

**IRVIN AUTOMOTIVE PRODUCTS LLC**  
**GENERAL TERMS AND CONDITIONS**  
**OF PURCHASE**

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## GENERAL TERMS AND CONDITIONS OF PURCHASE

### 1. Scope and Acceptance.

(a) Scope. These General Terms and Conditions of Purchase (“Terms”) automatically apply to and are a part of all written and oral purchase orders and amendments thereto and any request for quotation, blanket purchase orders, Releases (as defined below), purchase agreements, supply agreements or similar documents issued to Seller by Buyer (collectively referred to as an “Order”). All goods and services (whether or not ancillary to a sale of goods) such as production and service parts, raw materials, equipment, tooling, engineering and design only, components, intermediate assemblies, work in process, and end products to be provided under an Order are included in the term “Goods.” The Buyer named above may from time to time administer purchasing for its affiliates and subsidiaries and issue Orders containing its name or logo, but identifying a different Buyer. Seller acknowledges and agrees that no such Order shall constitute or be interpreted to represent an Order of the Buyer named above or a guaranty by the Buyer named above of any obligations or liabilities of the Buyer as identified on an Order.

(b) Offer and Seller’s Acceptance. Each purchase order, together with these Terms, is an offer by Automotive Products Inc. or its applicable Affiliate as identified in the Purchase Order (each a “Buyer”) to the party to whom such Order is addressed (“Seller”) to enter into the agreement it describes and it shall be the complete and exclusive statement of such offer and agreement. An Order is an offer by Buyer but not a firm offer and may be revoked prior to acceptance. Delivery of Goods to Buyer shall constitute acceptance. Notwithstanding the foregoing, Buyer may elect at any time to consider Seller’s oral acceptance or Seller’s preparation to provide Goods as an acceptance of an Order and its terms (and of no other terms) and to enforce an Order. A purchase order is an adequate document to satisfy any statute of frauds.

(c) Seller’s Quotation. An Order does not constitute an acceptance by Buyer of any quotation or any proposal of Seller. Reference in an Order to any such quotation or proposal shall not constitute an addition to or a modification of any of the terms and conditions of an Order, except that a specific item of a quotation or proposal that is expressly referenced and adopted by an Order may be included in an Order without adopting any other portion of the quotation or proposal. Unless specifically otherwise provided in writing by Buyer, any reference to any quotation or proposal made by Seller is solely for the purpose of incorporating the description and specifications of goods and services contained in the quotation or proposal to the extent that the description and specifications do not conflict with any other description and specifications contained in an Order. However, Seller acknowledges that Buyer may submit quotations or proposals to its Customer or take other action in reliance on Seller’s quotation or proposal. Thus, the commercial terms in Seller’s quotation or proposal shall remain open and subject to inclusion in an Order until the latest of any date provided in the quotation or other proposal for such purpose and the expiration of any quotation, proposal or other document or action provided or taken by Buyer in reliance thereon.

(d) Inconsistent or Additional Seller Terms. Buyer objects to any additional or inconsistent terms in an offer, acceptance, or other communication from Seller and only these Terms and any other terms set out in an Order or document referenced in these Terms shall be binding upon the parties. No objection to these Terms or reservation of rights by Seller shall be effective. TERMS AND CONDITIONS IN AN ATTEMPTED ACKNOWLEDGMENT OF AN ORDER, OFFER OR OTHER SELLER DOCUMENT INCONSISTENT WITH OR IN ADDITION TO THE TERMS AND CONDITIONS OF AN ORDER ARE NOT BINDING UPON BUYER (UNLESS SPECIFICALLY ACCEPTED BY BUYER IN WRITING), AND BUYER HEREBY OBJECTS THERETO. If these Terms are inconsistent with the specific provisions of any Order, then the specific provisions of an Order will control. No course of performance or dealing by the parties shall be construed to waive, modify or otherwise adversely affect Buyer's rights or Seller's obligations.

(e) Obligations under Order. Buyer's provision of a purchase order number does not constitute an offer or contract for sale, but only a statement of present intent to issue an Order. Issuance of an Order does not constitute an obligation or evidence of an obligation of Buyer to continue to purchase Goods from Seller after expiration of the term of an Order, although Seller may have an obligation of continued supply as provided in an Order. Buyer has no such continuing purchase obligation unless contained in a written agreement signed by Buyer.

(f) Specific Goods and Letter of Intent. Issuance of an Order for specific Goods, such as product design or tooling, is not a commitment to issue an Order for other Goods such as production parts. Issuance of a letter of intent or other notice stating the Seller has been selected as the intended supplier of Goods does not obligate Buyer to issue an Order for such Goods or purchase such Goods, unless it specifically states otherwise.

(g) Website Provisions. An Order shall also include other provisions applicable to the Buyer's purchase of Goods, which may be found on Buyer's general website at <http://www.IrvinAutomotive.com> or may be provided by Buyer in hard copy form or requested from Buyer on demand. Other provisions include, but are not limited to, Buyer's Purchasing Manual; Supplier Quality Assurance Manual, General Label, Packaging, and Transportation Guidelines, NAO Safety System Supplier Transport Label, Template Specification, Corporate Governance Policy, and other manuals, guidelines and requirements, (together, the "Buyer Guides"), which are incorporated herein by reference. In the event of a conflict between any Buyer Guides and these Terms, these Terms shall govern. Buyer may modify any Buyer Guides at any time by providing written notice or posting notice of such modified or new Buyer Guides through links provided on Buyer's website at least ten days prior to any modified or new Buyer Guides becoming effective. Seller shall review Buyer's website and the Buyer Guides periodically. Seller's continued performance under an Order without providing written notice to Buyer in accordance with these Terms detailing Seller's objection to any modified or new Buyer Guides prior to the effective date of such modified or new Buyer Guides will be subject to and will constitute Seller's acceptance of such modified or new Buyer Guide as to all performance to be provided by Seller after their effective date. These Terms and the Buyer Guides that are

applicable to each Order are the Terms that are in effect on the issue date shown on the later of an Order or any Order amendment applicable to such Order. Such provisions may include amendments to these Terms and other obligatory policies and instructions to suppliers. The version of these Terms in effect and published on Buyer's website as of the date of an Order or any renewal or amendment of an Order shall be the applicable Terms to such Order.

(h) Amendments to Terms. No exception to, deviation from, or waiver of these Terms shall be valid or binding on Buyer unless specified on the face of an Order or Order amendment or made in a signed writing by Buyer's Vice President – Purchasing. Any such exceptions, deviations or waivers shall apply only to the specific purchase order for which they are granted and shall not constitute a course of dealing.

2. **Duration of Order.**

(a) Initial Term. If a specific term is stated in an Order it shall continue for such period and then expire. If there is no specific term, the Order shall continue for the life of the project or programs for which the Goods are used or sold by Buyer, subject to Buyer's right to terminate as provided in these Terms.

3. **Prices, Payment, Audit, and Security Interest.**

(a) Pricing and Invoices. Seller shall furnish the Goods at the prices in an Order. All prices are firm. No price increases will be permitted, including but not limited to price increases to cover increases in the cost of raw materials, parts, components, fuel, energy, labor, supplies, overhead, or transportation. All prices are in U.S. dollars and FCA Seller, Incoterms 2010. Any shipping point on the Order shall not be changed without Buyer's written consent. Seller warrants that the price in an Order shall be complete, and no additional charges of any type, including but not limited to, current or increased costs of materials, labor, packaging, labeling, custom duties, taxes, storage, insurance, boxing and crating shall be added for any reason without Buyer's express written consent. Seller shall submit separate invoices (and/or advance shipping notice according to Buyer's requirements) for each shipment, in duplicate, which include Seller's supplier number, date and number of Buyer's Order, Seller's tax identification number, the date, place, and quantity of each delivery, and other information requested by Buyer, and the price shall be consistent with an Order. Seller shall supply a reasonable number of Goods for testing without charge.

(b) Payment/Buyer's Right to Offset. Buyer shall pay for Goods on a Net Settlement Basis for all of the accounts of Seller arising from an Order and other agreements Seller has with Buyer. "Net Settlement Basis" means that, unless prohibited by law, Buyer may set off and recoup against Buyer's accounts payable to Seller any amounts which Buyer determines in commercial good faith that Seller is liable to Buyer, under any Order or other agreements between Seller and Buyer. Buyer may do so without advance notice to Seller. If an obligation of Seller to Buyer or any of its subsidiaries or affiliates is disputed, contingent or unliquidated, Buyer or any of its subsidiaries or affiliates may defer payment of all or any portion of the amount due until such obligation



is resolved. Without limiting the generality of the foregoing, and by way of example, only, in the event of a bankruptcy of Seller, if all of the Orders between Buyer and Seller have not been assumed, then Buyer may defer payment to Seller, via an administrative hold or otherwise, for Goods against potential rejection and other damages.

(c) Seller's Costs. Seller warrants that the costs for tooling, special equipment and other special items required specifically for production of Goods under an Order, which are disclosed in quotations, invoices or otherwise, shall be Seller's net cost after all discounts, rebates and other benefits (whether the prices for such items are to be separately paid by Buyer or amortized by Seller in the price for Goods), plus any separately disclosed mark-up.

(d) Auditing and Indemnification. Buyer may at any reasonable time send its authorized representatives to examine all pertinent facilities, documents and materials in the possession or under the control of Seller relating to any of Seller's obligations under an Order or any payments requested by Seller pursuant to an Order. Seller shall maintain books and records relating to an Order for a period equal to the greater of four years after completion of final delivery of Goods pursuant to an Order or as required by applicable law. If any such audit discloses any inaccurate information, Seller shall indemnify, defend and hold harmless Buyer from and against any loss, liabilities, costs, expenses, suits, actions, claims and all other obligations and proceedings, including but not limited to all audit attorney's fees and any other cost related thereto, plus interest at the legal rate for written contracts (expressed as an annual percent). Seller shall obtain from Seller's suppliers and subcontractors such audit rights for benefit of Buyer.

(e) Customs Invoice. If Goods will cross an international border during delivery, Seller shall provide a commercial invoice in the form and content as required for customs clearance. The invoice shall be in English, or in the specific language of the destination country as directed by Buyer, and shall include: (i) contact names and phone numbers at Buyer and Seller who have knowledge of the transaction; (ii) Buyer Order number; (iii) Buyer Order line item; (iv) release number (in the case of a Blanket Order); (v) part number and detailed description of the Goods sufficient to accurately classify the Goods for customs clearance; (vi) unit purchase price in currency of the transaction; (vii) quantity; (viii) INCOTERMS 2010 applicable to the transaction; (ix) country of origin of the Goods; (x) separate identification of all materials provided by Buyer to Seller for the production of Goods which are not included in the purchase price (e.g., consigned material, tooling, and other tangible products); Order number or other reference information for any consigned materials; and (xi) any discounts or rebates from the base price used in determining invoice value.

(f) Trade Agreements. If Goods will be delivered to a destination country having a preferential tariff or trade agreement, customs union agreement, or customs program ("Trade Agreement") with Seller's country or country from which the Goods originate, Seller shall cooperate with Buyer to review eligibility of Goods for any special tariff preference or trade program for Buyer's benefit and provide Buyer required documentation (e.g., NAFTA Certificate). All Orders for Goods produced in Mexico and

other countries with IMMEX or similar programs shall be processed under such programs as may be requested by Buyer.

(g) Duties and Drawback Rights. The price for Goods includes, and Buyer shall own, all related export and import customs duties and import drawback rights, if any, including rights developed by substitution and rights that may be acquired from Seller's supplier(s) that Seller can transfer to Buyer. Buyer shall include such provisions in all its subcontracts.

