

## **Röchling Automotive SE & Co. KG**

### **General Terms and Conditions of Purchase**

#### **1. Applicability and Scope of Application**

- 1.1 Röchling Automotive SE & Co. KG ("Röchling") shall make all of its purchases of products, parts, components, systems and other product material ("Parts") and related supplier services and also procure all other services in accordance with the following Terms and Conditions of Purchase ("TCP").
- 1.2 Any general terms and conditions of sale and delivery or other conflicting or deviating terms and conditions of the supplier shall not apply unless expressly recognized by Röchling in writing. These TCP shall also apply in all cases in which Röchling accepts deliveries from the supplier without objecting to terms and conditions of the supplier that conflict with or deviate from these TCP (whether Röchling is aware of them or not). All references or notices from the supplier regarding the validity of its general terms and conditions of sale and delivery (e.g. in offers) or other conflicting or deviating terms and conditions are hereby expressly rejected. These TCP shall also apply to all future transactions with the supplier.
- 1.3 The provisions of these TCP shall apply in addition to any and all other agreements additionally concluded by the parties, e.g. master supply agreements.
- 1.4 These TCP shall apply exclusively in relation to entrepreneurs (Section 14 of the Bürgerliches Gesetzbuch (BGB – German Civil Code)).

#### **2. Orders**

- 2.1 Inquiries Röchling makes with the supplier regarding its Parts and services and the terms of its deliveries or requests from Röchling for the submission of offers shall not be legally binding on Röchling in any way.
- 2.2 Any delivery schedule or order from Röchling (whether issued independently or, where applicable, under a master agreement in conjunction with these TCP) shall be an offer to the supplier to acquire or procure Parts or services from the supplier. Delivery schedules and orders from Röchling shall only be binding if issued in writing. The requirement of written form shall be satisfied by transmission via fax, e-mail or electronic data transfer.

2.3 A binding agreement for the delivery of Parts or performance of services by the supplier (also referred to hereinafter as a “Supply Agreement”) with the inclusion of these TCP (and/or, where applicable, on the basis of a master agreement) shall come into effect

(i) based, in the case of series parts, on a delivery schedule transmitted by Röchling to the supplier in writing, or

based, in the case of other delivered items, on an order transmitted by Röchling to the supplier in writing,

and

(ii) based on written acceptance of the delivery schedule or order by the supplier issued in the form of a purchase order confirmation that must be received by Röchling within five (5) calendar days of receipt of the delivery schedule or order by the supplier.

Röchling shall no longer be bound by the offer to purchase after this time limit has expired. Any purchase order confirmation received at a later time or whose content conflicts with or deviates from the delivery schedule or order shall be deemed a new offer to purchase and must be accepted by Röchling in writing.

2.4 Orders placed verbally or by telephone shall not be binding and shall not establish a contractual relationship under any circumstances. Verbal agreements must be confirmed in writing. Amendments to agreements (subject to the detailed provisions in clause 8) and side agreements must also be made in writing in order to be valid.

2.5 In the event of conflicts between the delivery schedule or order, any master agreement concluded, any warranty agreement concluded by Röchling (“WA”), any agreement concluded on the processing of failures in the field and series of losses for the scope of award (“Agreement on the Processing of Failures in the Field and Series of Losses”), these TCP, the supplier quality agreement (“QA”), the tool transfer agreement and the logistics guideline for suppliers (“LGS”), the documents shall apply in the following order:

- the delivery schedule or order,
- the master agreement (where concluded),
- the warranty agreement (where concluded),
- these TCP (where included),
- the QA,
- the tool transfer agreement,

- the LGS.

2.6 If the master agreement or delivery schedule provides that Röchling is to stipulate the specific delivery quantities and delivery dates via delivery requests, the supplier is required to accept such delivery requests based on the master agreement or Supply Agreement. The details shall be governed by clause 3.

### **3. Production and Material Releases and Previews**

3.1 Unless otherwise agreed in the delivery schedule, the supplier is entitled to produce and deliver (and Röchling required to accept) the Parts specified in a delivery request for the four (4) weeks starting from the date of the delivery request.

3.2 Unless otherwise agreed in the delivery schedule, the supplier is entitled to purchase (raw) materials and/or semi-finished parts, in each case for a further four (4) weeks in addition to the production release pursuant to clause 3.1, that is eight (8) weeks starting from the date of the delivery request. The supplier is therefore entitled to schedule (raw) materials and semi-finished parts for the delivery quantities specified in the delivery request in delivery weeks (5) to eight (8), calculated from the date of the respective delivery request.

If Röchling does not request the Parts/products that can be manufactured under the material release, Röchling shall reimburse the supplier for verified costs for the purchase of (raw) materials and/or semi-finished parts, provided the supplier demonstrably cannot use them for another purpose within a reasonable period. If Röchling makes reimbursement it is entitled to demand delivery of such (raw) materials and/or semi-finished parts.

3.3 Röchling is not required to accept Parts or materials that are not covered by the respective production and material release. Furthermore, Röchling is not required to accept the Part quantities provided as an estimate of requirements or otherwise stated in the delivery schedule.

3.4 With each delivery request Röchling shall send the supplier a non-binding preview of the number of Parts it expects to request for the following nine (9) months. The supplier is required to reserve sufficient production and delivery capacity to fulfill the delivery requests to be expected pursuant to such preview; on the basis of such previews it must be able to accept and fulfill each of the delivery requests received, including a potential additional weekly delivery quantity of +15% in each case.

