

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

Revised September 13, 2012

**1. Definitions.**

1.1 "Buyer" means Cooper-Standard Automotive Inc. or its subsidiary noted on the face of the Purchase Order.

1.2 "Buyer's Plant" means the plant or other location of Buyer to which goods are to be delivered, the address of which appears on the face of the Purchase Order.

1.3 "Products" means the goods and/or services covered by the Purchase Order, which term includes both goods and services unless the context clearly indicates otherwise, and, as to goods, includes all parts, portions, items, attachments, repairs, replacements and substitutions thereof.

1.4 "Purchase Order" means and includes the face of the Purchase Order document, subsequent releases, call-offs, requisitions, work orders, delivery instructions and other documents provided by Buyer related to the Products (including documents provided by electronic data interchange), any agreements related to the Products signed by Buyer and Seller, these General Terms and Conditions, the Cooper-Standard Automotive Inc. Supplier Guidebook and all other documents specifically made a part of the Purchase Order by Buyer.

1.5 "Seller" means the party with which the Purchase Order is placed.

1.6 "Seller Document" means any quotation, acknowledgement, bill of lading, invoice or other document issued by Seller, whether in electronic or printed form.

**2. Entire Agreement; Electronic Documents.**

2.1 The Purchase Order is the entire agreement between Buyer and Seller with respect to the Products and no modification of or addition to the Purchase Order shall be effective unless in writing and signed by an officer of Buyer. Any agreements, negotiations or understandings of Buyer and Seller prior to the date of the Purchase Order, whether written or oral, are merged in and superseded by the Purchase Order.

2.2 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 shall 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.

**3. Acceptance of Purchase Order.**

3.1 Seller shall be deemed to have accepted the Purchase Order in its entirety without modification or addition, notwithstanding any prior dealings or usage of trade, when Seller either acknowledges the Purchase Order or begins performance, whichever occurs first. Buyer may cancel any Purchase Order at any time prior to acceptance by Seller.

3.2 Any Seller Document, including any Seller Document referenced in the Purchase Order, to the extent containing any terms in addition to, inconsistent with or rejecting any of the terms of the Purchase Order, shall be deemed to be a counter offer to Buyer. Such counter offer is rejected by and shall not be binding upon Buyer unless specifically accepted in writing by an officer of Buyer. In the absence of written acceptance of such counter offer by Buyer, commencement of performance by Seller shall be deemed to be Seller's acceptance of the Purchase Order and an agreement by Seller to perform in accordance with the terms of the Purchase Order. The terms of the Purchase Order shall apply without modification even if Buyer accepts and pays for any Products from Seller with knowledge of any conflicting or different terms and conditions of Seller.

3.3 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 shall be entitled to seek equitable remedies without the requirement to prove inadequacy or insufficiency of money damages as a remedy.

**4. Shipping.**

4.1 All Products shall be suitably packed, marked and shipped in accordance with Buyer's specifications or, in the absence of such specifications, in accordance with the requirements of common carriers and, if Buyer has agreed to be responsible for shipping, in a manner to secure the lowest transportation cost to Buyer.

4.2 Unless otherwise specified in the Purchase Order, Products shall be delivered FOB our facility within the USA and DDP Buyer's Plant (Incoterms 2000) for facilities outside the USA and Seller shall be responsible for all costs of packaging, handling, sorting, storage, shipping, insurance, customs duties and other transportation charges, unless otherwise stated in the Purchase Order. No charge shall be made to Buyer for drayage, demurrage, storage or returnable containers, unless otherwise stated in the Purchase Order.

4.3 All shipments shall be accompanied by packing slips showing the packing slip number, Purchase Order number, contents and weight, the name of Buyer's Plant and/or dock number, and any other information specified by Buyer. If requested, Seller shall include bar-codes matching Buyer's specifications with all delivered material. Where multiple packages comprise a single shipment, each package shall also be

consecutively numbered. Order numbers, package numbers and all part or code numbers of Buyer shall be shown on all packing slips, bills of lading and invoices. Seller shall describe Products and any services to be provided in connection with such Products on the bill of lading or other shipping receipt and shall route shipment in accordance with instructions issued by Buyer.