(h) Taxes. Seller's price includes all payroll and occupational taxes, excise taxes, value-added taxes that are not recoverable by Buyer, and except with the written consent of Buyer, all other taxes, fees, duties, tariffs or other charges applicable to the Goods under the applicable Incoterm or other delivery term; provided, however, that any national, state/provincial and local sales, use, harmonized, excise, recoverable value added, and/or privilege taxes, if applicable, will be identified on Seller's invoice separately from the price. If Seller is obligated by law to charge any excise, value-added and/or similar tax to Buyer, Seller shall ensure that it is invoiced to Buyer and once collected is promptly remitted by Seller to the appropriate government authority, all in accordance with applicable rules so as to allow Buyer to reclaim such excise, value-added and/or similar tax from the appropriate government authority. Seller transfers to Buyer all taxes, fees, and duties which are recoverable by Seller and shall cooperate with Buyer to enable Buyer to recover such sums. Neither party is responsible for taxes on the other party's income or the income of the other party's personnel or subcontractors. If Buyer is required by government regulation to withhold taxes for which Seller is responsible, Buyer shall deduct such withholding tax from payment to Seller and provide to Seller a valid tax receipt in Seller's name. If Seller is exempt from such withholding taxes as a result of a tax treaty or other regime, Seller shall provide to Buyer a valid tax treaty residency certificate or other tax exemption certificate at a minimum of 30 days prior to payment being due.

(i) Payment Date. Unless otherwise stated on the face of an Order, payment terms are due prox 60 days from the Payment Start Date. The "Payment Start Date" is the later of: (i) the date identified as such on an Order; (ii) the received date of the Goods as entered in Buyer's receiving system; or (iii) the date of receipt of a valid invoice by Buyer with supporting documents. Notwithstanding the foregoing, if shipment or point of delivery is outside the United States, Canada or Mexico, the Payment Start Date is not earlier than the date of receipt of the Goods at the final destination.

(j) Data. The efficient use by Buyer of any Goods provided for under this Order may require that Data be delivered to Buyer. The term "Data" shall include, without limitation, manuals, drawings, reproductions, specifications, software, photographs, reproducible copy, parts lists, plans, reports, computations and certifications. Seller shall deliver Data to Buyer no later than the specific time specified in an Order, and if none, then the beginning of delivery of the Goods. If Data is not delivered, Buyer may, at its election, for as long as such Data remains undelivered, withhold payment to Seller for any Goods theretofore and thereafter delivered. The term Goods includes Data.

4. **Releases, Quantities and Blanket Order.**

(a) Releases. If an Order is described as a “Blanket Order” or in some other manner which indicates Buyer’s obligation to purchase is limited to those Goods and quantities in releases or other written delivery instructions from Buyer (“Blanket Order”), the quantities and delivery dates in an Order are not binding on Buyer, and Buyer’s obligation to purchase the Goods is expressly contingent upon the issuance of a release or other written delivery instructions (“Releases”) by Buyer identifying the Goods and materials and quantities to be purchased and providing delivery schedules and directions. A Release shall be part of the applicable Order. All Orders for Goods used both in production by Buyer or its Customer, or in and for their corresponding service and replacement parts, are presumed to be Blanket Orders. As to a Blanket Order, Seller shall not provide any services, fabricate or assemble any Goods, procure required materials, nor ship any Goods, except to the extent specifically authorized by an Order or by written Releases. Seller shall maintain at its expense and risk components, materials and finished Goods necessary to assure a continued supply of Goods at the latest design level. Subject to change in an Order or by Buyer’s Releases, Seller is authorized to fabricate and assemble up to two weeks of finished Goods inventory and acquire up to an additional four weeks of component and materials inventory based on Buyer’s latest Releases. Subject to any provisions requiring Buyer to purchase a specific quantity or 100% or some portion of its requirements, Buyer shall be obligated only to purchase Goods and those components and materials fabricated or acquired by Seller in reliance on the firm periods provided above or otherwise in a Release that establishes a firm or fixed quantity. Notwithstanding anything to the contrary in an Order, Seller is obligated to provide quantities as required in Releases issued to Seller. A provision providing for Seller to provide a percentage or range of percentages of Buyer’s requirements is not a guarantee of any specific quantity of Goods that must be purchased by Buyer and the actual range of purchases pursuant to Releases can be substantially different from the percentages given without any change in the obligation of Seller. Notwithstanding anything to the contrary and if required by law for the enforcement of a Blanket Order, Buyer shall be obligated to purchase prototype Goods and Goods for manufacturing process testing and Goods indicated as firm in Releases at their cost of direct labor and materials. Releases may be modified by Buyer at any time to the extent not contrary to specific terms of an Order. Buyer may temporarily suspend delivery or modify delivery dates for firm or fixed quantities. Buyer may return shipments in excess of quantities released or ordered to Seller at Seller’s expense for all packing, handling, sorting and transportation charges. Seller acknowledges and agrees to accept the risk associated with the lead times of the various components if they are beyond the firm Release quantities provided by Buyer. Releases are included in the term “Order.”

(b) Period. If a Blanket Order has no specific period of validity, the obligation of Seller to sell under the prices and other terms of a Blanket Order continues during the periods in which Buyer issues Releases. Buyer has and/or will rely upon Seller’s obligations to sell under an Order. The inclusion in an Order of prices for periods beyond the term of any firm period of commitment in an Order obligates Seller to accept a new or renewed Order at such prices, but is not an implied extension of any commitment of Buyer to purchase. If an Order contains a specific period of validity, the obligation continues for

the period covered by an Order and thereafter for a reasonable time at the prices in effect at the end of such period after written notice by Seller that it will no longer supply under such prices, so that Buyer may resource supply of the Goods.

(c) Seller's Obligations. A reference in a Blanket Order to a quantity is an estimate based upon information from Buyer's Customer or other sources and is not a guarantee of the quantity to be purchased. The inclusion of a reference to production Goods in an Order for tooling or other non-production Goods is to obtain a warranty of performance of the Goods to be produced with the non-production Goods, and is not an obligation for the issuance of an Order for any production Goods or for a particular quantity of production Goods. A reference in an Order to a minimum or maximum quantity of production of Goods is a warranty by Seller of its commitment to maintain the indicated production levels, and is not a guarantee of a quantity of Goods to be ordered by Buyer.

(d) Capacity. Seller shall maintain a 100% on time delivery record based on Buyer's Releases. Seller is responsible for any costs incurred to comply with Buyer's Releases. Seller shall maintain production and delivery capacity so that deliveries can be made in accordance with Buyer's Releases. Seller shall immediately inform Buyer if there is any risk of deviation from the Releases and shall take all available measures to avoid such deviation. Seller is aware that the actual need for the Goods may be driven by the requirements of Buyer's Customer, and that Seller and Buyer must adopt a flexible approach to adjust to these and other contingencies. If Seller delivers a quantity in excess of the authorized released quantity, Buyer shall not be responsible to take delivery of the excess and is entitled to return the excess at Seller's expense.

(e) Minimum Quantities. Unless otherwise stated in an Order, an Order for production quantities shall be for 100% of Buyer's requirements for the Goods. Buyer is not obligated to purchase more than its requirements, as determined by Buyer in its discretion, for the Goods. As additional compensation to Seller for its supply and warehousing obligations under this Section and the option of Buyer to purchase or not purchase Goods, and as Seller's exclusive remedy, Buyer shall pay to Seller a fee of \$100.00 upon a demand from Seller made within 90 days after notice from Buyer that there will be no Releases or new additional Releases by Buyer, subject only to the purchase obligation in Subsection (a) above. This exclusive remedy shall not affect Buyer's obligations to purchase under other provisions of these Terms such as purchase obligations on termination for convenience.

(f) Volume and Duration Projections. From time to time and in connection with quotations, requisitions, Orders, and Releases, Buyer may provide Seller with estimates, forecasts or projections of its possible future volume or quantity requirements for the Goods and/or the term of a program ("Volume and Duration Projections"). Volume and Duration Projections, unlike a Release for a firm quantity, are not binding on Buyer. Seller acknowledges that the Volume and Duration Projections, like any other forward looking projections, are based on a number of economic and business factors, variables and assumptions, some or all of which may change over time, and may or may not be accurate at the time they were made or later. Buyer makes no representation, warranty, guaranty or commitment of any kind or nature, express or implied, regarding any

Volume and Duration Projections or other estimate, forecast or projection provided to Seller, including as to its accuracy or completeness. Seller accepts that Volume and Duration Projections may not be accurate and that actual volume or duration could be substantially lesser or greater. Seller acknowledges that this risk, and possible reward, is an aspect of the industry in which Seller and Buyer operate.

(g) Claims. Any and all claims related to Buyer's alleged failure to comply with obligations to release and/or purchase firm or other quantities must be made in writing within 120 days of date such claim accrues or it is barred.

5. **Directed Supplier Relationship**. If an Order derives from a supplier relationship directed or recommended by a Customer ("Directing Customer") by establishing Seller as a Directed Supplier, Seller shall comply with all provisions of an Order (including these Terms) even though Seller may have negotiated economics and other terms with the Directing Customer. A "Directed Supplier" is any Seller from which Buyer has been requested or recommended to procure Goods at the direction or suggestion of Buyer's Customer and/or the ultimate original equipment manufacturer customer (including through co-sourcing arrangements), or when, due to a Customer's product description, specification or other limitation, Buyer is limited as a practical matter to such Seller for the Goods required. At Buyer's request, Seller who is a Directed Supplier shall negotiate performance, pricing, quality, warranty and other contract issues relating to the Goods with the Directing Customer to assure that the Directing Customer's requirements are adequately developed, described and met. Upon Seller's written request, Buyer shall pass through to Seller, subject to an appropriate mark-up for Buyer, those commercial terms which Seller negotiates with the Directing Customer regarding the Goods, provided such commercial terms are granted to Buyer. Seller is solely responsible to provide in writing all information relating to the Goods, including for example, the Goods' design and performance (as approved by the Directing Customer and Buyer), design for interface of the Goods with Buyer's products, testing data and reports, tooling requirements and timing, and other matters which could affect Buyer's use of the Goods and performance of Buyer's obligations to provide, directly or indirectly, products to the Directing Customer. Buyer may require Seller to comply with: (i) the Directing Customer's terms and conditions of purchase as amended by Directing Customer; and (ii) these Terms, and to the extent there is a conflict with an Order, Buyer may elect the provisions which apply. Seller shall participate in cost reduction and warranty cost sharing programs of the Directing Customer with Buyer. A Seller that is a Directed Supplier acknowledges the applicability of these Terms notwithstanding the fact that Seller may have negotiated the price or other provisions with the Customer, and that it is bound by these Terms and an Order, including, without limitation, the payment terms.

6. **Delivery, Documentation and Marking**.

(a) Delivery. Delivery must be on the date indicated in an Order or Release, if any, unless otherwise directed by Buyer. If an Order is a Blanket Order or if no delivery schedule is provided, deliveries are to be made only in quantities and at times specified in Releases as they may be amended by Buyer. Buyer shall have no liability for

payment of Goods delivered to Buyer which are in excess of firm quantities specified in an Order (including Releases). Buyer may, from time to time, change delivery schedules or direct temporary suspension of scheduled shipments without additional charge. Time is of the essence as to delivery and other performance by Seller.

(b) Suspension of Performance. Buyer may at any time, by notice to Seller, suspend performance of deliveries and Seller's other performance obligations for such time as it deems appropriate. Upon receiving notice of suspension, Seller shall promptly suspend deliveries and work to the extent specified, properly caring for and protecting all work in progress and materials, supplies and equipment Seller has on hand for performance. Upon Buyer's request, Seller shall promptly deliver to Buyer copies of outstanding purchase orders and subcontracts for materials, equipment and/or services related to performance of an Order, and shall take such action relative to such purchase orders and subcontracts as Buyer may direct. Buyer may at any time withdraw the suspension as to all or part of the suspended work by written notice specifying the effective date and scope of withdrawal. Seller shall resume diligent performance on the specified effective date of withdrawal. All claims caused by suspension limited to an equitable extension of time for performance as the exclusive remedy must be pursued pursuant to and consistent with the Section on "Changes" within ten days of the suspension for suspension costs and ten days after withdrawal for resumption costs or they shall be deemed waived.

7. Risk of Loss and Title to Goods. All shipments are at the risk of Seller until receipt at Buyer's location or other final destination designated in an Order or other writing by Buyer, regardless of the delivery point pursuant to the delivery terms unless risk of loss is otherwise assumed by Buyer in writing. Seller shall insure the Goods at their replacement value for the benefit of Seller and Buyer as their interest may appear and provide to Buyer proof thereof. If risk of loss is assumed by Buyer, all risk casualty insurance for replacement value must be provided by Seller for the benefit of Buyer. The cost of any insurance shall be paid by Seller unless otherwise agreed in writing by Buyer. Under no condition will the risk of loss be that of Buyer, unless such insurance is provided. Risk of loss shall not be governed by transfer of title.

