

General Terms and Conditions for
(i) the Manufacture, Delivery and Installation of Investment
Goods
and
(ii) the Purchase of Non-Production-Materials and Services
for Plants in US, Canada and Mexico

I. Applicability and Scope

1.1 Each of Kautex Inc., CWC Textron (a Division of Textron Inc.), Kautex Corporation and Kautex Textron de Mexico, S. de R. L. de C.V., (“KAUTEX”)

- (i) orders the manufacture, delivery and installation of machines, equipment, tools etc. for the production of automotive components (“**Investment Goods**”) from and
- (ii) purchases goods for non-production purposes (“**Deliverables**”) and the provision of related services as well as other services

from contractor or seller (hereinafter uniformly referred to as “**Contractor**” and together with KAUTEX hereafter referred to each as a “**Party**” and together the “**Parties**”), subject to the following general terms and conditions (“**GTC**”). The manufacture, delivery and installation of Investment Goods as well as all other services mentioned above are hereinafter referred to as “**Services**”.

These GTC shall not apply to the purchase of production materials for the supply of serial parts to KAUTEX’s customers.

1.2 Contractor’s general terms and conditions or general terms and conditions of sale and delivery or other deviating terms of Contractor are not applicable unless KAUTEX has expressly accepted them in writing. Upon acceptance of KAUTEX’s order by Contractor, but no later than at the beginning of the execution of the order, Contractor acknowledges sole applicability of these GTC. These GTC will also apply regardless of KAUTEX’s failure to object to terms and conditions of Contractor that deviate from these GTC (whether or not KAUTEX is aware of such terms). KAUTEX hereby expressly

objects to all references or notifications by Contractor regarding the application of its general terms and conditions or general terms and conditions of sale and delivery (*e.g.*, in offers) or other differing terms. These GTC will also apply to all future transactions of KAUTEX with Contractor.

- 1.3 In addition to these GTC, any other agreements between the Parties, *e.g.*, framework agreements etc., shall apply.
- 1.4 Additionally, for the manufacture, delivery and installation of Investment Goods the **Appendix for Investment Goods (Ariba Appendix)**, including its applicable documents, each in the version sent to Contractor upon execution of the contract, shall apply.
- 1.5 Provisions included under **Part II.** (General Part) are **applicable to Investment Goods as well as to Deliverables and Services**. Provisions under **Part III.** (Investment Goods) below shall exclusively apply to **Investment Goods** and the related Services.

II. General Part

2. Conclusion of Contract (Offer and Acceptance); Terms of Order

- 2.1 If KAUTEX submits any inquiries to Contractor regarding requested Deliverables, Investment Goods and/or its Services and the conditions of its respective delivery or performance or KAUTEX submits requests for quotations, KAUTEX will not be legally bound in any way by any of them.

2.2 Orders for Investment Goods:

- 2.2.1 An order issued by KAUTEX shall constitute an offer to Contractor for the manufacture, delivery and installation (if necessary) of the Investment Goods.

Contractor's acceptance of KAUTEX's offer and its duty to manufacture, deliver and install (if necessary) the Investment Goods shall be created upon

- (i) Contractor's receipt of KAUTEX's written order, and

- (ii) Contractor's written acceptance of the order in form of an order confirmation, which has to be received by KAUTEX within three (3) weeks after the receipt of the order.

After this deadline has passed, KAUTEX will not be bound by the offer to conclude a contract. An order confirmation which is received later or deviates from the order will be regarded as a new offer and must be accepted by KAUTEX in writing, in order to be valid. In no way does KAUTEX's silence constitute an acceptance of a deviating order confirmation. KAUTEX may withdraw any order prior to Contractor's acceptance thereof.

2.2.2 The following documents shall be an integral part of the contract and shall govern in the following order (even in case of discrepancies between these documents):

- (i) the order together with the order confirmation,
- (ii) the particular specification sheet for the Investment Goods, which is attached to the order,
- (iii) the working drawings,
- (iv) the general specification sheets, named in the order, as in effect at the time of the conclusion of the contract. KAUTEX will provide these documents to Contractor at any time upon its demand,
- (v) these GTC,
- (vi) the Ariba Appendix and
- (vii) the technical part of Contractor's offer.

2.3 Orders for Deliverables and other Services

KAUTEX's orders shall constitute KAUTEX's acceptance of a prior binding offer by Contractor.

2.4 Only written orders shall be binding on KAUTEX. However, no signature by KAUTEX shall be required. An order shall be considered to have been made in writing if, at a minimum, it has been e-mailed or transferred via electronic data transfer and/or electronic ordering systems (*e.g.*, Ariba).

