

Terms and conditions of purchasing

§1 Applicable provisions

- (1) These terms and conditions of purchasing apply exclusively to all purchases, including future ones, of **Tekfor Holding GmbH, Neumayer Tekfor GmbH, Neumayer Tekfor Schmöllin GmbH, Neumayer Tekfor Rotenburg GmbH, Tekfor Brasov S.R.L., Tekfor Inc., Tekfor Mexico S.A. de C.V., Neumayer Tekfor Automotive Brasil Ltda., Tekfor Services GmbH** (hereinafter: **TEKFOR**). They apply both to the purchase of production materials (for the purpose of internal batch production, particularly raw materials and subassemblies, including parts) and to the purchase of spare parts, tools, services or machines and other products of any nature, provided that the application of any of the following provisions in these terms and conditions of purchasing is not expressly restricted to individual or specific types of purchases.
- (2) These terms and conditions apply exclusively. Any General Terms and Conditions of the Supplier that contradict or deviate from these terms and conditions of purchasing shall not apply unless TEKFOR has expressly approved them in writing. The acceptance of or payment for goods or services from the Supplier shall not constitute approval. By making an initial delivery under these stipulations, the Supplier acknowledges their validity as exclusively legally binding, including for any future deliveries.
- (3) These terms and conditions of purchasing shall also apply in all situations in which TEKFOR accepts deliveries from the Supplier without rejecting the General Terms and Conditions of the Supplier that deviate from these terms and conditions of purchasing, regardless of whether TEKFOR was aware of this or not. Any attempts by the Supplier to avail itself of or refer to the validity of its General Terms and Conditions are hereby expressly rejected.
- (4) These terms and conditions of purchasing also apply to all future business with the Supplier.
- (5) The provisions of these terms and conditions of purchasing shall apply in addition to any other agreements the Parties may conclude between themselves, e.g. framework delivery agreement, quality agreement, consignment delivery agreement, etc.
- (6) If the item for delivery or the service is a so-called purchased part or a service for the automobile industry that is subsequently to be sold on within that industry (automotive part) and is incorporated into TEKFOR products, i.e. used or processed, and this item for delivery is covered by the technical specifications of TEKFOR or technical specifications of the client supplier to TEKFOR, such as a technical drawing or a factory standard, hereinafter referred to summarily as a "serial part", the following additional provisions shall also apply.
- (7) Suppliers of serial parts warrant that they are certified under IATF 16949 and DIN EN ISO 14001. If a Supplier does not have this certification, it must make a written declaration to TEKFOR as to when the certification is expected to be obtained. If the Supplier should lose its certification for longer than twelve months, TEKFOR shall be entitled to terminate any supply agreements extraordinarily. The status of any certifications will be reviewed during all semiannual supplier evaluations. In this regard, the Supplier must inform TEKFOR in good time, in writing and without being asked of any changes to its certifications, furnishing the relevant proof.
- (8) If there are suspected quality problems or delays in the delivery of serial parts, TEKFOR may carry out an audit with a lead time of six hours. The Supplier shall provide accompanying personnel and grant access to the manufacturing sites in this event. TEKFOR may gain an extensive and comprehensive insight into all quality, manufacturing control and logistics data on site. Audits may also be carried out by TEKFOR in collaboration with the client. If an audit of the Supplier leads to the conclusion that the latter is not sufficiently complying with quality assurance measures, is acting negligently or is culpably causing critical delays to delivery, TEKFOR may terminate extraordinarily the delivery agreements in question.

§2 Conclusion of and modifications to the contract

- (1) Enquiries to the Supplier concerning its products and conditions for service or requests for quotes shall not be binding on TEKFOR.
- (2) Written framework contract (hereinafter "frameworks") may be concluded for serial parts, stipulating prices, payment conditions and specifications as a minimum.
- (3) For purchase orders, deals and delivery schedules, solely the written order from TEKFOR will be decisive.
- (4) Contracts come into existence when the purchase order is confirmed by the Supplier, provided this does not deviate from the order from TEKFOR. TEKFOR must indicate any such deviations expressly. Any deviations from these purchase orders will not be permitted unless approved in writing by TEKFOR in advance.
- (5) If the Supplier fails to confirm an order within one week of the written instruction, the order will come into being in accordance with the purchase order from TEKFOR.
- (6) Delivery schedules under an order and schedule planning system will become binding if the Supplier does not object to them within two working days of being informed.
- (7) The Supplier will receive, either in frameworks or in another form, an overview of delivery quantities for planning purposes (quantity forecasts). Quantity forecasts shall not constitute delivery schedules or guarantees,

and no claims may be derived from the Supplier against TEKFOR from them. If the products ordered require raw materials that the Supplier uses exclusively for the products of TEKFOR, the Supplier will receive a raw materials clearance for the quantities ordered in the following three months. In this case, TEKFOR undertakes to bear the procurement costs for these raw materials in the event of a short-term cancellation in supplies, provided that proof is furnished.

- (8) TEKFOR may request changes to the products (particularly with regard to their construction and execution) from the Supplier at any time, including once the order has been confirmed. In this event, the Supplier will inform TEKFOR immediately of any consequences of this request for change, particularly in terms of increases or decreases in cost and the delivery deadline, and the Parties will agree on an appropriate adjustment to the contract, where required.
- (9) The Supplier is obligated to comply with the specifications of TEKFOR's customers at any time. TEKFOR will inform the Supplier about the TEKFOR's customers specifications respectively, but the Supplier is also obligated to update these specifications regularly. Even after the order has been confirmed by the Supplier, changed or amended specifications must be observed and fulfilled by the Supplier.
- (10) Telephone or oral agreements – including subsequent modifications or extensions to these terms and conditions of sale – must be confirmed in writing to be valid. Similarly, oral agreements concluded after the contract and ancillary agreements of any nature must be recorded in writing to be valid.
- (11) This requirement for written form may also be met by remote data transfer or fax.
- (12) The issue of quotes, technical projects, preliminary studies etc. by the Supplier or cost estimates by the Supplier shall be free of charge for TEKFOR and shall in particular not compel TEKFOR to place an order, unless the contrary is expressly agreed in writing.

