

**Cooper Standard Automotive Inc.**  
**General Terms and Conditions of Purchase**

**1. Offer/Acceptance; Formation of Contract.**

1.1 These General Terms and Conditions of Purchase ("**Terms**") are incorporated into and form a part of the contract for the purchase of the Products (the "**Purchase Order**"), which includes the purchase order, amended purchase order, and/or scheduling agreement issued by Buyer and any documents or provisions incorporated by reference under Section 39 below. The term "**Buyer**" refers to the buying entity at the delivery location designated on the Purchase Order and "Seller" refers to the entity designated as such on the Purchase Order. "**Products**" refers to the goods and/or services covered by the Purchase Order and, as to goods, includes all parts (including service or replacement parts), components, modules, systems, prototypes, software, drawings, repairs, and substitutions.

1.2 This Purchase Order is an offer by Buyer to purchase the Products from Seller limited to the Terms and those terms reflected on the face of Buyer's Purchase Order. The Purchase Order is effective, and a binding contract is formed, when Seller accepts Buyer's offer. Buyer may rescind any Purchase Order at any time prior to Seller's acceptance. Seller will be deemed to have accepted the Purchase Order in its entirety without modification or addition, notwithstanding any prior dealings or usage of trade, upon the earliest of: (i) Seller commencing work or performance with respect to any part of the Purchase Order; (ii) Seller delivering written acceptance of the Purchase Order to Buyer; (iii) shipment of Products or performance of services; or (iv) any conduct by Seller that fairly recognizes the existence of a contract for Buyer's purchase and Seller's sale of the Products. The Purchase Order is limited to and conditional upon Seller's acceptance of the terms of the Purchase Order. Any additional or different terms or conditions proposed by Seller, whether in Seller's quotation, acknowledgement, invoice, or otherwise, are deemed material and unacceptable to, and are rejected by, Buyer.

1.3 The Purchase Order does not constitute an acceptance of any offer, quote, or proposal made by Seller, and Seller acknowledges and agrees that: (a) a request for quotation or similar document issued by Buyer is not an offer by Buyer; and (b) any response by Seller to a request for quotation or similar document issued by Buyer is not an offer by Seller. Any reference in the Purchase Order to Seller's quote or other prior communication will not imply acceptance of any term, condition, or instruction but is solely to incorporate the description or specifications of the Products, but only to the extent that such description or specifications are not in conflict with the description and specifications in the Purchase Order. If Buyer's Purchase Order is found to be an acceptance of Seller's prior offer, then Buyer's issuance of a Purchase Order will constitute an acceptance of such offer subject to the express condition that Seller agrees to these Terms even if additional to or different from any terms and conditions in Seller's offer.

1.4 Buyer may submit any documents to be provided to Seller relating to the Purchase Order electronically, using electronic data transmission methods or web portal specified by Buyer. If requested by Buyer, Seller will submit invoices and other documents to be provided to Buyer relating to the Purchase Order or the Products electronically, using the electronic data transmission methods or web portal specified by Buyer. Buyer's electronic data interchange requirements are available in Buyer's Website (as defined below).

1.5 No purported acceptance of any Purchase Order on terms and conditions which modify, supersede, supplement, or otherwise alter these Terms will be binding upon Buyer, and such terms and conditions will be deemed rejected and replaced by these Terms unless Seller's proffered terms or conditions are accepted in a signed writing by Buyer's VP of Purchasing, notwithstanding Buyer's acceptance of or payment for any shipment of Products or similar act of Buyer.

**2. Volume and Duration.**

2.1 Unless a specific quantity is stated on the face of the Purchase Order, this Purchase Order is a requirements contract under which Buyer will purchase and Seller will sell all (or, if multiple sourced, the percentage or range as stated on the face of the Purchase Order) of the program requirements for the Products at Buyer's Plant (as defined below) for the duration of the Purchase Order. If no duration is specified, the duration of the Purchase Order is the applicable manufacturer's program production life (including extensions and model refreshes) as determined by Buyer's Customer. "**Buyer's Customer**" means any entity to which Buyer, directly or indirectly, sells the Products, or sells any goods or services into which the Products are incorporated, including any original equipment manufacturer and any upper tier supplier to an original equipment manufacturer. Seller acknowledges that the life of the applicable manufacturer's program is set by Buyer's Customer and may be shortened or extended beyond what the parties may have contemplated at the time of contracting. Seller assumes the risk that the life of the program may be extended or shortened and will not be entitled to any price adjustments

or other payments on account of such changes in duration. Nothing in this Section will be construed to limit or alter Buyer's rights of termination.

2.2 From time to time and in connection with requests for quotations, award letters, and Purchase Orders, Buyer may provide Seller with estimates, forecasts, or projections of its future volume or quantity requirements for the Products and/or the term of a program ("**Projections**"). Projections are not binding on Buyer. Seller acknowledges and agrees that Projections (a) may be based upon information supplied by Buyer's Customer, contain variables and assumptions based on economic and business factors, some or all of which may change over time, and may or may not be accurate at the time they were made or at any later time, and (b) are beyond the control of Buyer. Buyer makes no representation, warranty, or guaranty of any kind or nature, express or implied, regarding any Projections provided to Seller, including as to their accuracy or completeness. Seller acknowledges and accepts the risk that Projections may not be accurate and that actual volume or duration could be less than or greater than the Projections.

2.3 Seller warrants that its overall equipment (shared and specific) and plant capacity are adequate to meet Buyer's Projections taking into account maintenance and other downtime. Buyer is not obligated to pay Seller any incremental costs due to volume fluctuations. The requirement for capacity is not a volume, program, or other commitment by Buyer.

2.4 Seller acknowledges that Buyer is purchasing Products for use in a tiered supply chain, or under other circumstances in which timely manufacture and delivery is required, and that Buyer is relying upon Seller's agreement to timely manufacture and deliver to Buyer the Products at the price, in the quantities, and on the other terms and conditions of the Purchase Order to allow Buyer to fulfill its contract to sell goods which incorporate the Products to Buyer's Customer. Accordingly, Seller may not terminate the Purchase Order before expiration. In addition, Seller agrees that it will not withhold or threaten to withhold the supply of Products at any time. Seller acknowledges that the supply of Products is critical to the operations of Buyer's Customers and agrees that Buyer will be entitled to seek equitable remedies without the requirement to post a bond or prove inadequacy or insufficiency of money damages.

### **3. Releases and Delivery.**

3.1 Seller will manufacture and ship the Products in such quantities and at such time as (a) set forth in Buyer's Purchase Order, or (b) if a requirements contract, set forth in delivery schedules and/or releases ("**Releases**") that are transmitted to Seller from time to time during the term of the Purchase Order and after consideration by Buyer of lead times (not to exceed two weeks unless otherwise agreed to in writing by Buyer) at the price and on the other terms specified in the Purchase Order. Releases are incorporated into, and are an integral part of, the Purchase Order and are not independent contracts.

3.2 Deliveries will be made to "**Buyer's Plant**", the address of which appears on the face of the Purchase Order. Time and quantities are of the essence with respect to all delivery schedules established by Buyer, and Seller will at all times achieve one hundred percent (100%) on-time delivery and support up to a 20% increase in deliveries compared to prior week's forecast. If, as the result of any of Seller's acts or omissions, Seller fails to timely meet Buyer's delivery requirements and more expeditious methods of transportation for the Products are available, Seller will ship the Products by a transportation method that will meet Buyer's delivery requirements or, if that is not possible, by the most expeditious transportation method possible. In either such case, Seller will be solely responsible for any incremental costs due to the more expeditious transportation method as well as for all Losses (as defined below) incurred by Buyer arising out of the failure of Seller to timely deliver conforming Products.

3.3 Buyer is not obligated to accept early deliveries, late deliveries, partial deliveries, or any other delivery that is not a 100% conforming delivery. Buyer will only be obligated to pay the Purchase Order price for conforming Products actually delivered and accepted. Deliveries in advance of Buyer's specified delivery dates or of quantities in excess of those authorized by Buyer will be at Seller's risk of loss, and may, at the sole option of Buyer, be returned to Seller or disposed of by Buyer without any liability to Seller. If Buyer elects in its sole and absolute discretion to accept one or more nonconforming deliveries, such acceptance will not constitute a waiver of Buyer's right to reject any other shipment which does not conform.

3.4 Buyer may change the delivery rate of previously scheduled shipments or direct temporary suspension of scheduled shipments from time to time in its sole and absolute discretion, neither of which actions will entitle Seller to modify prices or other terms or conditions set forth in the Purchase Order.

3.5 Upon written request by Buyer, Seller will manufacture Products in excess of Buyer's current requirements as a reserve for shipment at such levels as may be set by Buyer from time to time in its sole and

absolute discretion, for such reasons including an anticipated or actual inadequacy of supply or other uncertainty relating to the supply or delay in the performance of Seller's obligations. Until such reserve Products are purchased by Buyer, they will remain the property of Seller and will be held by Seller at its sole risk and expense.

#### **4. Shipping.**

4.1 All Products will be suitably packed, marked, and shipped in accordance with Buyer's specifications or instructions, requirements of the relevant carrier, and the laws and regulations of the country of manufacture and the country of destination. In the case of Products for use in motor vehicle manufacturing, if Buyer provides no packing requirements, Seller will pack the Products in accordance with the applicable Automotive Industry Action Group packing standards. If Buyer has not designated a shipping method, Products will be shipped in a manner to secure the lowest transportation cost to Buyer.

4.2 Unless otherwise specified in the Purchase Order, Products will be delivered FCA loaded at Seller's location (Incoterms 2020). No charge will be made to Buyer for packaging, handling, storage, or returnable containers unless otherwise stated in the Purchase Order.

4.3 All shipments will be accompanied by packing slips reflecting the information required by Buyer's Policies (as defined below) available on Buyer's Website. If requested, Seller will include bar-codes matching Buyer's specifications with all delivered material. Where multiple packages comprise a single shipment, each package will also be consecutively numbered.