- 2.5 Orders made orally or by phone (including Instant Messaging or SMS) are not binding and do not create a contractual relationship. Any oral understandings/agreements must be confirmed by KAUTEX in writing from the KAUTEX ERP systems. Likewise, any changes, amendments, as well as side agreements must be made in writing in order to be legally effective.

3. General Obligations of Contractor during Performance of Service

- 3.1 Contractor shall ensure that employees and/or sub-contractors employed by it (“**Contractor Personnel**”) comply with the internal regulations of KAUTEX if and to the extent they are on site or at the premises of KAUTEX (*e.g.*, the Contractor Safety Global Policy, the Guideline on Third-party Company Coordination or other comparable documents); the internal regulations will be provided to Contractor upon request.
- 3.2 KAUTEX is entitled to demand the removal of any of such Contractor’s Personnel if there is reasonable doubt regarding the latter’s professional qualification and/or responsibility. In this case, Contractor shall promptly remove the Contractor’s Personnel concerned and replace this person by another employee/sub-contractor, provided this is required in the interest of a proper performance of the contract.
- 3.3 In particular, to ensure performance and quality of the Services Contractor is obliged to perform, Contractor shall maintain a quality management system which is certified by ISO 9001:2015. Upon Contractor’s request, an alternative quality management system may be agreed between the Parties which must be at least equivalent to the system certified by ISO 9001:2015. Upon KAUTEX’s request, Contractor will certify compliance with these requirements. Contractor will only appoint sub-contractors, who maintain a similar quality management system.

4. Delivery-/Performance Dates and Periods

- 4.1 Contractor must comply with the binding delivery-/performance dates and periods set out in the respective order. Contractor acknowledges that time is of the essence with respect to Contractor’s obligations hereunder.

4.2 The agreed dates for the manufacture, delivery and installation of the Investment Goods shall be complied with if the Investment Goods are available for acceptance by KAUTEX or by a third party appointed by KAUTEX at the agreed time. In addition, Contractor shall deliver to KAUTEX prior thereto the written documentation (*e.g.*, schematic diagrams, instruction manuals and installation instructions) related to the Investment Goods.

The agreed dates for delivery or performance for Deliverables and other Services shall be complied with if the Deliverables or Services arrive at the Delivery Address (see clauses 6.1 and 6.2) or have been rendered at the agreed time.

4.3 In the event that agreed delivery-/performance periods and dates are not met, KAUTEX is entitled to rescind by written notice the order or the contract upon the expiration of a reasonable grace period, as determined by KAUTEX in its sole discretion and Contractor shall indemnify KAUTEX against any losses, claims, damages, and reasonable costs and expenses directly attributable to Contractor's failure to comply with the delivery/performance dates and periods.

4.4 KAUTEX need not accept early deliveries, excess deliveries or partial deliveries that have not been agreed. Contractor shall bear the risk of loss of the Deliverables that have been delivered prior to the delivery date. KAUTEX is entitled to return excess deliveries at Contractor's expense; Contractor must bear all packaging, processing, and transport costs. KAUTEX is entitled to store all Deliverables delivered prior to the delivery dates set out under clause 4.1 or excess deliveries at the risk and cost of Contractor until the applicable delivery date.

If KAUTEX accepts early deliveries or excess deliveries on this basis, KAUTEX nevertheless need not make payment at an earlier date than it would have been if the deliveries had been made on the scheduled delivery date. The same applies – as far as applicable – to early performance of Services by Contractor.

4.5 Should Contractor anticipate that it will be unable to meet the delivery/performance date, it must so inform KAUTEX in writing without undue delay, stating the reason and suspected duration.

5. Force Majeure

- 5.1 Disruptions in the contractual relationship or delivery/performance relationship due to events that are unforeseeable and unavoidable and outside of the sphere of control of a Party and for which the affected Party bears no responsibility such as force majeure, labor disputes (strike and lock-out), war, unrest, terrorist attacks or natural disasters shall release the Parties from their performance duties for the duration of the disruption and for a reasonable period thereafter, as well as for the scope of obligations undergone.
- 5.2 If the end of such disruption is not foreseeable or if the disruption or its impacts continue for more than two (2) consecutive months, each Party shall have the right to rescind or terminate the affected order (or its as yet unperformed parts) without prior written notice to the other Party.

6. Delivery, Packaging, Transfer of Risk

- 6.1 Delivery (including the transfer of risk) shall be governed by the commercial clauses specified in the order (particularly Incoterms 2010) at the place of receipt or collection (“**Delivery Address**”). If the Parties do not agree on any terms of delivery, for the avoidance of doubt, delivery shall be made DAP (Incoterms 2010) to the stated Delivery Address.