(a) Title to Goods. Title to all Goods shall vest in Buyer the earlier of the date of an Order and their identification to an Order. Identification shall occur not later than the date Seller acquires or begins manufacture of the Goods. Buyer's obligation to pay for Goods is limited by the terms of an Order. Seller shall pay all taxes related to ownership, possession or storage of the Goods until Buyer takes possession of the Goods whether or not title has transferred.

(b) Right to Possession. Buyer has the right to possession of all Goods at all times from the time the Goods are identified to an Order whether or not Seller is in default subject to Buyer's obligation to pay for the Goods upon obtaining possession. This right is separate and apart from any Security Interest.

8. **Changes.**

(a) **Required Changes and Requests for Adjustments.** Buyer reserves the right at any time to make changes in quantities, drawings, specifications, testing or quality control, materials, packing, shipment, scope of work and other specific terms of an Order. The specifications shall include those in an Order and any statement of work or statement of requirements issued by Buyer or its Customer. Any purported change shall be binding on Buyer only if made in an Order amendment. Any impact on price (higher or lower) or time for performance necessarily resulting from such changes shall be reported by Seller to Buyer, and any adjustment to price or schedules shall be requested by Buyer, with all supporting documentation, within ten days of receipt of Buyer's written notice of change or a withdrawal of suspension under Section 6(b) of these Terms. Time is of the essence for such request. Buyer shall issue an Order amendment promptly if it agrees with the request. Notwithstanding anything to the contrary, if adjusted, the price shall be adjusted solely to compensate Seller for increased costs of materials and other direct production costs (excluding overhead and profit) necessarily incurred as a result of the changes, and the terms for performance shall be adjusted only for the period actually required to comply with the changes. Seller may not substitute materials or change the specifications of the Goods in any way without prior written authorization from Buyer. Seller shall diligently perform an Order and all changes while its claim is being evaluated and during any period of dispute regarding Seller's requested adjustments. Any such claim by Seller for adjustment to time for performance or price under an Order must be solely and directly the result of the change directed by Buyer and any notice of such claim shall be effective only if accompanied by all relevant information sufficient for Buyer to verify such claim. Buyer shall have the right to audit all relevant records, facilities, work or materials of Seller to verify any claim. Seller shall consider and advise Buyer of the impact of a design change on the system or assembly in which the Goods covered by an Order are used. Nothing in this Section shall excuse Seller from performing promptly in accordance with an Order as changed.

(b) **Limitation on Changes.** Without the prior approval of Buyer on the face of an Order amendment or a writing signed by an officer of Buyer, Seller shall not make any changes to any Order or the Goods covered by an Order, including, without limitation, changing: (i) any third party supplier to Seller of services, raw materials or goods used by Seller in connection with its performance under an Order, (ii) the facility from which Seller or such supplier operates, (iii) the price of any of the Goods covered by an Order, (iv) the nature, type or quality of any services, raw materials or goods used by Seller or its suppliers in connection with an Order; (v) the fit, form, function, appearance, performance of any Goods covered by an Order; or (vi) the production method, or any process or Software used in the production or provision of any Goods under an Order. Any changes by Seller to any Order or the Goods covered by an Order without the prior approval by Buyer on the face of an Order amendment or in a signed writing by an officer of Buyer, shall constitute a breach of an Order.

9. **Quality and Inspection.**

(a) **Quality and Validation.** Seller shall, at Seller's cost, participate in Buyer's supplier quality and development programs and comply with all quality, validation, and approval requirements and procedures specified by Buyer from time to time, including at a minimum, complying with all requirements and procedures set forth in Buyer's Supplier Quality Assurance Manual and other Buyer's Guides, which are expressly incorporated herein by reference.

(b) **Inspection and Acceptance.** Buyer may inspect the Goods in process and Seller's facilities at reasonable times, but such inspection or approval shall not constitute acceptance of the Goods or a waiver to insist on strict performance. All Goods shall be received subject to right of inspection and rejection by Buyer and its "Customer" (which term includes, without limitation, Buyer's immediate customers and subsequent original equipment manufacturers and end-users). If Buyer inspects Goods prior to use, Buyer may reject an entire shipment on the basis of sampling testing. Defective Goods and Goods otherwise not in conformity with Buyer's specifications or an Order may be held by Buyer pending Seller's instructions at Seller's risk and expense and, if Seller so directs, may be returned at Seller's expense; provided, if Seller fails to provide written instructions within seven days of notice, Buyer may return the Goods freight collect or otherwise dispose of them at Seller's expense. Payment for the Goods prior to inspection shall not constitute an acceptance thereof or waive Buyer's right to revoke acceptance. Acceptance, whether or not it has been revoked, shall not release Seller's responsibility for defects, non-conformities, warranty or other claims.

10. **Maintenance and Safe Use.** Seller shall provide to Buyer with the Goods, in English (subject to any mandatory translation required by any applicable law which Seller shall also provide) and in writing, all information necessary: (a) for the safe installation, use, maintenance and repair of the Goods; and (b) to maximize the efficient use and useful life of the Goods. Prior to and with the shipment of the Goods, Seller shall furnish to Buyer sufficient warning and notice in writing (including material safety data sheets and appropriate labels on the Goods, containers and packing) of any hazardous material that is an ingredient or a part of any of the Goods, together with such special handling instructions as may be necessary to advise carriers, Buyer, Customers if applicable, and their respective employees, how to exercise that measure of care and precaution that will best prevent bodily injury or property damage in the handling, transportation, processing, use or disposal of the Goods, containers and packing shipped to Buyer. If requested by Buyer, Seller shall promptly furnish to Buyer in such form and detail as Buyer may direct, in addition to standard material safety data sheets: (i) a list of all ingredients in the Goods; (ii) the amount of all ingredients; (iii) information concerning any changes in or additions to such ingredients; and (iv) other information required by International Material Data Systems.

11. **Electronic Data Interchange.** Seller shall, at Buyer's request and Seller's expense, connect to Buyer's current and future electronic data interchange systems ("EDI"). All transactions initiated under EDI shall be governed by the terms contained in Buyer's transmissions, except that standard terms and conditions which



may be a part of Buyer's EDI system shall be supplemented by, and superseded to the extent inconsistent with, these Terms. A transmission shall be deemed signed if it contains the name of the individual authorizing the transaction and is otherwise in accord with authentication and other provisions of Buyer's EDI system.

12. **Confidentiality and Intellectual Property.**

(a) **Confidentiality.** At all times prior to, during and after an Order, Seller shall: (i) maintain the confidentiality of any information disclosed by Buyer or any parent, affiliate, Customer and contractor, including for example only, any technical, process or economic information derived from drawings, specifications, samples and other Data furnished by Buyer in connection with an Order, whether or not identified as "confidential" upon disclosure ("Confidential Information"); (ii) not disclose or permit the disclosure of any Confidential Information to any person other than its employees or subcontractors for whom such knowledge is essential for performance of an Order; (iii) not use Confidential Information except for performance of an Order; and (iv) not disclose any of the terms of an Order or any details or characterization of Buyer's performance of an Order. Seller shall immediately notify Buyer of any disclosure of any Confidential Information that is not permitted by these Terms or other misuse of any Confidential Information or breach of these Terms. An "Affiliate" is an entity which is a party, an entity controlled by a party or an entity which is under common control within an entity. "Control" means at least a 25% voting or management interest. Except as required for the efficient performance of an Order, Seller shall not: (x) use Confidential Information or make copies or permit copies to be made of Confidential Information without the prior written consent of Buyer; or (y) sell to any third party any Goods which are constructed with or incorporate Confidential Information obtained by Seller from reverse engineering of the Goods. If any copies of Confidential Information are made with prior consent, notice referring to the requirements of this Subsection shall be placed on the copies. Without limiting the direct liability of Seller's employees and others who may have received Confidential Information directly or indirectly from Seller, Seller shall be responsible for the improper disclosure or other misuse of Confidential Information by Seller's employees and others in privity with Seller, and Seller shall immediately take such steps as may be necessary to terminate any continuing improper disclosure or misuse by any of Seller's employees and others of which Seller becomes aware. Buyer makes no representation, condition or warranty of any kind, express or implied, with respect to any Confidential Information. Buyer may, at its sole discretion, elect at any time, by written notice to Seller, to terminate Seller's further use of Confidential Information for any purpose, other than completion of contractual obligations. Upon receipt of such notice, Seller shall, and shall cause Seller's employees and its subcontractors to, promptly cease all further use of Confidential Information, return to Buyer all physical materials containing Confidential Information, whether the materials were originally provided by Buyer or copied or otherwise prepared by Seller or any of Seller's employees or contractors, and erase or otherwise destroy any Confidential Information kept by Seller or any of Seller's employees or contractors in electronic or other non-physical form. Such termination by Buyer shall not affect Seller's continuing obligations in this Subsection.

(b) Seller's Non-Confidential Information. Any knowledge or information disclosed by Seller or on its behalf to Buyer, its Affiliates or contractors, which in any way relates to an Order, shall not, unless otherwise specifically agreed to in writing by Buyer, be deemed confidential or proprietary information, and shall be acquired by Buyer, free from any restrictions (other than restrictions under valid patents), as part of the consideration for an Order, and Buyer may disclose such information.

(c) Indemnification. Seller, at its expense, shall defend, indemnify and hold harmless Buyer and its successors, assigns, Customers and users with respect to every claim that may be brought against Buyer or others that use the Goods, for any actual or alleged infringement of any present or future patent, copyright, industrial design right or other proprietary right based on Seller's activity under an Order, or the manufacture, sale or use of the Goods: (i) alone; (ii) in combination by reason of their content, design or structure; or (iii) in combination in accordance with Seller's recommendations. Seller shall investigate and defend or otherwise handle every such claim, and at Buyer's request, assist Buyer in Buyer's investigation, defense or handling of any such claim. Seller shall pay all expenses and damages or settlement amounts that Buyer and others selling Buyer's products or using the Goods of an Order may sustain by reason of each such indemnified claim. If the use or sale of the Goods is enjoined, Seller shall, at its own expense and at Buyer's option, either: (x) procure the right to continue using the Goods; (y) replace the Goods with a non-infringing equivalent; or (z) remove the Goods and refund the purchase price and the transportation and installation costs thereof. Seller's obligations shall apply even though Buyer furnishes all or any portion of the design and specifies all or any portion of the processing used by Seller and, unless Seller provides a non-infringing equivalent acceptable to Buyer and its Customer, even if Buyer has notice of a claim of infringement and continues to use Seller's Goods.

(d) Ownership of Developments. Any Developments which are created by or on behalf of Seller in the performance of an Order, whether or not they may be protected by or subject to patent, trademark, industrial design, integrated circuit topography rights, copyright or other right ("Intellectual Property"), shall be the exclusive property of Buyer. All such Developments shall be work for hire; Seller assigns all rights in and to such Developments, including any Intellectual Property therein, to Buyer. Buyer shall execute such further documents as may be necessary to transfer, record or otherwise enforce Buyer's rights therein including any Intellectual Property rights, and all related expenses shall be paid by Buyer. Seller shall ensure that any individual involved in the creation of any copyrighted works shall waive, on an irrevocable and worldwide basis, all author's and moral rights in and to such works.

(e) Seller's Duties and Disclosure Requirements. Seller shall promptly inform Buyer in writing of the full details of all inventions, discoveries, concepts, and all copyright material, ideas, information and improvements relating to the Goods or Buyer's business ("Developments"), whether patentable or not, including, but not limited to: hardware and apparatus, processes and methods, designs, formulae, computer programs and techniques, as well as any improvements and related knowledge, which Seller conceives, develops, makes, contributes to or reduces to practice (whether alone or jointly with others) while developing or supplying Goods. Seller shall assign, and hereby does

assign to Buyer or Buyer's designee, all Developments; all trademarks, copyrights and mask work rights in Developments; and all patent applications filed and patents granted on any Development, including those in foreign countries, necessary or convenient to the use, sale, or manufacture of the Goods, or any improvements or derivatives. Seller shall execute any papers and take such further actions as Buyer may consider necessary or helpful to obtain, maintain, defend and enforce patent, copyright, trademark or other Intellectual Property rights, and all related expenses shall be paid by Buyer.

