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**1. Definitions**

1.1 The capitalised terms in these general terms of purchase shall have the following meaning:

- a. **Affiliated Companies:** all present and future companies in which DAF or PACCAR Inc. U.S.A. directly or

indirectly owns or controls 50 percent or more of the shares, or otherwise has a controlling interest.

- b. **Data Protection Laws:** Regulation (EU)2016/679 as it may be amended and/or substituted (in whole or in part) by any successor European legislation, and all laws and regulations and sectoral recommendations containing rules for the protection of individuals with regard to the Processing, including without limitation security requirements for and the free movement of Personal Data;
- c. **DAF:** DAF Trucks N.V. with its statutory seat in Eindhoven, The Netherlands;
- d. **Personal Data:** any information relating to an identified or identifiable natural person as defined in Data Protection Laws or any successor European legislation thereof;
- e. **Processing:** any operation that is performed on Personal Data, whether or not by automated means, such as collection, recording, storage, organisation, alteration, use, disclosure (including the granting of remote access), transmission or deletion of Personal Data;
- f. **Production Good(s):** the goods that will be delivered by the Supplier in performance of a Supply Agreement and will be incorporated in the DAF trucks or products or will be sold by DAF in the aftermarket as spare parts or accessories;
- g. **Product(s):** other goods than Production Goods to be delivered by the Supplier in performance of a Supply Agreement;
- h. **Service(s);** any activity or function, whether or not including the delivery of Products, ordered by DAF to be provided by the Supplier in performance of a Supply Agreement. This term encompasses equipment and tools necessary to carry out the Service.

- i. **Software**, a set of instructions and/or programs instructing a computer or any other programmable device to do specific tasks.
  - j. **Supplier**: the company or the individual which undertakes to deliver Production Goods or Products respectively render Services to DAF in performance of a Supply Agreement. In case the Suppliers engages subcontractors the definition Supplier shall include such subcontractors;
  - k. **Supply Agreement**: any agreement concluded between DAF and the Supplier (including a purchase order) in the performance of which Production Goods or Products are supplied to DAF and/or Services rendered to DAF and any additional - and/or follow-up assignments as commissioned by DAF.
- 2. General**
- 2.1 These general conditions apply unless agreed otherwise in writing to the formation, the contents of and the compliance with any Supply Agreement.
  - 2.2 The Supplier hereby agrees that the provisions of the Supply Agreement and these general terms of purchase are the sole provisions applicable to the purchase of the Production Goods, Products and Services and that such provisions shall prevail over any inconsistent conditions or warranties or other terms contained or referred to in any communication at any time by the Supplier in any consignment note, invoice, delivery note or acceptance of order issued on behalf of the order.
  - 2.3 In the event of any disputes on the interpretation of these general terms of purchase, or any of the Supply Agreements because they have been drawn up in another language than the English language, the English text shall be conclusive.
  - 2.4 If the content of the Supply Agreement differs from the content of these general terms of purchase, the content of the Supply Agreement will prevail.
- 2.5 No provision of the Supply Agreement and these general terms shall be interpreted so as to bring DAF into conflict with the laws or regulations of any state or supranational organisation, notably those of the European Union, nor will DAF be bound by any requirement which would result in material penalties or sanctions under these laws and rules.
  - 2.6 DAF and the Supplier agree that in the event that one or more of the provisions of the Supply Agreement or the general terms of purchase being subsequently declared invalid or unenforceable by court or administrative decisions, such invalidity or enforceability shall not in any way affect the validity or enforceability of any other provisions of the Supply Agreement, except those of which the invalidated or unenforceable provisions compromise an integral part or otherwise are clearly inextricable from such other provisions. In the event that any provision of the Supply Agreement or the general terms of purchase shall be deemed to be invalid or become invalid, DAF and the Supplier hereto agree to substitute for such provision a new provision which comes as close as possible to the original objective of the parties.
  - 2.7 DAF is entitled to amend or supplement the general terms of purchase. Any amendments or supplements to these general terms of purchase will enter into effect thirty (30) days after notice of them has been given in writing to the Supplier.
- 3. Supply agreement, offers, orders**
- 3.1 Any Supply Agreement must exclusively be concluded in and evidenced by either a contract signed by a duly authorised representative of both parties, or by a written order of DAF in the format of the DAF order form, in use at the time of the order.
  - 3.2 All offers and price quotations of the Supplier shall be irrevocable.
  - 3.3 The Supply Agreement shall only be modified by the agreement of both parties, evidenced by a written amendment signed