#### **5. Ingredients and Hazardous Materials.**

5.1 Whenever required by applicable law or upon Buyer's request, Seller will promptly furnish to Buyer, in such form and detail as contained in Buyer's Policies or otherwise as Buyer directs, a material safety data sheet including at a minimum: (a) a list of all substances or ingredients in the Products, (b) the quantity of all such substances and ingredients, and (c) information concerning any changes in or additions to such substances and ingredients as required by Buyer or Buyer's Customer, and will provide and cause its own suppliers to provide all information requested by Buyer in order to comply with Buyer's reporting or labeling obligations (whether imposed by law or contract) with respect to the ingredients of the Products, including any obligations concerning hazardous materials and conflict minerals.

5.2 Prior to, and together with, the shipment of the Products, Seller will furnish to Buyer and all carriers sufficient written warnings and notices (including appropriate labels on the Products, containers, and packaging) of any hazardous material that is an ingredient or a part of any of the Products, together with all special handling instructions, safety measures, and precautions as may be necessary to comply with applicable law and Buyer's Policies, so as to inform Buyer and all carriers of any applicable legal requirements and to best allow Buyer and all carriers to prevent bodily injury or property damage in the handling, transportation, processing, use, or disposal of the Products, containers and packaging.

5.3 All goods and property of Seller or any of Seller's employees, agents, or contractors brought to Buyer's Plant will be removed by Seller at Seller's expense, upon Buyer's request, and disposed of in accordance with applicable law. Seller will at all times comply with all environmental, safety, and other rules and regulations of Buyer and as required by applicable law.

#### **6. Price, Payment Terms, and Invoices**

6.1 Seller acknowledges that Buyer's pricing to Buyer's Customers for goods that incorporate the Products is based on pricing received from Seller for the Products. Unless otherwise stated in the Purchase Order, prices are firm fixed prices for the duration of the Purchase Order and are not subject to increase for any reason, including specifically any increase based upon changes in currency fluctuations, raw material, changes in volumes or program length from those forecasted, taxes, tariffs or duties, transportation costs, component pricing, volumes, labor, or overhead, or program duration unless authorized by Buyer in an amended Purchase Order. The prices are inclusive of storage, handling, packaging, and all other expenses and charges of Seller.

6.2 Seller represents that the prices and terms for the Products covered by the Purchase Order are no less favorable to Buyer than Seller currently offers to any other customer for the same or similar products or services in similar quantities. Seller agrees that should more favorable prices or terms be provided to any other customer for the same or similar products or services in similar quantities, Buyer will be provided the same price and terms as of the time they were first offered to another customer. Seller agrees that any price reduction made in goods or services of the type covered by the Purchase Order subsequent to the placement of the Purchase Order will

be applicable to Products purchased under the Purchase Order, and Buyer will be entitled to an appropriate credit for the amount of such reduction. Seller's price will not exceed the lowest prevailing market price, and in no event is the Purchase Order to be filled at prices higher than the last prices previously quoted or charged by Seller, whichever is lower, without the prior written consent of an authorized representative of Buyer. Any reduction in Seller's cost resulting from a reduction in freight rates, custom duties, import taxes, excise taxes, sales taxes, and/or other costs from those in force on the date of the Purchase Order will result in a corresponding reduction of the price of the Products ordered by Buyer. Seller will provide Buyer and its representatives with reasonable access to Seller's records as will be requested by Buyer to confirm billing and to enable Buyer to calculate invoiced amounts.

6.3 Seller agrees to participate fully with Buyer with respect to value analysis and value engineering or other continuous improvement programs or initiatives related to the Products. Seller will use all reasonable efforts to reduce costs through Product standardization and rationalization. All cost reductions achieved as a result of this Section 6.3 will serve to reduce the purchase price as indicated in the Purchase Order unless otherwise mutually agreed upon in writing.

6.4 Payment terms and any discounts for early payment will be as set forth in the Purchase Order. If no payment term is specified, payment terms will be net 60 days. Buyer reserves the right to change payment terms from time to time to adjust to industry standards. The payment dates for the Purchase Order will be calculated from the date acceptable invoices are received or the date conforming Products are received at Buyer's Plant, whichever last occurs. Invoices will conform to any requirements provided to Seller in writing and/or set forth in Buyer's Policies, and Buyer may reject any invoices that do not conform to such requirements.

6.5 Any cash discount or settlement discount period offered by Seller will be calculated from the date acceptable invoices are received or the date conforming Products are received at Buyer's Plant, whichever last occurs. Unless freight, taxes, and other charges are itemized, any discount will be taken on the full amount of the invoice. All payments are subject to adjustment for shortage or rejection.

6.6 If an obligation of Seller or any of its subsidiaries or affiliates 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

6.7 If Seller was directed, requested, suggested, or otherwise identified to Buyer as a source of the Products (including by use of specifications which make engaging other sellers impractical) ("**Directed Supplier**"): (a) Buyer will have the option to pay Directed Supplier for the Products only following and to the extent of Buyer's actual receipt of payment from the relevant Buyer's Customer for Buyer's goods in which the Products are incorporated; (b) any lengthening of any payment terms by the relevant Buyer's Customer will automatically lengthen the payment terms to the Directed Supplier by a like amount; (c) within three (3) business days of any change in price, specifications or other terms negotiated or proposed between Directed Supplier and the relevant Buyer's Customer, Directed Supplier will notify Buyer in writing and will immediately adjust its invoices to reflect any price reduction, provided that no increase in price will be binding on Buyer without Buyer's written consent and a commitment by the relevant Buyer's Customer to pay Buyer an proportionately increased price for Buyer's goods that incorporate the Products.

## **7. Taxes.**

7.1 Except as may be otherwise provided on the face of the Purchase Order, the purchase price includes, and Seller will pay, all federal, state, provincial, or local taxes, duties, and fees imposed by any governmental authority applicable to provision of the Products.

7.2 Where Seller is required by law to collect any taxes for which Buyer has not furnished evidence of an exemption to Seller, Seller will separately state on its invoice any such taxes lawfully applicable to the Products and payable by Buyer. Seller will not collect any such taxes if Buyer has provided evidence of an exemption. Seller will comply with all requirements imposed on Seller by any applicable taxing statutes and will indemnify Buyer against any amounts assessed against Buyer arising from Seller's failure to so comply. Seller will provide Buyer with all documents Buyer may require to claim a credit, rebate, refund, or other relief from such taxes.

7.3 Buyer will withhold from payments to Seller all amounts Buyer is required by applicable law to withhold. Buyer will pay the amount withheld to the relevant governmental authority in accordance with applicable law and, upon Seller's request, provide Seller with a copy of any receipt for payment issued by the governmental authority.

## **8. Inspection and Acceptance.**

8.1 At all reasonable times, Buyer and Buyer's Customer may, but will be under no obligation to, inspect and/or test the Products to be furnished under the Purchase Order at the locations where the Products are being manufactured or work is being performed, including those of Seller's suppliers. Seller will provide, without additional charge, reasonable facilities, and assistance for safe and convenient inspection and/or testing. Neither Seller nor Seller's suppliers will change the location where Products or their components/raw material are being manufactured or work is being performed without the prior written consent of Buyer and/or Buyer's Customer and PPAP approval (as defined in Section 9.6).

8.2 Neither Buyer's failure to conduct an inspection nor Buyer's payment for any nonconforming Products will constitute Buyer's acceptance of such Products, limit Buyer's right to assert any remedy available to it, or relieve Seller of any of its warranties or obligations under the Purchase Order. If Buyer elects to inspect the Products, Buyer may at any time during Buyer's production process conduct one hundred percent (100%) inspection of Products or any lot of Products or, at Buyer's option, Buyer may select and inspect samples of Products, and Buyer will have the right to reject all or any portion of the Products or lot of Products if any such inspection reveals that any Product is defective or nonconforming, and Buyer may require Seller to pay all costs related to such inspection, including charges for sorting. If a delivery of any Products or lot of Products contains replacement or corrected Products, Seller will disclose to Buyer the extent of all prior rejections included in such delivery.

8.3 Notwithstanding payment, passage of title to Buyer, or any prior inspection or testing, all Products are subject to final inspection and acceptance or rejection at Buyer's Plant.

## **9. Supplier Quality Management.**

9.1 Seller will provide and maintain a quality management system so that all Products delivered to Buyer conform to the requirements of the Purchase Order, whether manufactured or processed by Seller or by Seller's suppliers. Seller will continually seek to improve the quality of the Products.

9.2 Without limiting Section 9.1, Seller will comply with all requirements, policies, procedures, and standards specified by Buyer in the Cooper Standard Global Supplier Quality Manual, as updated from time to time and documented on Buyer's Supplier Portal, which are hereby incorporated into the Purchase Order by this reference. Seller can obtain a copy of the Cooper Standard Global Supplier Quality Manual at <https://www.cooperstandard.com/public-data>. If required by Buyer or Buyer's Customer, Seller will be certified, at Seller's expense, to comply with the applicable quality standards by a third party acceptable to Buyer.

9.3 Seller will maintain adequate records of all inspections, tests, and the corrective action taken by Seller with respect to nonconforming Products. Such records will include such information and meet such other requirements as may be required by applicable standards or as otherwise required by Buyer. Such records will be retained by Seller for the period set forth in Section 35 and will be subject to Buyer's audit at any time.

9.4 Seller is responsible for all sub-tier providers of goods or services. Seller must maintain adequate development, validation, launch, and ongoing supervision to assure all Products provided to Buyer conform to all specifications, standards, drawings, samples, and descriptions, including as to quality, performance, fit, form, function, and appearance, under the Purchase Order.

9.5 Seller will ensure that, at all times, Seller remains competitive in terms of price, quality, delivery, technology, and service with respect to the supply of the Products.

9.6 For Products used in motor vehicle manufacturing, Seller agrees to meet the full requirements of industry Production Part Approval Processes ("PPAP") as specified by Buyer on Buyer's Website and (as applicable) Buyer's Customer and agrees to present this information to Buyer upon request, at the level requested.

