negotiations with creditors for an extrajudicial settlement or deferment of payment so as to avoid grounds for insolvency. This declaration must be provided to KTM again on December 31 of the year just ended.

## **23. CUSTOMS & FOREIGN TRADE CONDITIONS**

The Supplier undertakes to comply with the Customs and Foreign Trade Conditions of Bajaj Mobility AG as amended from time to time. The Customs & Foreign Trade Conditions of Bajaj Mobility AG are available in the "Agreements" section of the KTM Supplier Management Download Center (<https://ktmgroup.com/en/procurement/>).

## **24. EXPORT CONTROL**

- 24.1. The Supplier undertakes to comply with the KTM Export Control Conditions as amended from time to time. The KTM Export Control Conditions are available in the "Agreements" section of the KTM Supplier Management Download Center (<https://ktmgroup.com/en/procurement/>).
- 24.2. The Supplier has an obligation to inform KTM separately and in writing if the goods made available (physical goods, technology and software) are listed under EU and/or US export control law. The respective national regulations of the exporting country must also be complied with to the same extent. Examples of this include Regulation (EU) 2021/821 (EU Dual Use Regulation) and the US Commerce Control List. The Supplier undertakes to immediately inform KTM of any changes to the approval requirements due to technical or legal changes as well as any official findings.
- 24.3. The Supplier also undertakes to fully comply with the EU, US and UN sanctions and sanctions lists. A breach by the Supplier will entitle KTM to immediately terminate the contractual relationship. In the event that the Supplier appears on a list, KTM reserves the right to terminate for good cause any business relationships, flows of payments and deliveries. More detailed information regarding export control can be found in the separate KTM Export Control Conditions.

## **25. APPLICABLE LAW, PLACE OF JURISDICTION OR ARBITRATION AGREEMENT**

- 25.1. Supplier with its registered office within the EEA or Switzerland:

Austrian law shall apply exclusively, excluding the conflict of laws rules of International Private Law (IPRG) and the UN Convention on Contracts for International Sale of Goods (CISG). The competent court exclusively responsible for all disputes arising from or in connection with these PCS is the court with jurisdiction over 5230 Mattighofen, Austria.

- 25.2. Supplier with its registered office outside the EEA or Switzerland:

All disputes arising from or in connection with these PCS shall be finally settled by one or more arbitrators appointed in accordance with the Arbitration Rules of the International Chamber of Commerce (ICC). The proceedings shall be conducted in English and the place of arbitration shall be 5020 Salzburg, Austria. The applicable substantive law shall be Austrian law.

## **26. FINAL PROVISIONS**

- 26.1. Amendments to these PCS shall only become valid if they are specifically and mutually agreed, in writing, and signed by both Parties. This shall also apply to an amendment of the provision requiring the written form. Written means either a handwritten signature or an electronic signature (simple or qualified electronic signature pursuant to the Austrian Signature Act). A signature by means of electronic data interchange (EDI) is also considered written. A signature can be unilateral or bilateral, with the requirement of bilateral specified in the respective provisions of the PCS where applicable. If written form is not required in these PCS, text form is considered to have been agreed.
- 26.2. All notices, requests, declarations of consent, and any other form of communication within the scope of these PCS must be drafted by the Parties in either German or English. Address changes shall be communicated in accordance with this provision.
- 26.3. If the Supplier engages one or more subcontractors for the purposes of fulfilling its contractual obligations, the Supplier will be liable to KTM for any action or omission of these subcontractors/ in the same way as for its own actions or omissions in accordance with the requirements of these PCS. The Supplier undertakes to defend, indemnify and hold harmless KTM against any claims arising from the actions or omission of the subcontractors.
- 26.4. If any provision of these PCS is wholly or partially invalid or unenforceable, the validity of the remaining provisions of these PCS shall remain unaffected. In place of the invalid or



unenforceable provision, a provision shall be deemed to have been agreed which, to the extent legally permissible, economically comes closest to what was originally intended by the invalid or unenforceable provision in terms of place, time, extent and scope. This also applies in the event of unintentional gaps in these PCS. This severability clause is not merely a reversal of the burden of proof but rather conditions the entire law.

- 26.5. The Supplier shall inform KTM promptly of any changes in its ownership structure.
- 26.6. A consent or waiver declaration by one of the Parties in the event of a violation by the other party shall not be construed as a waiver of the resulting rights. A waiver of a provision of this Agreement is only effective if it is declared in writing and signed by the party wishing to waive such provision.

Place \_\_\_\_\_ Date \_\_\_\_\_

Place \_\_\_\_\_ Date \_\_\_\_\_

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KTM AG

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Supplier