(f) Disclosure Regarding Patents. Seller shall specifically identify in a writing delivered to Buyer prior to any shipment, all components, processes, tooling or equipment used in the production of the Goods that are subject to any patent of Seller or third party. Seller shall obtain from third parties for the benefit of Seller, Buyer and Buyer's subcontractors and Customers, any rights necessary to make, use and sell the Goods.

(g) Right to Sublicense. Seller grants to Buyer and any entity designated by Buyer, and shall obtain from third parties for Buyer, a permanent, paid-up, nonexclusive, worldwide license with a right to grant a sublicense to others, to make, have made, use, have used and sell the Goods or any improvements or derivatives thereof under any patents or Intellectual Property now or hereafter owned or controlled by Seller or third parties and used in the production of the Goods or necessary to make, use and sell in the Goods, including a license to any operating Software incorporated into the Goods.

(h) Restrictions on Seller's Sale Activities. Except for sale to Buyer, Seller shall not manufacture or sell any product which uses the design or product model numbers or other designation of the Goods sold under an Order or any product which is produced with the tooling owned by Buyer or Customer used to produce the Goods. Seller shall not sell, attempt to sell, or assist a third party in any way in its attempted sale of any personal property or services to a Customer which would replace or reduce any supply by Buyer to a Customer of the Goods separately or as a component of an assembly.

(i) Software Upgrades and Escrow. Seller shall continue to provide support for any software or software programs incorporated into the Goods ("Software"). If any of the Software is migrated or otherwise modified, converted or rewritten for use with a new or different operating system or database environment, Seller shall immediately (upon general release to Seller's business customers) make the Software available to Buyer, at no additional license fees or other charges for the acquisition of a license by Buyer for use of the Software. Upon request by Buyer, Seller shall deposit and continue to deposit in an escrow account with a third party the most current release of the source code for any Software.

13. Service and Replacement Parts. Seller shall sell Goods to Buyer as ordered and released by Buyer for use as production and as service and aftermarket replacement parts. If the Goods are systems or modules, Seller shall sell to Buyer, as ordered by Buyer, the system or module or the components or parts that comprise the system or module. The prices for the components or parts shall not, in the aggregate, exceed the price of the system or module less assembly costs. During the period in

which Buyer is required by its Customer to provide service or replacement parts, Seller shall sell Goods to Buyer as ordered to fulfill Buyer's service and replacement parts requirements. Unless otherwise agreed to by Buyer in writing, the price during the first five years of this period shall be those in effect at the conclusion of purchases for production for the Customer, plus any actual costs for any unique packaging required for Goods intended for service and aftermarket. For the remainder of this period, the price for Goods shall be as agreed to by the parties, not to exceed the lower of: (i) the cost of manufacture and, not to exceed the percentage on production Goods, a reasonable percentage contribution to overhead and profit; or (ii) the price at which Buyer is obligated to sell to its Customer; or (iii) the price at the conclusion of production for use by Customer's current models, plus any actual costs for any unique packaging required for Goods intended for service and aftermarket. When requested by Buyer, Seller shall make service literature and other materials available at no additional charge to support Buyer's service and replacement part sales activities.

14. **Warranties.**

(a) **Express Warranties.** Seller warrants and represents to Buyer that all Goods shall be: (i) merchantable; (ii) free from failure in the final product as sold to the end user; (iii) free from all defects, including for example, design, workmanship and materials; (iv) fit for the particular purposes for which they are purchased; including the specified form, fit, function and performance as a component and in the component system, as a part of the final product subsystem, in the location within the final products to be sold by Buyer and its Customer and in the environment in which the Goods are or reasonably may be expected to perform; (v) in strict compliance with the specifications, samples, drawings, designs, Seller's advertisements, statements on containers and labels, statements of work and requirements of Buyer and its Customers and other requirements (including performance specifications) approved or adopted by Buyer as of the date of delivery or such other date provided by Buyer in writing; (vi) in strict compliance with all government requirements; (vii) composed of all new materials and components; (viii) produced by experienced and well trained personnel in a professional and workmanlike manner and in accordance with industry best practices; (ix) in conformity with all sales and other information provided by Seller orally or in writing; and (x) free of liens. If there is any conflict or overlap of provisions regarding Seller's warranties, the more demanding provision shall apply. Any attempt by Seller to limit, disclaim, or restrict any such warranties or any remedies of Buyer, by acknowledgement or otherwise, in accepting or performing an Order, shall be null, void, and ineffective without Buyer's prior written consent. Approvals by Buyer of Seller's design drawings, specifications, samples, designs and other Data, are to assist Seller without charge to Seller, but they do not replace, modify or cause Seller to share, Buyer's responsibility and do not waive or limit any warranty of Seller.

(b) **Warranty Period.** As to each of the Goods, each of Seller's warranties begins on the date of delivery to Buyer and continues until the last to occur of the following: (A) the expiration of all warranties made by Buyer to its Customer concerning Buyer's product incorporating the Goods not to exceed the earliest of ten years or 100,000 miles, if incorporated into a vehicle; (B) the expiration of the longest time

period which Buyer or Buyer's Customer or the original equipment manufacturer in which the Goods may be installed may be required, by contract or law, to repair or replace the Goods or Buyer's product incorporating the Goods; or (C) the period provided by applicable law for the Goods as sold to a consumer; provided, however, in the event Buyer or its Customer voluntarily or pursuant to a government mandate, makes an offer to owners of vehicles (or other finished products) on which the Goods, or any parts, components or systems incorporating the Goods, are installed to provide remedial action to address a defect or condition that relates to safety or the failure of the product to comply with any applicable law, safety standard or guideline, whether in connection with a Recall Campaign or other customer satisfaction or corrected service action (a "Remedial Action"), the warranty shall continue for such time period as may be dictated by Buyer's Customer or the federal, state, local or foreign government where the Goods are used or provided and Seller shall fully comply with the requirements of the Remedial Action. The statute of limitations period applicable to any breach of warranty will be the longest statute of limitation period for breach of contract, products liability or indemnity claims in any applicable jurisdiction or, in the case of any Recall Campaign, the longest time period provided by the U.S. federal, state, or foreign government where the Goods are used.

(c) Notice of Breach. The following communications shall each constitute notice of breach of warranty under an Order: (i) any communication or notice specifying a defect, default, claim of defect or other problem or quality issue with Goods sold under an Order; or (ii) any communication to Seller claiming that Seller's Goods are in breach of any warranty or that Seller is in default under an Order. Any such claim of breach by Buyer may only be rescinded in a writing signed by Buyer's Vice President – Purchasing.

(d) Buyer's Defense of Third Party Claims. To mitigate its damages, Buyer may elect to fully defend any claim from any Customer or other third party that any Goods supplied by Seller are defective, in breach of warranty, or otherwise did not meet applicable legal or contractual requirements because such claimant may attempt to hold Buyer responsible for problems caused in whole or in part by Seller. Seller and Buyer agree that this defense is in the interest of both Seller and Buyer. Seller waives the right to argue that Buyer took any such position in any way limits Buyer's right to assert a claim against Seller by Buyer for breach of warranty, contribution, indemnification or other claim that may arise from or be related to the subject matter of any of the foregoing. If Seller wishes to participate in any of the negotiations with Buyer's Customer or other third party regarding any of the foregoing or any related litigation or defense of any such claim, then in each case that Seller receives a notice of default or claim of breach, Seller shall give Buyer prompt written notice of its request to participate, which notice shall describe with particularity the details of the defense of the alleged default or breach.

(e) Continuous Improvement and Competitiveness. Seller shall participate in Buyer's value added/value engineering and warranty reduction programs to lower the price of Goods. Seller shall promptly advise Buyer in writing of any possible changes to the Goods which would result in cost savings or quality improvement. Seller shall remain competitive with respect to the Goods in terms of quality, technology, price and delivery with any supplier of the same or similar goods during the term of an Order.

Should another supplier demonstrate technology and/or offer other terms which results in similar goods of equal or better quality, performance, lower price, or delivery to Buyer during the term of an Order, Buyer may notify Seller in writing of such event and request that Seller replicate such technology and/or terms to the advantage of Buyer, provided that such replication and/or terms would not violate any proprietary rights of any other person. Written notification to Seller will be accompanied by whatever relevant information is available to Buyer regarding such technology and/or terms which is not proprietary to Buyer or any other person and which Buyer is not prohibited from disclosing. Seller shall have an appropriate period of time as determined by Buyer after receipt of notice to make the Goods competitive and available for delivery. If Seller cannot make the Goods competitive and available for delivery within such period or without violating the proprietary rights of others, Buyer may immediately terminate an Order for cause.

(f) Cumulation. All warranties and remedies provided by these Terms are cumulative and in addition to those provided by law and shall survive testing and inspection of the Goods. Approval by Buyer of Seller's drawings, Data, designs, engineering instructions, models, specifications or other technical information, written, oral or otherwise, does not waive or limit any warranty.

(g) Assignability. All warranties under this Section are assignable by Buyer to its Customers, end users and other third parties without notice to or consent by Seller.

15. **Insurance and Performance on Buyer's Premises.**

(a) Insurance. Seller shall obtain and maintain insurance coverage in the following minimum amounts: workmen's compensation - statutory limits for jurisdictions in which work is to be performed; employer's liability-\$1,000,000; general liability-\$10,000,000 single limit; automobile liability/bodily injury-\$5,000,000 per person and \$10,000,000 per occurrence; and property damage-\$5,000,000. Seller waives subrogation against Buyer. All policies shall be issued by an insurer licensed to do business in the national, state/provincial, and local jurisdiction where Buyer shall use and sell the Goods. Liability coverage shall include products and completed operations and (if available) recall, on an occurrence basis. Buyer shall be named as an additional insured under the policies. Seller shall furnish to Buyer a certificate of insurance completed by its insurance carriers certifying that the required insurance coverages are in effect and will not be canceled or materially changed until 30 days after prior written notice has been delivered to Buyer. The certificate shall set forth the amount of each coverage, number of policy, date of expiration and Buyer as an additional insured. If Seller is a self-insurer of workers compensation liability as may be permitted by applicable law, Seller shall furnish Buyer a certificate of the Department of Labor, or similar government authority of the jurisdiction in which any labor is to be performed approving the self-insurance. The purchase of such insurance coverage or the furnishing of a certificate shall not be a satisfaction of Seller's liability hereunder, or in any way modify Seller's obligation to indemnify Buyer.

(b) Performance on Buyer's Premises. If Seller's performance under an Order involves operations by Seller on the premises of Buyer or one of its Customers,

Seller shall take all necessary precautions to prevent the occurrence of any injury (including death) to persons or damage to property during the progress of such performance, and except to the extent that any such injury or damage is due solely and directly to the negligence of Buyer or a third party, Seller shall defend and indemnify Buyer against any claim which may result in any way from any act or omission of Seller, its agents, employees or subcontractors arising under or related to an Order. The Buyer is not obligated to provide any tools, materials equipment or other personal property to enable Seller to perform on the premises of Buyer or one of its Customers. If Buyer does provide such personal property it shall be as bailor for the benefit of Seller AS-IS WHERE-IS. Any such permission may be withdrawn by Buyer at anytime. Seller shall return all such personal property to the control of Buyer upon demand in the same condition as when provided, reasonable wear and tear accepted. Seller shall have the sole responsibility for the selection, proper and safe use, and protection of such personal property. Seller shall defend and indemnify Buyer and its Customer against all liabilities, claims or damages for injuries or damages to person or property arising out of the selection, use and storage, and loss of such personal property.