## **10. Flow through of Customer Obligations.**

10.1 Seller will support all supplier initiatives of Buyer and support Buyer in meeting the initiatives of Buyer's Customers. Upon Seller's written request, Buyer will cooperate with Seller to explain or provide to Seller the terms, conditions, and requirements of Buyer's Customers.

10.2 Seller's business is customer focused, and Seller agrees to work with Buyer to meet the requirements of Buyer's Customers. It is the intent of both Seller and Buyer that the applicable terms, conditions, and requirements of Buyer's Customer will flow through Buyer to Seller. Therefore, in the event that any requirement imposed on Seller by any Purchase Order is found to be unenforceable or a gap is otherwise created in the terms applicable to any Purchase Order through operation of law, conflict in terms, or otherwise, the parties agree that the corresponding requirement of Buyer's Customer will be applicable to and binding on Seller for the benefit of Buyer. Seller agrees, notwithstanding any such conflict or gap, to indemnify and hold harmless Buyer from any and all claims and demands or Losses from Buyer's Customer relating to any actual or alleged problem or issue with the Products supplied by Seller under any Purchase Order or the manner of such supply.

11. **Nonconforming Products.** Buyer and Seller agree that if any Products delivered pursuant to the Purchase Order are nonconforming in any manner, Buyer may, at its option and without limiting its other remedies for a default under the Purchase Order: (a) reduce the quantities of Products ordered under the Purchase Order by any amount, (b) require Seller to replace nonconforming Products, (c) return to Seller, or dispose of without any liability to Seller, any nonconforming Products and receive full credit for the price of such Products and any costs associated with inspecting, sorting, and returning such Products, (d) either itself or through others, rework, correct or otherwise alter any such Products for the purpose of making them conforming or less nonconforming, or (e) exercise any other remedies available to it under the Purchase Order or applicable law. All Losses associated with any of the foregoing remedies will be the responsibility of Seller and may be deducted by Buyer from any amount due to Seller.

## 12. **Product Warranties.**

12.1 In addition to any other express or implied warranties provided by applicable law or otherwise, Seller warrants and guarantees to Buyer, its successors, assigns, and Buyer's Customers that each Product: (a) does not, and is not claimed to, violate any patent, trademark or copyright, and may be properly imported into the United States or any other country of delivery; (b) will be new and strictly conform with all specifications, drawings, statements on containers or labels, descriptions and samples furnished to or by Buyer, and all industry standards, laws, and regulations in force in countries where such Products or vehicles equipped with such Products are to be sold; (c) will be free from defects in design, materials, and/or workmanship ; (d) will be new and free and clear of all liens, claims, or other encumbrances; (e) will be merchantable, of good material and workmanship, fit and sufficient for the particular purposes intended by Buyer, which purposes Seller acknowledges are known to it; (f) will be adequately contained, packaged, marked, and labeled; and (g) will be manufactured in accordance with, and conform to, all applicable federal, state, and local laws, regulations, industry standards, or other standards, labeling, transporting, licensing approval or certification requirements, QS 9000, ISO 14001, IATF 16949, PPAP, APQP, and the various OEM End of Life Vehicle reporting and other requirements in the United States or any other country where the Products will be sold or used. In the case of services, Seller further warrants that all services provided by Seller will be performed in a competent, timely, professional, and workmanlike manner, consistent with all requirements, statements of work, and specifications required by Buyer and prevailing industry standards by employees and agents with the proper skill, training, and background, and where applicable, will be certified, licensed, or otherwise authorized as necessary to perform the services.

12.2 The "**Warranty Period**" will be the longest of: (a) five (5) years, (b) the period provided by applicable law, or (c) the warranty period Buyer provides Buyer's Customers for goods that include the Products. All warranties of Seller extend to future performance of the Products and are not modified, waived, or discharged by delivery, inspection, tests, acceptance, and/or payment. Buyer's approval of any design, drawing, material, process, or specifications will not relieve Seller of these warranties. Seller waives any right to notice of breach. The warranties in this Section 12 are intended to and will provide Buyer with protection from any and all warranty claims brought against Buyer by Buyer's Customer and their respective customers, successors, and assigns, relating in any manner to the Products.

12.3 In the event of a breach of warranty, Buyer will have the right, in addition to exercising all other rights Buyer may have under the Uniform Commercial Code and any other applicable law, to take the following actions, at Buyer's option: (a) retain the nonconforming Products in whole or in part with an appropriate adjustment in the price for the Products; (b) require Seller to repair or replace the nonconforming Products in whole or in part at Seller's sole expense, including all shipping, transportation, and installation costs; (c) correct or replace the nonconforming Products with similar items and recover the total cost relating thereto from Seller, including the cost of product recalls; or (d) reject the nonconforming Products.

12.4 At Buyer's request, Seller will fully participate in any root cause investigation or analysis conducted by Buyer and/or Buyer's Customer relating in any manner to the failure of the Products and provide all information requested by Buyer concerning the Products. In the event that the root cause analysis of a warranty failure is

inconclusive but implicates the Products, the extent of Seller's liability will be based upon a good faith allocation by Buyer of the responsibility for the warranty failure.

12.5 In the event that Buyer or Buyer's Customer voluntarily or pursuant to a government mandate, makes an offer to owners of vehicles (or other finished goods/products) on which the Products, or any parts, components, or systems incorporated in the Products are installed, to provide remedial action to address a defect or condition that relates to motor vehicle safety or reliability or the failure of the vehicle to comply with any applicable law, safety standard, or guideline, whether in connection with a recall campaign or other customer satisfaction or corrective service action (a "**Remedial Action**"), the Warranty Period will continue for such time period as may be dictated by Buyer's Customer or the federal, state, provincial, local, or foreign government where the Products are used or provided, and Seller will fully comply with the requirements of the Purchase Order.

12.6 If requested by Buyer, Seller will fully participate in and comply with warranty reduction or related programs of Buyer or Buyer's Customer that relate to the Products.

12.7 Notwithstanding the expiration of the Warranty Period, Seller will nonetheless be liable for costs and damages associated with any Remedial Action to the extent that such Remedial Action is based upon a reasonable determination (including by use of statistical analysis or other sampling methodology) that the Products fail to conform to the warranties set forth in the Purchase Order. Where applicable, Seller will pay all reasonable expenses associated with determining whether a Remedial Action involving the Products is necessary. Buyer and Seller agree that any Remedial Action involving the Products will be treated separately and distinctly from similar Remedial Actions of other goods of Seller; provided that such separate and distinct treatment is lawful. Seller will in no event fail to provide at least the same protection to Buyer on such Products as Seller provides to its other customers in connection with such similar Remedial Actions.

12.8 If the goods or services sold by Buyer which incorporate the Products are subject to a Remedial Action, the extent of Seller's liability will be based upon a good faith allocation by Buyer of responsibility for the Remedial Action. Buyer will notify Seller as soon as reasonably practicable after Buyer learns in writing that a Remedial Action being considered implicates the Products, and thereafter provide Seller with the data provided to it by Buyer's Customer relating to the potential Remedial Action. In the event Buyer's Customer sets-off the cost of a Remedial Action against sums due to Buyer, and Buyer and/or Buyer's Customer determines, in good faith, that the Remedial Action was caused by the failure of the Products to conform to the quality standards and/or warranties in these Terms, in whole or in part, Buyer may setoff the costs to Buyer of the Remedial Action against sums due to Seller prior to the allocation of responsibility set forth above.

12.9 Notwithstanding Section 12.2, Seller agrees to waive the expiration of the Warranty Period in the event there are failures or defects discovered after the Warranty Period of a significant nature or in a significant portion of the Products, or a defect is discovered which, in Buyer's reasonable opinion, constitutes a threat of damage to property or to the health and safety of any person.

### **13. Default and Remedies.**

13.1 Seller will be in default under the Purchase Order if: (a) Seller does not comply with the Purchase Order in all respects, (b) any Products provided by Seller do not conform to the warranties or other requirements of the Purchase Order, whether such nonconformity is discovered before or after acceptance by Buyer, (c) Seller makes an assignment for the benefit of creditors, or proceedings in bankruptcy or insolvency are instituted by or against Seller, or (d) at any time in Buyer's sole judgment Seller's financial or other condition or progress on the Purchase Order may be such as to endanger the quality of the Products or Seller's timely performance.

13.2 Upon any default under the Purchase Order, in addition to all other remedies in the Purchase Order or under applicable law or in equity, Buyer may exercise any one or more of the following remedies at Buyer's option: (a) cancel or delay delivery of all or any portion of the Purchase Order without liability, except the obligation to pay the purchase price for conforming Products received by Buyer prior to cancellation and accepted in accordance with the Purchase Order (subject to Buyer's setoff rights), (b) require Seller to repair or replace any or all Products determined by Buyer to be nonconforming, at Seller's sole expense, either at Buyer's Plant or at any other location designated by Buyer, (c) require Seller to pay all transportation and other charges arising from delivery, storage and return of Products, (d) purchase replacement Products from a third party and recover from Seller any excess in the price of the same over the price agreed with Seller, (e) recover from Seller any and all Losses relating to such default and any debits or setoffs made by Buyer's customer as a result of such default, (f) in the event of late delivery, impose a charge of 0.5% of the price specified in the Purchase Order for Products delivered late for each full week that delivery is late, and (g) recover reasonable attorneys' fees and costs of suit plus interest on all Losses at the highest rate permitted by applicable law.

13.3 In addition to any and all other remedies available to Buyer under the Purchase Order or applicable law, in the event of termination or breach or anticipatory breach of the Purchase Order for any reason and, on account of the breach, the continuous manufacture and delivery of the Products is immediately threatened, Seller grants Buyer (a) the right to enter Seller's facilities, and (b) the right to access Buyer's Property and Seller's Property (as defined below) in Seller's facilities at any and all times to do one of the following, at Buyer's option in its sole discretion: (i) enable Buyer's employees and/or designated representatives to use Buyer's Property and Seller's Property (as defined below) to manufacture and obtain sufficient quantity of the Products to meet Buyer's obligations to Buyer's Customer; and/or (ii) hire Seller's employees (at Buyer's cost and expense subject to Buyer's right to recover such expenses under the Purchase Order) to use Buyer's Property and Seller's Property to manufacture and obtain sufficient quantity of the Products to meet Buyer's obligations to Buyer's Customer.