§3 Price and stipulations

- (1) As a matter of principle, the prices based on which TEKFOR issues purchase orders shall apply. If in individual cases the Supplier is required to designate a price in the order confirmation, this price must be expressly approved by TEKFOR. All prices agreed on are fixed prices and shall apply, unless otherwise agreed, to delivery carriage paid to the place of destination, which shall be the place of delivery designated by TEKFOR. Prices include packaging, unloading, road tolls, fuel surcharges and other ancillary costs (insurance, factory certification, etc.) and, where prescribed by law, statutory VAT. Goods must be delivered fully duty paid to TEKFOR – DDP under Incoterms 2010.
- (2) If it is agreed that TEKFOR will bear the dispatch costs, the shipping instructions issued by TEKFOR must be observed. TEKFOR shall not be required to contract forwarding insurance (exempted customer). If duty is payable on the goods, the Supplier must prepare sufficient copies of the documents required for paying this duty for the collecting shipping company and submit them to TEKFOR by fax in advance.
- (3) If no delivery price (including delivery) is agreed, the Supplier may calculate its own costs for packaging. If it is agreed that the goods are to be returned, TEKFOR will credit the full amount of these costs to the Supplier.
- (4) Additional costs incurred owing to a failure to observe shipping instructions will not be covered by TEKFOR.
- (5) For serial parts, the prices agreed on (e.g. in frameworks) for the duration of the (framework) agreement shall apply. Price modifications may be negotiated with TEKFOR under the following conditions only:
 - a) the period agreed on in the framework must have elapsed;
 - b) all calculation data and associated proof of changes to costs must be disclosed;
 - c) Calculation data must be disclosed in such a manner as to enable TEKFOR to use the documents furnished by the Supplier in order to show its own customer transparently the changes in costs.
 - d) Cost changes must be demonstrable from generally accessible sources independent from the Supplier and whose validity is unquestioned.
 - e) Raises in wages will not be accepted as grounds for price increases.
- (6) If the costs of serial parts for the Supplier fall, TEKFOR may require a pro rata price reduction for the degree of value created.
- (7) For serial parts, material price supplements such as scrap and alloying elements will be negotiated for separately and shown separately in the frameworks. They will be tailored to current market prices at agreed intervals.
- (8) For serial parts, initial samples, test orders and preseries will be set off against the series price. Initial samplings must be provided by the Supplier free of charge.
- (9) Any modifications to processes (manufacturing processes, testing and measuring processes, facilities, production sites, ERP systems, etc.) may lead to unforeseen consequences for the customer or for TEKFOR. Modifications may therefore be carried out solely by mutual agreement and after they have been approved in writing by TEKFOR. The Supplier shall inform TEKFOR immediately of any planned changes to processes, its own manufacturing site or that of its sub-suppliers and of any changes to the basic materials used. Modifications shall not be permitted until TEKFOR has approved them in writing.

DRIVEN BY EXCELLENCE

- (10) If manufacturing or delivery is suspended by a sub-supplier for longer than 12 months, this must be notified to TEKFOR and new samplings or test orders must be carried out.

§4 Payment conditions, Collaterals

- (1) In the absence of any specific agreements to the contrary, invoices will be reconciled either at 60 days with a 3% discount or at 90 days with no discount from the due date of the payment claim and the receipt of both the invoice and the goods/performance of the service. Payment is subject to the invoice in question being verified.
- (2) The agreed payment terms are binding for the term of the agreement. Unilateral changes in terms of payment in particular payment targets by the Supplier are not permitted and invalid.
- (3) A change in the payment terms derogatory to TEKFOR or the premature payment / acceleration from the legal relationship or the request of collaterals by the Supplier are not permitted and invalid, even if TEKFOR is in default of payment or the financial circumstances of TEKFOR should deteriorate significantly.

§5 One-off costs

- (4) For serial parts, costs for one-off services may be incurred, such as the costs of specific tools, appliances, development and testing services, machines and facilities, measuring devices and other one-off services (one-off services). One-off services will be covered wholly or partly by TEKFOR on the proviso that they are contained in the Supplier's quote for the serial delivery, were negotiated with TEKFOR during the purchase and TEKFOR has undertaken in writing to assume their cost. The Supplier will receive an individual order from TEKFOR in this respect.
- (5) TEKFOR will not be obliged to pay for one-off services until proof of that service has been furnished and after successful sampling has been performed.
- (6) If the Supplier does not deliver serial parts to the product outlet for the products, TEKFOR may reclaim the full amount already paid for any individual services.
- (7) Notwithstanding any agreements to the contrary, TEKFOR shall receive full or corresponding partial title to the one-off services to the extent to which TEKFOR covers the established costs for those one-off services. Title or shared title to the one-off services will pass to TEKFOR when TEKFOR pays for those services. The one-off services will remain with the Supplier on loan. The Supplier may not dispose of the one-off services in fact or in law, relocate them or render them permanently inoperative without the permission of TEKFOR.
- (8) The Supplier is obliged to use the name of TEKFOR to indicate the latter's title or shared title to the one-off services.
- (9) The Supplier shall bear the costs of maintaining, repairing and replacing the one-off services.
- (10) Spare tools will be owned by TEKFOR to the same extent as the original tools they replace.
- (11) In the event of shared title to a tool, TEKFOR shall have a priority purchase right to the Supplier's share of the title.
- (12) Tools to which TEKFOR holds the title or shared title must be used exclusively for the manufacture of the contractual products.
- (13) Tools must be insured to the agreed extent; if no extent is agreed, they must be insured to the Supplier's standard extent.
- (14) Once delivery is complete, tools may be released to TEKFOR on request. For tools owned under shared title, TEKFOR must compensate the Supplier for the time value of the Supplier's share in the title after it has received the tools. The Supplier shall have no right of retention. The duty of disclosure will still be incumbent on the Supplier in the event that insolvency proceedings are brought or in the event of a more extended interruption to delivery.