3.5 If the supplier establishes upon receipt of a delivery request and proper examination thereof that it will not be able to fulfill the number of units specified in the production release (clause 3.1), material release (clause 3.2) and/or preview (including a potential additional weekly delivery quantity of +15%) (clause 3.3) for the expected future delivery requests or has other reservations with regard to the request, it is required to object to the delivery request in writing within two (2) working days of its receipt and state its reasons for the objection. Suppliers making deliveries to a Röchling JIT/JIS facility must declare any objections to delivery requests within 24 hours, stating their reasons. If the supplier does not declare any objections within the prescribed time limit, the delivery requests shall become binding on the supplier, particularly in relation to the production release (clause 3.1) and material release (clause 3.2).

3.6 The previews contained in the delivery request shall continue to apply until Röchling sends the supplier a new delivery request with a preview. Röchling shall generally send the supplier an updated delivery request on a weekly basis.

#### **4. Prices and Terms and Conditions of Payment, Reservation of Ownership and Most Favored Nation**

4.1 The prices and terms and conditions of payment are specified with binding effect in the master agreement or Supply Agreement. The prices are fixed prices and shall constitute the total price for the manufacture and delivery of Parts and performance of services. Statutory value added tax is not included in the price and shall be charged separately.

4.2 In particular, the price shall also include delivery to the delivery address (see clause 5.1) as well as packaging, shipping, insurance and other costs of this nature, unless a special arrangement is agreed in the master agreement or Supply Agreement. If the parties agree to use Incoterms, deliveries within the territory of the European Union shall in case of doubt be made "DAP" in accordance with Incoterms 2010, including packaging; in case of doubt, "DDP" shall apply outside the European Union (Incoterms 2010).

4.3 The invoice amount shall be payable within thirty (30) days net, unless the parties have agreed another payment term in the delivery schedule or order. This payment term shall commence on the date the invoice is received but not before the Parts have been delivered to Röchling. If the payment date falls on a weekend or public holiday, payment shall be made on the next working day. Any fees for international payment transactions shall be borne by the supplier.

- 4.4 Röchling shall pay via bank transfer. Other payment terms as well as credit entry/clearing procedures must be separately agreed between the parties in order to apply.
- 4.5 If no credit entry/clearing procedure has been agreed with the supplier, Röchling can process and examine invoices only if they are sent to Röchling separately to the delivered goods, meet the requirements under Section 14 of the *Umsatzsteuergesetz* (UStG – German Value Added Tax Act) and contain the order number and article number provided in the delivery schedule or order; the supplier shall be responsible for all consequences arising as a result of non-fulfillment of this obligation provided that the supplier is at fault.
- 4.6 Regardless of Section 354 a HGB, the supplier is not entitled to assign claims due to it from Röchling arising from the supply relationship or have them collected by third parties without the written consent of Röchling.
- 4.7 The supplier does not have the right to adjust prices or charge additional costs of any kind without the express prior written consent of Röchling. Any delayed delivery of invoices or Parts or delivery of defective Parts shall entitle Röchling to withhold payments accordingly.
- 4.8 Ownership of the Parts shall pass to Röchling upon full payment of the purchase price. Any prolonged or extended reservation of ownership of the Parts on the part of the supplier is precluded.
- 4.9 The supplier's claims against Röchling may only be offset if they are uncontested or legally binding.

The supplier may only make use of its right of retention vis-à-vis Röchling if the counterclaim on which the supplier is basing its right of retention relates to the same agreement and is uncontested or legally binding.

- 4.10 If during the term of a Supply Agreement and/or master agreement the supplier delivers comparable quantities of the Parts under the agreement or similar Parts to a third party under more favorable terms, particularly with regard to price, discounts, technology, quality, terms and conditions of payment, delivery periods or other terms and conditions (hereinafter the "Terms"), the supplier shall inform Röchling of this without delay and automatically grant these more favorable Terms to Röchling. The new Terms shall apply with retroactive effect as of the time at which the supplier granted these favorable Terms to the third party.

- 4.11 If during the term of a Supply Agreement and/or master agreement Röchling receives a third-party offer for the manufacture and delivery of comparable quantities of the Parts under the agreement or similar Parts under a more favorable offer, particularly with regard to price, discounts, technology, quality, terms and conditions of payment, delivery periods or other terms and conditions (hereinafter the “Terms”), Röchling shall inform the supplier of this and provide the offer in question. If the supplier is not able to offer Röchling the same Terms, Röchling is entitled to terminate the relevant Supply Agreement and/or master agreement without notice.

### **5. Delivery and Passing of Risk**

- 5.1 Delivery (including the passing of risk) shall conform with the commercial terms customary in the automotive industry and specified in the delivery schedule, delivery request or order and/or master agreement (particularly Incoterms 2010) at the specified place of receipt or collection point (“Delivery Address”). If the parties agree to use Incoterms, deliveries within the territory of the European Union shall in case of doubt be made DAP (Incoterms 2010) and in case of doubt DDP outside the European Union (Incoterms 2010) to the Delivery Address specified in the delivery schedule, delivery request or order or in the master agreement.
- 5.2 All Parts must be properly packaged, labeled and shipped with the customary degree of care in a manner that ensures the lowest transportation costs. Empty goods and packaging material that is not single-use packaging shall be returned at the expense of the supplier.
- 5.3 The supplier is required to attach the shipping papers associated with the deliveries (particularly packing slip and waybill). Packing slips must state Röchling’s delivery schedule number or order number, the numbers of the Parts, the supplier, the supplier number, the supplier’s address, a description of the supply, the quantity, weight, quantity of packaged items, the shipping method and the type and nature of the packaging. The waybill must satisfy the provisions of the Convention on the Contract for the International Carriage of Goods by Road (CMR). If these requirements are not met for reasons for which the supplier is responsible, the supplier shall be responsible for any resulting delays in processing. Any additional costs arising as a result of missing or incorrect information on the packing slip may be charged to the supplier.

