1. Scope of Application

1.1 The General Terms and Conditions of Purchase of KSPG Automotive Brazil Ltda. (hereinafter referred to as the “Buyer”) shall apply exclusively. Opposing terms of the Seller or terms that deviate from these Terms and Conditions of Purchase shall not apply, unless and until the Buyer has expressly agreed in writing in individual cases.

1.2 Terms and Conditions of Purchase shall also apply if the Buyer effects payment for or accepts delivery from the Seller without reservation in full knowledge of opposing terms of the Seller or terms that deviate from its own Terms and Conditions of Purchase. This is also the case if the Seller agrees to these terms and conditions and to the contract. The Seller shall grant the Buyer unlimited, irrevocable, and non-exclusive usage rights to all illustrations, drawings, calculations, equipment, samples, and all other documents of the Seller. The documents and objects listed in Item 2.2 Clause 1 may not be made available to third parties unless the Buyer has given prior written consent for their forwarding. The documents and objects shall be used exclusively for processing of the order. On request, the contract and shall be returned to the Buyer or irrecoverably destroyed after such processing without prompting.

3. Buyer’s Orders

3.1 Orders that legally qualify 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 claim.

5.4 Goods that have been agreed to be returned by the Seller, or Seller’s warehouse, or as third-party warehouse, all costs incurred until return to the shipping company, including loading of the goods, shall be at the cost of the Seller.

6.4 Where the Buyer is limited in exercising his right to defect, the Seller shall have the right to effect payment as if no damages or significantly lower damages were incurred as a result of the delay. Further statutory claims shall remain unaffected by this provision; in particular, the Buyer shall have the right to demand a reduction of the purchase price and/or withdrawal from the contract.

8.1 Goods that do not conform to the contract are the Seller’s obligation to accept the returned goods. Goods that have been delivered prematurely at the risk and cost of the Seller.

9.2 The Buyer shall have the right to withdraw from the contract, reduce remuneration, or demand compensation instead of performance if the Seller’s commitment is not fulfilled or is not fulfilled properly. In this case, the Buyer shall have to be entitled to reduce remuneration, request compensation instead of performance, or withdraw from the contract in case of defective goods that the Buyer is the recipient of. The Buyer may choose between the above-mentioned claims.

9.3 The Seller shall bear the costs for cure, which shall include costs incurred to the Buyer as a result of having to remove the defective goods and install the newly supplied or remedied goods. In case of cure at the Buyer’s premises, the Buyer shall be entitled to withdraw from the contract in case of serious defects, and the Seller shall have the right to withdraw from the contract in case of hidden defects, from the discovery of these defects. A complaint declared by the Seller in all cases shall refer to a new defect as if it is not separate and individual components are affected.

10. Withdrawal from the Contractual Relationship

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 performance or determination of a cure period. The Buyer may choose between the above-mentioned claims.

10.2 The Buyer shall in particular have the right to withdraw from the contract where the Seller is in breach of its obligations, regardless of the contract situation.

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

10.4 The right to extraordinary termination on important grounds – also of continuous obligations – shall remain unaffected.

10.5 To the extent 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 as seller is also directly liable and obliged to provide compensation to all third parties.

10.6 The Seller shall undertake to maintain product liability insurance with a minimum cover of € 5 million or its equivalent in any other currency. In the case of multiple losses, the Buyer may request the Seller to respond to such multiple losses. The Seller shall provide the Buyer to recall cost insurance with appropriate cover, at least, however, of € 5 million at all amounts in the respective currency.

11. Prohibition of Assignment – Subcontractors

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

11.3 Commissioning 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 rights or other contractual provisions.

12.2 The Seller shall be liable for the compensation of damages, these shall remain unaffected.

13. Compliance Clause

13.1 The Seller shall guarantee to comply fully with the relevant applicable statutory requirements of the production country where the goods are produced, the Buyer shall immediately be informed of any disruptive incidents; where the Seller culpably neglects to provide such information, the Buyer shall be entitled to exclude the further deliveries or to withdraw from the contract.

13.2 The Seller shall guarantee to comply with all environmental regulations of the countries in which the goods are used and to provide proof of such compliance.

13.3 The Seller shall guarantee to obtain a product liability insurance with a minimum cover of € 5 million or its equivalent in any other currency. Such insurance shall cover the Seller in case of damage or illness attributable to the Seller or its products. The Seller shall have to provide the Buyer with proof of such insurance upon request. The Buyer is entitled to ascertain further claims for compensation of damages, these shall remain unaffected.

13.4 Where the Buyer or its customers take proper legal measures to avoid risks (e.g., recall), the Seller shall bear the costs of its arising from the product defect, also to the extent that the Seller is not culpably at fault. The Seller shall provide the Buyer to recall cost insurance with appropriate cover, at least, however, of € 5 million at all amounts in the respective currency.