16. **Termination for Other than Default.** In addition to any other rights of Buyer to cancel or terminate an Order or any Releases, Buyer may at its option immediately terminate all or any part of an Order or any Releases, for: (a) the termination or material reduction in Customer demands; (b) a change in Buyer's requirements; (c) Seller's failure to remain competitive in price, quality, delivery, and technology whether or not such failure would be a default or breach by Seller; or (d) Buyer's convenience, by giving written notice to Seller. Seller shall cooperate with Buyer in any transfer of production or other performance to a new supplier. Upon a termination under this Section, Buyer shall pay to Seller the following amounts without duplication: (x) the Order price for all conforming Goods which have been completed in accordance with an Order not previously paid; (y) the actual direct cost of protecting Buyer's property; and (z) the actual direct costs of work in process and raw materials reasonably incurred by Seller in furnishing or preparing to furnish the Goods under an Order or any Releases to the extent such costs are reasonable in amount and are properly allowable or apportionable, under generally accepted accounting principles, to the terminated portion of an Order or any Releases issued pursuant to an Order; less, however, the reasonable value or cost (whichever is higher) of any Goods or materials subsequently used or sold by Seller with Buyer's written consent and of the cost of any damaged or destroyed Goods or materials. Notwithstanding the foregoing or any transfer to Buyer, Buyer shall not be liable to pay for finished Goods, work in process or raw materials obtained, fabricated or processed by Seller in amounts in excess of those authorized in Releases (if Releases are required or contemplated by an Order), for any undelivered Goods which are Seller's standard stock or which are readily marketable, or for any finished Goods or materials which are not promptly delivered to Buyer after request by Buyer. Payments made under this Section shall not exceed the aggregate price payable by Buyer for finished Goods which would have been produced by Seller for firm quantities of finished Goods and materials under Releases outstanding at the date of termination for firm quantities of finished Goods and materials. Except as provided in this Section, Buyer shall not be liable for and shall not be required to make

any other payments to Seller, directly or on account of claims by Seller or Seller's suppliers or subcontractors, arising from termination of an Order, including for example only for loss of anticipated profit, revenue or opportunity, and for business interruption, unabsorbed overhead, product development and engineering costs, facilities and equipment, rearrangement cost or rental, unamortized depreciation costs, general and administrative burden charges, or interest on claims. Within 60 days from the effective date of termination, Seller shall submit a comprehensive termination claim to Buyer with sufficient supporting data to permit Buyer's audit and shall thereafter promptly furnish such supplemental and supporting information as Buyer shall request. Buyer, however, shall have no obligation to Seller under this Section if Buyer terminates its purchase obligations under an Order or any Release for any reason other than for Buyer's convenience, except to the extent Buyer recovers from its Customer for amounts otherwise due to Seller from Buyer under this Section. Payment under this Section shall constitute the exclusive liability of Buyer if an Order is terminated by Buyer under this Section. Termination of an Order or any release does not affect Seller's obligations under this Agreement as to Goods delivered or obligations not dependent upon the delivery of Goods. Seller has no right to terminate an Order.

17. **Security and Solvency.**

(a) **Security Interest.** Seller grants to Buyer a security interest ("Security Interest") in the materials, components, contracts, Intellectual Property, and all other property and any proceeds thereof that may be acquired or allocated by Seller for use in the acquisition, assembly, and manufacture of the Goods, including Required Tooling and Furnished Property and in the completed Goods ("Secured Property") to secure Seller's return of any deposits and Seller's performance of other obligations under an Order. The Security Interest attaches at the time the Secured Property is identified to an Order. The Secured Property constitutes and will constitute continuing security for the performance of Seller's obligations under an Order including the obligation of Seller to repay to Buyer all monies paid on an Order if Seller defaults under an Order. Seller shall cooperate with Buyer and provide documents reasonably requested by Buyer, to enable Buyer to confirm, create and perfect the Security Interest. Seller grants Buyer an irrevocable power of attorney coupled with an interest to execute and file such documents. All Secured Property shall be marked, tagged, or otherwise identified by Seller as being subject to the Security Interest. Buyer may inspect the Secured Property during Seller's normal business hours. Seller shall insure and maintain the Secured Property for the benefit of Seller and Buyer.

(b) **Seller's Financial Information.** Upon request by Buyer, Seller shall promptly deliver to Buyer the following financial and other information:

(i) Upon receipt of an Order, Seller's financial statements for the two most recently ended fiscal years (audited, if available);

(ii) Within 90 days after the end of each fiscal year, Seller's financial statements for the most recently ended fiscal year (audited, if available);



(iii) Within 15 days after the end of each fiscal quarter, Seller's financial statements for the most recently ended fiscal year; and

(iv) Any other information that Buyer may reasonably require to demonstrate that Seller will be able to perform its obligations under an Order (including but not limited to production schedules, accounts receivable agings, accounts payable agings, and organizational charts).

All financial statements (including interim financial statements) delivered to Buyer under this Section:

(w) Shall be certified to Buyer by Seller's chief executive officer and chief financial officer unless they are audited financial statements;

(x) Shall include a balance sheet, income statement, and cash flow statement;

(y) Shall be prepared in accordance with generally accepted accounting principles consistently applied; and

(z) If Seller is a subsidiary or other business unit of another organization, shall include financial statements (consolidated or combined) for the total organization and separate financial statements for the specific business unit.

(c) Seller's Solvency. Seller represents and warrants to Buyer as of the date of each Order (which representations and warranties shall be deemed repeated as of the date of Seller's acceptance of each Release under an Order and at the time of each delivery under an Order): (i) that it is solvent and is paying all debts as they become due; (ii) that it is in compliance with all of its loan covenants and other obligations; (iii) that all financial information provided by Seller to Buyer concerning Seller is true and accurate; (iv) that such financial information fairly represents Seller's financial condition; and (v) that all such financial statements of Seller have been prepared in accordance with generally accepted accounting principles, uniformly and consistently applied. Seller shall respond in writing within three business days to any written demand by Buyer for assurances (with supporting documentation) of the willingness and ability to perform Seller's obligations. Buyer may upon reasonable notice to Seller conduct a review of Seller's financial and business conditions. Seller shall provide to Buyer annually a written report from an independent financial reporting company acceptable to Seller evaluating Buyer's financial stability and ability to perform an Order. Seller shall provide full cooperation and access to all records and financial personnel to facilitate any such reviews.

(d) Buyer's Access to Facilities. If Seller experiences any delivery or operational problems related to an Order, Buyer may, but is not required to, designate a representative to be present in Seller's applicable facility to observe Seller's operations. If Buyer provides to Seller any accommodations (financial or other) that are necessary for Seller to fulfill its obligations under any Order, Seller shall reimburse Buyer for all costs, including reasonable actual legal and other professionals' fees, incurred by Buyer in

connection with such accommodation and shall grant a right of access to Buyer to use Seller's premises, machinery, equipment and other property necessary for the production of Goods covered by such Order (and a lien to secure the access right) under an access and security agreement prepared by Buyer providing reasonable compensation to Seller.

(e) Seller's Insolvency. Seller shall pay all costs associated with a third party evaluation and report. Buyer may immediately terminate or suspend an Order or, including for clarity, Release without any liability of Buyer to Seller except for payment of Goods previously delivered and in compliance with an Order upon the occurrence of any of the following or any other similar or comparable event: (i) insolvency, liquidation or dissolution of Seller; (ii) Seller's inability to promptly provide Buyer with adequate and reasonable assurance of Seller's financial capability to perform timely any of Seller's obligations under any Order; (iii) filing of a voluntary petition in bankruptcy by Seller; (iv) filing of an involuntary petition in bankruptcy against Seller; (v) appointment of a receiver/manager or trustee for Seller; (vi) Seller becomes subject to any order in connection with any insolvency legislation in any jurisdiction; (vii) cessation of Seller's normal operations; or (viii) execution of an assignment for the benefit of creditors of Seller. Seller shall respond in writing within three business days to any written demand by Buyer for assurances of the willingness and ability of Seller to perform Seller's obligations.

#### 18. Default and Remedies.

(a) General. Seller shall be in default: (i) if Seller fails to perform any obligation within the time specified in an Order or Release or any extension thereof granted by Buyer in writing, or upon Buyer's demand if no time has been specified; (ii) if Seller fails to make progress in the performance of any obligation so as to make Buyer reasonably apprehensive about Seller's ability or willingness to perform its obligations; (iii) if Seller repudiates or is in breach of any provisions of an Order, including Seller's warranties; or (iv) if Seller's performance of its obligations, or if any of the Goods, are found at any time to be defective in design, material or workmanship, or otherwise not in conformity with the requirements of an Order, and if in any of these defaults, the effect of which default can be cured, Seller does not cure such failure within seven calendar days or such longer period as Buyer may authorize in the notice of default.

(b) General Remedies. Upon Seller's default, Buyer may by written notice of default to Seller, in addition to such other rights, remedies and choices as it may have under an Order or by law, at its option and sole discretion take one or more of the following actions: (i) rescind, cancel or terminate an Order; (ii) reject and return non-conforming or defective Goods at Seller's expense; (iii) require Seller to inspect the Goods and remove and replace non-conforming or defective Goods with Goods that conform to an Order; and/or (iv) take any other action at Seller's cost which Buyer determines in its reasonable judgment is necessary to cure Seller's default and/or mitigate the effect of Seller's default. If Buyer elects option (iii) and Seller fails to promptly make the necessary inspection, removal and replacement, Buyer may at its option and Seller's cost, inspect and repair or replace the Goods. Buyer may take remedial and other action based on one or more Sections of this Agreement as alternative and/or cumulative basis. Seller shall continue performance of an Order to the extent not terminated and shall be liable to Buyer

for any excess costs for alternative products or services. Buyer, at its sole discretion, may also elect to extend the delivery schedule and/or to waive other deficiencies in Seller's performance; in which case an equitable reduction in an Order price shall be established by Buyer to compensate Buyer for its damages. If Seller for any reason anticipates difficulty in complying with a required delivery or other date, or in meeting any of the other requirements of an Order, Seller shall promptly notify Buyer in writing of the potential default, the cause thereof, and the estimated length of the anticipated default. Buyer is under no obligation to waive any default.

(c) Termination and Change of Control. Buyer may terminate an Order or Release, in whole or in part, upon written notice to Seller, if control of Seller changes. A change of control includes for example: (i) the sale, lease or exchange of a substantial portion of Seller's assets used for the production of the Goods; (ii) the sale or exchange of a controlling interest in the shares or other ownership interests of Seller; or (iii) the execution of a voting or other agreement of control. Seller shall provide Buyer with written notices of a proposed and actual change of control at least ten days prior to the date the change of control is scheduled to occur and within ten days after the change of control has become effective. Buyer will have 30 days from the date the second notice from Seller is received within which to notify Seller if it decides to terminate an Order and the effective date of the termination, which will be no sooner than 30 days after the date the written notice of termination is sent.

(d) Duty to Deliver. Seller's continued holding of the Goods or Furnished Property, after demand has been made by Buyer for delivery, will substantially impair their value, and Buyer shall be entitled to a court order for possession without bond. Seller shall continue to sell Goods under an Order during any dispute with Buyer provided Buyer continues to pay Seller amounts owed in excess of any right of offset.

(e) Damages. At Buyer's request, upon Seller's default, Seller shall reimburse Buyer for all direct, incidental, consequential and special damages, and damages for lost profits, revenue and opportunity and for business interruption related thereto, including but not limited to, costs, expenses and losses incurred directly or indirectly by Buyer or its Customers: (i) in inspecting, sorting, repairing or replacing non-conforming Goods; (ii) resulting from production interruptions; (iii) in conducting any Recall or other corrective service actions; (iv) in meeting delivery schedules (such as premium freight); or (v) resulting from personal injury (including death) or property damage. Consequential damages include reasonable actual legal and other professionals' fees incurred by Buyer.

(f) Specific Performance. Seller acknowledges and agrees that money damages would not be a sufficient remedy for any actual, anticipatory or threatened breach of any Order by Seller with respect to its delivery of Goods to Buyer and that, in addition to all other rights and remedies which Buyer may have, Buyer shall be entitled to specific performance and interlocutory and permanent injunctive or other equitable relief as a remedy for any such breach, without proof of actual damages, without establishing a "balance of convenience," and without bond or other security being required.