## **5. Delivery.**

5.1 Deliveries are to be made in the manner, the quantities and at the times specified on the face of the Purchase Order or in releases, call-offs, requisitions, work orders, delivery instructions or other documents forwarded to Seller by Buyer, which shall become binding on Seller unless Seller objects within five (5) days of receipt. Time and quantities are of the essence with respect to all delivery schedules established by Buyer, and Seller shall at all times achieve one hundred percent (100%) on-time delivery. Any premium shipping expenses and other related expenses necessary to meet Buyer's delivery schedules shall be Seller's sole responsibility. Seller shall be liable for all direct, incidental, consequential and other damages, losses, costs, charges and expenses incurred by Buyer resulting from the failure of Seller to timely deliver conforming Products.

5.2 Deliveries in advance of Buyer's specified delivery dates or of quantities in excess of those authorized by Buyer shall 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. Buyer shall have no obligation to accept any partial shipments and, if accepted, Buyer shall only be obligated to pay for conforming Products actually delivered and accepted.

## **6. Inspection and Acceptance of Products.**

6.1 At all reasonable times, Buyer and its customers may, but shall 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 shall provide, without additional charge, reasonable facilities and assistance for safe and convenient inspection and/or testing. Neither Seller nor Seller's suppliers shall change the location where Products are being manufactured or work is being performed without the prior written consent of an authorized representative of Buyer.

6.2 Buyer may elect not to conduct any inspections of the Products, and Seller waives any rights to require Buyer to make such inspections. Neither Buyer's failure to conduct an inspection nor Buyer's payment for any nonconforming Products shall 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 thereof, and Buyer shall 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 shall disclose to Buyer the extent of all prior rejections included in such delivery.

6.3 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. Title to and risk of loss of all Products subject to the Purchase Order shall remain with Seller until delivery and final acceptance of the Products at Buyer's Plant.

7. **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 direct, incidental, consequential and other damages, losses, costs, charges and expenses associated with any of the foregoing remedies shall be the responsibility of Seller and may be deducted by Buyer from any amount due to Seller.

## **8. Price and Terms**

8.1 Payment terms and any discounts for early payment shall be as set forth in the Purchase Order. The payment dates for the Purchase Order shall be calculated from the date acceptable invoices are received or the date conforming Products are received, whichever last occurs. Invoices shall conform to any requirements provided to Seller in writing and Buyer may reject any invoices that do not conform to such requirements.

8.2 Any cash discount or settlement discount period offered by Seller shall be calculated from the date acceptable invoices are received or the date conforming Products are received, whichever last occurs.

Unless freight, taxes and other charges are itemized, any discount shall be taken on the full amount of the invoice. All payments are subject to adjustment for shortage or rejection.

8.3 Prices may not be increased unless authorized by an amended Purchase Order issued and signed by an authorized representative of Buyer. 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 shall 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 shall be applicable to Products purchased under the Purchase Order, and Buyer shall be entitled to an appropriate credit for the amount of such reduction. Seller's price shall 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 similar costs from those in force on the date of the Purchase Order shall result in a corresponding reduction of the price of the Products ordered by Buyer. Seller shall provide Buyer and its representatives with reasonable access to Seller's records as shall be requested by Buyer to confirm billing and to enable Buyer to calculate invoiced amounts.

8.4 Seller acknowledges that Buyer's agreement to pricing for items and services is based on pricing received from Buyer's customers for goods that incorporate such items and services. Seller also acknowledges that at any time and from time-to-time, Buyer's customers may impose unilateral price reductions or prohibitions on price increases on Buyer, both prospectively through actual price reductions and retrospectively through "givebacks," rebates, refunds, and other mechanisms. Seller therefore agrees that it (i) will share proportionately in any and all price reductions imposed on Buyer by its customers, (ii) will be prohibited from increasing prices for Products incorporated in goods sold to a customer that has prohibited Buyer from increasing prices and (iii) shall not refuse to supply items or services upon Purchaser exercising its rights hereunder.