§6 Delivery, Delay in delivery

- (1) The Supplier must include a delivery note stating the TEKFOR order number with each delivery.
- (2) The decisive date for determining whether a delivery date or delivery deadline has been respected is the date on which the goods are received by TEKFOR. If in exceptional circumstances delivery is not agreed on "carriage paid" (DDP under Incoterms 2010), the Supplier must provide the goods in good time in accordance with the time agreed on with the haulier for loading and dispatch. Unless the contrary is agreed, the Supplier will issue notice of dispatch when the goods are shipped. If the shipper does not take delivery of the goods as confirmed in the notice of dispatch, the Supplier must inform TEKFOR of this immediately.
- (3) Delivery must be made in good time and in accordance with the description, nature and scope of the purchase order or scheduled delivery request. The delivery deadline set out in the purchase order is binding on the Supplier; if this information is not provided, the delivery deadline shall begin to run on the date of the order confirmation.
- (4) The Supplier must fulfil all orders itself. Assigning orders to third parties (subcontractors), even if the Supplier delivers in its own name, is not permitted without the approval of TEKFOR. The Supplier must inform the subcontractor of any obligations to be observed under the order in individual cases and of these terms and conditions of purchasing. TEKFOR shall be entitled to refuse a Supplier's subcontractor if the latter fails to

observe these conditions. Subcontractors for serial parts must be IATF 16949 and DIN EN ISO 14001 certified.

- (5) If the Supplier performs the assembly or mounting and unless anything else is agreed, the Supplier shall, subject to any regulations to the contrary, bear all requisite ancillary costs, such as travel costs, costs for providing tools and accommodation.
- (6) If the Supplier is late with a delivery, it must pay a contractual penalty of 1% of the purchase price for the late products per week of delay commenced, up to a maximum of 10% of the purchase price, to TEKFOR. The right to bring claims for damages remains unaffected. The Supplier must cover the following costs inter alia: additional travel costs (both from the Supplier to TEKFOR and from TEKFOR to its customer), additional equipment costs for production, additional costs from extra shifts, production cancellation costs, exchange costs/conversion costs, additional testing costs and loss of profits. Any contractual penalties due will be set off against any claims brought for damages. TEKFOR must be informed daily of plans to clear backlogs until the delivery delay has been completely obviated.
- (7) If the Supplier foresees difficulties with manufacturing, obtaining basic materials, meeting the delivery circumstances or similar circumstances liable to jeopardise a timely delivery or delivery of the agreed quality, the Supplier must inform the order department of TEKFOR immediately, giving the reasons for and expected duration of the delay and its ramifications, together with the measures it intends to take to remedy the situation.
- (8) For serial parts, the Supplier is obliged to provide TEKFOR with a project plan on request from the latter. TEKFOR is entitled to check at the Supplier's premises at any time that the order is going according to schedule. If the schedule is not being adhered to, TEKFOR shall be authorised at any time to require that measures be taken to ensure this schedule is met, or to carry out those measures or have them carried out by a third party at the Supplier's expense.
- (9) For serial parts, TEKFOR shall be entitled to carry out a process audit at any time, even at short notice, on the Supplier free of charge.
- (10) For serial parts, TEKFOR will moreover be entitled to accompany production over several days at the Supplier in the form of a Run@Rates free of charge and to examine the Supplier's process capabilities and capacities.
- (11) When referring to standards, the Supplier must ensure that the standard is supplied in its latest valid version.
- (12) Partial and excess deliveries are not permissible unless expressly authorised by TEKFOR or acceptable to TEKFOR. Any additional costs thereby incurred will not be covered by TEKFOR.
- (13) The Supplier shall employ the FIFO principle along its entire logistics chain when working with serial parts, i.e. the first item must be processed and delivered first. In addition, the Supplier guarantees continuous traceability for serial parts. In particular, the Supplier must be able to reproduce all essential process steps chronologically and physically for every delivery to TEKFOR. On request from TEKFOR, the Supplier shall provide this data immediately and free of charge.
- (14) Early deliveries will be accepted by TEKFOR only by written agreement. If the Supplier delivers the products before the agreed delivery deadline, TEKFOR reserves the right to have the products sent back at the expense and risk of the Supplier. If TEKFOR does not send the products back following an early delivery, the products will be warehouse until the agreed delivery deadline at the expense and risk of the Supplier. TEKFOR shall be entitled in the event of early delivery to use the agreed delivery deadline as the basis for calculating the payment date.
- (15) For lots, dimensions and weights, the values determined by us during initial testing shall be determinant.
- (16) The Suppliers must comply with valid packaging regulations. The Supplier must take back packaging free of charge. If this is not possible, the Supplier will bear the associated disposal costs incurred by TEKFOR.
- (17) The illustrations, system and functional descriptions, user manuals, circuit diagrams, General Factory Qualifications, testing reports, test and acceptance certificates, spare parts lists and guarantee stipulations associated with deliveries made under our purchase orders shall form integral parts thereof.
- (18) If the initial samples of serial parts cannot be delivered by the agreed deadline or the serial production cannot be launched by the agreed deadline, TEKFOR shall have the extraordinary right to terminate the delivery agreements concerned. Any costs or losses incurred as a result will be borne by the Supplier, unless the latter is not to blame for the circumstances. Furthermore, TEKFOR shall be entitled to claim back any one-off payments already made.
- (19) If the delivery also includes software, TEKFOR shall have a right unlimited in time to use that software to the extent permitted by law and within the appropriate scope for the usage of the goods in accordance with the contract. TEKFOR may process, duplicate or translate or convert it from object code to source code, and may make backup copies. TEKFOR is furthermore entitled to grant usage rights to an appropriate extent to its own customers, where required, to enable the customers of A-LAOSER to use and apply the item delivered to them by TEKFOR.
- (20) Series parts must be packaged in accordance with TEKFOR packing instructions and TEKFOR factory standards. If there are no TEKFOR packing instructions, the Supplier shall be responsible for ensuring that the contractual products are packaged in such a manner as to ensure that they are delivered in accordance with specifications and taking account of

DRIVEN BY EXCELLENCE

the means of transport used, so that there will be no deterioration to the products' usability even after 6 months' storage. Once packaging has been designed and used, it may not be modified without the written permission of TEKFOR.