- by the parties duly authorised representatives.
- 3.4 An order following a quotation or offer of the Supplier, or following a (long term) agreement in which future deliveries have been agreed upon, will be executed under the strict terms of that quotation, offer or agreement, and will be deemed to represent the full price of the entire performance of the Supplier, inclusive of all costs, taxes (excluding VAT), duties and additional expenses at the charge of DAF.
- 3.5 Any reference made to trade terms (such as EXW, FCA, etc.) is deemed to be made to the relevant term of the Incoterms, published by the International Chamber of Commerce, to the version current at the date of the conclusion of the Supply Agreement.
- 3.6 All information and data contained in product catalogues, prospectuses, circulars, advertisements, illustrations, price-lists of the Supplier and all explanations with respect to its performance, whether or not contained in quotations and offers of the Supplier, shall take effect as terms of the Supply Agreement and shall be used when assessing the adequacy of the performance of the Supplier, unless the Supplier has expressly stated this information and data do not represent an accurate description of the future performance of the Supplier. The Supplier will in no event construe the relevant information and data as a waiver by DAF to enforce any provision of the Supply Agreement.
- 4. EDI**
- 4.1 The Supplier will at the request of DAF establish and maintain an electronic data interchange system compatible with the relevant system in use by DAF and will use this system when required by DAF as main communication line with respect to purchasing orders relevant to Production Goods.
- 4.2 DAF and the Supplier agree that the orders, messages and all other information transferred to the other party by means of electronic data interchange may be regarded as the duly authorised and manifest will of this party and will be handled in the same manner as communications on paper.
- 4.3 The parties agree that the binary file retained by DAF, including any reproduction thereof by photographic, microfilm or other means made in the regular course of DAF's business, and any printout thereof shall be conclusive evidence of the transferred information.
- 5. Cancellations**
- 5.1 DAF may terminate the Supply Agreement by notification to the Supplier prior to the execution thereof by the Supplier. DAF will in this event exclusively indemnify the Supplier in respect of raw materials and intermediary goods reasonably purchased by the Supplier specifically for the purpose of and irrevocably allocated by the Supplier to the execution of the Supply Agreement.
- 6. Price, payment**
- 6.1 If no price has been agreed, the Supplier's list price at the time of the conclusion of the Supply Agreement shall apply. In the absence of a current list price, the price generally charged for such Production Goods and Products at the time of the conclusion of the Supply Agreement shall apply.
- 6.2 The price does not include VAT, and is not subject to price adjustment.
- 6.3 Payments for the supply of Production Goods or Products will only be due when invoiced to DAF with details of the goods and itemised in accordance with the instructions of DAF.
- 6.4 Invoices for Services will be raised on a monthly basis itemizing - in accordance with the instructions of DAF- the services provided (respectively the billed hours) in the previous month.

- 6.5 Payment of the price and any other sum due by DAF to the Supplier shall be on open account and time of payment shall be 30 days from the receipt of the invoice, being not prior to the date of delivery.
- 6.6 The amounts due shall be transferred by tele transmission to the Supplier's bank in the Supplier's country for the account of the Supplier and DAF shall be deemed to have performed his payment obligations when the respective sums due have been received by the Supplier's bank in immediately available funds.
- 6.6 DAF is authorised to set off payments to the Supplier against the outstanding debts of the Supplier to any of the Affiliated Companies.
- 6.7 Payment of the invoice of the Supplier shall not be interpreted as recognition of the correct performance of the Supplier of his obligations under the Supply Agreement.

#### **7. Delivery of Production Goods or Products**

- 7.1 At delivery the Supplier must deliver the Production Goods or Products, hand over any documents relating to them and transfer the property in the goods in compliance with the Supply Agreement and free from any right or claim of a third party.
- 7.2 DAF is not obliged to accept partial deliveries.
- 7.3 When no other delivery terms are determined in the Supply Agreement, the Supplier shall place the Production Goods or Products at DAF's disposal at the DAF assembly plant in Eindhoven, The Netherlands, Delivered Duty Paid (DDP).

#### **8. Performance of Services**

- 8.1 The Supplier shall render the agreed Services in conformity with the Supply Agreement and the requirements of good workmanship.
- 8.2 If during the execution of the Supply Agreement, the Supplier concludes that DAF changes the scope of the performance or the timing of the

performance of the Supplier as stipulated in the Supply Agreement, the Supplier will seek explicit confirmation of this from DAF in the form of a proposal to amend the Supply Agreement in line with clause 3.3.

#### **9. Term of delivery**

- 9.1 The Supplier shall deliver the Production Goods, Products and/or Services at the date(s) fixed in the Supply Agreement or within the period fixed or to be determined in compliance with the Supply Agreement and, in any other case, within a reasonable time after the conclusion of this agreement.
- 9.2 The Supplier shall notify DAF as soon as it becomes apparent that there is a risk the Supplier will not be able to deliver the products in conformity with the Supply Agreement.
- 9.3 If a term has been agreed for the delivery of Production Goods, Products and/or Services, this term is considered to be a strict deadline ("*fatale termijn*"). By consequence the Supplier will be in default without any further written notice of default from DAF being required in the event such a strict deadline is exceeded.
- 9.4 When there is a delay in the delivery of any Production Goods or Products, DAF is, without prejudice to other remedies under the Supply Agreement and notably the right to damages, entitled to claim a penalty equal to 10 % or such other percentage as may be agreed of the purchase price of those Production Goods for each complete week of delay.