The risk of accidental loss or accidental deterioration of the Investment Goods shall at all times only pass at the time of final acceptance (see clause 21).

- 6.2 Any Services shall also be performed at the address referred to in the order (“**Delivery Address**”).
- 6.3 All Deliverables must be properly packed, labeled and shipped in compliance with the care customary to the industry.

With respect to Investment Goods, KAUTEX may determine the type of packaging and delivery. If KAUTEX does not determine the type of packaging and delivery, Contractor shall choose the type of packaging and delivery which is especially favorable and appropriate to the Investment Goods and which is in accordance with applicable laws.

In case of a culpable non-observance of this obligation, all costs incurred such as replacement of the damaged Investment Goods or Deliverables, additional freights,

disposal and similar costs shall be borne by Contractor. At KAUTEX's request, Contractor shall take back all packaging free of charge.

- 6.4 On the day the delivery is dispatched, a notification of dispatch containing the contractual/order number and the precise description of the Deliverable or Investment Goods shall be sent to KAUTEX. A delivery note in duplicate which contains the contractual/order number and the Contractor number shall be attached to the shipment. Otherwise, KAUTEX shall be entitled to refuse acceptance of the delivery at Contractor's costs.

7. Prices, Terms of Payment, Security in case of Kautex's Advance Payment

- 7.1 The binding prices and payment terms are set out in the respective order. Prices are fixed prices and constitute the total price for manufacturing and delivering Deliverables and performing Services; for Investment Goods the price covers in particular the costs for manufacture, preliminary test, delivery, installation, start-up and final acceptance of the Investment Goods. Furthermore, the price includes delivery to the Delivery Address as well as packaging, freight, insurance and similar costs, provided the Parties do not agree on different arrangements in the order. VAT and any similar tax, including but not limited to Goods and Services Tax levied under the *Excise Tax Act* (Canada) which shall be deemed to be VAT for the purposes hereof, in the applicable statutory amount, is not included in the price, shall be charged separately and shall be shown separately on the invoice.
- 7.2 Contractor's invoices shall generally be submitted in the currency referred to in the order; KAUTEX shall pay in accordance with this requirement.
- 7.3 KAUTEX will pay the invoiced amount by bank transfer within 45 calendar days net, provided no other payment modalities have been agreed between the Parties, in writing. Any evaluated receipt settlement process to balance accounts payable (debiting/crediting method) must be agreed to separately between the Parties in writing in order to apply. These payment periods shall start on the later of the date of receipt of a valid invoice or (i) the complete delivery of the Deliverables to KAUTEX; (ii) performance of Services at KAUTEX's site, or (iii) acceptance of the Investment Goods, which is relevant to the respective invoicing and submission of the agreed documents. If the payment date falls on a weekend or public holiday, payment will be

made by the next working day. Fees for international payment transactions will be borne by Contractor.

- 7.4 Upon the full payment of the purchase price, title to the Deliverables or the respective Investment Goods shall pass to KAUTEX. Any prolonged or extended retention of title to the Deliverables or the Investment Goods by Contractor is hereby excluded.
- 7.5 Contractor is not entitled to assign its claims against KAUTEX or have them collected by third parties without the written consent of KAUTEX.
- 7.6 A set-off of Contractor's claims against KAUTEX is only permitted in the case of uncontested or finally adjudicated claims. If any obligations of Contractor to KAUTEX are disputed, contingent or unliquidated, KAUTEX may defer payment of amounts due until all such obligations are resolved.

Contractor may only use its right of retention in relation to KAUTEX if Contractor's counterclaim on which it bases its right of retention is derived from the same contract and is uncontested or has been finally adjudicated.

- 7.7 Contractor shall provide a security for advance payments to be made by KAUTEX in the form of a bank guarantee issued by a major bank acceptable to KAUTEX or a note under terms acceptable to KAUTEX, in KAUTEX's sole discretion. Prior to the provision of such a bank guarantee or note, KAUTEX shall not be obliged to make any advance payments. The costs for the issuance of the bank guarantee or note shall be borne by Contractor.

8. Notice of Defect upon Delivery of Deliverables

Upon receipt, KAUTEX will inspect the Deliverables delivered by Contractor for any defects or any discrepancies in terms of quality to the extent and as soon as this is appropriate in accordance with proper business practice. KAUTEX will notify Contractor of any obvious defects detected during this inspection without undue delay after delivery, but no later than within two (2) weeks; hidden defects shall be notified without undue delay after their detection. This clause 8 shall not apply to Investment Goods; with regard to Investment Goods an acceptance will take place in accordance with clause 21.