(g) Recall. If any of the Goods fail to conform to the warranty of Seller hereunder or to comply with any motor vehicle safety standards or are found to contain a safety related defect, including but not limited to failure to meet industry state of art, and Buyer, Buyer's customer, the National Highway Traffic Safety Administration or other appropriate government agency or non-governmental organization orders or requests that a Recall Campaign or remedial action in lieu of a Recall Campaign be undertaken, Seller shall bear the cost and expense of any Recall Campaign or such remedial action and shall, without charge, provide replacement Goods as needed. Seller shall reimburse Buyer for all costs, damages and expenses (including reasonable attorney fees) incurred by Buyer or its related entities arising out of a Recall Campaign or remedial action in which any Goods supplied by Seller are alleged to be defective or to breach the warranty hereunder. Buyer shall give written notice to Seller, keep Seller informed and consult with Seller on actions to be taken. Seller shall immediately notify Buyer of any information Seller may possess regarding any incidents related to the Goods and shall fully cooperate with Buyer in responding to inquiries by any federal and state agency related to the Goods. Buyer shall have the right to perform a full investigation including but not limited to inspection and testing of the products involved, vehicle history, reports, analysis, and tests performed by or in the possession of Seller. Seller shall supply to Buyer all field and production tests, repair/replacement parts for products requested or required by Buyer to correct any defect or alleged defect in the Goods supplied by Seller. Buyer shall not have any responsibility for any such Recall Campaign or remedial action cost or expense, or portion thereof. The term "Recall Campaign" or remedial action in lieu thereof, shall mean any such systematic effort to locate Goods, suspected, believed to be or known to be defective and installed in vehicles or vehicle components, and to replace, repair, modify or correct such Goods regardless of whether such Recall Campaign is initiated by Buyer, Buyer's Customer, any governmental or regulatory body or any other entity.

(h) Restrictions on Waiver. A delay by Buyer in notification of a breach or making a claim shall not constitute a waiver of a breach or remedy. No waiver of a breach of any provision of an Order by Buyer shall constitute a waiver of any other breach, or of the breached provision itself. No claim or right of Buyer arising under, or related to, an Order can be discharged in whole or in part by a waiver or renunciation unless supported by additional consideration and in writing signed by Buyer.

(i) Limitation on Seller's Rights. Seller acknowledges that Buyer may supply to Customers the Goods in the form purchased from Seller or as a component of a system or other product sold to Customers. Seller's rights and remedies against Buyer shall be limited to the extent Buyer's rights against the Customers are limited.

(j) Continuation of Seller's Obligations. Termination of an Order or any Release by Buyer for any reason permitted by an Order does not affect Seller's obligations under an Order: (i) as to Goods delivered; or (ii) not directly dependent upon the delivery of Goods.

(k) Seller's Remedy. Money damages, as limited by these Terms and an Order, are Seller's exclusive remedy for breach of contract and all other claims or theories of recovery. Seller may not allege breach of contract or other theory of recovery

for such money damages without providing a written notice of breach, documentation supporting the claim, and a reasonable time for Buyer to cure any breach and otherwise resolve the matter.

(l) Disclaimer of Liability. UNDER NO CIRCUMSTANCES SHALL BUYER BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, OR EXEMPLARY DAMAGES OR DAMAGES FOR LOST PROFIT, REVENUE, OPPORTUNITY, OR BUSINESS INTERRUPTION.

(m) Time, Quality and Quantity Requirements. Without limitation, time, quality and quantity requirements for Seller's performance are of the essence of an Order.

(n) Remedial Work. If repair, sorting, inspection, or similar activities ("Remedial Work") is determined by Buyer necessary for any rejected Goods, then Buyer may elect either to perform the Remedial Work itself or to have a third party perform it. In either case, the reasonable cost of such Remedial Work shall be either: (i) offset against the amounts otherwise due Seller for such rejected Goods; or (ii) charged separately to Seller. Buyer may require that the Remedial Work be performed on the premises of Buyer or its Customer by Seller, in which case Buyer or its Customer shall provide Seller with reasonable access to its premises and otherwise assist Seller with such arrangements as are necessary to perform the Remedial Work. In performing Remedial Work or replacing rejected Goods, Seller is responsible for segregating and sorting any applicable Goods providing for transportation of the Goods, supervising the segregation and removal of the Goods, and other incidental activities, all at its sole cost. Remedial Work by Seller requires the prior written permission of Buyer and/or Buyer's Customer.

(o) Termination of Order. Termination or expiration of an Order does not release Seller from its obligations except as specifically stated in a termination or logically required by a termination or cancellation.

(p) Limitation Period. Seller may not bring any claim or action more than one year after the claim accrues which, as to claims for payment of money, shall accrue no later than the delivery as to Goods and beginning of production as to tooling.

(q) Resourcing. Seller acknowledges that an interruption of business at Buyer's plant or Customer's plant would result in damages and/or difficulties for which money damages would not be a sufficient remedy. While the cost of a plant shutdown may easily generate substantial costs, the damages to Buyer's relationship with Buyer's Customer through potential loss of business, and other damages which are equally difficult to calculate, can be a much worse consequence,. Because of these risks, in the event of a breach or threatened breach by Seller of any of the representations, warranties or covenants of Seller, Buyer may, upon notice to Seller, whether or not Buyer may otherwise be obligated to purchase the Goods from Seller, resource the production of Goods from Seller to another supplier or dual source any of the Goods covered hereby (i.e., have another supplier produce or be prepared to produce Goods being produced by Seller), to protect Buyer and its Customers. This process of resourcing business may take substantial time

and Seller understands that, given the risks posed by the possible shutdown of Buyer's Customer, Buyer is justified in initiating and transferring business upon notice to Seller. Resourcing of business, while not generally desirable, is a part of the automotive business and is an acknowledged and accepted risk to Seller in the industry. Even the risk of Seller's financial or operational uncertainty, in light of the significant risks to Buyer and Buyer's Customer of production interruption, is an example of a justified reason to resource production of Goods, without notice, and that any incidental or related activity by Buyer is commercially reasonable.

(r) Transition of Supply. In connection with Buyer's termination or non-renewal of this Order, or Buyer's other decision to source the Goods from any alternate supplier(s), Seller shall cooperate with Buyer in the transition of supply of the Goods, including the following: (a) Seller shall continue production and delivery of all Goods as ordered by Buyer, at the prices and other terms stated in an Order, without premium or other condition, during the entire period reasonably needed by Buyer to complete the transition to the alternate supplier(s), such that Seller's action or inaction causes no interruption in Buyer's ability to obtain the Goods as needed; (b) at no cost to Buyer, Seller shall promptly provide all requested information and documentation regarding and access to Seller's manufacturing process, including on-site inspections, bill-of-material, Data, tooling and process detail and samples of the Goods and components; and (c) subject to Seller's reasonable capacity constraints, Seller shall provide special overtime production, storage, delivery, and/or management of extra inventory of the Goods (parts bank), extraordinary packaging and transportation and other special services (collectively "Transition Support") as expressly requested by Buyer in writing. If the transition of supply occurs for reasons other than Seller's default, Buyer shall, at the end of the transition period, pay the reasonable, actual cost of Transition Support requested by Buyer and incurred by Seller, provided that Buyer must approve Seller's estimate of such costs in writing prior to Seller incurring such costs.

(s) Attorney Fees and Costs. Seller shall reimburse Buyer for all reasonable and actual attorney fees and legal costs incurred by Buyer in enforcing the terms of an Order or arising in any way in connection with any default or breach of warranty or other duty by Seller of an Order.

19. **Force Majeure and Limitations of Seller's Liability.** Seller shall not be liable for incidental or consequential money damages because of delays or other defaults due to causes which are both beyond its control and without its fault or negligence. However, any such delay due to default or other failure of subcontractor, material supplier or carrier will be excused as to incidental and consequential damages only if beyond the control, and without the fault or negligence of, both Seller and its subcontractor, material supplier or carrier, and if Seller establishes that it could not obtain components, materials or services from any other source in time to meet the delivery schedule. Buyer, at its option, may acquire possession of all finished Goods, work in process and parts and materials produced or acquired for the performance of Seller's obligations, and Seller shall deliver such Goods to Buyer, at Buyer's option Incoterms 2010, Seller's facility or F.O.B. Buyer's facility, freight prepaid. This Section shall apply only if: (i) Seller provides immediate written notice to Buyer of any delay

which Seller does or could reasonably anticipate, of the length thereof, and of the reasons therefore; (ii) Seller provides 30 days' written notice to Buyer of the expiration date of its collective bargaining agreement and those of its subcontractors and suppliers which expire prior to anticipated delivery date of the Goods or other event which may cause a disruption in supply; (iii) Seller produces and maintains an inventory to an appropriate location to insure an adequate supply of Goods for at least 30 days if the event occurs; and (iv) Seller promptly complies with other instructions of Buyer. The limitations on incidental and consequential damages in this Section shall not affect Buyer's right to cancel, reduce quantities in existing or future delivery schedules or Releases, or enforce any other remedy for breach or exercise any other request unrelated to breach. Increases in the costs of materials, manufacture, transportation or other performance shall not excuse Seller's performance. This is a full and complete statement of Seller's rights to rely on the doctrines of force majeure, impracticability, impossibility and similar doctrines excusing performance.

20. **Property Furnished or Purchased by Buyer or Its Customer for Seller's Use.**

(a) **Ownership.** Unless otherwise agreed in a writing signed by Buyer, all tooling, equipment, Data, material and other property of every description furnished to Seller by Buyer or its Customer, or acquired or developed by Seller but paid for or to be paid for by Buyer or its Customer as a separate price or amortized in the price of the Goods, and any materials affixed or attached thereto and replacement thereof (all of which constitutes "Furnished Property"), shall be and remain exclusively the personal property of Buyer or its Customer and held as an at will bailment and in trust for the benefit of Buyer or its Customer as their interests may exist. All additions, attachments, accessories and repairs to the Furnished Property, and replacements thereof, shall be deemed Furnished Property and shall become the exclusive property of the owner of the affected Furnished Property without payment. Seller shall not substitute any of its own property for use in place of Furnished Property and to the extent it does so, such property shall become the Furnished Property of the owner of the property replaced. Title to the Furnished Property which is acquired by Seller and its contractors, and the components thereof, shall vest in Buyer upon their acquisition or production, even though the Furnished Property is not completed. Seller shall sign separate at-will bailment and other agreements confirming the status of Furnished Property under these Terms if requested by Buyer. Seller is also bound by any additional obligations relating to Furnished Property which are contained in Buyer's contract with its Customer and Seller agrees that Buyer, in its own name, may enforce such obligations on behalf of its Customer.

(b) **Maintenance and Taxes.** Seller shall install, maintain, repair, replace and return Furnished Property in good condition and working order, reasonable wear and tear excepted, at Seller's cost. Seller shall pay all taxes assessed against the Furnished Property or for its use while in the possession or control of Seller, whether or not Buyer is required by law to pay such taxes. In addition, all Furnished Property must continue to be maintained or repaired by Seller in a condition that is adequate for at least one year of production of Goods based on Buyer's forecasts and historical purchase levels.

(c) Markings. Each individual item of Furnished Property (and the container in which it may be stored) shall be plainly and permanently marked or otherwise adequately identified and permanently marked by Seller as the property of Buyer and with the project and part number on which it is used. Seller shall safely store the Furnished Property separate and apart from Seller's property. Seller shall maintain the character of Furnished Property as personal property and not as a real estate fixture.

(d) Use. Seller shall not use or permit others to use Furnished Property except to fill Orders. Seller shall not, under any circumstance, sell or transfer any product or service produced with the Furnished Property except to Buyer and its designees. Seller shall use Furnished Property in a careful and safe manner. Seller, at its sole cost and expense, shall furnish appropriate safety systems for Furnished Property which are integrated into the production process to meet federal and state OSHA and any other applicable safety rules and regulations, or, if delivered in Canada or other country, all requirements of similar legislation in the jurisdiction and its regulations.

(e) Location. Seller shall arrange and pay for the packaging and transportation of the Furnished Property to and from the Buyer's or other location approved by Buyer or reimburse Buyer for such costs. Seller shall not move the Furnished Property from any location without the prior written consent of Buyer.