#### **10. Characteristics of the Production Goods and Products**

- 10.1 The Supplier must deliver the Production Goods and Products that conform with the Supply Agreement and, in particular, are of the quantity, quality and description required by the Supply Agreement.
- 10.2 The Production Goods and Products do not conform with the Supply Agreement, unless they:

- a. are fit for the purpose for which the goods of the same description would ordinarily be used, and
- b. are fit for any particular purpose expressly or implicitly made known to the Supplier at the time of the conclusion of the Supply Agreement, and
- c. are in conformity with the standard specifications of the Supplier and possess the qualities of Production Goods which the Supplier has held out to DAF as a prototype, sample or model, and
- d. are in conformity with the specifications, requirements, drawings, quality agreements or other information provided by DAF to the Supplier, down to the smallest detail and with the highest possible degree of perfection, and
- e. are free from design, material and construction errors, consist of first quality material and are "state of the art" at the time of each delivery, and
- f. comply with any national, international and supranational legal rules, regulations, directives and other governmental provisions regarding the Production Goods and Products, and
- g. are accompanied with requisite clear written guidance notes, warnings and instructions as may be necessary to ensure the proper and safe handling, use and storage of the Production Goods and Products by DAF or its customers, including any necessary instructions and advise as to accident procedures and environmental containment measures, and
- h. do not breach any specific guarantee given by the Supplier, and
- i. are supplied in accordance with procedures that comply with the requirements of ISO/TS16949:2002 or another similar generally recognised system of quality assurance.

10.3 The Supplier undertakes to make sure it has asked and obtained all information from DAF in order to be clearly informed

about any particular use DAF wants to make of the goods to be supplied under the Supply Agreement. If the Supplier has reasons to doubt whether the technical specifications received by DAF are compatible with the particular use DAF wants to make of Production Goods, it will notify DAF of this in writing as soon as possible and, at the latest, prior to the execution of the Supply Agreement.

## **11. Acceptance**

### ***(l) Production Goods***

- 11.1 The Supplier acknowledges with respect to Production Goods, that DAF cannot reasonably be expected to arrange for, and therefore will not, inspect deliveries or the delivered goods on an individual basis.
- 11.2 DAF is entitled to carry out representative acceptance test with respect to these Production Goods. DAF will inform the Supplier on request of the test methods and the selection criteria it is using, which will, unless DAF notifies the Supplier otherwise, be in line with common practise in the industry. The results of the acceptance tests will be binding with respect to the assessment of the quantity and quality of the whole delivery.
- 11.3 If the above acceptance tests show the Production Goods, or a representative part of the Production Goods, fail to conform with the Supply Agreement, whole or part of the delivery may be returned to the Supplier or modified by DAF at the Supplier's cost in the shortest possible time, provided that in both instances the Supplier has been given prompt notice and reasonable opportunities to effect modification.
- 11.4 DAF may in any event postpone examination of packaged goods until the unpacking takes place in the ordinary course of business of DAF, its distribution network and end customers.
- 11.5 The Supplier commits to address repeated instances of failure to conform to the Supply Agreement with a timely corrective plan, which will be

communicated to DAF without delay.

**(II) Products and Services**

11.6 Deliveries of Products and/or Services will be examined by DAF within a period as is reasonably practicable in the given circumstances.

**(III) Incorrect deliveries, non-acceptance**

11.7 An acknowledgement of receipt signed by DAF employees or third parties commissioned by DAF to transport the goods will only be interpreted as an acceptance of external condition of the goods and will in no event be deemed to be a waiver of any rights of DAF to enforce his rights under the Supply Agreement at any future time or times.

11.8 If the Production Goods or Products do not conform with the Supply Agreement and whether or not the price has already been paid, DAF may without prejudice to other remedies under the Supply Agreement, reduce the price for these goods in the same proportion as the value that the Production Goods or Products actually delivered had at the time of the delivery bears to the value that conforming goods would have had at that time.

11.9 Late deliveries or deliveries of Production Goods or Products that do not conform to the Supply Agreement, may either be sent back to the Supplier or be rendered into scrap and disposed of in any way DAF sees fit, at the expense and risk of the Supplier, when the Supplier does not collect the deliveries within a reasonable period, to be determined by DAF at its sole discretion.