- 5.4 The supplier must identify all Parts, packing materials and packaging as instructed by Röchling and in accordance with applicable laws and standards for the automotive industry. Unless otherwise specified in the Supply Agreement, identifications must be in the language of the respective country of delivery or department receiving the Parts as well as in English and be in the form of a bar code and any other format prescribed by Röchling or by law.
- 5.5 The supplier is required to provide a supplier's declaration pursuant to Regulation (EC) No 1207/2001 of June 11, 2001 (OJ of June 21, 2001, L 165/1) regarding the preferential origin of the Parts. A certified annual supplier's declaration (long-term supplier's declaration) must be issued no later than the time of delivery. This declaration must automatically be extended before this period expires. Röchling must be notified without delay of any change with regard to the origin of the Parts. The supplier must provide Röchling with all the documents required in accordance with the applicable customs regulations (particularly customs documents and customs drawback documents) without delay, in full and in the proper manner. If additional official documents are required for use of the Parts in accordance with their specifications or the export or import of the Parts, the supplier undertakes to provide such documents to Röchling or to procure them without delay.
- 5.6 The supplier shall furthermore comply with the provisions of the LGS valid at the time of concluding the agreement.

## **6. Delivery Dates and Delivery Delays**

- 6.1 Delivery must be made to the Delivery Address (see clause 5.1) specified in the delivery schedule, delivery request or order at the time stated in the delivery request or individual order or otherwise agreed between the parties in writing ("Delivery Date").
- 6.2 Agreed delivery periods and dates shall be binding. If agreed delivery periods and dates are exceeded, Röchling is entitled to withdraw from the Supply Agreement upon written notice after the setting and expiry of a reasonable grace period. The supplier is liable for damage resulting from delivery delays in accordance with statutory provisions. Accordingly, the supplier must, for example, reimburse additional shipping costs for express shipments required due to culpably failing to meet the agreed delivery periods and dates.
- 6.3 In these and other urgent cases, including to avert acute risks or prevent major losses, and if it is no longer possible, despite the setting of a (short) grace period, for the supplier to comply with delivery periods and dates itself, Röchling may produce the Parts itself or

have them produced by a third party and delivered to Röchling at the expense of the supplier.

- 6.4 If – for whatever reason – the supplier does not expect to be able to meet the delivery date, it must inform Röchling in writing without delay, stating the reason and expected duration of the delay.
- 6.5 Röchling is not required to receive early deliveries, excess deliveries or non-agreed partial deliveries. The supplier shall bear the risk of loss for Parts delivered before the specified delivery date. Röchling has the right to return any excess deliveries at the supplier's expense; the supplier shall pay all associated packaging, handling, sorting and transportation costs. Röchling is entitled at the risk and expense of the supplier to store all Parts delivered before the applicable Delivery Date pursuant to clause 6.1 or excess deliveries until the due Delivery Date.

If Röchling accepts early or excess deliveries on this basis, however, it is not required to make payment earlier than the due date as per the scheduled Delivery Date.

- 6.6 If delivery of the Parts is delayed for reasons for which the supplier is responsible, and without prejudice to all of Röchling's other rights, Röchling has the right to demand liquidated damages in the amount of 0.2% of the delivery value of the delayed Parts for each working day of the delay up to a maximum of 5% of the total value of this delivery. Any liquidated damages incurred shall be applied against the other claims asserted due to damage caused by the delay.

## **7. Force Majeure and Emergency Plan**

- 7.1 Any disruptions to the supply relationship due to events that are unforeseeable and unpreventable and that are outside a party's control and for which the party concerned is not responsible, such as force majeure, labor disputes (strike and lockouts), cyber attacks, war, civil unrest, terror attacks or natural disasters, shall release the parties from their performance obligations for the duration of such disruption and for a reasonable period thereafter and to the extent of its impact.

- 7.2 If the end of such a disruption is not foreseeable or the disruption continues for more than two (2) months, either party has the right to withdraw from or terminate the relevant Supply Agreement (or the as yet unfulfilled parts thereof) without notice.
- 7.3 Röchling's Purchasing and Logistics departments must be informed by telephone and e-mail of the occurrence of the events specified under clause 7.1, impending insolvency of the supplier's own suppliers and other actual or impending disruptions to the supply chain without delay (within ten (10) hours at most) and evidence of the occurrence of any resulting disruption provided to Röchling upon request. In this case the supplier must disclose how long it expects the disruption to continue. Röchling shall treat this information in confidence but is entitled to forward it to any of its own customers who may be affected by the disruption, making appropriate reference to the confidential nature of such information. Clause 9.6 shall apply mutatis mutandis to any examination of the occurrence of an event.
- 7.4 It is necessary to ensure, taking the specific requirements of Röchling's customers (particularly OEMs) into account, that the supply of the Parts to be delivered is maintained in the event of disruptions within the supplier's environment. The supplier thus undertakes to prepare and implement emergency planning to the appropriate extent as regards foreseeable disruptions to operations, particularly in the areas of procurement, manufacturing, production and/or transportation and leading to restricted deliveries (in terms of delivery periods and quantities) or, if such an emergency plan has not yet been established, to develop and introduce one as quickly as possible in order to prevent or at least limit any impact on deliveries as far as possible. The supplier shall ensure such emergency planning provides for 24-hour availability. This emergency plan shall be submitted to Röchling upon request. Notwithstanding clause 7.3 sentence 1, the supplier shall also inform Röchling without delay of any disruptions or other events that could cause restrictions in delivery.
- 7.5 In addition to quantities picked for the next delivery request, the supplier shall maintain sufficient first-in, first-out (FIFO) safety stocks of defect-free Parts at the ready to cover at least two subsequent delivery requests. Röchling has the right to inspect the supplier's safety stock levels with two (2) hours' advance notice during normal business hours. If FIFO safety stocks fall below the required levels, Röchling's responsible scheduler shall immediately be notified in writing of the situation as well as the expected time frame for replenishment of FIFO safety stocks. Safety stocks shall be replenished immediately but no later than (12) twelve hours after falling below the required levels without further action by Röchling.