- (21) For serial parts, the Supplier must have suitable storage and logistics processes that will take account of the packaging and ensure that no harm can come to the usability of the products. Both TEKFOR and the Supplier shall maintain shipping load accounts for empties, in which the input and output of empties can be recorded seamlessly. In the event of discrepancies in empties, the Parties shall grant each other access to each other's books, to clarify discrepancies and to clarify any costs arising. The Supplier shall bear the costs for procuring, disposing, transporting and retransporting packaging. The Supplier shall ensure that all packaging is transported, stored and cleaned.
- (22) Empties will be disposed of with the Supplier for serial parts. It must have a functioning process for packaging disposal that ensures that empties are available in sufficient quantities to cover delivery requirements. Empties provided by TEKFOR and are remain the property of TEKFOR for an unlimited period. The Supplier shall not have a right of retention on any grounds whatsoever. The Supplier shall be liable for any loss or damage to empties provided. Any such loss or damage must be reported to TEKFOR in writing. Empties provided are to be used for transport between the Supplier and TEKFOR. The Supplier must have sufficient quantities of its own empties for manufacturing and warehousing on its own site. Empties provided by TEKFOR may be used to meet requirements of a maximum of two weeks.
- (23) In the event of a shortage of empties for serial parts, the material planner of TEKFOR must be informed immediately. Any measures required must be determined jointly. A switch to replacement packaging must be made if required. Replacement packaging may be obtained only with the approval of the materials planning or quality assurance departments of TEKFOR. To ensure that the customer of TEKFOR will be delivered, the Supplier is not entitled to interrupt manufacturing because of shortages of empties.

§7 Capacity planning

- (1) The Supplier is obliged to maintain sufficient HR and technical resources to be able to supply the quantities designated in the delivery schedules at full operation and additional quantities of 15% for a period of three weeks.
- (2) If no separate capacity or quantity agreements have been concluded for serial parts, the maximum quantities delivered over the past two years within three consecutive months shall count as 100% of the capacity available. For serial parts the Supplier warrants that this capacity +15% is available for TEKFOR.
- (3) If the Supplier notice that this maximum manufacturing capacity has been reached for serial parts, the supplier must inform TEKFOR immediately in written form that no further capacity increases will be possible. In this case, a separate written capacity agreement should be concluded in the interests of all parties.

§8 Force majeure

- (1) Force majeure, industrial action, non-culpable disruptions, unrest, official measures and other inevitable events shall dispense TEKFOR from its duty to accept deliveries in good time for the duration of those events. During such events and for two weeks following their cessation, TEKFOR shall be entitled – notwithstanding its other rights – to withdraw from the contract wholly or in part, provided these events are of a not insignificant duration and its demand diminishes considerably as a result of the need to procure the products in another manner.
- (2) Strikes affecting the Supplier or public transport, or events of any nature occurring to subcontractors or sub-suppliers of the Supplier, shall not constitute force majeure and shall not justify failure to perform deliveries.

§9 Transfer of risk

- (1) The risk of accidental loss or damage to the goods will pass to TEKFOR once the unloading of the goods at the place of delivery is complete, for all shipping methods.
- (2) If work services are provided, including assembly services, the risk shall pass at the moment of formal acceptance by TEKFOR via an acceptance report or another written declaration. Definitive acceptance (final acceptance) will occur once all contractual services have been completely and correctly performed, a facility has been installed and run in and proof of the agreed warranty values has been furnished. Final acceptance must be requested in writing by the Supplier. Furthermore, the Supplier must send an authorised representative to receive this acceptance. A report or certificate will be compiled and issued to attest to final acceptance. Final acceptance may be refused by TEKFOR in the event of significant defects that affect the functionality of the items delivered. If there are such significant defects, final acceptance will be granted once these defects have been removed.

§10 Warranty

- (1) The Supplier shall provide TEKFOR with products free from physical defects and defects of title. The Supplier warrants that the goods are manufactured from suitable materials 100% free from defects, which have been processed carefully and correctly in accordance with recognised in-

dustry standards and other applicable standards, and that the goods are unrestrictedly suitable for the purpose set out in the contract and that they possess the warranted qualities and agreed performance values. All illustrations or warranties in the Supplier's catalogues, brochures, commercial documentation and quality assurance systems are binding on the Supplier. Technical specifications shall constitute warranties to TEKFOR.

- (2) The Supplier furthermore warrants that the scope of its deliveries, including transport to TEKFOR, meets the basic testing principles for security in the workplace valid at the moment of the order, the stipulations of the currently applicable environmental regulations and the relevant provisions and guidelines from authorities, trade associations and professional bodies.
- (3) This warranty shall also apply to the services of subcontractors and agents of the Supplier. It furthermore applies to replacement deliveries, subsequent improvement and the rectification of defects.
- (4) The Supplier's warranty is not limited or excluded by the fact that parts, systems, constructive solutions or procedures recommended by TEKFOR as the ordering party fall under the scope of delivery. If the Supplier judges that such recommendations are not appropriate, it must inform TEKFOR in good time.
- (5) In the event of material defects, it will be suspected that the defect already existed at the moment of transfer of risk, unless this suspicion is inconsistent with the nature of the item or the defect.
- (6) The Supplier undertakes to effect a tried and tested and established quality assurance system for the deliverables and services covered by delivery in accordance with applicable ISO or DIN standards. This shall also include outgoing goods checks as part of which the Supplier must examine whether the goods it is to deliver to TEKFOR are free from material defects and defects in title and if they correspond to the agreed characteristics and standards. TEKFOR has the right to examine the Supplier's and any subcontractor's quality assurance system via quality audits. If the Supplier should deliver parts on several occasions within 18 months for which a given characteristic does not meet specifications, TEKFOR may require that additional checks be carried out, at the Supplier's expense. If further parts are delivered with the same defect despite the additional checks, TEKFOR may require that an external certified company perform a 100% check of the contractual products until it can be guaranteed that deliveries will be made to specifications, at the Supplier's expense.
- (7) The Supplier is required to inform TEKFOR spontaneously of any modifications to its manufacturing and testing conditions and to refrain from delivering any serial parts manufactured after the process modifications until TEKFOR has approved them as serial parts.
- (8) The Supplier of serial parts is obliged to comply with the statutory and regulatory requirements of the country of departure, the country of importation and if notified the country of destination as well as the sales market.