8.5 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 shall use all reasonable efforts to reduce costs through Product standardization and rationalization. All cost reductions achieved as a result of this Section 8.5 shall serve to reduce the purchase price as indicated in the Purchase Order or as mutually agreed upon in writing.

## **9. Quality Assurance.**

9.1 Seller shall provide and maintain a quality assurance system which shall assure 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 shall continually improve the quality of the Products. Seller shall comply with all requirements of the Cooper-Standard Automotive Supplier Guidebook in effect at the time an order is placed by Buyer which are hereby incorporated into the Purchase Order by this reference. Seller can obtain a copy of the Cooper-Standard Automotive Supplier Guidebook by [clicking here](#).

9.2 Without limiting Section 9.1, Seller shall comply with all quality requirements, procedures and standards, as specified by Buyer, which may include the most recent versions of one or more of the following standards and procedures or any successors to or replacements of such standards and procedures, depending on the nature of the Products and location of Buyer's Plant: ISO/TS 16949, ISO 14001, ISO 9001, DIN EN ISO 9001, QS-9000, Automotive Industry Action Group manuals, Confederation of German Automobile Manufacturers - VDA Publication 6 and other VDA publications. If required by Buyer, Seller shall be certified, at Seller's expense, to comply with the applicable standard by a third party acceptable to Buyer.

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

## **10. Changes to Purchase Order.**

10.1 Buyer reserves the right, for any reason, to cancel any undelivered portion of the Purchase Order or to make changes in the Purchase Order, including without limitation, 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 place or time of inspection, delivery or acceptance of the Products and (d) the amount of any Buyer's Property (as defined in Section 19) provided to Seller.

10.2 If such change 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, shall be made in the price or delivery

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

10.3 Nothing in this Section shall 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 shall be binding on Buyer unless evidenced by an amended Purchase Order issued by Buyer in accordance with Section 3.

#### **11. Ingredients and Hazardous Materials.**

11.1 Whenever required by applicable law or upon Buyer's request, Seller shall promptly furnish to Buyer, in such form and detail as Buyer directs, a material safety data sheet including at a minimum: (a) a list of all ingredients in the Products and any other goods or property brought by Seller or by any of Seller's employees, agents or contractors to Buyer's Plant, (b) the quantity of all such ingredients and (c) information concerning any changes in or additions to such ingredients. Prior to, and together with, the shipment of the Products, goods or property, Seller shall furnish to Buyer and all carriers sufficient written warnings and notices (including appropriate labels on the Products, goods, property, containers and packaging) of any hazardous material that is an ingredient or a part of any of the Products, goods or property, together with all special handling instructions, safety measures and precautions as may be necessary to comply with applicable law, 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, goods, property, containers and packaging.

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

#### **12. Taxes.**

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

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

12.3 Buyer will withhold from payments to Seller all amounts Buyer is required by applicable law to withhold. Buyer shall 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.

#### **13. Intellectual Property Rights.**

13.1 Seller warrants that the Products and the purchase, manufacture, incorporation into Buyer's products, use, marketing, sale, modification, repair and/or reconstruction thereof (before and after incorporation into Buyer's products during manufacture) do not and will not infringe any patent, trademark, copyright, trade secret, industrial design right or other intellectual property right of any third party in any jurisdiction.

13.2 Seller hereby grants to Buyer, each party or entity to which the Products are provided, and each of their affiliates, agents, suppliers and contractors, a fully paid, unrestricted, worldwide, irrevocable and perpetual license to all intellectual property rights, including without limitation all software, drawings, specifications, data, documentation and know-how so as to enable the purchase, manufacture, incorporation into Buyer's products, use, marketing, sale, modification, repair and/or reconstruction of the Products or any components, parts or sub-assemblies thereof in any manner. Seller warrants that it is aware of the uses to which the Products are to be put, and that Seller has full right to grant said license.