### 8. Change Management

8.1 Any changes to a Supply Agreement, including changes to quantities, shipping method, packaging, delivery time or Delivery Address or changes to drawings or specifications shall be agreed jointly by the parties and recorded in writing; all resulting changes in the costs or time required to fulfill the agreement, where applicable, shall be taken into account and included.

Technical changes, including changes to Röchling's drawings or specifications, shall additionally be subject to the following provisions of this clause 8.

8.2 Röchling may request technical changes to the Parts at any time – including during series production – and the supplier undertakes to use reasonable efforts to implement such changes in accordance with the following provisions. Upon receiving a change request from Röchling the supplier shall immediately issue an estimate of any potential increase or reduction in costs as well as information regarding postponements of deadlines and the impact of the changes on weight, function and quality. The supplier is required to keep the costs resulting from the changes requested by Röchling to a minimum.

8.3 The supplier shall implement the requested changes as soon as the parties have reached an agreement regarding all cost increases or reductions, postponements of deadlines and the impact of the changes on weight, function and quality.

8.4 If technical changes or deviations are prudent in the view of the supplier – e.g. due to more efficient production methods or to improve and increase the safety of the Parts or adapt to technical advancements – the supplier shall propose these to Röchling; information regarding the impact on price, Delivery Dates etc. must be provided at the same time. Röchling shall examine such proposed changes on an ongoing basis and may not refuse to accept them arbitrarily.

8.5 The supplier shall not implement any technical changes until it has obtained written consent from Röchling. The procedure for inspecting initial samples must be repeated for all Parts that are subject to technical changes subsequent to the original product release.

8.6 The supplier must examine Röchling's technical documents, drawings and plans for completeness and correctness prior to commencing treatment, processing or production. If in the view of the supplier they are incomplete or contain errors or defects, the supplier is required to inform Röchling in writing immediately (but in any case prior to commencing treatment, processing or production); any and all missing technical documents, drawings or plans must be requested in writing without delay. Röchling's technical documents,

drawings and plans may not be passed on to third parties and must be returned to Röchling immediately upon Röchling's request and no later than upon completion of the order.

### **9. Quality Management, Documentation**

- 9.1 The supplier shall develop and manufacture the Parts in accordance with the latest science and technology and comply with all quality standards and legal requirements applicable to the Parts. In particular, the supplier is required to comply with the provisions of the QA and LGS, as amended at the time of concluding the agreement.

If the supplier has received drawings, samples or other specifications or documents from Röchling, it shall comply with them as far as the design and characteristics of the Parts are concerned. Any changes to the Parts, a previously approved production process or its relocation to a different location shall require the prior written consent of Röchling.

- 9.2 In particular, the supplier shall maintain a quality management system conforming to IATF 16949 at present and in the future. At the request of the supplier the parties may agree an alternative quality management system that conforms to the standards in the automotive industry pursuant to VDA 6.1 or ISO 9001: 2015.

In particular, the supplier must also observe the obligations to provide evidence of the relevant certificates as well as the right of extraordinary termination in the event of non-compliance pursuant to clause 2 of the QA.

If the supplier does not meet the quality standards required by such a quality management system and does not correct such defects within three (3) months of notification by Röchling, in addition to its other rights Röchling has the right to terminate the Supply Agreement immediately without any further obligations toward the supplier.

- 9.3 If the Parts to be delivered by the supplier are intended for use in a country other than the Federal Republic of Germany, these Parts must comply with the statutory and official provisions in those countries in which they are to be used, provided that the supplier is aware of the final destination. If the supplier has reason to assume that a country other than that of the Delivery Address is involved, the supplier is required to make appropriate inquiries with Röchling.
- 9.4 Initial samples and series production deliveries shall be subject to the relevant provisions of the German Association of the Automotive Industry (VDA) conditions and/or IATF 16949 and ISO 9001: 2015 as amended at the time of concluding the agreement.

9.5 The supplier undertakes to analyze and examine the specifications and drawings for the Parts prior to conclusion of the Supply Agreement and to notify Röchling of any errors and discrepancies etc. without delay. Upon request the supplier shall participate in all Röchling's quality and development-related programs or those of its customers.

9.6 Röchling may, after giving reasonable notice and consulting with the supplier and during normal business hours, carry out appropriate inspections at the intervals it deems necessary of the facilities in which the supplier produces the Parts. The supplier shall grant Röchling and, where appropriate, customers of Röchling access to such facilities. The supplier shall also allow Röchling to carry out inspections at short notice if necessary. The supplier shall ensure that its sub-suppliers also grant Röchling and, where appropriate, customers of Röchling the same right of inspection.

Röchling and, where appropriate, customers of Röchling must also be permitted to view all quality-related documents relevant to the inspection. The supplier may restrict viewing of such documents as necessary and appropriate if it would otherwise have to disclose trade secrets.