9. Warranty

- 9.1 The Deliverables/Services or the Investment Goods shall be of the agreed quality; this quality will be determined by the respective agreements of the Parties. Contractor will deliver/perform or manufacture the Deliverables/Services or the Investment Goods free from any defects, latent or otherwise, particularly in design (even if the design has been approved by KAUTEX), materials, quality, workmanship and title. Moreover Contractor further warrants that: (a) the Deliverables are fit, sufficient and suitable for the purposes for which they were bought, provided Contractor is aware of such purposes; (b) the Deliverables/Services or Investment Goods comply with latest state-of-the-art of science and technology; (c) the Deliverables/Services or Investment Goods comply with all applicable law, in particular with all safety regulations; (d) it has obtained or will obtain all licenses, authorizations, approvals, consents or permits required by applicable laws to conduct its business generally and to exercise its rights and perform its obligations under these GTC and the order; (e) it presently has, and will continue to have, adequate capacity, resources, personnel and staff, technical knowledge and experience, and financial resources and capitalization to fully and duly perform all of its obligations under these GTC and the order.
- 9.2 If Contractor is in breach of its duties pursuant to clause 9.1, KAUTEX's rights (in particular the rights for subsequent performance, rescission, price reduction, claim for damages or reimbursement of expenses and substitute performance) as well as the applicable limitation period shall be governed by applicable law. The product warranties provided in clause 9.1 shall (a) extend to the Investment Goods' and Deliverables' future performance, (b) survive Contractor's delivery of the Investment Goods and Deliverables, KAUTEX's receipt, inspection, acceptance, use of the Investment Goods and Deliverables and payment for the Investment Goods and Deliverables, and the termination or expiration of these GTC and the order, and (c) may not be limited or disclaimed by Contractor.
- 9.3 For ordered Deliverables, the following shall apply: If the subsequent performance fails or is not a reasonable remedy for KAUTEX or if Contractor does not initiate subsequent performance without undue delay, KAUTEX may rescind the affected order without any further notice being required and send the Deliverables back to Contractor at Contractor's risk and expense.
- 9.4 In cases named under clause 9.3 and other urgent cases, particularly for the purpose of preventing imminent danger or avoiding more extensive damages, and if it is not

possible to inform Contractor of the defect of the Deliverables and/or Investment Goods and allow a period to remedy the defect, short as it may be, KAUTEX may remedy the defect itself or have the defect remedied by a third party.

- 9.5 The Deliverables or Investment Goods shall be free and clear of all liens, claims, security interests or other encumbrances.
- 9.6 All warranties set out herein survive any delivery, inspection, acceptance or payment of or for the Deliverables or Investment Goods and are cumulative and in addition to any other warranty provided by law or in equity.

10. Product Liability, Liability

- 10.1 To the extent Contractor is responsible for a product defect, Contractor must pay damages and/or indemnify KAUTEX in relation to all claims by third parties, provided that the cause of the claim lies within the control and organization of Contractor.
- 10.2 In the event Contractor performs services/works/installation services (“**Works**”) at a KAUTEX site, Contractor must during these Works take all required precautionary measures to prevent personal injury and property damage. Contractor will compensate and indemnify KAUTEX for any damage caused by Contractor during its works at the business site, unless Contractor bears no fault. Contractor shall ensure that its sub-contractors are subject to the same obligations.
- 10.3 Upon request of KAUTEX, in the event Contractor performs Works at KAUTEX site, Contractor shall provide KAUTEX with evidence of Insurance, including but not limited to evidence of workers’ compensation insurance.

11. Confidentiality

Unless the Parties have not agreed on a separate confidentiality agreement, the following shall apply:

- 11.1 From time to time, either Party (as the “**Disclosing Party**”) may disclose or make available to the other Party (as the “**Receiving Party**”) information about its business affairs, products, services, confidential intellectual property, trade secrets, third-party confidential information and other sensitive or proprietary information, whether orally

or in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as “confidential” (collectively, “**Confidential Information**”). In particular, all illustrations, drawings, samples and similar items shall be considered Confidential Information. The Receiving Party shall: (A) protect and safeguard the confidentiality of the Disclosing Party's Confidential Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (B) not use the Disclosing Party's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under these GTC and the order; and (C) not disclose any such Confidential Information to any person or entity, except to the Receiving Party's representatives who need to know the Confidential Information to assist the Receiving Party, or act on its behalf, to exercise its rights or perform its obligations under these GTC and the order. Such information may only be disclosed to third parties upon prior written consent.