13.4 No delay by Buyer in the enforcement of any provision of the Purchase Order will constitute a waiver, and no waiver given on one occasion will constitute a waiver on any other occasion or of any other provision.

#### **14. Indemnification.**

14.1 To the fullest extent permitted by law, Seller will indemnify, defend, and hold harmless Buyer, its affiliates, Buyer's Customers, each other third party to which Products are provided, and any party Buyer is required to indemnify with respect to the Products, and each of their shareholders, members, directors, officers, employees, and agents (the "**Indemnified Parties**") from and against any and all claims, demands, actions, causes of action, suits, judgments, settlements, litigation and other costs, fees, charges, expenses, penalties, direct, indirect, incidental, consequential, and other damages, reasonable attorneys' fees and other professional fees, costs associated with Buyer's administrative time, labor, and materials, and all other losses, liabilities, and obligations whatsoever ("**Losses**") arising out of or relating to personal injuries, illness, or death of any person, damage to any real or personal property, or any spill, discharge or emission of hazardous wastes or substances, alleged to have resulted, in whole or in part, from: (a) any manufacturing, design, or other defect or nonconformity, failure to warn, improper handling, improper operating or installation instructions, or other claims with respect to any of the Products, (b) the performance by Seller or any of Seller's employees, agents, or subcontractors of any services, whether on the property of Buyer, Seller, or any third party, (c) the possession, use, misuse, or failure of any of Buyer's Property, (d) any violation of law by Seller or any of Seller's employees, agents, or contractors, or (e) any other act or omission of Seller or any of Seller's employees, agents, or contractors.

14.2 To the fullest extent permitted by law, Seller will indemnify, defend, and hold harmless the Indemnified Parties from and against any and all Losses (including costs, expenses and losses incurred directly or indirectly) by Buyer: (a) in connection with inspecting, testing, sorting, storing, reworking, repairing, or replacing the nonconforming Products; (b) resulting from production interruptions; and (c) conducting or participating in Remedial Action(s) or other corrective service actions) arising out of or relating to: (i) any actual or alleged breach of warranty or other failure of any Products to conform with the requirements of the Purchase Order, (ii) Seller's breach of the Purchase Order or any other agreement between Buyer and Seller, and (iii) any alleged infringement of any patent, trademark, copyright, trade secret, industrial design right, or other intellectual property right based on the Products, even if the Products are made or performed to Buyer's specifications.

14.3 Seller's indemnification will be reduced solely to the extent that Losses are clearly shown to have resulted solely and directly from the gross negligence or willful misconduct of an Indemnified Party or as otherwise provided by applicable law. Seller's indemnification will continue notwithstanding any delivery, inspection, tests, acceptance, payment, processing, or termination/expiration of the Purchase Order. Seller agrees that it will pay interest at the highest rate permitted by applicable law on all indemnification amounts owed. Buyer may at its option control or participate in the defense of any third-party claim with its own counsel, at Seller's expense, and Seller will fully cooperate with Buyer in the defense of any such claim.

#### **15. Changes to Purchase Order.**

15.1 Buyer reserves the right, for any reason, to cancel any undelivered portion of the Purchase Order or to make changes in the Purchase Order, or to require Seller to make changes, including changes to any one or more of the following: (a) the drawings, designs, or specifications of the Products, (b) the quantities, method of shipment, or packaging of the Products, (c) the manner, place, or time of inspection, delivery, or acceptance of the Products, (d) payment terms, and (e) the amount of any Buyer's Property (as defined in Section 18.1) provided to Seller. Seller will promptly make any such requested change.

15.2 If a change of the type described in Section 15.1(a) causes an increase or decrease in the cost of or time required for performance of the Purchase Order, an equitable adjustment, as determined by Buyer, will be



made in the price or delivery schedule or both. No claim by Seller for a price/timing adjustment will be considered unless made in writing within ten (10) days from the date notice of any such change is received by Seller.

15.3 Nothing in this Section will excuse Seller from proceeding with performance of the Purchase Order as changed. No price increases, costs, charges or other amounts, extensions of time for delivery, or other changes will be binding on Buyer unless evidenced by an amended Purchase Order issued by Buyer in accordance with Section 39.

15.4 Without the prior written approval of Buyer as reflected in a Purchase Order amendment or in a signed writing by both parties, Seller will not, and will not permit its subcontractors to, make any changes to any Purchase Order or the Products covered by the Purchase Order. Any changes by Seller to any Purchase Order or the Products covered by the Purchase Order without the prior approval by Buyer in a Purchase Order amendment or in such a signed writing will constitute a material breach of the Purchase Order.

15.5 For Products requiring PPAP approval, Seller must manufacture the Products in strict compliance with the PPAP approval and may not change or alter in any manner: (a) any third-party supplier to Seller of the services, raw materials, or goods/components used by Seller in connection with its performance under the Purchase Order; (b) any facility from which Seller and/or any such third-party supplier operates and that relates in any way to the Products, or to services, raw materials, or goods/components used by Seller in connection with performance under the Purchase Order; (c) the price of any Products covered by the Purchase Order; (d) the nature, type or quality of any services, raw materials, or goods/components used by Seller or its suppliers in connection with the Purchase Order; (e) the fit, form, function, appearance or performance of any Products covered by the Purchase Order; or (f) the production method, or any process or software, or any production equipment used in the production or provision of, or as part of, any Products under the Purchase Order. Seller acknowledges that any change in the Products from the approved PPAP level may materially and detrimentally affect the functionality of Buyer's goods which incorporate the Products and may also affect the safe or required operation of the vehicle in which the assembly is installed. Accordingly, in addition to a breach of the Purchase Order, Seller agrees that the potential harm of using non-PPAP'd Products constitutes irreparable injury and that Buyer is entitled to a preliminary injunction prohibiting any deviation from PPAP.

15.6 For Products used in motor vehicle manufacturing (or otherwise requiring validation through PPAP), Seller may seek approval from Buyer for changes in the materials, process, or manufacture of the Products after PPAP. Buyer may deny its approval for any change for any reason. As a condition precedent to seeking any change or PPAP deviation from Buyer, Seller must: (a) agree to pay all of the costs involved in re-PPAP of the Products including any testing which may reasonably be requested by Buyer and/or Buyer's Customer; (b) agree not to raise the price charged to Buyer for the Products and that all future price decreases previously agreed to by Seller will be implemented; (c) manufacture a bank of PPAP'd Products in such quantities as Buyer may require for a successful transition; (d) support Buyer in PPAP of the Products after the change; (e) abide by the decision of Buyer's Customer (or the vehicle manufacturer) whether to allow deviation from PPAP as final and binding; and (f) fulfill all of the requirements imposed by Buyer's Customer (and/or the vehicle manufacturer) on Buyer including payment and/or reimbursement to Buyer for any costs reductions.

## **16. Termination for the Convenience of Buyer.**

16.1 In addition to any other rights of Buyer to cancel or terminate the Purchase Order, Buyer reserves the right, with or without reason, to terminate all or any portion of the Purchase Order upon thirty days' written notice to Seller or such shorter termination notice period as Buyer may have been given by Buyer's Customer.

16.2 Upon receipt of notice of termination, whether under Section 13 or 16.1 above, unless otherwise directed by Buyer, Seller will: (a) promptly terminate all work under the Purchase Order on the effective date of termination; (b) transfer title and deliver to Buyer or its designee the finished Products, the work in process, and the parts and materials that Seller reasonably produced or acquired as authorized in Releases by Buyer and that Seller cannot use in producing products for itself or for others; (c) verify and settle any claims by subcontractors for actual costs incurred directly as a result of the termination; (d) take actions reasonably necessary to protect property in Seller's possession in which Buyer has an interest; and (e) upon Buyer's request, fully cooperate with Buyer in transferring the production of Products to a different supplier.

16.3 Upon termination by Buyer under Section 16.1, Buyer will pay only the following without duplication: (a) the Purchase Order price for all finished, conforming Products in the quantities authorized by Buyer in Releases for which Seller has not been paid; (b) Seller's reasonable actual cost of merchantable and useable work-in-process and the parts and materials transferred to Buyer under Section 16.2 in the quantities authorized by Buyer in Releases; and (c) Seller's reasonable actual costs of settling claims regarding its obligations to its

subcontractors required under the Purchase Order, to the extent directly caused by the termination, but limited to the quantities of Products and raw materials/components authorized by Buyer's last Release.

16.4 Any claim for payment for Buyer's termination for convenience must be made in writing within twenty-one (21) days from the date notice of termination is received by Seller. Except as expressly provided in this Section, Buyer will not be liable and will not make any payments to Seller for claims of Seller's subcontractors, loss of anticipated profits, overhead costs, interest, development and engineering costs, facilities and equipment costs, depreciation costs, or general and administrative burden charges related to termination for Buyer's convenience. In no event will the amount payable under this Section exceed the aggregate price that would have been paid for finished goods to be delivered under the Release outstanding on the date of termination. Where the cost of any Seller's Property (as defined below) is included in Seller's claim, such property must have been acquired and used by Seller exclusively to produce Products for Buyer pursuant to the Purchase Order, the claim must be supported by documentation from Buyer authorizing Seller in writing to acquire the property prior to its acquisition, and Buyer will have the right to take title thereto and prescribe the manner of disposition of such Seller's Property.

16.5 Buyer will only be obligated to compensate Seller for any costs under Section 16.4 if, when, and to the extent that Buyer's Customer reimburses Buyer for such costs.

16.6 The provisions of this Section will not apply if all or any portion of the Purchase Order is cancelled by Buyer due to the default of Seller or pursuant to Section 13.