**12. Warranties**

12.1 Without prejudice to other remedies under the Supply Agreement, the Supplier warrants DAF:

a. that the goods delivered will retain the characteristics required by articles 10.1 and 10.2 of these general terms for a period of two years after delivery;

b. that the Supplier will bear the costs of repair, modification or replacement of these goods if it appears during this period that this is necessary to as yet make them conform with the Supply Agreement including the reimbursement of DAF in these cases for any direct or consequential damages, such as charges of dealers due to the ex-factory warranty DAF has issued or due to service, retrofit or product recall campaigns to which DAF has reasonably resolved to guarantee the safety of its trucks or commercial products or to limit damage to its reputation in the market.

c. that the goods delivered are not radioactively contaminated. The Supplier shall hold DAF harmless for all - financial - consequences originating from an unforeseen radioactive contamination of the goods delivered.

d. that the Production Goods or Products it delivers are fully REACH (**Registration, Evaluation and Authorisation of Chemicals**) (EC Regulation 1907/2006), compliant. The Supplier is obliged to declare to the substances contained in his delivered goods with indication of the relevant CAS-registry numbers ("Chemical Abstracts Service"), the proportional weight in homogenous materials and the safety data sheets, provided these materials are listed in REACH (particularly the REACH (candidate) list for materials subject to approval. For the avoidance of doubt it is explicitly stipulated that with regard to supplies into the European Union DAF will not act as importer in the sense of the REACH legislation and that by consequence the Supplier will undertake the obligations originating from being an importer in the sense of the REACH legislation.

12.2 To the extent applicable the warranty set out above shall not apply when the Supplier proves that the defectiveness or the imperfection of the goods is the result

of ordinary wear and tear, incorrect assembly, fitting or maintenance or injudicious use.

**13. Packaging, carriage, passing of risk**

- 13.1 The Supplier shall pack the goods in compliance with the Supply Agreement and at all times in such a manner that these are properly protected, clearly marked and labelled and can be loaded, transported and unloaded in an ordinary and safe manner.
- 13.2 If DAF so requests, the Supplier shall at his own expense and risk arrange to take back the packaging material after delivery.
- 13.3 If the Supply Agreement involves carriage of the Production Goods or Products other than on DDP terms and the Supplier is bound to arrange for carriage of these goods, the Supplier must, at the expense and risk of Supplier, make such contracts as DAF requires or, in the absence of instructions of DAF within a reasonable period, as are necessary for carriage to the place fixed by means of carriage appropriate in the circumstances and according to the usual terms for such carriage. The Supplier shall be responsible for the compliance with national and international regulations relating to the packaging and carriage of the goods.
- 13.4 The Supplier undertakes to conclude and maintain sufficient insurance coverage in respect to the carriage of the Production Goods or Products. The Supplier undertakes to assign its rights to payments under this policy to DAF at the first request of DAF. If not agreed differently, the insurance will cover the costs of replacement of the goods.
- 13.5 If the Supply agreement involves carriage, and the Supplier is not bound to hand the goods over to a particular person and at a particular place, the risk of loss of or damage to the goods passes to DAF when the Production Goods are handed over to the first carrier for transmission to DAF in accordance with the Supply Agreement.

13.6 If the Supplier is bound to hand the goods over to a particular carrier at a particular place, the risk does not pass to DAF until the Production Goods or Products are handed over to the carrier at that place and the Supplier has put DAF in possession of any documents controlling the disposition of the Production Goods or Products.

13.7 Nevertheless, the risk does not pass to DAF until the Production Goods or Products are clearly identified to the Supply Agreement, whether by markings on the goods, by shipping document, by notice given to DAF or otherwise.

13.8 If the Supply Agreement does not involve carriage of the Production Goods or Products, the risk passes to DAF at delivery of the goods.

**14. Continuity of supply of Production Goods**

- 14.1 The Supplier warrants he will continue to supply Production Goods to DAF for a period of at least the following number of years after the last regular delivery of these goods for regular assembly purposes:
- Production Goods for trucks: 10 years;
  - for busses and engines: 15 years;
  - for military trucks: 20 years.
- 14.2 Without prejudice to DAF's other rights under the Supply Agreement, the Supplier shall promptly send DAF written notice if the production of the Production Goods is discontinued so as to give DAF the opportunity to make a single purchase and thus bring its stocks up to the levels as DAF considers adequate.

**15. Product information, on-site inspection**

- 15.1 The Supplier shall allow access to any drawings, specifications, electronic and technical information concerning the Production Goods or Products that DAF may require. These documents and information will not be considered confidential and DAF may use the information free of charge, when these documents or information should be

available to DAF for use in workshop manuals, drivers instructions etc.