11.2 The above obligations do not apply to Confidential Information as to which the Receiving Party can prove that it

(i) was already in the public domain at the time of its disclosure or came into the public domain thereafter through no fault of the Receiving Party,

(ii) was already in its possession at the time of disclosure,

(iii) was provided to it by a third party which did not require the Receiving Party to maintain confidentiality and to not use the Confidential Information, provided that such third party did not directly or indirectly receive it from the other Party,

(iv) must be disclosed to the authorities in accordance with applicable law or court order; or

(v) was or is independently developed by the Receiving Party without reference to or use, in whole or in part, of any of the Disclosing Party's Confidential Information.

11.3 Contractor agrees to oblige any sub-contractors to comply with the same scope of non-disclosure duties. Contractor must not use the Confidential Information disclosed to it by KAUTEX for any use other than that for which it was intended.

11.4 The duty of confidentiality shall survive the termination of the contract for a period of five (5) years. Contractor agrees to return all received Confidential Information to

KAUTEX upon the termination of the contract, provided it is in tangible form or has been stored on electronic storage media. The fulfillment of these duties under the two last sentences must be confirmed in writing to KAUTEX by Contractor upon KAUTEX's request.

12. Final provisions

- 12.1 Contractor must not assign any part or all rights or duties under the contract without the prior written consent of KAUTEX. Contractor must not employ third parties (*e.g.*, sub-contractors) for the fulfillment of all or a part of the order or contract without the prior written consent of KAUTEX.
- 12.2 Any amendments of and/or supplements to the contract and/or these GTC as well as any subsidiary agreements shall be valid only if made in writing. This shall also apply to an amendment of this written form requirement.
- 12.3 Should a provision of these GTC prove to be invalid, illegal or unenforceable, such provision shall be deemed to be modified or restricted to the extent necessary to make such provision a valid, legal and enforceable provision. If such modification or restriction is not possible, the invalidity of one or several provisions shall not affect the validity of the remaining provisions of these GTC or the validity of the contract.
- 12.4 No waiver by KAUTEX is effective unless explicitly set forth in writing and signed by KAUTEX. No failure to exercise, or delay in exercising, any right, remedy, power or privilege operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.
- 12.5 The relationship between the Parties is that of independent contractors. Nothing contained herein shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the Parties or its representatives, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

Each Party assumes responsibility for the actions of its employees and contractors under these GTC and/or any contract and will be solely responsible for their supervision, daily direction and control, wage rates, withholding income taxes,

providing unemployment and disability benefits, and the manner and means through which the work or Services will be accomplished.

- 12.6 These GTC and/or any contract hereunder is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these GTC and/or any contract.

13. Governing Law, Jurisdiction, Place of Performance

- 13.1 If the location of the KAUTEX entity from which an order is issued is in the United States of America, these GTC shall be interpreted and enforced in accordance with the local, domestic laws of the State of Michigan and of the United States of America, exclusive of the choice of law rules thereof.

If the location of the KAUTEX entity from which an order is issued is in Canada, these GTC shall be interpreted and enforced in accordance with the local, domestic laws of the Province of Ontario and the federal laws of Canada, exclusive of the choice of law rules thereof.

If the location of the KAUTEX entity from which an order is issued is in Mexico, these GTC shall be interpreted and enforced in accordance with the local, domestic laws of the Mexico, exclusive of the choice of law rules thereof.

For greater certainty, the United Nations Convention on Contracts for the International Sale of Goods shall not apply to these GTC or any contract.

- 13.2 If the location of the KAUTEX entity from which an order is issued is in the United States of America, any legal suit, action or proceeding arising out of or relating to the contract or these GTC shall be instituted in the courts of the State of Michigan, in each case located in the county of Wayne and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

If the location of the KAUTEX entity from which an order is issued is in Canada, any legal suit, action or proceeding arising out of or relating to the contract or these GTC shall be instituted in the courts of the Province of Ontario and each Party irrevocably

submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

If the location of the KAUTEX entity from which an order is issued is in Mexico, any legal suit, action or proceeding arising out of or relating to the contract or these GTC shall be subject to final and binding arbitration before one (1) independent and neutral arbitrator located in [Mexico City]. Such arbitration shall be initiated by filing a request for arbitration with the American Arbitration Association (“AAA”). The arbitration, subject to the terms of these GTC, shall be conducted pursuant to the Rules of Arbitration of the AAA effective at the time the request for arbitration is filed. The prevailing party, as determined by the arbitrators, shall be entitled to all fees and costs associated with the arbitration, which shall include any arbitrator fees, administrative fees, out-of-pocket expenses, and attorneys’ fees. If fees and costs are awarded, the application for such fees and costs shall be presented to the arbitrators for approval. The arbitrators shall have power and authority to award any remedy or judgment that could be awarded by a court of law in the applicable jurisdiction. The award rendered by arbitration shall be final and binding upon the Parties and judgment upon the award may be entered in any court of competent jurisdiction.