(f) Liens. Seller shall provide Buyer with copies of any claims of liens and written waivers of liens from all suppliers of Seller that produced or provided Furnished Property prior to the earliest of the date payment is due to Seller or of start of production with the tooling.

(g) Price. The price of Furnished Property charged to Buyer shall not exceed the lesser of: the maximum price in an Order; Seller's actual cost of acquiring the Furnished Property without any mark-up; or Seller's actual direct costs of materials and direct labor at a shop rate approved by Buyer. Seller warrants that all invoices for Furnished Property shall be in accordance with this Subsection even if an Order is for a fixed price unless an Order specifically waives compliance with this Subsection.

(h) Express Trust. Payments made by Buyer for Furnished Property are made by Buyer to Seller in express trust for the benefit of Buyer and of any third party toolmaker used by Seller or others to produce all or a portion of the Furnished Property who has a perfected toolmaker's lien or similar lien on the Furnished Property which is superior to Buyer's interest in the Furnished Property. Buyer shall pay in trust and Seller shall hold these payments as trustee in express trust for Buyer and the toolmaker to satisfy such lien. Seller acknowledges that such toolmaker is an intended third party beneficiary of this Section and that Buyer and the toolmaker each has the right to enforce the trust directly against Seller only. As a condition of the continuation of the trust, Toolmaker shall not include or consent to include Buyer as a party to an action against Seller for payment or to obtain possession of all or a portion of the Furnished Property. Seller shall at Buyer's request defend and/or indemnify Buyer against any action and the costs thereof including reasonable attorney fees by the toolmaker against Buyer.



(i) Warranty Disclaimer. Seller accepts the Furnished Property “AS IS” and without any representation, warranty or duty from Buyer except as may be specifically stated as such in an Order. It is Seller’s obligation to determine if the Furnished Property is suitable for its intended purpose. ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF BUYER AND ITS CUSTOMER ARE DISCLAIMED.

(j) Risk of Loss and Insurance. Furnished Property, while in Seller’s custody or control, shall be held at Seller’s risk and shall be kept insured by Seller at Seller’s expense under a fire and extended all risk policy in an amount equal to the replacement cost with loss payable to Buyer or its Customer as their interests may appear. Seller shall maintain a liability insurance policy covering events related to the Furnished Property and have Buyer named as an additional insured. All such insurance shall be primary. Seller shall deliver to Buyer certificates of insurance evidencing such coverages and providing for a 30-day written notice to Buyer of any change, cancellation or lapse.

(k) Delivery to Buyer. Furnished Property may be reclaimed and removed at any time by Buyer, at Buyer’s written request (whether or not Buyer and Seller are engaged in litigation or other dispute), in which event Seller shall prepare Furnished Property for shipment and shall deliver it to Buyer or its Customer in the same or equal condition as originally received by Seller, and as required to be maintained by Seller, reasonable wear and tear excepted, all at Seller’s expense. All consumable Furnished Property not used in the manufacture of the Goods shall, as directed by Buyer, be returned to Buyer at Buyer’s expense and, if not accounted for or returned, shall be paid for by Seller to Buyer at Buyer’s cost. Seller shall have no right to retain possession of Furnished Property to secure payment of amounts owed for Goods or for any other reason, as a claim for damages is an adequate remedy. Seller waives any statutory or other rights to claim a lien on Furnished Property.

21. Required Tooling. Production of the Goods by Seller or its subcontractor may require production aids and equipment in addition to that to be provided as Furnished Property under an Order. Seller, at its own expense, shall furnish, keep in good condition, and replace when necessary all tooling, jigs, dies, gages, fixtures, molds, patterns and other personal property used in the production process, whether or not they are Furnished Property or they are owned or leased by Seller or its subcontractors, which are necessary for the production of Goods in accordance with an Order (“Required Tooling”). In addition, all Required Tooling must continue to be maintained or repaired by Seller in a condition that is adequate for at least one year of production based on Buyer’s forecasts and historical purchase levels. The cost of changes to Required Tooling necessary to make design changes and specification changes to the Goods authorized by Buyer in writing shall be paid for by Buyer, provided that Buyer’s obligation shall be limited to the actual cost of materials, labor and unrelated third party costs without mark-up for overhead and profit unless otherwise provided in an Order. Buyer may inspect Required Tooling and Seller’s facilities during normal working hours upon reasonable notice to Seller. Seller may not relocate the Required Tooling without the prior written consent of Buyer. Seller shall advise Buyer of any required repair or replacement of Required Tooling. Seller shall be responsible

for obtaining any PPAP required because of movement, modifications, repair, replacement, or other events. Seller shall insure Required Tooling with fire and extended all risk coverage insurance for its replacement value and provide Buyer with certificates of insurance evidencing such coverage. Seller grants Buyer an irrevocable option to take possession of and good title to some or all of the Required Tooling (including leases thereof) as selected by Buyer, that is not Furnished Property and is specific for the production of Goods, upon tender to Seller a purchase price computed as the tax value thereof, less any amounts Buyer has previously paid to Seller in any manner for the cost of Required Tooling (e.g., by separate payment or by an allocated portion of the price of the Goods as shown in an Order or documents provided by Seller such as, for example only, a bill of materials); provided, however, that this option to purchase shall not apply to any Required Tooling used primarily to produce products that are standard stock of Seller sold to purchasers other than Buyer or its designee. On Buyer's request, Seller shall deliver any purchased Required Tooling to Buyer at Seller's or its subcontractor's plant or other location specified by Buyer. Seller is responsible for labor and other costs of dismounting, dismantling, preparing for delivery and staging the Required Tooling for delivery. Seller shall cooperate with Buyer in removing the Required Tooling from the location of Seller or its subcontractor. Seller shall have no right, after tender of the purchase price, to retain possession of Required Tooling to secure payment of amounts owed or for any other reason and Seller waives any common law or statutory lien rights, as a claim for damages (with any bond in the amount of the purchase price of tooling to be purchased as may be required by a court) is an adequate remedy. If the Required Tooling is not utilized to produce any Goods for Buyer for a period of two years, Seller shall so notify Buyer in writing and request instructions as to the disposition of the Required Tooling.

22. **Compliance with Laws and Customer Policies.**

(a) **Environmental Laws.** Seller shall comply with all laws and standards adopted by Buyer and its Customers affecting the environment, including these, for example: (i) requiring design and materials to maximize the recycling of Goods and end products; (ii) requiring marking of Goods with material composition; (iii) applicable to handling waste and chemicals; (iv) applicable to reacting to environmental emergencies; and (v) applicable to use of reusable packaging. Seller shall obtain and retain third party certificates of compliance with ISO 14001 for all of Seller's facilities that produce Goods or have a significant impact on the environment.

(b) **Contractual Obligations.** Seller shall comply with any provisions, representations or agreements, or contractual clauses required thereby to be included or incorporated by reference or operation of law in the contract imposed by Customers or resulting from acceptance of an Order and dealing with, in the United States of America, Equal Employment Opportunity, Employment of Veterans, Employment of the Handicapped, Employment Discrimination Because of Age, Utilization of Disadvantaged Business Enterprises and the related Acts and Executive Orders, or, in Canada, the right to equal treatment with respect to employment without discrimination and freedom from harassment in the workplace as provided in the OHSA and the Human Rights Code (Ontario), and any similar applicable state or provincial legislation, as now or hereafter

amended or codified and any similar laws of the jurisdiction of production or destination of the Goods.

(c) Compliance Policies. If Buyer is directed or required by its Customer to provide information, adopt policies, certify compliance with standards or Laws, or perform similar actions, then Seller shall cooperate and comply with such Customer requirements as directed by Buyer. By way of illustration and not limitation, for purpose of compliance with Section 1502 of the Dodd–Frank Wall Street Reform and Consumer Protection Act, Seller shall supply all certifications and information relating to “Conflict Minerals” (as defined in the Act) in such form and at such time as requested by Buyer or its Customer. Additionally, Seller shall comply with all Buyer policies relating to compliance with legal, regulatory and social obligations, including, by way of example and not limitation, Buyer’s Conflict Minerals policy, as posted on Buyer’s supplier portal (which may be amended from time to time). Seller also shall contractually require its supply base (and its suppliers’ supply base) to comply with all obligations under this paragraph.

(d) Controlled Substances. Seller warrants that each chemical substance constituting or contained in the Goods sold is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control Act (15 U.S.C. Sec. 2601 *et. seq.*) as amended, and any similar laws of the jurisdiction of production or destination of the Goods (including without limitation, the Environmental Protection Act in Canada) and that the Goods are not hazardous under any national, state/provincial, and/or local law of the jurisdiction of production or destination, except as clearly stated on the shipping and storage containers.

(e) Safety of Goods. Seller warrants that the Goods shall be in compliance with applicable sections of the American (i) Federal Consumer Product Safety Act (15 U.S.C. Sec. 2051 *et. seq.*) as amended, (ii) Federal Hazardous Substances Act (15 U.S.C. Sec. 1261 *et. seq.*) as amended, and (iii) National Traffic and Motor Vehicle Safety Act, as amended, and standards and regulations thereunder, and with applicable sections of the Canadian (i) Consumer Products Safety Act, as amended, (ii) Hazardous Products Act, as amended, (iii) Motor Vehicle Safety Act, as amended, and (iv) Transportation of Dangerous Goods Act, as amended, and standards and regulations thereunder, and any similar laws of the jurisdiction of production, routing or destination of the Goods. Seller shall supply to Buyer material safety data sheets on all Goods to each location to which there has not been a prior shipment. Upon the request of Buyer, Seller shall provide Buyer with access to and copies of any other Data, materials or other information, including any formulas or analyses, that: (i) relate to the Goods, their composition, any component or part of the Goods, or any materials or substances used in the Goods or in connection with their production; and (ii) are needed, as determined by the requestor, to enable compliance with any requirement of a government (either mandated or voluntarily agreed upon by Buyer or any of its Affiliates) relating to the hazardous, toxic or other content or nature of the Goods, or the ability to dispose of or recycle the Goods or any component, part or materials in the Goods. Seller shall comply with Buyer’s and Customer’s requirements relating to the use (or prohibition on use) of certain materials and substances in the Goods

and shall utilize and comply with Buyer's reporting processes and requirements relating to any such Data, materials or other information (such as the International Material Data System).

(f) Labor Standards. Seller warrants that the Goods produced in the United States shall be produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended, including Section 12(a) thereof and Seller shall insert a certificate to that effect on all invoices submitted in connection with an Order. Seller warrants that the Goods produced outside the United States shall be produced in facilities that comply with local law and any safety, labor or employment, and environmental standards adopted by Buyer. Seller and its subcontractors shall comply with all applicable laws relating to labor relations and human rights in the production of Goods and its work places. Seller warrants that no child, prison, forced or involuntary labor shall be used by Seller or its subcontractors in the production of Goods. Seller and its subcontractors shall maintain a work place free from physical abuse and any practice in violation of local law. Seller and its subcontractors shall provide a healthy, safe work environment, wages and benefits as required by law, freedom of association and reasonable working conditions

(g) Vehicle Safety and Other Protective Laws. Seller warrants that it and the Goods shall comply with all applicable national, state/provincial and local statutes, rules and regulations directly or indirectly relating to the manufacture of vehicles, vehicle equipment, vehicle materials or vehicle supplies, as well as compliance with similar statutes and rules effective in North America, including, but not limited to: (a) the North American Free Trade Agreement and the North American Free Trade Agreement Implementation Act; (b) in the United States of America, the American Automobile Labeling Act; Section 329 of the Motor Vehicle and Cost Savings Act, as amended; Fastener Quality Act; the Hazardous Materials Transportation Act, as amended, as well as all laws and regulations related or applicable thereto (including, but not limited to, 49 C.F.R. Part 171 *et. seq.*); Title 48, Code of Federal Regulations, Section 52-219-8 (Utilization of Small Business Concerns), Section 52.225-11 (Restrictions on Certain Foreign Purchases), Section 52.222-21 (Prohibition of Segregated Facilities), Section 52.222-26 (Equal Opportunity), Section 52.222-35 (Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era and Other Eligible Veterans), Section 52.222-36 (Affirmative Action for Workers with Disabilities), Section 52.222-37 (Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans), and Section 52.222-41 (Service Contract Act); the Federal Motor Vehicle Safety Standards and rules, regulations and procedures promulgated by the National Highway Traffic Safety Administration of the United States Department of Transportation under the Safety Acts, and rules, regulations and procedures promulgated by the National Institute of Standards and Technology of the Department of Commerce to implement the provisions of the Fastener Quality Act; and (c) in Canada, the Motor Vehicle Safety Act, as amended, the Determination of Country of Origin for the Purposes of Marking Goods (NAFTA Countries) Regulation, the Transportation of Dangerous Goods Act, as amended, the Hazardous Products Act, as amended, the Consumer Product Safety Act, as amended, and the rules, regulations and procedures promulgated by Natural Resources Canada and Transport Canada. Seller shall provide to Buyer originals or copies

of the test reports and reports to government agencies related to the satisfaction of such legal requirements upon the earliest of their availability or the date required by law or Buyer.

