1. Scope of Application

1.1 The Terms and Conditions of Purchase of KSPG Automotive India Private Ltd. (hereinafter referred to as the “Buyer”) shall apply to all purchases by the Buyer of goods ordered by the Seller or terms that deviate from these Terms and Conditions of Purchase shall not apply unless the Buyer has expressly agreed to them in writing.

1.2 The Terms and Conditions of Purchase shall also apply if the Buyer requests quotations or accepts delivery from the Seller without remitting full payment for the goods or if the terms that deviate from its own Terms and Conditions of Purchase. These Terms and Conditions of Purchase shall form part of all orders by the Buyer. They shall also apply following the conclusion of the contract.

1.3 The Terms and Conditions of Purchase of the Buyer shall only apply in B2B-relations.

2. Offers – Contractual Documents

2.1 Offers shall be submitted in writing. Cost estimates shall not be subject to a charge.

2.2 The Buyer shall reserve property rights and copyright to all illustrations, drawings, calculations, models, equipment, samples, and other documents provided to the Seller by the Buyer for purposes of creating the offer or fulfillment of the contract. The Buyer shall not be responsible for the accuracy of the technical data provided to the Seller.

2.3 The Buyer shall undertake to treat as a trade secret all information of a confidential nature, which indicate that compliance with the agreed delivery time may not be possible.

2.4 Invoices can only be processed by the Buyer where these include the relevant order number and necessary tax documentation.

3. Sales

3.1 Where an order that legally qualifies as an offer by the Buyer is not confirmed in writing by the Seller within ten days, the Buyer shall be entitled to withdraw the order within additional 14 days. This withdrawal shall not provide the Seller with grounds for any claims.

3.2 Where confirmation by the Seller deviates from the order, the Buyer shall be expressly informed in this regard. In such case, the Buyer may refuse the order and be entitled to withdraw from the contract. The Seller shall be required to make reasonable efforts to find an alternative solution and/or to offer to the Buyer an amended order.

3.3 Costs and charges arising from any such measuring, testing, and inspection carried out at the Buyer's request shall be borne by the Buyer. The Seller's invoices shall be submitted to the Buyer in duplicate.

4. Prices – Conditions of Payment

4.1 Where no deviating written agreement exists, the invoice shall include delivery “DAF Buyer's plant” (Incoterm 2010), packaging included.

4.2 All prices shall be net of all taxes.

4.3 Payment shall be made 14 days from receipt of invoice, net, without any deductions, at the Buyer’s option. Assignment of the invoiced amounts to third parties is not permissible.

4.4 Changes due to stock-invoice increases shall, irrespective of the reason, be excluded to the extent that no other agreements have been reached.

4.5 If quality cases have been agreed upon, ex Seller's warehouse, or as third-party warehouse, all goods incurred until handling to the shipping company, including loading of the goods, shall be for the account of the Seller.

4.6 Should the Buyer or its customers change their name, address, or tax identification number, the Seller shall be entitled to call on the Buyer to provide the information which is necessary for the correct processing of the purchase contract.

4.7 The Buyer and its affiliated companies shall be entitled to offset their claims and claims of their affiliated companies against claims of the Seller.

5. Deliveries

5.1 The delivery dates specified in the order shall be decisive for punctual delivery.

5.2 The Buyer shall be entitled to inform the Buyer immediately in writing where circumstances arise or come to its attention which indicate that compliance with the agreed delivery time may not be possible. Where the Seller violates this notification duty, it shall also be liable for delivery delays for which it is not responsible. Silence to this notification shall not be sufficient to pacify the Buyer and prevent it from calling on the Seller for out-of-time deliveries.

5.3 In the event of delayed delivery, the Buyer shall be entitled to demand a pro rata amount of 0.5% of the contract amount or a pro rata amount of the liquidated damages for delayed performance, but not more than a total of 5%.

5.4 The Seller shall have the right to extraordinary termination on important grounds if unforeseeable and unavoidable disruptions, unforeseen and unavoidable manufacturing disruptions, and other circumstances that result in a reduction in demand, the Buyer may request delivery for a later point in time without claims by the Seller against the Buyer arising from this.

5.5 The Seller shall only have the right to extraordinary termination on important grounds in individual cases of non-performance, delayed delivery, default of payment, or different agreements. The乙方 shall in such cases be entitled to rescind the contract following the return of the bonded goods.

5.6 Partial deliveries shall only be permitted with the express consent of the Buyer.

5.7 Where (partial) deliveries take place before the agreed date, the Buyer shall reserve the right to return or store the goods at the Buyer’s own risk and at the Buyer’s expense.

5.8 Every shipment shall contain a delivery note in duplicate. The delivery notes must include details of the content as well as the Buyer's order number.

5.9 The goods shall be suitably packaged according to general and forwarding conditions.

6. Invoices

6.1 Invoices shall be forwarded separately from the delivery, in single copy.

6.2 The dimensions, weights, and quantities determined by the Buyer shall be exclusively decisive for billing.

6.3 Invoices can only be processed by the Buyer where these include the relevant order number and necessary tax-related details.

6.4 The Seller shall be obliged to provide the Buyer with the approved deviations in writing. Silence on the part of the Seller shall be responsible for all consequences resulting from non-compliance with this obligation, unless it can be proven that this is not his responsibility.

7. Manufacturing Equipment

7.1 Holder as the Seller uses manufacturing equipment exclusively for the goods intended for the Buyer, the Seller shall grant to the Buyer the prerequisite right to ownership of such manufacturing equipment by paying the respective value to the Seller.

7.2 Where the manufacturing equipment paid by the Buyer shall be the property of the Buyer.

7.3 The manufacturing equipment may not be modified, duplicated, dispatched, or transferred by way of security, pledged, or forwarded in any other way without the express, written consent of the Buyer. Furthermore, the Seller shall undertake to use the manufacturing equipment only for the purposes of fulfilling the contract.