## **17. Transition of Supply.**

17.1 Upon the expiration or earlier termination of any Purchase Order for whatever reason, or without reason, or Buyer's election to change to an alternate supplier of the Products (including a Buyer-owned facility), whether in response to Seller's request or otherwise, Seller agrees to take all actions necessary in order to ensure that there is no interruption in the supply of Products to Buyer. Among other things, Seller agrees to promptly take such actions as may be reasonably required by Buyer to accomplish the transition from Seller to an alternative seller, including the following ("**Transition Support**"):

- (i) Seller will give Buyer its full and prompt cooperation as set forth herein in transitioning from Seller to Buyer's new supplier the responsibility for providing and delivering Products to Buyer.
- (ii) Seller will continue production and delivery of all Products as ordered by Buyer, at the prices and in compliance with the terms of the Purchase Order, without premium or other condition, during the entire period reasonably needed by Buyer to complete the transition to the successor supplier(s);
- (iii) Seller will provide a sufficient bank of Products to ensure that the transition to any alternative seller chosen by Buyer will proceed smoothly, as reasonably determined by the Buyer. At Buyer's request, Seller will assure proper storage for the bank of Products and deliver Products at the prices and in compliance with the terms of the Purchase Order and Releases from the Buyer.
- (iv) at no additional cost to Buyer, Seller will promptly provide all requested information and documentation regarding and access to Seller's manufacturing or service process, including on-site inspections, bill-of-material data, tooling, process detail, and samples of Products and their components;
- (v) Seller will promptly provide all notices deemed by Buyer in its sole and absolute discretion to be necessary or desirable for Buyer to resource the Purchase Order to a successor supplier; and
- (vi) if and when requested by Buyer, Seller will return to Buyer all Buyer's Property (as defined below) in as good condition as when received by Seller (reasonable wear and tear excepted) and will comply with Seller's obligations relating to Seller's Property in Section 19 and in relation to subcontracts.

17.2 In the event Seller requests that Buyer re-source the Products from Seller to a new supplier in part or in whole, Buyer may in its sole and absolute discretion refuse such request for any reason, including a refusal of such request at the direction of Buyer's Customer, in which case Seller must fully and faithfully perform its obligations for the remaining term of the Purchase Order. In the event Buyer elects to re-source the Products to a new supplier in accordance with Seller's request or Seller's failure to timely meet its obligations under the Purchase Order, Seller will: (a) cooperate in all respects with the transition to the new supplier including, allowing Buyer, the new supplier and/or their respective agents to inspect the then current production processes being utilized at Seller's facility, granting to the new supplier a non-exclusive, royalty-free license to use any prints, drawings, specifications, or other technology reasonably necessary (in Buyer's sole determination) for the new

supplier to manufacture and sell Products to Buyer, and the removal from Seller's facilities of all Buyer Property (including manuals, logs, and the like); (b) reimburse Buyer upon request for any PPAP costs that it may incur as a result of the re-sourcing; (c) pay to Buyer the present value of any increased price for the Products over the expected life of the program prior to the time of re-source; and (d) fully comply with the provisions of Section 17.1.

## **18. Buyer's Property.**

18.1 Seller will not purchase for the account of Buyer or charge to Buyer the costs of any tools, dies, jigs, molds, fixtures, patterns, or other materials or equipment (collectively, "**Tools**") used or useable for producing Products pursuant to the Purchase Order, unless such Tools have been authorized by the Purchase Order. Where Tools are included in the Purchase Order, they will be purchased by Seller as agent for Buyer and Buyer will pay Seller the lesser of: (a) the amount specified in the Purchase Order for such Tools, or (b) Seller's actual, out-of-pocket costs to acquire or fabricate such Tools. Buyer will have the right to audit Seller's books and records related to such Tools. Seller acknowledges that all Tools so listed on the Purchase Order, all Tools otherwise supplied by Buyer and bailed to Seller, and all Products returned by Buyer for repair or pending replacement (together with all information and materials relating to the Products, deliverables, Buyer's packaging materials, samples, Buyer's Intellectual Property Rights, and other materials and items that may be furnished by Buyer, directly or indirectly ("**Buyer's Property**") are and will be owned by Buyer (or Buyer's Customer) and will be used only for the production of Products for Buyer. Seller will have only temporary possession of Buyer's Property and will deliver all or any part to Buyer immediately upon demand.

18.2 Seller at its own expense will keep all Buyer's Property maintained in good working order in accordance with the manufacturer's specifications and any replacement parts installed on Buyer's Property or any other modifications or improvements to Buyer's Property will likewise become the property of Buyer. Seller will maintain records of all maintenance and repairs performed on Buyer's Property.

18.3 Seller will bear the risk of loss and damage of such Buyer's Property at all times while in Seller's possession and will keep Buyer's Property insured for its full replacement cost for the benefit of Buyer, will keep it segregated from all other assets and labeled as being the property of Buyer, will not move Buyer's Property from Seller's premises without the prior written consent of an officer of Buyer, and will immediately sign and file documents requested by Buyer to evidence its ownership. Seller will provide Buyer with a certificate of insurance acceptable to Buyer showing the amount of coverage, policy number, and date of expiration of the insurance, naming Buyer as loss payee and requiring that Buyer be given thirty (30) days written notice prior to any modification, lapse, or cancellation of any policy. If Buyer's Property is lost or damaged while in Seller's possession, Seller will, at Buyer's option, replace the same at Seller's expense or indemnify Buyer for the costs of such replacement.

18.4 Seller expressly waives and releases, and agrees not to file or otherwise assert or prosecute or suffer to permit any statutory, equitable, or other liens, including any molder liens, tool liens, builder liens, and the like, that Seller has or might have on or in connection with the Buyer's Property for all work, including designing, manufacturing, improving, maintaining, servicing, using, assembling, fabricating, or developing Buyer's Property.

18.5 Upon written request, Seller, at its expense, will immediately deliver Buyer's Property at Buyer's option FCA Carrier Seller's facility or as otherwise requested by Buyer (according to Incoterms 2020 if applicable), properly packed and marked in accordance with the requirements of the carrier and Buyer. Seller will cooperate with Buyer's removal of the Buyer's Property from Seller's premises, regardless of any actual or potential claims between Seller and Buyer, financial or otherwise. Seller agrees that it will comply with obligations under the Purchase Order to release Buyer's Property notwithstanding any offsetting claim that it may have against Buyer.

18.6 Buyer will have the right to enter Seller's premises, or the premises of Seller's supplier, subcontractor, or toolmaker in possession of Buyer's Property, to inspect Buyer's Property and Seller's records regarding Buyer's Property, or to recover possession of Buyer's Property.

18.7 Seller acknowledges and agrees that: (a) Buyer may not be the manufacturer of Buyer's Property nor the manufacturer's agent or dealer; (b) Buyer is bailing the Buyer's Property to Seller for Seller's benefit solely to perform under the Purchase Order; (c) Seller has inspected the Buyer's Property and is satisfied that the Buyer's Property is suitable and fit for its purposes; and (d) BUYER HAS NOT MADE AND DOES NOT MAKE ANY WARRANTY OR REPRESENTATION WHATSOEVER, EITHER EXPRESS OR IMPLIED, AS TO THE FITNESS, CONDITION, MERCHANTABILITY, DESIGN, OR OPERATION OF BUYER'S PROPERTY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE. Buyer will not be liable to Seller for any loss, damage, injury, or expense of any kind or nature caused, directly or indirectly, by Buyer's Property, including its use or maintenance,

or its repair, service, or adjustment, or by any interruption of service or for any loss of business whatsoever regardless of cause, including any anticipatory damages, loss of profits, or any other direct, indirect, special, or consequential damages. Seller will assume all risk of death or injury to persons or damage to property arising from its use of Buyer's Property.

18.8 Seller acknowledges that Buyer may file a UCC-1 financing statement or similar document with the appropriate filing authority to give notice of Buyer's ownership interest in the Buyer's Property. Failure to file a financing statement will not alter or amend Buyer's ownership rights to the Buyer's Property. Seller will provide Buyer, upon Buyer's request, with a written inventory of all Buyer's Property. Seller agrees to sign Buyer's Bailment Agreement as Buyer may request.

19. **Seller's Property.** Unless otherwise provided in the Purchase Order, Seller will, at its expense, furnish, keep in good condition, and replace any capital equipment, materials, machinery, tools, fixtures, molds, and all documents and records relating to the Products necessary for the production of the Products ("**Seller's Property**"). Seller hereby grants to Buyer the option of purchasing any Tools owned by Seller that are specially designed or outfitted for the production of the Products, upon payment to Seller of the net book value of such Tools, less any amounts that Buyer has previously paid to Seller for the cost of such Tools.

## 20. **Intellectual Property Rights.**

20.1 "**Intellectual Property**" will mean and include patents, copyrights, trademarks, trade names, trade dress, trade secrets, copyrights, know-how, concepts, ideas, discoveries, inventions (whether or not patentable), processes, developments, designs, dimensions, tolerances, suggestions, materials, improvements, works of authorship, artwork, software, documentation, intellectual property/proprietary rights, rights in other tangible and intangible assets of a proprietary nature, domain names, company names, and the like. "**Intellectual Property Rights**" means all forms of Intellectual Property protection or proprietary rights available throughout the world, including utility patents, design patents, patent applications, design registrations, utility models, industrial designs, copyrights, trademarks, trade dress, trade secrets, and rights in domain names.

20.2 All Products, Tooling, and all other deliverables which include Intellectual Property, for which Buyer has agreed to reimburse Seller, along with all related Intellectual Property Rights needed to manufacture, sell, or use the Products, are the sole and exclusive property of Buyer. Seller will promptly disclose in an acceptable form and assign to Buyer all such Intellectual Property. Seller will cause its employees to promptly sign any papers necessary to enable Buyer to file applications for patents throughout the world and to record rights in and to such Intellectual Property. To the extent that the Intellectual Property includes any works of authorship created by or on behalf of Seller, such works will be considered "works made for hire", and to the extent that such works do not qualify as "works made for hire", Seller assigns to Buyer all right, title, and interest in all copyrights and moral rights therein.