- 13.3 All notices, requests, consents, claims, demands, waivers and other communications hereunder (each, a “**Notice**”) shall be in writing and addressed to the Parties at the addresses set forth on the face of the order or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided herein, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the Party giving the Notice has complied with the requirements of this clause 13.3
- 13.4 Each of the Parties hereto irrevocably consents to the service of any and all process in any suit, action or proceeding arising out of or relating to these GTC and any contract by service in person or by internationally recognized courier (such as FedEx or DHL) to, or by mailing of copies of such process by certified or registered mail (or any substantially similar form of mail) to, such Party at such Party’s addresses as set forth on the face of the order or to such other address that may be designated by the receiving party in writing.

- 13.5 EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT. EACH PARTY HERETO (I) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH PARTY WOULD NOT, IN THE EVENT OF ANY ACTION, SUIT OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HERETO HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS CLAUSE.
- 13.6 Place of performance for all duties under a contract is KAUTEX's site to which the Deliverables or Investment Goods shall be delivered or where the Services shall be rendered as referred to in the order.

III. Investment Goods

The provisions set out below apply exclusively to Investment Goods and the related Services:

14. Changes and Amendments to the Contract

- 14.1 KAUTEX may at any time until acceptance, taking into account Contractor's interests, require changes and amendments to the ordered Investment Goods or Services. Immediately upon receipt of KAUTEX's request for changes and/or amendments, Contractor shall submit an offer for the resulting costs (both possible increases and possible decreases) as well as information on changes in deadlines, and effects on function and quality to the Investment Goods or Services resulting from the changes. Contractor must keep the costs for the changes/amendments requested by KAUTEX as low as possible.
- 14.2 Contractor will implement the requested changes and/or amendments as soon as the Parties have reached an agreement on any increase or decrease in costs, changes in deadlines and effects of the changes and/or amendments on function and quality.

- 14.3 If in Contractor's opinion, changes or amendments would be indicated or required for the successful performance of the contract, Contractor shall propose such changes to KAUTEX; at the same time, Contractor must make available to KAUTEX information on the reasons for such changes/amendments, the effects on price, delivery dates, etc. KAUTEX shall examine these change and/or amendment proposals without delay. KAUTEX shall not unreasonably refuse changes and/or amendments, which are required for the successful performance of the contract. Contractor must not perform any changes and/or amendments until it has received KAUTEX's written approval.
- 14.4 Contractor must never perform any changes and/or amendments until it has received KAUTEX's prior written approval. The Parties will agree on an amendment in writing in each case.

15. Further Duties of Contractor

- 15.1 KAUTEX's documents, drawings and plans must be examined by Contractor with regard to their completeness and correctness prior to commencing production or processing of the Investment Good. If Contractor considers them to be incomplete, inaccurate or defective, Contractor must promptly (but in any event prior to commencing the production or processing) inform KAUTEX thereof in writing; in order to prevent delays in performing the contract, all missing documents, drawings or plans must be requested in writing without undue delay. Furthermore, if Contractor has any concerns about the implementation of this contract, Contractor shall inform KAUTEX without undue delay indicating the reasons for its concerns. Any warranty claims of KAUTEX and other claims against Contractor shall remain unaffected.
- 15.2 Before the start of manufacture, all production documentation such as, *e.g.*, drawings, must be submitted to KAUTEX for release. KAUTEX's warranty claims and other claims against Contractor shall remain unaffected by such release.
- 15.3 Any and all material to be provided by KAUTEX shall be notified to KAUTEX in a timely manner and in such an amount that a proper performance of the contract within the agreed time is ensured.
- 15.4 Within the scope of its Services and without receiving any additional remuneration, Contractor shall take any and all measures which are required to achieve the purpose of the contract even if these measures are not expressly mentioned in the contractual

documents. In particular, all parts which are required for the correct functioning of the Investment Goods are part of the Services to be rendered by Contractor even if Contractor and KAUTEX did not list in detail the respective parts in the contractual documents.

- 15.5 If the operation of the Investment Goods is subject to a permit, Contractor shall procure this permit at its own costs.

16. Manufacturing Control

- 16.1 Upon reasonable prior notice and during normal business hours, KAUTEX is entitled to inspect Contractor's production site in order to review the progress of the manufacturing process of the Investment Goods and all documents necessary for this purpose.

Contractor shall ensure that its sub-contractors also grant the same right of inspection to KAUTEX.