§11 Claims for defects and regress

- (1) For goods deliveries, acceptance will be contingent on investigation for freedom from defects, particularly for correctness, completeness and fitness for purpose. This investigation shall take place to the extent and as soon as possible as part of standard business operations. If any defects are determined, TEKFOR shall inform the Supplier immediately. Other defects that are identified only during processing or the appropriate use of the goods delivered will be notified to TEKFOR as soon as they are discovered. The Supplier furthermore undertakes to waive any more detailed inspection of goods on receipt and waives any objections against subsequent claims for defects. The Supplier is aware that it must perform an outgoing goods check under §10(6) with corresponding testing certificates and that further regular quality controls will be performed when the items delivered are processed as part of the subsequent delivery chain. Therefore, if defects should not arise until the delivery is processed, TEKFOR's claims for those defects shall subsist and the Supplier may not seek to avail itself of any limitation period that may have begun to run; this shall not apply if the Supplier can demonstrate that it was solely due to gross negligence that the defects were not discovered before the limitation period had expired.
- (2) For defective deliveries, the Supplier must first effect remedial performance, i.e. (at the choice of TEKFOR) either rectify the defect or deliver a replacement item (substitute parts). In both circumstances, the Supplier shall bear all costs incurred by it or by TEKFOR, e.g. transport, road maintenance, labour and material costs or costs for inspection on receipt of a broader scope than normal. The same applies for any disassembly and assembly costs. In the event of subsequent deliveries, the Supplier must take back the defective products at its own expense. If there is no remedial performance, if that performance is unacceptable to TEKFOR or if the Supplier does not commence performance immediately, TEKFOR may withdraw from the contract/order without notice and return the goods at the risk and expense of the Supplier. In this and other urgent cases, particularly to prevent acute dangers or to avoid greater damage, where it is no longer possible to inform the Supplier of the defect and allocate a deadline (even a brief one) for rectifying that defect, TEKFOR may have the defects remedied itself at the Supplier's expense or have them rectified by a third party.
- (3) If the Supplier does not immediately begin to rectify the defect in question when so requested by TEKFOR, TEKFOR shall be entitled to have the

defect remedied itself or to have it remedied by a third party, at the expense of the Supplier.

- (4) For defects in title, the Supplier shall hold TEKFOR harmless from any claims from third parties, unless it is not responsible for the defects in title. With regard to such defects in title, a limitation period of 5 years shall apply from the moment of transfer of risk.
- (5) Claims for defects shall lapse 5 years after the transfer of risk to TEKFOR: This shall not apply where the claims from TEKFOR pertain to facts of which the Supplier was aware or was grossly negligently unaware and did not inform TEKFOR. In this case, the limitation period shall be 30 years. The limitation period begins when the contractual items are delivered (transfer of risk).
- (6) If TEKFOR extends a longer or more comprehensive liability for defects to its customers, the Supplier shall be required to consent to be bound by this liability in the future as well, after having been notified of it in writing.
- (7) If TEKFOR incurs any costs as a consequence of defective goods, particularly transport, road maintenance, labour, material or investigative costs, the Supplier must reimburse these costs to TEKFOR.
- (8) Further claims, particularly claims for compensation or claims under the Supplier's warranty, shall remain unaffected.
- (9) The unconditional acceptance of a delayed delivery or service shall not constitute a waiver of any claims for compensation vesting in TEKFOR by virtue of that delayed delivery or service.
- (10) If customers of TEKFOR have recourse to a reference market procedure or a similar procedure commonplace in the automotive industry for determining and calculating warranty claims and enforce that procedure against TEKFOR for defects in the products of TEKFOR resulting from defects in the Supplier's products, this procedure shall also apply to the supply relationship between the Supplier and TEKFOR.

§12 Product liability and recall

- (1) If a claim is brought against TEKFOR for product liability, the Supplier shall be obliged to hold TEKFOR harmless from such claims to the extent that the loss or damage was caused by a defect in the contractual item delivered by the Supplier. For fault-based liability, however, this shall apply only if the Supplier is at fault. If the cause of the loss or damage lies within the responsibility of the Supplier, the latter shall bear the burden of proof.
- (2) The Supplier shall be required to provide TEKFOR with all information and support, to the extent reasonable, to permit TEKFOR to defend itself against such claims.
- (3) The Supplier shall bear all costs and expenditure incurred in the circumstances under (1), including the costs of any legal proceedings.
- (4) As part of its liability the Supplier is also obliged to reimburse TEKFOR for all costs and expenditure incurred under or in connection with any recall campaigns run by TEKFOR. TEKFOR will inform the Supplier of the content and scope of any recall campaigns to the extent possible and reasonable and give the Supplier the opportunity to submit its response. The right to bring more extensive claims remains unaffected.
- (5) The relevant statutory provisions shall apply for the remainder.

§13 Insurance

- (1) The Supplier of serial parts is required to contract extended public liability and product liability insurance at its own expense to cover the risks of product liability, including the risk of recall, from a renowned insurance company and in a sufficient amount (cover must be at least EUR 10 m per incident and insurance year) and maintain that insurance for the duration of the commercial relationship, including the warranty periods.
- (2) On request, the Supplier must furnish proof without delay that such insurance has been contracted. If the Supplier is not able to furnish proof of these insurance policies within two weeks, TEKFOR shall be entitled to contract such insurance at the expense of the Supplier.