Röchling shall inform the supplier of the outcome of the inspection. If Röchling considers further measures necessary based on the inspection, the supplier is required to prepare an action plan without delay, to implement it promptly at its own expense and to inform Röchling regarding its progress and final implementation.

9.7 An inspection or examination pursuant to clause 9.6 shall not be deemed acceptance of the Parts or part of the Parts, nor shall it release the supplier from fulfilling any explicit or implied condition under the Supply Agreement.

In the case of development work or series-production start-up, Röchling's approval shall not release the supplier from its responsibility for the product.

9.8 If the supplier intends to relocate its production facilities or production site, it shall give Röchling appropriate notice of this in advance; in this process it shall comply with a notice period of at least six (6) months before starting to dismantle or relocate production equipment and produce the necessary quantity of Parts in advance. The supplier must show Röchling a time schedule for the relocation scenario at the time it gives notice of the relocation. Furthermore, the supplier shall consult with Röchling on a continuous basis regarding all impacts on production and delivery of the Parts and, in particular, organize presentation of a new initial sample of the Parts after the relocation has been concluded.

- 9.9 All quality-related documents, including release statements, must be retained for a period of at least fifteen (15) years after series production of the relevant series has ended.

### 10. Receiving Inspection

Röchling shall examine incoming Parts delivered by the supplier for any deviations in terms of identity or quantity as well as any identifiable external damage, insofar as and as soon as this is feasible in the ordinary course of business. Röchling shall notify the supplier without delay of any defects identified during this examination. The supplier shall furthermore waive any further receiving inspection by Röchling.

Röchling shall notify the supplier immediately upon discovering any other defects that it only identifies during processing or while using the delivered Parts for their intended purpose. In this respect the supplier shall waive the plea of delayed notification of defects.

### 11. Liability for Defects

- 11.1 The supplier shall warrant that all the Parts it delivers

- (i) comply with the specifications, samples, drawings and other requirements imposed on them by Röchling,
- (ii) are free of defects (including in terms of design, production and material),
- (iii) are suitable for the specific purposes for which they are purchased, insofar as it is aware of such purposes.

- 11.2 The following shall apply if Röchling discovers Parts that do not meet the requirements under clause 11.1 (“Defective Parts”) before production commences (treatment/processing, installation or assembly):

At Röchling’s option the supplier must immediately deliver new defect-free Parts (replacement parts) or remove/repair the defects in the Defective Parts (jointly referred to as “Rectification”). The supplier shall carry out any and all necessary sorting work or other improvements in consultation with Röchling on Röchling’s company site.

- The supplier shall bear all costs it or Röchling incurs due to delivery of the Defective Parts (in particular costs for sorting, transportation and examining the causes of the defects etc. (including research and development expenses)).
- 11.3 If a defect is identified after production has commenced, the provisions of clause 11.2 shall apply first; the following shall apply in addition:
- (i) If a defect is identified before Röchling delivers the products to its customers, the supplier shall additionally bear the costs of all improvements (labor costs, material costs, assembly and disassembly costs, costs for further necessary tools).
  - (ii) If a defect is discovered only after Röchling has already delivered the products to its customers or even to its customers' end customers (consumers), the supplier shall additionally bear the portion of the costs incurred for a recall and/or field measures that were reasonably necessary and appropriate taking into account the interests of both parties by objective standards and that correspond to both the supplier's share of fault and the contributory fault on the part of Röchling. Röchling shall inform the supplier as soon as such defects arise and inform it regarding further action and the measures to be taken.
- 11.4 If Rectification fails, is unreasonable for Röchling or the supplier does not commence it immediately, Röchling may withdraw from the Supply Agreement without further notice and return the Parts at the risk and expense of the supplier.
- In these and other urgent cases, including to avert acute risks or prevent major losses, and if it is no longer possible to inform the supplier of the defect and grant the supplier a (short) period to take remedial action, Röchling may remedy the defects itself or have them remedied by a third party.
- 11.5 Statutory provisions (in particular regarding Röchling's right to Rectification (including associated reimbursement of expenses), reduction, damages and reimbursement of expenses) also apply.
- 11.6 The warranty period for Parts that constitute "Production Material" shall be
- (i) thirty-six (36) months from the initial registration of the vehicle in which the Parts were installed in each case, up to a maximum of forty-two (42) months from handover/after delivery to Röchling for all markets (except for the North American market), and

- (ii) fifty-four (54) months from the initial registration of the vehicle in which the Parts were installed in each case, up to a maximum of sixty (60) months from hand-over/after delivery to Röchling for the North American market (USA, Canada).

For all other items (e.g. spare parts or tools) the warranty period shall be thirty-six (36) months after delivery to Röchling.

- 11.7 The statutory limitation periods shall apply to work and services.

## **12. Recall and Other Field Campaigns**

If a recall campaign, an owner notification program or another field campaign is required in order to comply with a law, regulation, order or other government requirement or as a safety measure to prevent personal injury or death or a field or service campaign take places based on a decision by Röchling's customer, Röchling shall inform the supplier – as far as possible and appropriate – regarding the content and scope of the recall campaign, owner notification program or other field campaign that is to be carried out and shall give the supplier the opportunity to express an opinion. All other statutory claims shall remain unaffected thereby.