20.3 Seller grants to Buyer, its subsidiaries and affiliates, and their respective successors and assigns, and Buyer accepts, a non-exclusive, irrevocable, royalty-free, fully paid up worldwide license, including the right to sublicense to others in connection with the Products provided to Buyer or Buyer's Customer, under: (a) any Intellectual Property owned or controlled by Seller or its affiliates relating to the Products, to make, have made, repair, reconstruct, rebuild, relocate, use, sell, and import the Products; and (b) any works of authorship fixed in any tangible medium of expression (including drawings, prints, manuals, and specifications) furnished by Seller, to reproduce, distribute, and display such works and to prepare derivative works based on them, subject to the other provisions of the Purchase Order (all items in clauses (a) and (b) above, collectively, "**Seller's Intellectual Property**", and such license in respect thereof, the "**License**"). Seller acknowledges and agrees that the License will be effective from the first date of delivery of Products under the Purchase Order and extend for so long as Buyer has contractual obligations to Buyer's Customer to sell goods incorporating the Products. The License is intended to be subject to 11 USC Section 365(n) (as amended from time to time) as an executory agreement under which Buyer has license rights to Seller's Intellectual Property, and is supplementary to any other rights of Buyer under the Purchase Order and any other agreement with Seller.

20.4 Seller will ensure that the terms of its contracts with its subcontractors and employees are consistent with the terms of this Section.

20.5 Seller warrants that the Products and the sale and/or use thereof (before or after incorporation into goods during manufacture) are original to Seller and do not and will not infringe any third-party's Intellectual Property Rights.

20.6 If the purchase, manufacture, incorporation into Buyer's goods, use, marketing, sale, modification, repair, and/or reconstruction of the Products, or any part of the Products, is alleged to constitute infringement or

is enjoined or, in Buyer's sole judgment, is likely to be enjoined, Seller will, at its own expense and without limiting its other obligations or the rights of Buyer under the Purchase Order, obtain for Buyer and Buyer's Customer the right to continue the purchase, manufacture, incorporation into Buyer's goods, use, marketing, sale, modification, repair, and/or reconstruction of the Products. If Seller cannot obtain such rights then Seller will, at the option of Buyer, either modify the Products so they become non-infringing while continuing to conform to all warranties and other requirements of the Purchase Order, or remove the Products and refund the purchase price and all transportation, installation, and other costs. Seller will be liable for all direct, indirect, incidental, consequential, and other damages, losses, costs, charges, and expenses incurred by Buyer resulting from the foregoing.

## **21. Confidentiality.**

21.1 Seller acknowledges and agrees that it will be obligated to maintain the secrecy and confidentiality of all information disclosed by Buyer to Seller whether before, during, or after the course of work under any Purchase Order, including all "Buyer Data" (as defined in the Data Security Paragraph below) ("**Confidential Information**"), including any information regarding Buyer or its business or its customers, the existence and terms of any Request for Quotation or Purchase Order, and any drawings, specifications, or other documents prepared by either party in connection with any Request for Quotation or Purchase Order. Seller agrees that it will not disclose Confidential Information to or use Confidential Information with or for the benefit of itself or any third party (including Buyer's Customers) without prior written authorization from Buyer. Seller also agrees to adopt measures to protect the secrecy and confidentiality of Confidential Information that are reasonable under the circumstances. Confidential Information will not include any information that: (a) was rightfully in the possession of Seller before receipt from Buyer; (b) is or becomes available to the public through no fault of Seller; or (c) is received by Seller in good faith from a third party having no duty of confidentiality to Buyer.

21.2 The obligations of Seller with respect to Confidential Information will remain in effect during the time that any Confidential Information is considered by Buyer to be secret or confidential or otherwise qualifies for protection under the Uniform Trade Secrets Act.

21.3 Any knowledge or information which Seller will have disclosed or may hereafter disclose to Buyer in connection with the Products or the Purchase Order will not, unless otherwise specifically agreed upon in writing by Buyer, be deemed to be confidential or proprietary information, and accordingly will be acquired free from any restriction. Notwithstanding anything to the contrary in these Terms, no employee of Buyer has authority to make any agreement, express or implied, limiting the use or publication of, or providing for confidential treatment of information of whatever kind, unless such agreement is made in writing and signed by an authorized representative of Buyer at the level of senior director or above.

21.4 At the request of Buyer, Seller will return to Buyer all materials (in any form) that include, incorporate, or otherwise contain Confidential Information of Buyer.

21.5 Seller will not sell or dispose of, as scrap or otherwise, any completed or partially completed or defective Products without defacing or rendering them unsuitable for use.

21.6 Seller may not directly solicit Buyer's Customer for sales of the Products, goods substantially similar to the Products, or any goods substantially similar to the goods sold by Buyer to Buyer's Customer.

22. **Data Security.** For purposes of this Section, "**Buyer Data**" means all data, content, material, confidential information, and other information provided by Buyer to Seller or otherwise transmitted to Seller for use in connection with this Purchase Order. Seller will maintain and enforce information and data privacy and security procedures with respect to its access, use, and storage of all Buyer Data that: (a) are at least equal to industry standards taking into consideration the sensitivity of the relevant Buyer Data, and the nature and scope of the Products to be provided; (b) are in accordance with Buyer's reasonable security requirements; (c) comply with all applicable international, foreign, federal, provincial, state and local laws, statutes, rules, orders, and regulations; and (d) provide reasonably appropriate administrative, technical, and physical safeguards to protect against accidental or unlawful destruction, loss, alteration, or unauthorized disclosure, access, or use of Buyer Data. Without limiting the generality of the foregoing, Seller will take all reasonable measures to secure and defend its location and equipment against anyone who may seek, without authorization, to modify or access Seller systems or the information found in Seller systems without consent. Seller will periodically test its systems for potential areas where security could be breached. Seller will report to Buyer immediately any breaches of security or unauthorized access to Seller systems that Seller detects or becomes aware of. Seller will use diligent efforts to remedy such breach of security or unauthorized access in a timely manner and deliver to Buyer a root cause assessment and future incident mitigation plan with regard to any breach of security or unauthorized access affecting Buyer Data. Without limiting the generality of the foregoing, Seller is solely responsible for the

integrity of its email, accounting, invoicing, accounts payable, accounts receivable, and other systems. In the event that any payment to Seller is lost or misdirected as a result of an unauthorized third party accessing Seller's system, Buyer (and Buyer's Customer) will have no further obligation to Seller for such payment. If Buyer (or Buyer's Customer) makes any payment to a third party that is lost or misdirected as a result of an unauthorized third party accessing Seller's system, Seller will reimburse Buyer (or Buyer's Customer) for the amount of such payment. The requirements of this Section will apply regardless of whether Seller hosts the Buyer Data itself or through a third-party hosting or cloud services provider.

## **23. Insurance.**

23.1 Seller will maintain and require its suppliers, subcontractors, and/or toolmakers to maintain, the following insurance coverages: (a) commercial general liability insurance, (b) automobile liability insurance, (c) business interruption insurance, (d) workers compensation, (e) employer's liability insurance covering all employees engaged in the performance of the Purchase Order for claims arising under any applicable workers' compensation, occupation disease, or health and safety laws and/or regulations, and (f) such other insurance coverage as may be requested from time to time by Buyer in its sole discretion. In each case Seller's insurance coverage will name Buyer and Buyer's affiliates (as applicable) as loss payee(s) and/or "additional insured(s)" on a primary and non-contributory basis (with the exception of Workers' Compensation) and the coverage will be in such amounts sufficient to cover obligations set forth in the Purchase Order or in such amounts specifically set forth on Buyer's Insurance Addendum which when published by Buyer will form part of the Purchase Order. Such insurance coverage will, among other things, provide full fire and extended coverage insurance for the full replacement value of all Seller's Property and all bailed Buyer's Property.

23.2 Seller will furnish to Buyer a certificate showing full compliance with the requirements set forth in this Section or certified copies of all insurance policies within ten (10) days of Buyer's written request. The certificate will provide that Buyer will receive thirty (30) days prior written notice from the insurer of any termination or reduction in the amount or scope of coverage. Seller acknowledges and agrees that the existence of insurance will not release Seller of its obligations or liabilities under the Purchase Order.

23.3 Unless otherwise expressly set forth in the Purchase Order or on Buyer's Insurance Addendum, in addition to any other insurance coverage as may be requested from time to time by Buyer in its sole discretion, Seller will maintain and require its suppliers, subcontractors, and/or toolmakers to maintain, the following minimum insurance coverage: (a) commercial general liability insurance (including premises and operations, products and completed operations, blanket contractual liability, property damage, independent contractors, personal and advertising injury, broad form property damage, cross liability, hostile fire, underground and explosion and collapse coverages) with a combined single limit of not less than five million dollars (\$5,000,000.00) per occurrence, including primary and excess liability policies, provided that such coverage (i) will not contain an exclusion for liability arising out of professional services and (ii) will apply on a worldwide basis regardless of where the event that creates the liability occurs or where the suit or claim for the liability is brought; (b) automobile liability insurance \$1,000,000 limits covering use of owned, non-owned, and hired vehicles applying to bodily injury or property damage per accident wherein such vehicles will be used in connection with the Agreement; (c) business interruption insurance as specified by Buyer; (d) workers compensation insurance or qualification as a self-insurer to satisfy the laws of the states which have jurisdiction over Seller's employees, and (e) employer's liability insurance for bodily injury per accident with limits of not less than one million dollars (\$1,000,000) and bodily injury by disease with limits of not less than one million dollars (\$1,000,000) per policy.

23.4 To the extent permitted by law, Seller, on behalf of itself and its insurers, waives any right of subrogation against Buyer for all of the coverages listed above, including any liability, costs, or expenses imposed on Seller or its insurers. The purchase of insurance will not limit or release Seller from Seller's obligations or liabilities under the Purchase Order.