- 15.2 The Supplier will make available to DAF all documents reasonably required by DAF to identify the Production Goods or Products to carriage companies, carriers, customers and government officials in order to be able to carriage, sell and store these goods, in particular when these goods are by law or otherwise considered dangerous or are vulnerable to damage or to decrease in quality. This obligation includes the translation of all such documents in all languages of the countries in which DAF sells its trucks and commercial products at the date of delivery.
- 15.3 The Supplier guarantees that DAF is at any time able to inspect quality control aspects at every place of production, including at the place of production of subcontractors of the Supplier. At DAF's request the same applies to the quality control officer of any government in case the Production Goods of the Supplier are related to a government order. In the event that a place of production does not comply with DAF's quality requirements, the Supplier is required to do what is necessary to comply with these standards.

## **16 Ownership means of production**

- 16.1 Tools and materials (including drawings, specifications, models, moulds, films, stamps, other audio, video and information media, software and databases) owned by DAF and placed at the Supplier's disposal or made or purchased by the Supplier on the instructions and at the cost of DAF for the production of the Production Goods, shall at all times be the property of DAF and may only be used for DAF. The Supplier shall treat such tools and materials properly and store them in such a way that they may be easily identified. The Supplier shall conclude and maintain sufficient insurance cover against loss and damage by fire and theft. DAF shall at all

times be entitled to inspect these tools and materials on the Supplier's premises or take them back free of charge.

## **17. Intellectual property rights**

- 17.1 The Supplier guarantees towards DAF that the performance of the Supply Agreement does not infringe on any rights third parties may enforce under any national, supranational or international regulation in the area of intellectual property, such as copyrights, design rights and patent rights, respectively the law of torts.
- 17.2 If any doubt arises or continues to exist as to the accuracy of the rights claimed by third parties as referred to in the last paragraph of this article, DAF shall be entitled but not obliged to suspend the performance of the Supply Agreement until such time as it has been irrevocably established in law that the Supplier will not infringe such third party rights, respectively until the Supplier indemnifies and holds harmless DAF in a way acceptable to the latter for the possible consequences of such an infringement.
- 17.3 DAF shall, if it has contributed to the relevant research and development process, acquire the exclusive intellectual property rights that may be generated in the course of the performance of the Supply Agreement by the Supplier. The Supplier will promptly inform DAF of any model, procedure or activity which may be eligible for protection under intellectual property law and undertakes to make available to DAF all information and data necessary to file a request for the registration of the relevant intellectual property rights. DAF will in any case be deemed to have contributed in the research and development process when it has made available technical know-how, specific R&D budgets or test facilities.
- 17.4 DAF will at all times remain to be the sole owner of any copyrights on the specifications and other technical data it made available to the Supplier.

17.5 At DAF's discretion the Production Goods may be private branded.

17.6 DAF may make available to Supplier for the execution of the Services drawings and/or other documentation which Supplier may use for the sole purpose and the duration of the production of Production Goods, the Products and/or the execution of the Services. Supplier is explicitly not entitled to exploit such documentation in any other way or to make them available or to disclose them to third parties. Immediately after the end of the assignment, Supplier will destroy the documentation.

17.7 The intellectual property rights to all works within the meaning of the Copyright Act (*Auteurswet*) and other applicable legislation produced during the assignment of the Supplier are vested in DAF.

17.8 The intellectual property rights (including copyrights) on the work produced by Supplier in the context of the assignment are already delivered and transferred to DAF by Supplier in advance. Should it become apparent at a later stage that statutory (form) requirements have to be observed for the transfer of the rights, Supplier hereby authorizes DAF to fulfill these requirements. To the extent the intellectual property rights on the work are not transferrable, Supplier shall grant an irrevocable, exclusive and unlimited license to DAF.

17.9 Supplier is expressly not entitled to exploit or to make available to third parties the works produced within the framework of the Supply Agreement unless DAF has expressly granted permission for this.

17.10 DAF grants the Supplier a non-exclusive, non-transferrable, not sub-licensable and free license to use the DAF trademark according to the instructions of DAF for the duration of the Supply Agreement and to the extent necessary for the Supplier to fulfilling its obligations under the Supply Agreement. The Supplier will not sell any Production Goods with the DAF

trademark to third parties, without the express written consent of DAF.

## **18. Software**

18.1 Supplier shall deliver Software on commercially available data media in machine-readable form and including user documentation.

18.2 Software developed for DAF shall be provided with the source code and object code with manufacturer's documentation.

18.3 For Software developed for DAF as well as the related documentation thereto and all other work results, the Supplier shall procure and grant DAF an irrevocable, exclusive, worldwide and perpetual license, for each known type of use, including the right to reprocess, reproduce, change, expand and grant of simple rights of use to third parties.

18.4 If DAF's acquisition of a right of use pursuant to articles 18.3 hereof is conflicted by rights of third parties to third-party Software or other third-party work products incorporated in the delivered goods and/or services, the Supplier will ensure that such third party will grant DAF a direct license.