13.3 If the purchase, manufacture, incorporation into Buyer's products, use, marketing, sale, modification, repair and/or reconstruction of the Products, or any part thereof, is alleged to constitute infringement or is enjoined or, in Buyer's sole judgment, is likely to be enjoined, Seller shall, at its own expense and without limiting its other obligations or the rights of Buyer under the Purchase Order, obtain for Buyer and its customers the right to continue the purchase, manufacture, incorporation into Buyer's products, use, marketing, sale, modification, repair and/or reconstruction of the Products. If Seller cannot obtain such rights then Seller shall, 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 thereof. Seller shall be liable for all direct,

incidental, consequential and other damages, losses, costs, charges and expenses incurred by Buyer resulting from the foregoing.

13.4 If the Purchase Order involves or results in: (a) any invention or any experimental, developmental or research activities, including engineering related thereto, (b) any reduction to practice or any subject matter, application or discovery which could be patented, copyrighted, or otherwise perfected or protected or (c) any improvement in the design of the Products or any alternative or improved method of accomplishing the objectives of the Purchase Order (collectively, "Inventions"), such Inventions shall be owned by Buyer and shall be deemed confidential and proprietary property of Buyer. Seller agrees to and does hereby assign to Buyer all right, title and interest in any intellectual property rights in such Inventions, and Seller shall cooperate and cause its employees and contractors to cooperate in executing any documents and taking any other actions necessary or convenient to evidence such assignment or to patent or otherwise perfect or protect such Inventions for the benefit of Buyer.

13.5 All works of authorship, including without limitation, technical data related to the Products, design documents and drawings, software, computer programs and databases, and all enhancements, modifications and updates thereof and all written work products or materials which are created in the course of performing the Purchase Order are "works made for hire" and the sole property of Buyer. To the extent that such works of authorship do not qualify under applicable law as works made for hire, Seller agrees to and does hereby assign to Buyer all right, title and interest in any intellectual property rights in such works of authorship, and Seller shall cooperate and cause its employees and contractors to cooperate in executing any documents and taking any other actions necessary or convenient to evidence such assignment.

#### **14. Proprietary Information.**

14.1 Any information or knowledge which Buyer may have disclosed or may hereafter disclose to Seller in connection with the Products or the Purchase Order shall be deemed confidential and proprietary information of Buyer and shall not be disclosed by Seller to any third party without the prior written consent of an officer of Buyer. Buyer retains ownership of all proprietary rights in any information disclosed to Seller in connection with the Products or the Purchase Order.

14.2 Any knowledge or information which Seller shall have disclosed or may hereafter disclose to Buyer in connection with the Products or the Purchase Order shall not, unless otherwise specifically agreed upon in writing by an officer of Buyer, be deemed to be confidential or proprietary information, and accordingly shall be acquired free from any restriction. Notwithstanding anything to the contrary herein contained, 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 officer of Buyer.

#### **15. Product Warranties.**

15.1 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 customers that each Product shall: (a) be new and conform to the Purchase Order in all respects, (b) conform to all specifications, drawings, samples, brochures, manuals and other descriptions furnished by, or accepted in writing by, an authorized representative of Buyer, (c) comply with applicable standards in the industry and standards issued under all laws applicable to Buyer, Seller and the Products, (d) be merchantable and fit for the purpose for which intended, Seller acknowledging that it knows of Buyer's intended use, (e) be of the highest quality, and free from all defects in design, materials and workmanship and (f) be free and clear of any and all liens and encumbrances of whatsoever nature and kind. Seller also warrants that it is and shall at all times remain competitive in terms of price, quality, delivery, technology and service with respect to the supply of the Products.

15.2 The warranty period shall be the longest of: (a) five (5) years, (b) the period provided by applicable law, or (c) the warranty period Buyer provides its customers for goods that include the Products. All warranties of Seller, express or implied, and all remedies of Buyer, in this Section or elsewhere, shall survive indefinitely any delivery, inspection, tests, acceptance, payment or processing.

#### **16. Default and Remedies.**

16.1 Seller shall 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 non-conformity 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 shall be such as to endanger the quality of the Products or Seller's timely performance.

16.2 Upon any default hereunder, in addition to all other remedies hereunder or under applicable law or in equity, Buyer may exercise any one or more of the following remedies: (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, (b) require Seller to repair or replace any or all Products determined by Buyer to be non-conforming, at Buyer's option and 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 direct, incidental, consequential or other damages, losses, costs, charges and expenses relating to such default and any debits or set-offs 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 attorneys' fees and costs of suit, plus interest on all of the foregoing at the highest rate permitted by applicable law.