## **24. Excuse of Performance.**

24.1 Any delay or failure of either party to perform its obligations will be excused if and to the extent that the party is unable to perform due to events or occurrences beyond its reasonable control and without its fault or negligence, such as: fire, flood, earthquake, and other extreme natural events, acts of God, riots, civil disorders, and war or acts of terrorism. (collectively "**Excusable Event**"). However, in no event will Seller's performance be excused by: (a) the change in cost or availability of raw materials, components, or services based on market conditions, supplier actions, or contract disputes; (b) Seller's financial distress; (c) Seller's bankruptcy or insolvency of one or more of Seller's suppliers; (d) any labor strike or other labor disruption applicable to Seller or to any of its subcontractors or suppliers; or (e) any Excusable Event that Buyer's Customer does not recognize as excusing Buyer's performance. Seller, at its expense, will use its best efforts to mitigate any adverse effects or costs to Buyer due to any actual or potential Excusable Event, including: (a) the implementation of a production

contingency plan; and (b) upon Buyer's express written authorization, increasing Seller's inventory of Products to a level sufficient to sustain deliveries during such Excusable Event.

24.2 Seller will give prompt written notice to Buyer of any event or occurrence that threatens to delay or actually delays Seller's performance under the Purchase Order. Such notice will include all relevant information with respect to such threat, including the possible duration and impact of a delay. In addition, Seller will notify Buyer in writing: (a) of the expiration of any labor contract or collective agreement at least sixty (60) days prior to its expiration, and (b) of any actual or threatened labor strike or other labor disruption as soon as Seller becomes aware of such, in each case as may be applicable to Seller or to any of its subcontractors or suppliers in connection with Seller's obligations under the Purchase Order. Seller, at its cost, will produce and locate in an area that will not be affected by any labor disruption a finished inventory of Products in quantities sufficient to ensure the supply of Products to Buyer for at least sixty (60) days after providing such notice. Notwithstanding notice and Seller's provision of a safety stock for a strike, labor disputes will not constitute an Excusable Event which will excuse performance under the Purchase Order.

24.3 During any delay or failure to perform by Seller, Buyer may at its option and at Seller's expense: (a) purchase Products from other sources and reduce its schedules to Seller by such quantities, without liability to Seller; (b) require Seller to deliver to Buyer at Buyer's expense all finished Products, work in process, and parts and materials produced or acquired for work under the Purchase Order; (c) have Seller provide Products from other sources in quantities and at a time requested by Buyer at the price set forth in the Purchase Order; and/or (d) ship Products, at Seller's sole cost, by the most expeditious transportation method possible to the extent necessary to meet Buyer's Releases.

## **25. SetOff.**

25.1 In addition to any right of setoff or recoupment allowed by law, all amounts due Seller or any of its subsidiaries or affiliates will be considered net of indebtedness or obligations of Seller or any of its subsidiaries or affiliates to Buyer or any of its subsidiaries or affiliates, and Buyer may setoff against or recoup from any amounts due or to become due from Seller or any of its subsidiaries or affiliates to Buyer or any of its subsidiaries or affiliates however and whenever arising, including the Buyer's attorneys' fees and costs of enforcement. In the event that Buyer or any of its subsidiaries or affiliates reasonably feels at risk, Buyer may withhold and recoupa corresponding amount due Seller or any of its subsidiaries or affiliates to protect against such risk.

25.2 In the event of a Seller insolvency, Buyer also may setoff, recoup, and/or withhold from amounts due Seller or any of its subsidiaries or affiliates any amounts that Seller is obligated to indemnify Buyer pursuant to this Purchase Order, regardless of whether such amounts become due before or after the filing of a petition for bankruptcy protection by Seller. For purposes of this Section, a "seller insolvency" will include any one of the following: (a) insolvency of Seller; (b) 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 Purchase Order; (c) filing of a voluntary petition in bankruptcy by Seller; (d) filing of an involuntary petition in bankruptcy against Seller; (e) appointment of a receiver or trustee for Seller; or (f) execution of an assignment for the benefit of creditors of Seller.

26. **No Advertising.** Without the prior written consent of an officer of Buyer, Seller will not, in any manner, advertise or publish that Seller is providing Products to Buyer pursuant to the Purchase Order or use any trademarks or trade names of Buyer in Seller's advertising or promotional materials.

## **27. Limitation on Buyer's Liability.**

27.1 With respect to a claim of Seller arising out of or in connection with any Purchase Order, Seller's damages, if any, will be limited to the amounts Seller would be entitled to receive if Buyer had terminated for convenience regardless of the legal or equitable theory on which the claim is based.

27.2 In no event will Buyer be liable for interest, loss of anticipated profits, penalties, incidental, consequential, special, punitive, exemplary, or other damages or liabilities in connection with the Purchase Order, whether for breach of contract, late payment, property damage, personal injury, illness, death, or otherwise, beyond the amount determined in Section 16.3 or, if not applicable, the price for conforming Products accepted by Buyer.

27.3 Any claim by Seller under the Purchase Order must be brought against Buyer within the time period specified in the Purchase Order or, if no period is specified, one (1) year after the date the claim accrues, or such claim will be waived and forever barred.

28. **Limitation on Assignment and Subcontracting.** Buyer may assign the Purchase Order or any of its rights or obligations without Seller's consent. Buyer and its affiliates assign to each other the right to any payment from Seller and its affiliates, and each such Buyer affiliate is entitled to collect each amount owed from Seller to Buyer or its affiliates. Seller agrees not: (a) assign the Purchase Order; (b) subcontract the performance of its duties; or (c) enter or offer to enter into a transaction that includes a sale of a substantial portion of its assets used for the production of the Products or a merger, sale, or exchange of stock or other equity interests that would result in a change of control of Seller, without the prior written consent of an authorized representative of Buyer. If Seller is authorized to use subcontractors, Seller will obtain from each subcontractor rights and obligations no less favorable to Buyer than the provisions of the Purchase Order. If Seller fails to comply with the provisions in this Section, Buyer may, at its option, cancel the Purchase Order or any portion thereof without any liability to Seller.

29. **Compliance with Laws.** Seller, and all Products manufactured or supplied by Seller, will comply with all laws, rules, regulations, orders, conventions, ordinances, permits, and standards (including industry standards) of the countries of origin and destination or that relate to the manufacture, labeling, transportation, importation, exportation, licensing, approval, or certification of the Products, including those relating to data protection, environmental matters, wages, hours and conditions of employment, subcontractor selection, discrimination, occupational health/safety, and motor vehicle safety. Upon Buyer's request, Seller will certify in writing its compliance with the foregoing.

30. **Notices.** A written notice is prescribed for (a) one party to provide a required notice or instructions to the other party, (b) to authorize an exception, deviation, or waiver of an obligation or requirement under a Purchase Order, or (c) either party to provide any notice to the other party that is required to be in writing. In the case of Buyer, any written notice is valid only if signed by Buyer's Chief Procurement Officer. A written notice may be signed manually or electronically. A written notice may be provided by: (i) first class mail; (ii) courier service; or (iii) standard e-mail. A written notice using method (i) or (ii) is effective as of the date of delivery and using method (iii) is effective as of the date of transmission.

31. **Dispute Resolution; Governing Law and Jurisdiction.**

31.1 Buyer and Seller will first endeavor to resolve through good faith negotiations any dispute arising under the Purchase Order or with respect to the Products. If a dispute cannot be resolved through good faith negotiations within a reasonable time, either party may request non-binding mediation by a mediator approved by both parties.

31.2 The Purchase Order will be construed and governed, in accordance with laws of the country in which the Purchase Order was issued or the Products were received by Buyer. If the Purchase Order is entirely performed, and Buyer's Plant is located, in Canada, the Purchase Order will be construed and governed in accordance with the laws of the province of Ontario. The provisions of the United Nations Convention on Contracts for the International Sale of Goods, and any conflict-of-laws provisions that would require application of another choice of law are excluded.

31.3 When the Purchase Order is to be governed by and construed according to the laws of the State of Michigan, any legal action or proceeding by Seller against Buyer arising out of or related to the Purchase Order will be brought by Seller only in the Circuit Court for the County of Oakland, Michigan, or the Federal District Court for the Eastern District of Michigan. Any legal action or proceeding by Buyer against Seller may be brought by Buyer in the courts described above, or may be brought by Buyer in a state court located in the county where the Purchase Order was issued or where the Products were received by Buyer, or in a federal district court located in the district in which the Purchase Order was issued or where the Products were received by Buyer, or in or any other courts having jurisdiction over Seller. Seller specifically consents and submits to the personal jurisdiction and venue of the courts described in this Section 31.3 and service of process in accordance with the applicable courts' procedures.

31.4 When Seller is located outside of North America, Buyer will have the right, at its option, to have disputes or claims arising out of the Purchase Order (including its formation, existence, validity, interpretation, breach, or termination) or the Products resolved through binding arbitration administered by the International Center for Dispute Resolution ("ICDR") in accordance with its International Arbitration Rules (except that Buyer will still have the right, at its option, to seek injunctive relief or other protective measures (a) in either the Michigan Circuit Court for the County of Oakland or the United States District Court for the Eastern District of Michigan, (b) in the state court or provincial court or federal court for the state or province in, at Buyer's option, the country from which the Purchase Order was issued or where the Products were received by Buyer), or c) pursuant to the ICDR optional



rules for urgent measures of protection. The arbitration proceedings will be conducted before a panel of three arbitrators (one appointed by each party and the neutral appointed by the other two arbitrators). The arbitration will be conducted in London, England and the language of the arbitration will be English. The arbitrators will issue a written opinion setting forth the basis for the arbitrators' decision, which may include an award of legal fees and costs. While arbitration proceedings are pending, the parties will continue to perform their obligations under the Purchase Order without setoff for any matters being contested in the arbitration proceedings.