## **13. Liability, Product Liability and Insurance**

- 13.1 If the supplier has culpably made an arrangement with third parties in relation to the Parts or deliveries under the agreement or engaged in other conduct that represents an unlawful restriction of competition as defined by the applicable antitrust regulations, the supplier shall pay Röchling eight (8)% of the net invoice amount for the delivery scope affected by such antitrust offense as compensation, unless the supplier can prove that Röchling has not incurred any damage or has only incurred minor damage. This obligation shall continue to apply in the event of termination or fulfillment of the Supply Agreement and/or master agreement. Any additional or further contractual or statutory claims of Röchling shall remain unaffected hereby; in particular, Röchling may claim a higher loss upon furnishing relevant evidence.
- 13.2 If the supplier's services also include work on Röchling's company premises or those of a customer of Röchling, the supplier shall take all necessary precautionary measures to prevent personal injury and damage to property during the course of such work. The supplier shall compensate Röchling for and indemnify it against all losses caused by work the supplier performs on the company premises, unless the supplier is not at fault.

Furthermore, the supplier shall comply with Röchling's company rules, which shall be provided to it upon request.

- 13.3 If the supplier has caused a product fault and/or (depending on the underlying basis of the claim) is responsible for the fault, the supplier is required to pay Röchling compensation or to indemnify Röchling against all third-party claims, provided that the cause of the claim lies within the supplier's control and organization and the supplier would itself be liable vis-à-vis third parties. If there is contributory causation or contributory fault on Röchling's part, the supplier may assert a claim against Röchling based on such contributory fault or contributory causation. In the relationship between Röchling and the supplier, their respective shares of the compensation payments shall be based on their relevant shares of contributory fault (Section 254 of the *Bürgerliches Gesetzbuch* (BGB – German Civil Code)) and/or contributory causation.

The supplier's obligations shall also include the costs that Röchling incurs through obtaining legal advice or otherwise incurs in connection with defending product liability claims. If Röchling is subject to specific rules governing the burden of proof in relation to the injured party, such rules governing the burden of proof shall also apply in Röchling's relationship with the supplier to the extent that the circumstances that are to be proven are not attributable to Röchling's area of responsibility.

- 13.4 The supplier undertakes to obtain adequate insurance coverage (including business liability insurance, product liability insurance and recall insurance) for its obligations under the Supply Agreement. The Supplier shall furnish Röchling with appropriate proof from the insurer.
- 13.5 The supplier shall be equally liable for the actions of its agents or subcontractors as for its own actions.

#### **14. Production Resources, Free-Issue Tools**

- 14.1 All parts, raw materials, tools, materials (matrices, templates, measuring instruments, molds) or other equipment or items (including replacements, additions, accessories) that are provided by Röchling or manufactured or acquired by the supplier at the expense of Röchling (and whose acquisition costs have been reimbursed by Röchling or included in the prices to be paid for the Parts and have been paid in full) ("Production Resources"), shall remain or become the sole property of Röchling. The rights to all drafts, samples, drawings, templates, blueprints, printing plates, films, data, models or other information

and documents (“Documents”) provided by Röchling shall also remain with Röchling. The supplier shall not use the Production Resources and Documents to produce or design parts for third-party purchasers without the prior written consent of Röchling.

- 14.2 The supplier shall hold the Production Resources and Documents in custody and store them free of charge, separately and apart from all property of other persons and clearly label them as the property of Röchling. Section 690 of the *Bürgerliches Gesetzbuch* (BGB – German Civil Code) does not apply. The supplier shall bear the risk for the Production Resources and Documents for as long as they are in the custody or under the control of the supplier. They shall not be removed from the supplier’s company site without written instructions from Röchling, except for the purpose of fulfilling the agreement. The supplier shall perform any necessary maintenance work at the usual intervals and at its own expense. It shall inform Röchling of any damage or malfunctions without delay.
- 14.3 If Röchling provides the supplier with products, raw materials or other material for manufacturing products, Röchling shall reserve ownership of such goods (“Reserved Property”). Any treatment/processing, conversion, installation or reshaping of the Reserved Property by the supplier shall be on behalf of Röchling. If the Reserved Property is processed together with other items that are not the property of Röchling, Röchling shall acquire joint ownership of the new product in the proportion of the value of the Reserved Property (purchase price plus value added tax) in relation to the other processed items at the time of the processing.
- 14.4 If the Reserved Property provided by Röchling is inseparably combined or mixed with other items that are not the property of Röchling, Röchling shall acquire joint ownership of the new product in the proportion of the value of its Reserved Property (purchase price plus value added tax) in relation to the other combined or mixed items at the time of the combining or mixing. If the combining or mixing occurs in such a way that the supplier’s items are to be considered the main part, it is agreed that the supplier shall transfer joint ownership to Röchling on a pro rata basis; the supplier shall store and keep the sole property of Röchling or the joint property of Röchling safe on its behalf.
- 14.5 Röchling may demand the return of the Production Resources and Documents at any time.
- 14.6 This clause 14 shall apply mutatis mutandis to software (particularly operating software, source codes and software manuals).

14.7 If the supplier has manufactured or acquired a tool at the expense of Röchling and the parties have concluded a tool transfer agreement with one another, this shall apply in addition.

### **15. Acquisition of Tools Needed by the Supplier**

15.1 The supplier shall grant Röchling the irrevocable option to gain possession and ownership of tools that are necessary for manufacturing the Parts ("Necessary Tools") at any time against payment of their current value less the amounts Röchling has already paid to the supplier or that are amortized via the Parts price. Clause 14.7 shall apply in this case. The option under sentence 1 shall not apply if the supplier needs the Necessary Tools to manufacture and deliver the Parts on the basis of a valid (in particular, untermi-nated) Supply Agreement.