- 16.2 However, Contractor is entitled to deny access to documents that must be kept confidential by Contractor due to agreements with third parties.

- 16.3 An inspection pursuant to clause 16.1 shall neither be regarded as acceptance of the Investment Goods or the Services or parts thereof nor shall it relieve Contractor of its obligation to fulfill any expressed or implied condition under the contract.

17. Documentation

- 17.1 Unless otherwise provided for in the contract, Contractor shall submit to KAUTEX the following documentation at the time of acceptance pursuant to clause 21 at the latest with respect to the Investment Goods:

- (i) all technical documentation (*e.g.*, schematic diagrams, interface plans, technical datasheets etc.),
- (ii) instruction manuals and installation instructions,
- (iii) drawings,

- (iv) maintenance and repair instructions,
- (v) conformity declarations,
- (vi) list of spare parts.

17.2 The documentation must be prepared in the language of the respective destination of the Investment Goods and additionally in English; it shall be submitted to KAUTEX in electronic copy and in hard copy.

17.3 Any drawings, concepts or any other information and documents of KAUTEX (“**Documents**”), handed over by KAUTEX to Contractor shall remain the property of KAUTEX. Contractor shall have possession of such Documents in the capacity of a borrower and shall keep them separate and segregated from any other property of other parties and shall mark them as KAUTEX property. Contractor shall bear the risk for the Documents for as long as they are in the possession or under the control of Contractor. They shall not be removed from Contractor’s premises without the written instructions of KAUTEX, save for the purpose of fulfilling the terms of the contract. Contractor must notify to KAUTEX any damage or interferences without undue delay.

18. Preliminary Testing at Contractor’s Premises

18.1 The preliminary test shall not be an acceptance in the meaning of clause 21.

18.2 A preliminary test of the Investment Goods shall take place at the premises of Contractor after their completion and prior to their dispatch. For this purpose, the Investment Goods shall be set up by Contractor in full operational readiness and functional efficiency in order to test compliance with the specifications. Such tests shall be carried out by Contractor’s staff.

Contractor shall inform KAUTEX in writing about the scheduled date for the preliminary test approximately four (4) weeks in advance and shall agree on a date with KAUTEX.

18.3 Contractor shall make available free of charge the staff required for the preliminary test as well as the tools, devices, measuring and testing equipment and auxiliary means required in this context. Contractor shall bear the costs for the procurement and

subsequent disposal of any materials, auxiliary supplies and energy required for the preliminary tests of the Investment Goods.

- 18.4 KAUTEX is always entitled to attend the preliminary test of the Investment Goods.
- 18.5 The Parties shall prepare a written preliminary test protocol which records whether or to what extent the preliminary test was successful and/or which defects of the Investment Goods were detected. Any recognized or detected defects shall immediately be remedied by Contractor at its own costs prior to any further preliminary test.
- 18.6 Following a successful preliminary test Contractor shall remove the Investment Goods, and pack them in accordance with clause 6 and deliver them to KAUTEX.

19. Installation at the Premises of KAUTEX

- 19.1 With regard to the installation of the Investment Goods, Contractor shall ensure the following:
- (i) unloading of the complete Investment Goods at the Delivery Address,
 - (ii) in-house transportation of the complete Investment Goods up to the place of installation,
 - (iii) installation of the complete Investment Goods,
 - (iv) complete mechanical and electrical installation of the Investment Goods
 - (v) completion of the Investment Goods,
 - (vi) complete start-up and test run until final acceptance of the Investment Goods,
 - (vii) procurement and provision of all necessary scaffoldings, machines, tools and auxiliary means free place of installation,
 - (viii) disposal of all wastes arising during installation,
 - (ix) protection of the working areas against accidents, damages, theft, etc.
 - (x) clean-up of the place of installation.

These Services are rendered at Contractor's risk and costs.

- 19.2 Prior to the commencement of installation, Contractor shall inspect the foundations and connections as well as all other circumstances which are important for a proper installation.
- 19.3 Contractor shall ensure that its employees and/or commissioned sub-Contractors comply with KAUTEX's instructions in order to maintain order and safety at KAUTEX's premises.
- 19.4 Any installation activities shall be carried out by Contractor in compliance with applicable law as well as the current applicable safety regulations and guidelines of KAUTEX.
- 19.5 KAUTEX shall make available to Contractor for the installation at its request
- (i) electricity
 - (ii) water and compressed air, if operationally available.

If and to the extent additional cables and connections are required, Contractor shall install them at its risk and costs, maintain them and remove them after completion of the installation. Contractor covenants and agrees that it will not overload any systems in any KAUTEX facility and shall indemnify and hold KAUTEX harmless in respect of any loss or damage caused by the installation or use of any systems, cables or connections described above by Contractor or those for whom it is responsible at law.