18.5 The Supplier is not entitled to reproduce, process or to make other use of the work results produced for DAF, neither in full nor in part.

18.6 The Supplier is not entitled to publish any of the work results of any nature produced for DAF - neither in full nor in part.

18.7 The Supplier shall procure and/or grant to DAF the non-exclusive, transferable, worldwide and perpetual license to use the delivered Software for integration in other goods manufactured by or on behalf of DAF, to copy it, to have used it and to have copied it by the Affiliated Companies as well as by DAF's distributors.

18.8 The Supplier shall procure and/or grant to DAF the non-exclusive, transferable, worldwide and perpetual license to the rights of use under indicated in the articles 18.3 and 18.7 hereof to the Affiliated Companies to DAF's final customers and

- distributors and to grant other rights of use.
- 18.9 If the procurement and granting of a right referred to in the articles 18.3, 18.7 and 18.8 hereof is legally not possible, the Supplier shall inform DAF in writing before conclusion of the contract. In doing so, the Supplier shall also state the reasons why the procurement and granting of the right is legally not possible.
- 18.10 The Supplier warrants that no portion of the Software delivered to DAF contains, at the time of delivery, any malware intended or capable to:
- (i) permit access of the Supplier or any third party to DAF's computer systems without DAF's prior written authorization;
  - (ii) read, write, copy, change, disable, damage or erase any software or data on DAF's computer systems without DAF's prior written authorization; or
  - (iii) perform any other actions with, on or in our on DAF's computer systems without DAF's prior written authorization.
- 18.11 If and to the extent Products or Production Goods delivered by the Supplier contain (embedded) Software than can be updated (e.g. for enhancement of the performance of the Goods or for security reasons) Supplier warrants and commits to provide DAF free of charge with updates and/or new releases - as the case may be – of such Software. This obligation shall remain in force for the term indicated in article 14.

### **19. Force majeure**

- 19.1 A party is not liable for a failure to perform any of his obligations in so far as he proves:
- a. that the failure was due to an impediment beyond his control and the impediment is not an event which by common practise is considered an event at his risk, and
  - b. that he could not reasonably be expected to have taken into account the impediment and his effects upon

- c. that he could not reasonably have avoided or overcome its effects.
- 19.2 A party seeking relief shall, as soon as practicable after the impediment and its effects upon his ability to perform become known to him, give notice to the other party of such impediment and its effects on his ability to perform. Notice shall also be given when the ground of relief ceases. Failure to give either notice makes the party thus failing liable in damages for losses which otherwise could have been avoided.
- 19.3 A ground of relief under this article relieves the party failing to perform from liability in damages, from penalties and other contractual sanctions, exempt from the duty to pay interest on money owing as long as and to the extent that the grounds subsists.
- 19.4 If the grounds of relief have subsisted more than two months, or if it is reasonably to be foreseen that the grounds will subsist for two months or longer, either party shall be entitled to terminate the Supply Agreement with a notice of two weeks.

### **20. Remedies for breach of contract by the Supplier**

- 20.1 If the Supplier fails to perform any of his obligations under the Supply Agreement, DAF is, without prejudice to any other rights under the law, entitled to:
- a. declare the Supply Agreement dissolved, wholly or partially;
  - b. to terminate the Supply Agreement by giving a notice of termination against a date determined at the sole discretion of DAF;
  - c. have the Supplier remedy any lack of conformity of the goods or services by repairing, modifying or replacing these goods or services, when this can be done within a period not unreasonable to DAF and when not causing unreasonable inconvenience to DAF,