15.2 In the event that the option under clause 15.1 is exercised, the supplier shall equip Röchling with all the technical information and safety instructions needed by Röchling to install, assemble and otherwise use the Necessary Tools.

### **16. Property Rights**

16.1 The supplier warrants that Röchling or customers of Röchling shall not infringe any intellectual property rights of third parties, including rights to trademarks, company names, use of names, patents, utility models, design patents, get-up, designs or copyrights of third parties (including corresponding pending property rights) ("Property Rights") by purchasing, possessing, offering, using, processing or reselling the Parts in the supplier's country of origin or in the Federal Republic of Germany, other European countries, the USA, Canada, Mexico, South Korea, China, Japan or Thailand. If the supplier culpably breaches this obligation, it shall indemnify Röchling and its customers against all claims of third parties arising as a result of such actual or alleged infringements of Property Rights and shall bear all costs and expenses that Röchling incurs in this connection, including prosecution and defense costs on the one hand and costs resulting from compliance with a potential obligation to desist on the other.

16.2 Clause 16.1 shall not apply if the Parts have been produced based on drawings, models or other detailed information from Röchling and the supplier was neither aware nor had to have been aware that this infringed Property Rights of third parties.

16.3 The parties are required to report awareness of potential or alleged infringements without delay and shall take mutual steps within reasonable bounds to counteract any related infringement claims.

- 16.4 The limitation period for claims under this clause 16 shall be three (3) years from conclusion of the relevant agreement.

### 17. Development Orders

The following shall apply if the supplier carries out development work on behalf of Röchling for Parts (Production Material) or Production Resources (particularly tools) whose costs Röchling reimburses either separately and/or via the prices to be paid for the Parts (development orders):

- 17.1 The supplier shall achieve development results that are unencumbered by Property Rights of third parties; clause 16 shall apply mutatis mutandis.
- 17.2 The ownership of rights to all development results (including all inventions, expertise, test and development reports, suggestions, ideas, drafts, configurations, proposals, samples, models etc.) that the supplier generates in the course of the cooperation ("Work Results") shall fall to Röchling as soon as they are created.
- 17.3 If the Work Results are eligible for protection, Röchling is entitled, in particular, at its own discretion to register Property Rights for them in its own name in Germany and abroad, to pursue them and also to waive them at any time.
- 17.4 The supplier shall, by means of a declaration vis-à-vis the inventor, make an unlimited claim to any inventions eligible for protection that are created by its employees during performance of this agreement; the right to the invention shall be transferred to Röchling without delay.
- 17.5 If the Work Results are protected by copyrights of the supplier, the supplier shall grant Röchling and companies affiliated with Röchling an exclusive, royalty-free, irrevocable, transferable right that is unrestricted in terms of time, location and content to make use of and exploit such Work Results in any way free of charge and at will. If Work Results are generated in the form of software, the rights of use and exploitation shall not be restricted to the object code. In particular, Röchling has a right to delivery of the source code and documentation. Röchling may demand such delivery at any time, including during implementation of the development project.
- 17.6 The supplier (together with its affiliated companies) is and shall remain the owner of the inventions created prior to the cooperation and the Property Rights registered or granted on this basis as well as the owner of copyrights, design patent rights and expertise existing prior to the cooperation ("Previous Property Rights").

17.7 If Previous Property Rights are required for exploitation or further development of the development results, Röchling shall obtain a free, non-exclusive, sub-licensable, transferable and irrevocable right to their use that is unrestricted in terms of time and location.

17.8 If the supplier engages sub-suppliers in connection with the services it is to perform, it is required to ensure by means of suitable contractual agreements that Röchling obtains the rights of ownership and use pursuant to the provision of this clause 17.

### **18. Supply of Spare Parts**

18.1 The Supplier undertakes to guarantee the supply of spare parts for the intended service life of the products for which the Parts are to be used. The minimum period shall be fifteen (15) years after series production of the Parts has ended.

18.2 During the term of the Supply Agreement the price for spare parts shall be the respective current price specified in the Supply Agreement. During the first three (3) years of the fifteen (15)-year period the price may not exceed the price from the last series production. As of the fourth (4th) year the price shall in each case be individually agreed by the parties based on the prices that were valid at the end of series production, taking into account any potential additional costs of the supplier for manufacturing spare parts.

18.3 The supplier shall grant Röchling the option to place a final order to cover all-time requirements in good time prior to expiry of the minimum period.

18.4 For other delivered items that do not flow into a product for a vehicle the supplier shall ensure the smooth supply of spare parts at competitive market prices for the duration of at least fifteen (15) years from the date of delivery.

### **19. Compliance with Laws, Safety, Environmental Protection, Hazardous Substances**

19.1 The Supplier must comply with all applicable federal, state or municipal laws, regulations, requirements or ordinances and industry standards for the Parts or services as well as in the fulfillment of a Supply Agreement. When fulfilling its contractual obligations the supplier must, in particular, comply with all statutory and official regulations relating to environmental protection, product safety and labor regulations. In particular, it shall maintain an environmental management system pursuant to ISO 14001: 2015 (or establish one within six (6) months of concluding a Supply Agreement).

19.2 It is imperative that the supplier complies with the statutory requirements of the country of manufacture and country of distribution with regard to Parts and materials as well as pro-

cedures requiring special treatment, e.g. in relation to transportation, packaging, labeling, storage, handling, manufacture and disposal, based on laws, regulations or other provisions or due to their composition and effect on the environment.