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

## **17. Indemnification.**

17.1 Seller shall indemnify, defend and hold harmless Buyer, its affiliates, customers and each other third party to which Products are provided, 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, incidental, consequential and other damages, attorneys' fees 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, failure to warn, improper handling, improper operating or installation instructions 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 or (c) any other act or omission of Seller or any of Seller's employees, agents or subcontractors.

17.2 Seller shall indemnify, defend and hold harmless the Indemnified Parties from and against any and all Losses arising out of or relating to: (a) any actual or alleged breach of warranty or other failure of any Products to conform with the requirements of the Purchase Order, (b) Seller's breach of the Purchase Order or any other agreement between Buyer and Seller or (c) any recall campaign or field service action in which Buyer, any customer of Buyer or any third party participates to the extent it is related to any of the Products or is the fault of Seller.

17.3 Seller shall indemnify, defend and hold harmless the Indemnified Parties from and against any and all Losses arising out of or relating to 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.

17.4 Seller's indemnification shall 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 Buyer or as otherwise provided by applicable law. Seller's indemnification shall continue notwithstanding any delivery, inspection, tests, acceptance, payment or processing. Seller agrees that it shall 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 shall fully cooperate with Buyer in the defense of any such claim.

## **18. Cancellation for the Convenience of Buyer.**

18.1 In addition to any other rights of Buyer to cancel or terminate the Purchase Order, Buyer reserves the right, for any reason, to cancel any undelivered portion of the Purchase Order.

18.2 In the event of a cancellation under Section 18.1, Buyer shall pay to Seller, as Seller's sole and exclusive recovery from Buyer, the following amounts, without duplication, as determined by Buyer: (a) the purchase price for Products delivered to Buyer in accordance with approved delivery schedules or releases prior to cancellation and accepted in accordance with the Purchase Order and (b) the reasonable direct out-of-pocket costs incurred by Seller in connection with finished work, work-in-process and other parts and materials produced or acquired pursuant to authorized releases, call-offs or delivery schedules under the Purchase Order and which Seller cannot use for itself or for others. Seller shall use its best efforts to mitigate such costs.

18.3 Any claim for payment for Buyer's termination for convenience must be made in writing within ten (10) 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. Buyer will not pay for any work performed after Seller's receipt of notice of termination or costs

which Seller could reasonably have avoided. 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 releases, call-offs or delivery schedules outstanding on the date of termination. Where the cost of any property of Seller 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 to acquire the property and Buyer shall have the right to take title thereto and prescribe the manner of disposition thereof.

18.4 The provisions of this Section shall 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 34.

## **19. Buyer's Property.**

19.1 Seller shall 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 listed on the Purchase Order. Where Tools are included in the Purchase Order, they shall be purchased by Seller as agent for Buyer and Buyer shall 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 shall 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 all Products returned by Buyer for repair or pending replacement (collectively, "Buyer's Property") are and shall be owned by Buyer and shall be used only for the production of Products for Buyer. Seller shall have only temporary possession of Buyer's Property, and shall deliver all or any part thereof to Buyer immediately upon demand.

19.2 Seller at its own expense shall 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 thereto shall become the Property of Buyer. Seller shall maintain records of all maintenance and repairs performed on Buyer's Property.

19.3 Seller shall bear the risk of loss and damage of such Buyer's Property at all times while in Seller's possession and shall keep Buyer's Property insured for its full replacement cost for the benefit of Buyer, shall keep it segregated from all other assets and labeled as being the property of Buyer, shall not move Buyer's Property from Seller's premises without the prior written consent of an officer of Buyer and shall immediately sign and file documents requested by Buyer to evidence its ownership thereof. Seller shall 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 shall, at Buyer's option, replace the same at Seller's expense or indemnify Buyer for the costs of such replacement.

19.4 Nothing herein shall be construed as imposing any obligation on Buyer to furnish to Seller any designs, sketches, drawings, blueprints, patterns or any Buyer's Property and Buyer does not guarantee the accuracy of any such property supplied by it.