§14 Cancellation/termination of purchase orders/contracts

- (1) For serial parts, the Supplier is required to deliver products at competitive conditions and in accordance with quality requirements to TEKFOR until those products are discontinued.
- (2) TEKFOR may terminate purchase orders or contracts by giving notice of 6 months, and the Supplier may terminate by giving notice of 24 months. Following termination by the Supplier, the latter must disclose all its sub-suppliers of component parts and raw materials for the products involved to TEKFOR within 2 weeks of termination.
- (3) If a customer of TEKFOR cancels or abandons its order extraordinarily or for no reason, TEKFOR shall be entitled, regardless of its right to terminate, and the Supplier shall be compelled to seek to conclude another agreement with A-KAIASER that takes account of these circumstances. Unless otherwise agreed, the following degrees of obligation shall apply:
 - i. the quantity intended for the rolling month following the order (Month 1) is ordered bindingly;
 - ii. the quantity ordered for the next rolling month (Month 2) shall entitle the Supplier to procure the preliminary materials. If this quantity is not subsequently picked up by TEKFOR, the Supplier shall be entitled to invoice TEKFOR for the preliminary materials procured, at which point TEKFOR may require that the preliminary materials be delivered.

Any additional quantities manufactured and materials procured will be exclusively at the risk and account of the Supplier.

- (4) Either Party shall be entitled to terminate a contract without notice on substantive grounds at any time. Substantive grounds shall include the following in particular:
 - i. the opening of insolvency proceedings over the assets of either Party or the refusal of such proceedings owing to the lack of assets, or the liquidation of either Party;
 - ii. the breach of major contractual obligations; in the event of a breach that can be rectified, although only once the Party not at fault has instructed the other Party in writing to rectify the breach, has warned it of the imminent termination on substantive grounds and a reasonable period of at least four weeks has been granted but has failed to produce performance;
 - iii. one Party falls under the control of a competitor of the other Party owing to a change in its owners or shareholders.
- (5) In the event of the cancellation or other termination of a contract, the Supplier must return all property and documents of TEKFOR and all other items, including all illustrations and other documents, devices and tools, to TEKFOR.

§15 Performance of work

Persons carrying out work on factory premises under the contract must follow the provisions of the relevant factory regulations. Liability for any accidents suffered by such persons on the factory premises is excluded unless caused by intentional or grossly negligent breaches of duty by the legal representatives or agents of TEKFOR.

§16 Industrial property rights of third parties

- (1) The Supplier warrants that the delivery and use of the goods will not breach the industrial property rights of third parties.
- (2) If a claim is brought against TEKFOR by a third party in this regard, the Supplier will be obliged to hold TEKFOR harmless from this claim at the latter's first written request. This duty to hold harmless incumbent on the Supplier covers all expenditure that may prove necessary for TEKFOR under and in connection with any claim brought by a third party.

§17 Confidentiality

- (1) TEKFOR hereby reserves all property and copyright in all illustrations, drawings, documentation, samples, models, substances, parts, know-how etc. provided to the Supplier, hereinafter collectively referred to as "information", including in the form of disks or CD-ROMs.
- (2) The information made available to the Supplier by TEKFOR must be kept confidential from third parties and provided only to the persons who are required to be involved for the purpose of deliveries to TEKFOR; these persons must also be placed under a duty of confidentiality. The Supplier undertakes to impose an equivalent duty of confidentiality on its sub-suppliers. The Supplier may not use any confidential information transmitted to it by TEKFOR for any purposes other than those under the contract.
- (3) These obligations shall not apply to information for which the Supplier can demonstrate that (i) it was already in the public domain at the moment it was communicated or fell into the public domain thereafter through no fault of the Supplier; (ii) was already in the Supplier's possession when it was communicated; (iii) was communicated to it by a third party not bound by confidentiality or a prohibition on use, whereby this third party must not have obtained the information directly or indirectly from the Supplier; or (iv) is required to be disclosed to the authorities in the application of statutory provisions.
- (4) All information transferred must be returned to TEKFOR immediately and in its entirety at the latter's first request or, if desired by TEKFOR, destroyed; this also applies to any copies or records of such information. The Supplier must return any information provided to it by TEKFOR unrequested if that information is no longer used for the execution of the order.
- (5) TEKFOR retains all rights in respect of all information in this regard, including copyright and the right to file intellectual property rights such as patents, utility patents, etc.
- (6) If the corresponding information from third parties has been disclosed to TEKFOR, this reservation shall also apply in favour of those third parties.
- (7) If the Supplier manufactures products in accordance with documents, illustrations, models or similar media developed by TEKFOR, in accordance with confidential information from TEKFOR, with the tools of TEKFOR or reverse-engineered tools, or using information as under § 16(1), the Supplier may not use those products itself or deliver or supply them to third parties.
- (8) The Supplier undertakes to return all confidential information it has received to TEKFOR at the end of the supply relationship, where that information is physically manifested or stored on electronic storage media. The Supplier must confirm in writing on request from TEKFOR that it has complied with the obligations in the above two paragraphs.