- this to be decided at the sole discretion of DAF;
- d. repair or modify the goods or services by DAF itself or have the goods or services repaired or modified by a third party to remedy any lack of conformity of the goods with the Supply Agreement, such at the expense of the Supplier;
  - e. claim damages.
- 20.2 DAF will not be obliged to grant the Supplier a period of grace.
- 20.3 In the event of a termination of the Supply Agreement, whether it is a premature termination or not, the Supplier shall supply DAF at the request of DAF with all the Production Goods ordered by DAF prior to the termination, in accordance with the provisions of the Supply Agreement. In such a case DAF is only obliged to pay the agreed prices for the Production Goods, Products or Services that Supplier actually delivers; except for these costs DAF shall be under no obligation to pay Supplier compensation and/or damage under whatever title or pretext for of in connection with the termination of dissolution of the Supply Agreement.
- 21. Remedies for breach of contract by DAF**
- 21.1 If DAF fails to perform any of his payment obligations under the Supply Agreement, the Supplier may, 30 days after having sent a notice of default to DAF:
- a. declare the Supply Agreement dissolved;
  - b. terminate the Supply Agreement after a term of notice of 30 days;
  - c. charge interest on the late payments as determined by law.
- 22. Premature termination**
- 22.1 DAF can terminate the Supply Agreement forthwith by notice in the event:
- a. the Supplier makes any arrangement or composition with its creditors;
  - b. a bankruptcy petition is presented or if a receiving order is made against the Supplier;
  - c. an order is made or a resolution is passed for the winding up of the Supplier's company;
  - d. the Supplier has a receiver or administrator appointed of the whole or part of its assets or undertaking or circumstances arise which entitle the court or a creditor to appoint a receiver or manager or which entitle the court to make a winding up or administration order or if the Supplier takes or suffers any similar or analogous action in consequence of debt;
  - e. there is a change or rearrangement of control of the Supplier's company;
  - f. any (private) advantage of any nature has been or is provided by the Supplier or any of his subordinates or agents to any employee or agent of DAF.
- 22.2 In such a case DAF is only obliged to pay the agreed prices for the Production Goods/, Products or Services that Supplier actually delivers; except for these costs DAF shall be under no obligation to pay Supplier compensation and/or damage under whatever title or pretext for of in connection with the termination of dissolution of the Supply Agreement.
- 23. Product liability**
- 23.1 The Supplier undertakes to fully indemnify and hold DAF harmless from and against all direct or indirect damages (including lawyers' fees and other expenses with respect to legal defence) suffered or incurred by or awarded against DAF in connection with or arising out of the use by DAF or by the users of DAF trucks or its commercial products if this is caused by a defect in any good supplied to DAF under the Supply Agreement.
- 23.2 The Supplier shall conclude and maintain sufficient insurance cover against such liability claims. DAF will have the right to inspect this insurance policy. The Supplier undertakes to assign its rights to

payments under this policy to DAF at the first request of DAF.

- 23.3 When it appears that the trucks or products sold by DAF to third parties contain defective Production Goods supplied by the Supplier and it may reasonably be assumed that these goods have at least partially contributed to the fact that DAF has been held liable, these Production Goods shall be deemed to be the sole cause of any defects in the trucks and Production Goods of DAF, unless the Supplier proves that DAF has decisively contributed to the cause of the defect in the DAF trucks or products and to the extent of any claim lodged in this connection.
- 23.4 The Supplier shall ensure that all Production Goods comply with the required traceability obligations. At DAF's first request and within 24 (twenty-four) hours, the Supplier shall provide DAF with any reasonably required tracking information.
- 23.5 In the event that either DAF decides to recall any Products or Production Goods, the Supplier shall cooperate and comply with any reasonable instructions of DAF to facilitate this recall.

#### **24. Co-operation between the parties**

- 24.1 DAF shall as soon as practicable inform the Supplier of any claim made against DAF by his customers or third parties concerning the Production Goods or Products delivered or intellectual property rights related thereto.
- 24.2 The Supplier will promptly inform the buyer of any information it has or may acquire which bears relevance on any defects in the delivered goods or on claims that may involve the product liability of DAF.
- 24.3 In order to put the Supplier in a position to ascertain its obligations with respect to the Supply Agreement under foreign jurisdictions, DAF will provide the Supplier with a list of all the countries in which it is selling its trucks and products.

#### **25. Confidentiality**

- 25.1 All information and documentation that Supplier has received in anticipation and in pursuance of the Supply Agreement(s) and of which Supplier knows or should have known the confidential nature, including but not limited to company details, financial data and models, shall be kept strictly confidential and shall not be disclosed to a third party without the written consent of DAF, both during the term of the agreement and after termination. In the event of violation of the confidentiality obligation, Supplier shall owe DAF a fine amounting to € 50,000 (fifty thousand euros) - without any notice of default being required for this purpose and without prejudice to DAF's right to claim full compensation for the damage actually suffered.

#### **26. Assignment**

- 26.1 DAF is entitled to assign or otherwise transfer all or parts of the rights and obligations under the Supply Agreement to any Affiliated Company.
- 26.2 The Supplier shall not assign or otherwise transfer all or parts of the rights and obligations under the Supply Agreement to any third party without the written consent of DAF.

#### **27. Sub-contractors**

- 27.1 The Supplier shall not without the written permission of DAF have sub-contractor(s) carry out any work under the Supply Agreement.
- 27.2 The permission of DAF to the Supplier to contract out work shall not alter the responsibilities of the Supplier under the Supply Agreement.
- 27.3 Without prejudice to what is stipulated in articles 27.1 and 27.2 Supplier shall always procure - either by third party clause ("*derdenbeding*") or otherwise - that subcontractors are bound towards DAF and the Affiliated Companies to the same obligations as Supplier is towards DAF and the Affiliated Companies and that DAF and the Affiliated Companies

can exercise their rights - if deemed appropriate – directly at the subcontractors.