(h) Export and Economic Sanctions Laws. This Order and all items furnished by Buyer to Seller in connection herewith shall at all times be subject to the applicable export control, economic sanctions and anti-terrorism laws and regulations of Canada and the U.S., Nuclear Safety and Control Act, United Nations Act, Special Economic Measures Act, Criminal Code, and in the case of the United States including, but not limited to, 10 CFR Part 810 and U.S. Export Administration Regulations, Nuclear Technology Regulations, and the embargoes and economic sanctions administered by the Office of Foreign Assets Control. Seller warrants that no equipment, materials, services, technical data, technology, software or other technical information or assistance furnished by Buyer, or any product thereof, shall be exported or re-exported by Seller or its authorized transferees, if any, directly or indirectly, except to the consignee(s), if any, specified on this Terms, and in accordance with applicable U.S. export control, economic sanctions and anti-terrorism laws and regulations. Further, Seller warrants that no such export or re-export will be made without the prior explicit authorization, in writing, of Buyer and in accordance with any applicable Canadian, U.S. or other relevant export control, economic sanctions and anti-terrorism laws and regulations. The obligations in this Section shall survive any satisfaction, expiration, termination or discharge of any other contract obligations.

(i) Minority Certifications. Seller shall maintain any minority and other favored group certifications existing at the time an Order is issued and advise Buyer in writing of changes to or loss of such certifications. Seller shall provide to Buyer small and/or minority (including women) owned business utilization and demographic data upon request and Seller shall comply with Buyer's programs to increase the value-added by small and minority-owned businesses, to the extent not prohibited by law.

(j) Anti-Dumping and Countervailing Duties. Seller warrants that all sales made under an Order shall be made in circumstances that will not give rise to the imposition of new anti-dumping or countervailing duties under United States law (19 U.S.C. Sec. 1671 et. seq.), European Union (Council Regulation (EC) No. 384/96 of December 22, 1995, Commission Decision No. 2277/96/ECSC of November 28, 1996), similar laws in such jurisdictions or the law of any other country to which the Goods may be exported. If countervailing or anti-dumping duties are imposed that cannot be readily recovered from Seller, Buyer may terminate an Order with no further liability of any nature whatsoever to Seller. If any jurisdiction imposes punitive or other additional tariffs on Goods subject to an Order in connection with a trade dispute or as a remedy in an "escape clause" action or for any other reason, Buyer may, among its options, treat such increase in duties as a condition of force majeure.

23. Assignment, Subcontracting and Replacement Orders. Assignment by Seller of an Order or any interest therein, or any payment due or to become due to Seller, without the prior written consent of Buyer, shall be void and not binding on Buyer. Subcontracting any part of an Order without the prior written consent of Buyer

is prohibited. Buyer shall not be obligated to any subcontractor for the product or services of any subcontractor whether or not Buyer has consented to or designated a subcontractor. Approval of a subcontractor is not a release or waiver of any obligation of Seller or right of Buyer. Subcontracts related to Seller's performance under an Order shall automatically be for the benefit of Buyer without obligating Buyer. Seller is responsible for all actions or inactions of any subcontractor and shall bind its subcontractors for the benefit of Seller and Buyer to perform its obligations under these Terms. Buyer may assign or subcontract any of its rights or obligations and Seller waives any right to demand adequate assurances of performance. Seller consents to the issuance by an Affiliate of Buyer of a purchase order that replaces in part or in whole an existing Order and is binding on Seller without acceptance by Seller. These Terms and other provisions of an Order shall apply to the replacement. If the replacement requires a change in Seller's obligations, such as a change in the place of delivery, it shall be treated as a change of an Order under these Terms.

24. **Set-Off.** Buyer shall have the right to reduce, set-off and recoup against amounts payable under an Order any indebtedness or other claim which Buyer, its parent, subsidiaries or affiliates, may have against Seller under an Order.

25. **Indemnification.** Seller at its expense shall defend (at Buyer's request), indemnify and hold harmless Buyer and its successors, assigns, and Customers and their respective employees, agents, contractors or representatives (collectively "Indemnified Parties") with respect to any claim, demand, action, suit, application, cause of action, assessment or reassessment, charge, judgment, debt, liability, expense, cost, damage, including for damages to property and personal injury (including death), or loss, contingent or otherwise, including loss of value, reasonable professional fees, including the actual reasonable fees of legal counsel and other professionals' fees, and all costs incurred in investigating or pursuing any of the foregoing, or in any proceeding relating to any of the foregoing (collectively a "Claim") that may be brought against an Indemnified Party directly or indirectly related to:

(a) any actual or alleged infringement of any present or future Intellectual Property right or other proprietary right based on Seller's activity under an Order, or the manufacture, sale or use of the Goods: (i) alone; (ii) in combination by reason of their content, design or structure; or (iii) in combination in accordance with Seller's recommendations, even if Buyer furnishes all or any portion of the design and specifies all or any portion of the processing used by Seller;

(b) the condition, labeling, engineering, use, sale, storage, design, manufacture, safety, and other matters relating to the Goods whether or not incorporated in another product, if the damages claimed were not caused solely by Buyer or a third party;

(c) any act or omission of Seller, its agents, employees or subcontractors arising under or related to an Order, including Seller's provision of inaccurate documentation or failure to provide timely cooperation;

(d) any injury (including death) to persons or damage to property during the progress of work by Seller on the premises of Buyer or one of its Customers, except to the extent that any such injury (or death) or damage is due solely and directly to the negligence of Buyer or the Customer;

(e) any failure of Goods supplied by Seller to conform to Seller's warranties, including all expenses and costs of any Recall arising from such non-conformance, and/or any flaw or negligence in the design or manufacture of the Goods;

(f) the selection, installation, use, possession, storage or repair of Furnished Property by or on behalf of Seller;

(g) payment of toolmakers for Furnished Property;

(h) any allegations of improper or illegal dispositions of the Goods, except for grossly negligent dispositions by Buyer;

(i) any countervailing duties or other customs related taxes, tariffs or other charges, or penalties which may be imposed and, to the extent permitted by law, any preliminary dumping duties that may be imposed on the sale of Goods under an Order; and

(j) any lien by subcontractor of Seller or any lower tier subcontractor under it.

26. **Applicable Law, Jurisdiction, Waiver of Liens and Sovereignty.**

(a) Applicable Law and Jurisdiction. An Order shall be governed by, construed under and enforced under the laws of Michigan, other than its rules on conflicts of law. The parties adopt the law governing sales of goods in such jurisdiction at the time of an Order as the law governing the sale of goods hereunder, including the Uniform Commercial Code ("UCC"). The Convention on the International Sales of Goods shall not apply. The parties consent to the exclusive jurisdiction and the convenience of the United States District Court for the Eastern District of Michigan, Southern Division or the Circuit Court for the County of Oakland, State of Michigan, to resolve any issues arising under or related to an Order or the furnishing of Goods by Seller to Buyer provided that, at Buyer's sole option and discretion, Buyer may elect to file suit against Seller in any state or Federal court with jurisdiction over any location of Seller.

(b) Liens. Seller warrants that no lien shall be filed by Seller or anyone claiming under or through Seller against Buyer, the Goods, the Furnished Property, the site for delivery or installation of the Goods, or Buyer's Customer, for materials, labor, services, equipment or goods furnished as part of the Goods or Furnished Property. Seller waives any right it may have pertaining to, and agrees not to file or otherwise assert or prosecute or suffer or permit, any mechanic's, storage, materialman's, or other type of liens to be filed or continued against any property of Buyer. Seller shall insert the prior sentence

in any lower tier subcontract or purchase order for labor, equipment or materials furnished. If any such lien shall be filed by Seller's direct subcontractor, or any of its lower tier subcontractors, Seller shall take any and all steps necessary for the immediate release and discharge of such lien, in the manner required by applicable law, upon demand by Buyer. Seller shall secure and furnish to Buyer and its Customer, upon request, a waiver of lien from each subcontractor under it.

(c) **Commercial Activity; Absence of Immunity.** Seller represents it is subject to civil and commercial law with respect to its obligations under an Order to which it is a party, and the making and performance by it of an Order constitute private and commercial acts rather than public or governmental acts. Seller represents it and its respective properties are not entitled to immunity on the grounds of sovereignty or otherwise from the jurisdiction of any court or from any action, suit, set-off or proceeding, execution, or service of process in connection therewith, arising under an Order.

27. **Publicity.** Without obtaining the prior written consent of Buyer, Seller shall not in any manner advertise or publish the fact that Seller has contracted to furnish Goods to Buyer (or Buyer's Customers), or use any trademark or trade name of Buyer (or Buyer's Customers) in Seller's advertising or promotional materials. Seller shall not disclose or imply in its marketing that any of Seller's other products are equivalent to the Goods purchased by Buyer. If Seller breaches this Section, Buyer shall have the right, among its other remedies, to cancel the undelivered portion of any Goods covered by an Order and shall not be required to make further payments except for conforming Goods delivered or services rendered prior to cancellation.

28. **Entire Agreement and Modifications.** An Order (including these Terms) is intended by the parties as a complete and exclusive statement of the terms of their agreement. It supersedes all prior agreements, written or oral. There are no understandings, inducements, commitments, conditions, representations or warranties of any kind, whether direct, indirect, collateral, express or implied, oral or written, to Seller from or on behalf of Buyer other than as contained in these Terms or otherwise in an Order. No course of prior dealings between the parties and no usage of the trade may be used by Seller to supplement or explain any term used in an Order. All modifications must be in a writing signed by Seller and Buyer, except as otherwise provided in an Order.

29. **Waiver.** The failure of either party at any time to require performance by the other party of any provision of an Order shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver by either party of a breach of any provision of an Order constitute a waiver of any succeeding breach of the same or any other provision. Payment or performance by Buyer shall not constitute a waiver of any breach, right or remedy.

30. **Relationship of Parties.** Seller and Buyer are independent contracting parties and nothing in an Order shall make either party the agent, joint venturer or legal representative of the other for any purpose whatsoever, or grant either party any authority to assume or to create any obligation on behalf of or in the name of the other.



Although third parties may be referenced, there are no third party beneficiaries to an Order, except as specifically provided.

31. **Severability.** If any of these Terms or any Order is invalid or unenforceable under any statute, regulation, ordinance/by-law, or any other rule of law, such term shall be reformed or deleted, but only to the extent necessary to comply with such statute, regulation, ordinance/by-law, order or rule, and the remaining provisions of an Order shall remain in full force and effect. Any declaration of unenforceability of a provision hereof shall be as narrow as possible and shall not void an Order or any other provision.

32. **Seller's Notice of Claims.** COMMUNICATIONS FROM SELLER CONCERNING CLAIMS OF SELLER, INCLUDING AN INSTRUMENT TENDERED AS FULL SATISFACTION OF A DEBT OR CLAIMS, MUST BE SENT TO THE VICE-PRESIDENT OF PURCHASING OF BUYER.

**Revision History:**

Revision Level	Revision Date	Description of Change	Reviewed by:
001	9/27/16	New release of IAP document	Rathsburg
002	9/6/17	Title page from Inc. To LLC; Remove document number	Rathsburg