20. **Seller's Property.** Unless otherwise provided in the Purchase Order, Seller shall, at its expense, furnish, keep in good condition and replace any Tools necessary for the production of the Products. 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.

## **21. Insurance.**

21.1 In addition to all other insurance coverage required by applicable law or as requested by Buyer, Seller shall provide workers' compensation, automobile and comprehensive general liability insurance, including coverage for contractual liability, products liability and completed operations, in amounts and with coverages acceptable to Buyer. Buyer shall also be named as an additional insured on such policies (other than the workers' compensation insurance policy).

21.2 Upon request by Buyer, Seller shall promptly furnish Buyer with a certificate of insurance acceptable to Buyer showing the amount of coverage, policy number and date of expiration of the insurance, indicating that Buyer is an additional insured on such policies (other than the workers' compensation insurance policy) and requiring that Buyer be given thirty (30) days written notice prior to any modification, lapse or cancellation of any policy. If Seller is self-insured for workers' compensation coverage, Seller shall, if requested by Buyer, provide the applicable certificate establishing such status to Buyer.

21.3 Seller, on behalf of itself and its insurers, hereby waives any right of subrogation against Buyer for 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.

22. **No Liens.** The Products shall be provided free and clear of any and all liens, security interests, pledges or encumbrances of any nature whatsoever. To the extent permitted by applicable law, Seller hereby waives all mechanics' liens and claims and agrees that none shall be filed or maintained against Buyer, Buyer's Property or Buyer's premises on account of any Products. Seller shall cause all of its subcontractors, materialmen and suppliers (and their subcontractors) to provide similar waivers and agreements in form satisfactory to Buyer. If any such mechanics' liens or claims are filed or maintained against Buyer, Buyer's Property or Buyer's premises, Seller shall immediately discharge such mechanics' liens in a manner satisfactory to Buyer.

**23. Force Majeure.**

23.1 Except as otherwise provided herein, Seller shall not be liable for a reasonable delay or default in furnishing Products hereunder and Buyer shall not be liable for failure to perform any of its obligations hereunder, to the extent due to fire, flood, storm, other natural disaster, national emergency or war, but not including delays or defaults due to labor problems, inability to obtain financing, increases in the cost of raw materials or energy, negligence or other fault of the party claiming the delay, provided that either party has given the other notice of such occurrence within five (5) days of becoming aware of the same. Such notice shall describe the event causing the delay, the expected duration, remediation plans and plans for the supply or purchasing of Products during such event.

23.2 During any such event that causes Buyer to delay delivery of the Products, Seller shall hold any such delayed Products at the direction of Buyer and shall deliver them upon receipt of written notice from Buyer that the causes of the delay have been removed or terminated. Buyer will be responsible only for Seller's direct additional costs (other than interest on the purchase price) incurred in holding the Products or delaying performance at Buyer's request.

23.3 During any such event that causes Seller to delay delivery of the Products, and in addition to any other rights of Buyer under the Purchase Order, Buyer may: (a) purchase substitute Products from other available sources, in which case the quantities under the Purchase Order shall be reduced by the quantities of such substitute Products and Seller shall reimburse Buyer for any reduction in quality or additional costs to Buyer from obtaining the substitute Products compared to the prices set forth in the Purchase Order and (b) have Seller provide substitute Products from other available sources in the quantities and at the times Buyer requests and at the prices set forth in the Purchase Order. During such event, if Seller shall be required to allocate its available production capacity among its customers, then the volumes supplied under the Purchase Order as a proportion of such capacity shall be used, plus five percent (5%) of such volumes under the Purchase Order for each year Buyer has purchased Products from Seller. If Seller cannot provide adequate assurances that a delay will not exceed ten (10) days or if a delay lasts more than ten (10) days, Buyer may terminate the Purchase Order without any obligation or liability to Seller.