## **32. Service Parts and Product Support.**

32.1 Seller will continue to provide Products, or any components of Products, as required by Buyer for a period of fifteen (15) years after the date of final shipment under the Purchase Order or for such period as Buyer is required to provide to Buyer's Customer service or replacement parts ("**Service Parts**") incorporating the Products, whichever is longer. During the first five (5) years after the date of final shipment, or the period of time during which Buyer is obligated to supply Service Parts at the final Purchase Order price to Buyer's Customer, the prices for the Products will be the prices specified in the Purchase Order plus actual cost differential for packaging. Thereafter, the prices for the Products will be the prices specified in the Purchase Order, plus any actual cost increase for packaging and manufacturing, but in no case to exceed twenty percent of the price for the last production year. If the Products are systems, Seller will sell the components, parts, or sub-assemblies that comprise the system at prices that will not, in the aggregate, exceed the price of the system, less assembly costs. Further, during said period, Seller will continue to provide technical support and service at the same level as currently required under the Purchase Order. Orders for Service Parts will be filled by Seller by Release delivery dates.

32.2 If Seller discontinues manufacture of the Products, or the components, parts, or subassemblies, or does not provide any of them in a timely manner for Buyer's requirements, Seller will make available to Buyer all software, drawings, specifications, data, documentation, and know-how which will enable and facilitate Buyer, its suppliers and its customers to purchase, manufacture, incorporate into Buyer's goods, use, market, sell, modify, repair and/or reconstruct such Products, components, parts, and subassemblies, all of which will be subject to the license granted in Section 20.

## **33. Customs and Export Controls.**

33.1 For Products imported into the United States and Mexico, Seller will comply with all applicable recommendations or requirements of the United States Bureau of Customs and Border Protection's ("**U.S. Customs**"), including but not limited to the Customs-Trade Partnership Against Terrorism ("**C-TPAT**") initiative (for information go to <http://www.cbp.gov/> and find the link to the C-TPAT section). At Buyer's or U.S. Customs' request, Seller will certify in writing its compliance with C-TPAT and with all other applicable U.S. Customs laws and regulations. In regions not eligible for C-TPAT certification, Seller will participate in the relevant country's Mutual Recognition Agreement ("**MRA**") Security Program and/or C-TPAT Foreign Manufacturer Minimum Security Criteria. Seller will provide both Buyer and U.S. Customs access to Seller's facilities for the purpose of auditing Seller's compliance with the foregoing. If the Products are transported via ocean carrier into the United States, Seller must also comply with U.S. Customs' Importer Security Filing ("**ISF**") and provide the necessary data to the freight forwarder selected by Buyer who will act as Buyer's agent for filing of the ISF. Seller will cause all data required for the ISF to be in the freight forwarder's possession not later than seventy-two (72) hours before the Products are loaded onto the ocean carrier or such earlier time as the freight forwarder may require. Any delays by the Seller in providing data required for ISF filing which result in a Liquidated Damage penalty from U.S. Customs will be reimbursed from the Seller to the Buyer upon payment to U.S. Customs. Without limiting the foregoing, Supplier will comply with all chemical import requirements under the U.S. Toxic Substances Control Act (TSCA).

33.2 For Products imported into Canada, Seller will comply with all applicable recommendations or requirements of the Canada Border Service Agency ("**CBSA**"), including the laws, regulations, and other requirements of the Agency's initiative Partner's in Protection (for information go to <http://www.craadrc.gc.ca/customs/general/enforcement/partners/menu-e.html>). At Buyer's or CBSA's request, Seller will certify in writing its compliance with the above.

33.3 Seller will comply with all applicable laws and regulations relating to the export and import of the Products under the Purchase Order. Seller will obtain all export licenses or authorizations necessary for the export of Products, unless otherwise set forth in the Order, in which case Seller will promptly provide to Buyer all information necessary to enable Buyer to obtain the licenses or authorizations. Seller will promptly notify Buyer in writing of any material or components incorporated in the Products that Seller purchases in a country other than the country in which the Products are delivered. Seller will provide Buyer: (i) for Products that originate in

the U.S., the U.S. Export Control Classification Number (ECCN) and U.S. HTS Number or Schedule B; and/or (ii) for Products that originate outside of the U.S., the HTS Number and dual use designation. Seller will furnish any and all documentation and information necessary to establish the country of origin or to comply with the applicable country's rules of origin requirements. Seller will promptly advise Buyer of any material or components imported into the country of origin and any duty included in the Products' purchase price. If Products are manufactured in a country other than the country in which Products are delivered, Seller will mark Products "Made in [country of origin]". Seller will provide to Buyer and the appropriate governmental agency the documentation necessary to determine the admissibility and the effect of entry of Products into the country in which Products are delivered. Seller warrants that any information that is supplied to Buyer about the import or export of Products is true.

33.4 All credits or benefits resulting or arising from the Purchase Order, including trade credits, export credits or the refund of duties, taxes, or fees, belong to Buyer. Seller will promptly provide all information and certificates (including NAFTA Certificates of Origin) necessary to permit Buyer to receive the full amount of such benefits or credits. Seller agrees to fulfill all customs- or NAFTA-related obligations, origin marking, or labeling requirements, and local content origin requirements.

34. **Relationship of the Parties.** Seller and Buyer are independent contracting parties and nothing in this Purchase Order will make either party the agent or legal representative of the other for any purpose whatsoever, nor does it grant either party any authority to assume or to create any obligation on behalf of or in the name of the other party.

35. **Audit Rights.** Buyer has the right to audit and review Seller's balance sheets, statements of operations, statements of cash flows, quality records and other documents relating to Seller's performance under the Purchase Order and all other relevant books, records, receipts, cost data and other supporting data for the purposes of: (a) verifying any charges asserted by Seller and Seller's compliance with quality standards and all other requirements of the Purchase Order and (b) assessing Seller's ongoing ability to perform its obligations under the Purchase Order. If an audit reveals that Seller has charged Buyer amounts in excess of those permitted by the Purchase Order, then, upon demand by Buyer, Seller will promptly refund the amount of such overcharge plus interest at the highest rate permitted by applicable law from the date originally paid by Buyer. Such audit will be at Buyer's expense unless the audit reveals that the amounts charged by Seller to Buyer for any period being audited are in excess of those permitted under the Purchase Order, in which case Seller will reimburse Buyer for the costs of such audit upon demand. Seller will retain all such records for a period of at least five (5) years following the final payment under the Purchase Order. Seller will provide Buyer with reasonable access to its facilities and otherwise provide reasonable assistance in connection with such audits.

36. **Severability.** This Purchase Order will be subject to and interpreted so as to comply with all applicable law. If any provision of the Purchase Order, or portion of any provision, is declared or found to be unenforceable under applicable law, such provision will, if possible, be interpreted in a manner so as to be enforceable to the greatest extent possible under applicable law. The balance of the Purchase Order will be interpreted as if the unenforceable provision or portion was interpreted according to the preceding sentence or, if such interpretation is not possible under applicable law, as if the unenforceable provision or portion had never been a part hereof. In no event will the Purchase Order be invalid due to an unenforceable provision or portion of a provision of the Purchase Order.

37. **Language and Construction.** The English language version of these Terms will control in the event of any disagreement over the meaning or construction of any provision in any translation. Such translations are provided for the convenience of Seller and are for informational purposes only. No provision may be construed against Buyer as the drafting party. Section headings are for convenience or reference only and do not affect the meaning of the Purchase Order. The words "include", "includes", and "including" are deemed to be followed by the words "but not limited to" in these Terms.

38. **Survival.** The obligations of Seller to Buyer survive termination of the Purchase Order, except as otherwise expressly provided in the Purchase Order.

**39. Entire Agreement.**

39.1 In addition to the Terms, the following documents are incorporated into and will be part of the Purchase Order: (a) any executed supply agreement, award letter, directed buy, service, or other signed agreement between Buyer and Seller that states it is part of the Purchase Order; (b) Releases issued by Buyer to Seller under the Purchase Order; (c) prints and specifications for the Products; and (d) Buyer's policies, manuals, and guidelines, as revised by Buyer from time to time. As used herein, the term "**Buyer's Policies**" includes any statement of work applicable to the Products, Cooper Standard Global Supplier Quality Manual, Supplier Code

of Conduct, other quality assurance documents, logistics guidelines, and packaging specifications including amendments or modifications to Buyer's policies as may be implemented by Buyer during the term of the Purchase Order. Buyer's Policies may be obtained by contacting Buyer's assigned purchasing representative or by accessing Buyer's internet website at <https://www.cooperstandard.com/public-data> or any successor website ("**Buyer's Website**"). The purchasing terms and conditions of Buyer's Customer will also be incorporated into and will be part of the Purchase Order. Although Buyer may, from time to time and in its sole and absolute discretion, provide Seller with certain information regarding the applicable Buyer's Customer's terms and conditions, it is Seller's responsibility to determine if, and how, the Buyer's Customer's terms and conditions may affect Seller's obligations to Buyer and Buyer's Customer.

39.2 In the event of any ambiguities, express conflicts, or discrepancies in the specification, drawings, or any other documents which are part of the Purchase Order, Seller will immediately submit the matter to Buyer for its determination. In the event of an express conflict between an executed supply, service or other agreement, or a purchase order and/or scheduling agreement, on the one hand, and these Terms, on the other hand, the provisions of any such agreement will be construed, to the extent possible, as consistent with these Terms and as cumulative; provided, however, if such construction is unreasonable, the terms and conditions of any such other agreement will control unless otherwise set forth on the face of the Purchase Order or in a writing signed by the parties.

39.3 The Purchase Order is the entire agreement between the parties respecting the Products and supersedes any prior agreements, negotiations, or understandings of the parties respecting the Products, whether written or oral, except as may expressly be incorporated into this Purchase Order under Section 39.1. This Purchase Order may only be modified by: (a) a written amendment signed by authorized representatives of each party; or (b) by Buyer by an amendment to the Purchase Order issued by Buyer or (c) by Buyer from time to time by posting revised Terms to Buyer's Website. Such revised Terms will apply to all purchase order revisions/amendments and new Purchase Orders issued on or after the effective date thereof. Seller will be responsible to review Buyer's Website periodically.