20. Start-Up

- 20.1 Following successful preliminary test, delivery and installation of the Investment Goods at the Delivery Address, the start-up and a test run at the Delivery Address of the Investment Goods shall take place under series production conditions. Start-up shall take place in cooperation with Contractor's employees and KAUTEX's employees.
- 20.2 During the start-up and the test run Contractor shall instruct and/or train KAUTEX's operating and maintenance personnel with respect to use, application, handling and maintenance of the Investment Goods. All costs incurred for start-up, test run and instruction/training shall be borne by Contractor.
- 20.3 Immediately upon successful start-up (incl. test run) Contractor shall submit to

21. Final Acceptance

- 21.1 Following the successful start-up, instruction/training of the employees and the test run of the Investment Goods the final acceptance shall take place. The final acceptance shall take place in the presence of a KAUTEX employee and of a Contractor employee simultaneously attending the final acceptance. The final acceptance shall be evidenced by a final acceptance protocol which contains all data concerning time, place, potentially detected defects of the Investment Goods and other remarks and shall be signed both by KAUTEX and the Contractor.
- 21.2 Partial acceptances are excluded and shall not be considered acceptance of the Investment Goods until acceptance has been made of the entire Investment Goods.
- 21.3 Upon final acceptance, the risk for the respective Investment Goods shall pass to KAUTEX.

22. Spare Parts

Contractor warrants the supply of original spare parts for a period of ten (10) years from the date of acceptance of the Investment Goods.

23. Insurance

- 23.1 Contractor shall effect and maintain an insurance policy to cover the risks connected to product liability (see clause 10 above) for the Investment Goods it manufactured and/or delivered, in a reasonable amount, and must provide to KAUTEX written evidence of the relevant insurance policies.
- 23.2 Contractor shall effect and maintain third party liability insurance in a reasonable amount to cover all potential liability claims (personal injuries, damages to property and assets) which may result from the implementation of this order. At KAUTEX's request, Contractor shall provide written evidence of the relevant insurance policies.

23.3 Contractor shall notify KAUTEX thirty (30) days prior to the expiration of any such insurance coverage and shall notify KAUTEX immediately in the event that any such coverage is cancelled or reduced.

24. Intellectual Property Rights

24.1 Contractor warrants that the purchase, ownership, offering, use, processing or resale of the Investment Goods by KAUTEX will not infringe any trademark, company, name, patent, utility model, design model, trade dress or design rights or copyrights of third parties (including applications for such proprietary intellectual property rights) (“Intellectual Property Rights”) in Contractor’s country of origin and in the United States of America, Canada, Mexico, the member states of the European Union (at the time of entering into the contract), the United Kingdom, Puerto Rico, China, India and Japan. If Contractor culpably breaches this duty, it shall indemnify KAUTEX upon first demand for any claims of third parties under such actual or alleged infringements of Intellectual Property Rights and bear any and all costs and expenses KAUTEX may incur in this regard, including, but not limited to, the costs of the prosecution of and defense against rights on the one hand and the costs resulting from compliance with a possible cease and desist obligation on the other.

24.2 Clause 24.1 shall not apply if the Investment Goods are produced in accordance with drawings, models or other detailed information supplied by KAUTEX and Contractor is neither aware nor should it have been aware that Intellectual Property Rights of third parties are being infringed thereby.

24.3 The Parties will inform each other without undue delay of any risks of infringement and alleged cases of infringement of which they become aware and will undertake reasonable efforts jointly to counter such respective claims of infringement.

24.4 The limitation period for claims under this clause 24 shall be three (3) years from the conclusion of the relevant contract.

25. Termination

25.1 KAUTEX has the right to terminate the contract at any time.

- 25.2 Each Party has the right to terminate a contract for good cause without notice. Good cause shall include, but is not limited to, the following cases:
- (i) the other Party ceases payment;
 - (ii) insolvency proceedings concerning the assets of a Party are initiated or rejected due to the lack of assets or the other Party is liquidated,
 - (iii) the breach of material terms of the contract by the other Party; in the event of a breach which can be remedied, however, not until the non-breaching Party has made a written request to the other Party to cure the breach, warned it of the threatened for-cause termination and granted to it a reasonable grace period of at least four (4) weeks and such period having expired without the breach having been cured,
 - (iv) a competitor of the terminating Party gains control of the other Party due to a change in such Party's owners or shareholders.
- 25.3 In case of a cancellation or other termination of the contract, Contractor must return all documents, drawings and information provided by KAUTEX.