19.3 In particular, the supplier shall be responsible for ensuring compliance with the relevant regulations for dangerous goods. The supplier shall, in particular, ensure that hazardous goods and substances are handled only by staff who are specially trained in handling them and that only approved aids, containers and facilities are used for transporting such hazardous goods and substances on public roads. The supplier is required to provide an overview of all the hazardous goods and substances it uses in connection with the fulfillment of Supply Agreements and keep the relevant safety data sheets readily available.

19.4 The supplier shall ensure compliance with the requirements of the EU chemicals regulation, REACH, (Regulation (EC) No 1407/2006, EU OJ of December 30, 2006 – hereinafter referred to as “REACH”), particularly preregistration and registration within the prescribed time limits. Röchling shall not be required to carry out (pre)registration under any circumstances.

The supplier is aware that the Parts cannot be used if the requirements of REACH are not properly met in full.

19.5 Components (heavy metals) that are relevant under the EU End-of-Life Vehicles Directive (ELV) must be entered in the IMDS database by the supplier at its own expense and shall thus be deemed declared.

19.6 If the Parts the supplier delivers to Röchling contain “Conflict Materials” as defined by the US Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) and such materials originate from the DR Congo or its neighboring countries (Angola, Burundi, Republic of Congo, Rwanda, Zambia, Sudan, Tanzania, Uganda, Central African Republic), the supplier shall disclose this on an annual basis. “Conflict Minerals” as defined by the Dodd-Frank Act are, for example, the raw materials tin, tantalum, tungsten or gold.

19.7 The supplier shall indemnify Röchling against the full extent of all consequences, including losses of Röchling and third-party claims against Röchling that arise as a result of the supplier culpably having not or not fully complied with or fulfilled the foregoing provisions of this clause 19 or not having done so in due time.

## **20. Cancellation/Revocation of Orders/Agreements**

If the parties have agreed a master agreement or other long-term Supply Agreement on whose basis Röchling places orders with the supplier for the delivery of Parts or performance of services, the following provisions shall apply with respect to its term and termination:

- 20.1 Röchling has the right to terminate such agreements with six months' written notice and the supplier with twelve (12) months' written notice.
- 20.2 In cases where Röchling's customer cancels its order without reason or without notice, Röchling is entitled, notwithstanding its right of termination pursuant to clause 20.1, to agree another arrangement together with the supplier that takes account of such circumstances.
- 20.3 Either party has the right to terminate an agreement without notice for good cause at any time. Good cause shall be deemed to exist in the following cases, in particular:
- (i) Discontinuation of payment by one of the parties, opening of insolvency proceedings over the assets of one of the parties or their dismissal for lack of assets or liquidation of one of the parties;
  - (ii) Breach of material contractual obligations; in the event of a breach that can be remedied, however only after the party without fault has submitted a written request for the other party to remedy the breach, warned it of imminent termination for good cause and granted a reasonable grace period of at least four (4) weeks, which has expired to no avail;
  - (iii) One of the parties falls under the dominant control of a competitor of the other party due to a change in its owners or shareholders.
- 20.4 In the event of cancellation or other termination of the Supply Agreement the supplier must return all items provided by Röchling, including all drawings and other documents, equipment and tools.

## **21. Confidentiality**

The following shall apply unless the parties have concluded separate confidentiality agreements:

- 21.1 The parties undertake to treat in confidence all confidential information that they obtain directly or indirectly from the respective other party. Delivery schedules (including deliv-

ery requests) and orders and all associated commercial and technical details as well as information on tool constructions and tool design shall also be treated as confidential information. In particular, all obtained figures, drawings, calculations, quality guidelines, samples and similar items shall be kept secret. The reproduction and sharing of confidential information is only permitted within the scope of operational requirements. It may only be disclosed to third parties following prior written consent.

21.2 The foregoing obligations shall not apply to confidential information that the party receiving the information can prove

- (i) was already generally accessible at the time of disclosure oder subsequently became generally accessible through no fault of its own;
- (ii) was already in its possession at the time of disclosure;
- (iii) was made accessible to it by a third party without any obligation to keep it confidential or not to use it, whereby it is assumed that such third parties did not directly or indirectly obtain the information from the other party;
- (iv) must be disclosed to authorities based on statutory provisions.

21.3 The Supplier undertakes to require its sub-suppliers to observe the same degree of confidentiality. The Supplier may use the secret information disclosed to it by Röchling exclusively for its designated use.

21.4 The obligation to maintain confidentiality shall apply for a period of five (5) years beyond the end of the supply relationship. The supplier undertakes to return all the confidential information it has obtained, whether in physical form or stored on electronic storage media, to Röchling after the supply relationship has ended. At Röchling's request the supplier shall provide written confirmation to Röchling that it has fulfilled the obligations under the previous two sentences.

## **22. Applicable Law, Place of Jurisdiction, Place of Performance**

22.1 The contractual relations between Röchling and the supplier are subject to the laws of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

22.2 Exclusive jurisdiction is Mannheim. Röchling has the right to bring an action against the supplier before any other court or to assert claims against the supplier before other courts.

22.3 The place of performance for all obligations under an agreement is the Röchling location to which the Parts are delivered or where the services are performed, as specified in the delivery schedule, delivery request or individual order.

### **23. Miscellaneous**

23.1 If one of the provisions of these TCP proves to be invalid, unlawful or unenforceable, such provision shall be deemed to be amended or restricted to the degree necessary to render it valid, lawful and enforceable. If no such amendment or restriction is possible, the invalidity of one or more of these provisions shall not affect the validity of the remaining provisions or the validity of the agreement.

23.2 The supplier may not engage one or more subcontractors to fulfill the Supply Agreement or part thereof without the prior written approval of Röchling.