7.4 The Seller shall keep the manufacturing equipment in its possession on behalf of the Buyer. The Buyer shall have the right to request handover of the manufacturing equipment at any time. The Seller shall have no right of retention in this regard.

7.5 The manufacturing equipment shall be clearly marked as property of the Buyer or as instructed by the same.

7.6 The buyer shall be entitled to make withdrawals from the manufacturing equipment. The Buyer shall be entitled to inspect the manufacturing at the Buyer’s request. The Buyer shall be entitled to perform inspec
tions at the Buyer's own expense. Any maintenance and inspection requirements shall be performed by the Seller at its own expense and in good time.

7.7 The Seller shall immediately be informed of any disruptive incidents; where the Seller culpably neglects to provide such notification, claims for compensation of damages shall remain unaffected.

7.8 Where the Buyer is entitled to use the manufacturing equipment for a period of five years following end of production at customers of the Buyer if this has been approved in writing by the Buyer; scraping in any event be announced in advance in writing.

8. Quality – Spare Part Supply

8.1 The goods must have the characteristics or features specified by the Buyer as agreed qualities. Concerns on the part of the Seller regarding the characteristics or features specified by the Buyer must be made known to the Buyer immediately in writing.

8.2 Where the Buyer requests sample parts, series production shall only begin after written approval of the samples is provided by the Buyer.

8.3 The goods must comply with relevant applicable statutory accident prevention provisions, VDE regulations, accepted state-of-the-art of technology and other statutory provisions.

8.4 The Seller shall be allowed to use spare parts on request for a period of 15 years following end of production and to ensure an option for subsequent production in this regard.

8.5 In the event of deviations from the Buyer’s drawings, the Buyer shall have the right to decide whether to have a defect remedied or new goods supplied. The place of cure shall be the place of manufacture.

8.6 The Buyer shall have the right to withdraw from the contract, reduce remuneration, or demand compensation instead of the contract if the goods supplied do not correspond to the contract and the Buyer is not in a position to use these goods for their intended purpose.

8.7 The Seller shall bear the costs for cure, which include costs incurred to the Buyer as a result of having to remove the defective goods and install the newly supplied or repaired goods. In case of cure, the Seller shall also be responsible for recovering damages to the Buyer from the third party.

8.8 Furthermore, the Seller shall be liable for any damages resulting from re-merger of the defective goods.

8.9 Claims by the Buyer due to hidden defects shall remain unaffected by this. The invalid provision shall in that case be replaced by a validly recognized provision that most closely approximates the meaning and purpose of these Terms and Conditions of Purchase.

9. Warranty

9.1 The Seller shall be liable for hidden defects in the goods to the extent that these have formed the basis of the contract. This limitation shall not apply to the defects resulting from a hidden pre-existing defect, from the discovery of these defects.

9.2 The Seller shall bear the costs for cure, which include costs incurred to the Buyer as a result of having to remove the defective goods and install the newly supplied or repaired goods. In case of cure, the Seller shall also be responsible for recovering damages to the Buyer from the third party.

9.3 The Buyer shall have the right to withdraw from the contract, reduce remuneration, or demand compensation instead of the contract if the goods supplied do not correspond to the contract and the Buyer is not in a position to use these goods for their intended purpose.

10. Withdrawal from the Contract – Damages

10.1 Where the Seller does not fulfill the obligations assumed or does not fulfill these according to the contract, the Buyer may withdraw from the contract after unsuccesful expiry of a reasonable period for reason of performance and demand compensation instead of the performance in case of delay.

10.2 The Buyer shall in particular have the right to withdraw from the contract where the Seller is in breach of its obligations as per Clause 92.1, 92.3.

10.3 The Buyer also shall have the right to withdraw from the contract where the Seller suspects its payments or applies for the insolvency proceedings.

10.4 If the Buyer receives any notification of termination, and this notification duty, it shall also be liable for delivery delays for which it is not responsible.

10.5 In the event that third parties bring claims for compensation against the Buyer on the basis of mandatory law, the Seller shall indemnify the Buyer upon first request insurer as the Seller is also directly liable and obliged to provide compensation to the Buyer.

10.6 The Seller shall undertake to maintain product liability insurance with a minimum cover of € 5 million and to provide evidence of such insurance upon request. Where the Buyer is entitled to assert further claims for compensation of damages, these shall remain unaffected.

10.7 Where the Buyer or its customers take proper legal measures to avoid risks (e.g., recall), the Seller shall bear the risk incurred by the Buyer in respect of all costs incurred thereby.

11. Prohibition of Assignment – Subcontractors

11.1 Rights and obligations of the Seller arising from the contract may not be assigned or transferred without the consent of the Buyer.

11.2 The principles of a subcontractor shall require the prior written consent of the Buyer.

12. Infringement of Industrial Property Rights

12.1 The Seller shall assume responsibility for ensuring that the goods delivered to it are not in breach of any national or international industrial property, patent, or other property rights. The Buyer shall assert its claims against the Seller.

12.2 Claims against third parties shall remain unaffected by this provision; in particular, the Buyer shall be entitled to demand the Seller to adjust the damages to the Buyer accordingly.

12.3 The Buyer shall be entitled to replace or repair the goods provided to it by the Seller where the goods are provided to the Buyer as a replacement for goods purchased by the Buyer or where the buyer is entitled to request replacement for goods purchased by the Seller.

12.4 The Seller shall be liable to the Buyer for damages resulting from lost profits and for other statutory claims, where the Buyer proves any damage to the Buyer or terms that deviate from these Terms and Conditions of Purchase.