**28. Waiver**

28.1 No waiver, forbearance or failure by DAF of his rights to enforce any provision of the Supply Agreement shall constitute a waiver of his right to enforce such provision thereafter or to enforce any other provision of the Supply Agreement.

**29 Limitation period**

29.1 In deviation of any the statutory limitation periods, the limitation period for all claims and defenses from Supplier against DAF will be one year

**30. Data Protection; Access to Data**

30.1 The Supplier shall, as a general obligation in relation to any Personal Data originating or received from DAF, its Affiliated Companies, its distributors or its final customers, at all times fully comply with and shall only process Personal Data in accordance with any applicable Data Protection Laws.

30.2 In the event any data of DAF and/or the Affiliated Companies is stored or maintained on Supplier's infrastructure in the context of the Supply Agreement, the Supplier hereby grants DAF the right to access, use, copy, and retrieve any such data at its sole discretion and at all times. In addition to any statutory remedies which DAF may have, the Supplier acknowledges that monetary damages may be inadequate to compensate DAF for any breach of this stipulation and, accordingly, DAF shall be entitled to seek equitable relief, including an injunction and specific performance, without the need to prove actual damages, to enforce DAF's rights under this article 30.

30.3 The Supplier shall, at the choice of DAF, delete or return all the Personal Data to DAF after the end of the provision of Services relating to the Processing and deletes existing copies, unless legal obligations require storage of the

Personal Data. Supplier shall not retain Personal Data any longer than necessary for the purposes of performing its obligations under the Supply Agreement.

**31 Relationship clause and penalty provision**

31.1 During the term of the Supply Agreement as well as during a period of 2 (two) years after termination of the agreement, the Supplier is not permitted to:

- (i) accept directly and without the involvement of DAF an order for similar or related activities as rendered to DAF for an a customer that can be considered to be a competitor of DAF; and/or
- (ii) to accept a position as a competitor of DAF that comprises tasks and duties that are similar or related to the activities as rendered to DAF

31.2 In the event of violation of the provisions of article 31.1 the Supplier shall forfeit to DAF a fine amounting to € 10,000 (ten thousand euros) per violation as well as a fine - without any notice of default being required for this purpose.- of € 500 (five hundred Euro) for each day that the violation continues to exist, without prejudice to DAF's right to claim full compensation for the damage actually suffered.

**32. Ethical Business Conduct**

32.1 The Supplier shall use the highest ethical business standards when conducting its business in all respects. In this context, the Supplier undertakes:

- a. to conduct its business in full compliance with applicable legislation and generally accepted (international) norms and regulations; to refrain from any form of discrimination within its company or with regard to its subcontractors;
- b. to ensure the safety of its personnel and third parties;
- c. to employ only employees in line with applicable law and regulations;

- d. to refrain from using child labour or any other form of forced or compulsory labour in accordance with the International Labour Organization's standards;
- e. to respect the environment when using and disposing or recycling of products and minimizing any negative impact on the environment in compliance with all relevant national, European and international standards relating to environmental and public health legislation;
- f. to respect all the tax duties in the country where the Supplier is active and/or residing.

### **33 Governing law**

- 33.1 These general terms of purchase and each Supply Agreement will exclusively be governed and construed in accordance with the laws of The Netherlands without giving effect to its conflict of laws provisions.
- 33.2 The UN Convention on Contracts for International Sale of Goods (CIGS, Vienna, 1980) shall not apply to the Supply Agreement and these general terms of purchase.

### **34. Resolution of disputes**

- 34.1 One party shall inform the other in writing when it considers there exists a dispute with the other party arising in connection with or arising out the Supply Agreement. The parties will try to resolve this dispute by constructive negotiations, which may, with the mutual consent of the parties, involve Alternative Dispute Resolution.
- 34.2 When these negotiations in the view of either party remain unsuccessful, the dispute shall be submitted to the jurisdiction of the competent court in Amsterdam , The Netherlands *to the exclusion of the jurisdiction of any other courts.*
- 34.3 To the extent Supplier is not domiciled in the Netherlands it is agreed that all disputes arising out of or in connection

with this agreement will be resolved by the Amsterdam District Court following proceedings in English before the Chamber for International Commercial Matters ("*Netherlands Commercial Court*" or "*NCC District Court*"), to the exclusion of the jurisdiction of any other courts. An action for interim measures, including protective measures, available under Dutch law may be brought in the NCC's Court in Summary Proceedings (CSP) in proceedings in English. Any appeals against NCC or CSP judgments will be submitted to the Amsterdam Court of Appeal's Chamber for International Commercial Matters ("*Netherlands Commercial Court of Appeal*" or "*NCCA*").

- 34.4 DAF shall however, in view of for instance enforcement or execution aspects of the relevant court decision, retain the right to submit disputes to the jurisdiction of any other court that has jurisdiction pursuant to any foreign law.