§18 Intellectual property in development work

If the Supplier carries out development work for TEKFOR for production materials or manufacturing equipment (particularly tools) whose costs are reimbursed by TEKFOR either separately and/or via the prices paid for the products (i.e. are included in the order), the following shall apply:

DRIVEN BY EXCELLENCE

- (1) The Supplier shall produce development results free from the intellectual property rights of third parties.
- (2) The legal title to all development results (including any inventions, know-how, test and development results, propositions, ideas, drafts, designs, suggestions, samples, models, etc.) created by the Supplier as part of this collaboration ("work results") shall vest in TEKFOR as soon as it arises. The Supplier shall transfer the rights to all development results (including all patents and copyrights) to TEKFOR.
- (3) If the work results can be protected by industrial property rights, TEKFOR shall in particular be entitled to register such rights in its own name both domestically and abroad, to enforce those rights or to abandon them at any time. The Supplier must draft all documents to ensure that any industrial property rights are transferred to TEKFOR. If work results take the form of software, the usage and exploitation rights are not confined to the object code. TEKFOR will in particular have a claim to the transfer of the source code and the documentation. TEKFOR may require that this transfer be effected at any time, including during or after the performance of the project.
- (4) The Supplier must take unrestricted account of any patentable inventions that its employees make during the performance of this contract, via a declaration to the inventor. The Supplier must conclude the appropriate contractual agreements with its employees and sub-suppliers to ensure that the latter transfer the rights to any patentable inventions to the Supplier.
- (5) If the Supplier's property rights or previous property rights affect the production material or manufacturing facilities, the Supplier shall grant TEKFOR and the latter's associated companies the exclusive, irrevocable, sublicensable, transferrable right unrestricted in time, place and content, free of charge, to use and exploit these work results in any manner whatsoever.
- (6) Unless otherwise stipulated herein, the Supplier (and any companies associated with it) is and remains the owner of any inventions made prior to the beginning of the collaboration and the property rights filed or granted in respect of them, and any copyrights, patents and know-how ("previous property rights") existing prior to the beginning of the collaboration.

§19 Spare parts supply

- (1) The Supplier undertakes to provide spare parts at reasonable conditions for the predicted lifespan for which the final products are to be used. The minimum period is 15 years after the end of serial production of the products. In good time before the minimum period expires, the Supplier shall grant TEKFOR the possibility of placing a final order for all spare parts ever expected to be required at serial prices.
- (2) For serial parts the supplier is obligated to deliver more parts/spares on the request of TEKFOR for a period of 15 years after termination of the serial production status. To insure this commitment the supplier will provide, storage and insure the necessary tools and other devices for the manufacturing of the delivery object for this period of time.

§20 Import and export checks and customs

- (1) The Supplier is obliged to inform TEKFOR of any duties to obtain approval for (re-)imports/exports of its goods under German, European, Brazilian, Chinese, Japanese, Mexican, Thai, Hungarian or US import or export and customs provisions and the import/export and customs provisions of the country of origin of its goods in its business documentation, and furnish any requisite confirmations.
- (2) On request, the Supplier is required to inform TEKFOR in writing of any subsequent foreign trade figures for its goods and their component parts, and to inform TEKFOR immediately and in writing (prior to the delivery of any goods thereby affected) of any changes to these figures.
- (3) The Supplier is obliged to make good any loss or damage incurred because data or documents are incorrect or are not recognised by the responsible authorities, unless the Supplier is not responsible for the consequences of this.

§21 Compliance

- (1) The Supplier undertakes to comply with the relevant statutory provisions governing dealings with employees, protection of the environment and health and safety in the workplace, and to work on reducing emissions harmful to human health and the environment in its activities. The Supplier shall in this regard install and develop an ISO 14001 management system to the extent possible. The Supplier will furthermore comply with the basic principles of the UN Global Compact Initiative. These essentially pertain to the protection of international human rights, the right to tariff negotiations, the prevention of forced labour and child labour, the removal of discrimination on hiring and employment, responsibility for the environment and the prevention of corruption. Further information on the UN's Global Compact Initiative can be found at www.unglobalcompact.org.
- (2) If the Supplier repeatedly and/or despite instructions to the contrary acts in breach of the law and fails to demonstrate that this breach was remedied to the greatest extent possible and that adequate precautions have been taken to avoid future breaches, TEKFOR reserves the right to withdraw from existing contracts or to terminate them without notice.
- (3) The Supplier warrants that it has not promised any gifts or provisions to the employees, authorised representatives, agents or representatives of TEKFOR and will not pay out any such emoluments. In the event of a

breach, TEKFOR shall be entitled to terminate the contract without notice and to require that the Supplier make good any loss or damage suffered by TEKFOR as a result of that breach.

- (4) The Supplier warrants that it and its contractors and subcontractors will pay the applicable minimum wage to all their respective employees at all times. If this provision is breached, the Supplier shall hold TEKFOR harmless from the claims of any third parties.
- (5) If TEKFOR or the Supplier are corporations subject to Italian Law or the delivery is from or to Italy, the Supplier is required to comply in accordance with the provisions of the model or organization, management and control with the provisions of the Italian Decree 231/01. Violations may result in the application of the system of sanctions up to the termination of the contract.

§22 Hazardous substances and preparations

- (1) For goods and materials for procedures that must be treated specially owing to laws, orders, other provisions or to their composition and their effects on the environment, inter alia with regard to transport, packaging, labelling, storage, handling, manufacture and disposal, the statutory provisions governing manufacturing and those of the Supplier's country of distribution must be followed.
- (2) The Supplier will provide TEKFOR in this circumstance with the requisite papers and documents before the order is confirmed. In particular, all hazardous substances and substances toxic to the water table must not be supplied unless an EC security sheet is provided and they have been approved by TEKFOR. If the requirements in this regard change during the delivery relationship, the Supplier shall provide TEKFOR immediately with papers and documents corresponding to the modified requirements.
- (3) TEKFOR is entitled to return any hazardous substances and substances toxic to the water table that were used for testing purposes to the Supplier free of charge.
- (4) The Supplier shall be liable to TEKFOR for any culpable failure to comply with the existing statutory provisions that causes harm.
- (5) The Supplier shall ensure that the requirements of the EU REACH chemicals regulation (Regulation (EC) No. 1907/2006 of 30/12/2006) – hereinafter designated "REACH" – are met, particularly that all prerequisites and registrations are done in due time. TEKFOR is not under any circumstances obliged to carry out (pre-)registration. The Supplier is aware that the products may not be used unless the stipulations of REACH have been met properly and in their entirety.
- (6) The component parts (heavy metals) addressed by the EU ELV Directive (ELV – End-of-Life Vehicles) must be entered by the Supplier in the IMDS database at its own cost and will then be deemed to have been declared.
- (7) Based on the EU ELV Directive, the Supplier is obliged to ensure the following:
 - i. a component-based system for drying and disposing of toxic substances must be devised and communicated;
 - ii. the VDA 260 labelling standard for tools and components must be observed;
 - iii. a disposal concept for selected supplier parts must be provided after discussion with TEKFOR;
 - iv. the greatest percentage possible of parts should be recycled and sustainable raw materials should be used, after discussion with TEKFOR.
- (8) The Supplier must comply with all statutory and official regulations with regard to the protection of the environment when performing its statutory obligations.
- (9) The Supplier shall hold TEKFOR wholly harmless from any consequences, particularly loss or damage, and claims from third parties resulting from any culpable failure by the Supplier to comply at all, completely or in good time with provisions i) – iv) hereunder.

§23 Set-off, assignment

- (1) TEKFOR shall have set-off and assignment rights to the extent granted by law. The Supplier is not entitled to assign its claims against TEKFOR to third parties.
- (2) The Supplier may not use one or more subcontractors to fulfil an order or part of an order without the prior written permission of TEKFOR.
- (3) The Supplier may not assign or transfer any purchase order or the contract, whether in whole or in part, without the prior written permission of TEKFOR.

§24 Retention of title

- (1) Property in the goods shall pass to TEKFOR once the totality of the purchase price has been paid. Any extended or broadened retention of title or current account reservation by the Supplier in respect of the goods delivered is excluded.
- (2) All parts, raw materials, tools, materials or other devices or items provided by TEKFOR or acquired the Supplier at the cost of TEKFOR (and whose procurement costs are repaid by TEKFOR or are incorporated in the prices payable for the goods and have been paid for in full) and connected to or used in the manufacture of the products shall remain or become the sole property of TEKFOR. All rights in any drafts, samples, illustrations, data, models or other information and documents provided by TEKFOR shall remain vested in TEKFOR. The Supplier expressly agrees that TEKFOR property or documents may not be used for the manufacture or

construction of products for third-party customers without the prior written permission of TEKFOR.

- (3) The Supplier holds any property and documentation of TEKFOR purely on loan and shall keep it separately from any property of other persons, and all TEKFOR property and documents must be clearly designated as such. The Supplier warrants that all parts, raw materials, tools, materials or other devices or items used by TEKFOR for processing will not be mixed in with other parts. The Supplier also warrants that the parts delivered for processing will not be mixed in with other parts delivered by TEKFOR for processing.
- (4) The Supplier is liable for any loss or damage to TEKFOR property. TEKFOR must be informed immediately in the event of any loss or damage to its property. The Supplier is obliged to insure TEKFOR property at its replacement value and at its own expense against fire, water damage and theft as a minimum and to maintain this insurance. The Supplier must demonstrate to TEKFOR on request that this insurance exists. The Supplier must carry out all requisite maintenance work at the appropriate intervals and at its own expense. Any damage or disruption must be notified to TEKFOR immediately.
- (5) Where TEKFOR provides the Supplier with products, raw materials or other materials ("goods") for the manufacture of products, TEKFOR shall retain the property in those goods. The treatment/processing, conversion, incorporation or transformation of such goods by the Supplier shall be done for TEKFOR. If the goods with retained title are processed together with other items not owned by TEKFOR, TEKFOR shall acquire the co-ownership in the new product pro rata with the value of the goods of TEKFOR (purchase price plus VAT) as against the other items processed at the time of processing.
- (6) If the goods provided by TEKFOR are combined or mixed inseparably with other items not owned by TEKFOR, TEKFOR shall obtain the co-ownership in the new product pro rata with the value of these retained goods (purchase price plus VAT) compared with the other combined or mixed items at the time of combination or mixing. If this combination or mixing occurs in a manner such that the items of the Supplier are considered the main item, it is hereby agreed that the Supplier shall transfer the co-ownership pro rata to TEKFOR; the Supplier shall store and protect the sole ownership or co-ownership on behalf of TEKFOR.
- (7) The Supplier is entitled to monitor the flow of goods from delivery of the goods provided by TEKFOR to the return delivery of the products to TEKFOR via booking systems. On request from TEKFOR, the Supplier must provide this data immediately and free of charge.

§25 Place of performance, competent jurisdiction and applicable law

- (1) The place of performance for the delivery obligations of the Supplier is the place of reception or use designated by TEKFOR. The place of performance for the payment obligations of TEKFOR is the registered office of the company that has entered into that contractual obligation.
- (2) The provisions of this contract are governed solely by German law, to the exclusion of any conflict of laws and UN Convention on the Sale of Goods (CISG).
- (3) If the applicability of another legal system is stipulated in an agreement on individual rights, this agreement shall apply with regard to that legal system. These terms and conditions of purchasing shall continue to apply.
- (4) The exclusive competent jurisdiction for any legal disputes arising directly or indirectly from contractual relations based on these terms and conditions of purchasing is the Civil Court of Frankfurt am Main. TEKFOR is furthermore entitled to bring proceedings against the Supplier in the jurisdiction of its registered office or of its subsidiary, or in the jurisdiction of the place of performance.
- (5) Any references to "statutory provisions" in this document designate applicable statutory provisions; if no law applies directly to the circumstance, general statutory provisions shall apply.

§26 Miscellaneous provision

- (1) If any of the provisions herein should be or become invalid or unenforceable, the validity in law of the remaining provisions shall not thereby be affected. In place of the void or unenforceable provision, a provision shall be deemed to have been agreed that reproduces the original intention of the contracting Parties as shown in the invalid or unenforceable provision to the greatest extent permissible by law. The same shall apply to any loopholes in the contract.
- (2) These terms and conditions of purchasing are available in several languages. In the event of discrepancies between the translated versions and the German version, solely the German version shall prevail.