24. **Labor Dispute or Material Shortage.** At least sixty (60) days before the expiration of any of Seller's labor contracts that may impact Seller's performance under the Purchase Order and at any other time as soon as Seller has knowledge that any actual or potential labor dispute, material shortage or other production difficulties may delay or threaten to delay its timely performance under the Purchase Order, Seller shall, at its expense, produce and locate in an area that will not be affected by any such event a finished inventory of Products in quantities sufficient to ensure the supply of Products to Buyer for at least sixty (60) days after such event occurs.

25. **Set Off.** Buyer shall be entitled at any time to set off any sums owing by Seller or any of Seller's affiliated companies, to Buyer or to any of Buyer's affiliated companies, against sums payable by Buyer in connection with the Purchase Order.

26. **No Advertising.** Without the prior written consent of an officer of Buyer, Seller shall 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. **Buyer's Liability.** In no event shall 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 Sections 10 or 18 or, if not applicable, the price for conforming Products accepted by Buyer. 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 arose or such claim shall be waived and foreverbarred.

28. **Limitation on Assignment.** Buyer may assign the Purchase Order or any of its rights or obligations without Seller's consent. Seller agrees not to assign the Purchase Order or subcontract the performance of its duties without the prior written consent of an authorized representative of Buyer. If Seller is authorized to use subcontractors, Seller shall 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 whatsoever.

29. **Compliance with Laws.** Seller, and all Products supplied by Seller, shall 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, but not limited to, 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 shall certify in writing its compliance with the foregoing.

**30. Governing Law and Jurisdiction.**

30.1 If (a) the Purchase Order is issued by Buyer from a location within the United States or its territories, (b) the Purchase Order includes any Products to be delivered within the United States or its territories or (c) Seller's shipping location is within the United States or its territories, then the Purchase Order shall be governed by and construed according to the laws of the State of Michigan, notwithstanding any inconsistent provisions of the United Nations Convention on Contracts for the International Sale of Goods, and notwithstanding any choice of law provisions that would otherwise require application of any other law. 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 shall 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 by Buyer, or in a federal district court located in the district in which the Purchase Order was issued by Buyer, or in or any other courts having jurisdiction over Seller.

30.2 In all cases not subject to Section 30.1, the Purchase order is to be governed by and construed according to the laws of the country (and state, province or locality, if applicable) where Buyer's Plant is located notwithstanding any inconsistent provisions of the United Nations Convention on Contracts for the International Sale of Goods, and notwithstanding any choice of law provisions that would otherwise require application of any other law. Any legal action or proceeding by Seller against Buyer arising out of the Purchase Order shall be brought by Seller only in courts having jurisdiction over the location of Buyer's Plant. Any such legal action or proceeding by Buyer against Seller may be brought by Buyer, at Buyer's option, in courts having jurisdiction over Buyer's Plant or any courts having jurisdiction over Seller.

30.3 Seller specifically consents and submits to the personal jurisdiction and venue of the courts described in this Section 30 and service of process in accordance with the applicable courts' procedures.

31. **Severability.** This Purchase Order shall 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 shall, 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 shall 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 shall the Purchase Order be invalid due to an unenforceable provision or portion of a provision of the Purchase Order.

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

32.1 Seller shall 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 its customer service or replacement parts incorporating the Products, whichever is longer. During the first five (5) years after the date of final shipment, the prices for the Products shall be the prices specified in the Purchase Order. Thereafter, the prices for the Products shall be the prices specified in the Purchase Order, plus any actual cost increase for packaging and manufacturing, as determined by Buyer. If the Products are systems, Seller shall sell the components, parts or sub-assemblies that comprise the system at prices that shall not, in the aggregate, exceed the price of the system, less assembly costs. Further, during said period, Seller shall continue to provide technical support and service at the same level as currently required under the Purchase Order.

32.2 If Seller discontinues manufacture of the Products, or the components, parts or sub-assemblies or does not provide any of them in a timely manner for Buyer's requirements, Seller shall make available to Buyer all software, drawings, specifications, data, documentation and know-how which shall enable and facilitate Buyer, its suppliers and its customers to purchase, manufacture, incorporate into Buyer's products, use, market, sell, modify, repair and/or reconstruct such Products, components, parts and sub-assemblies, all of which shall be subject to the license granted in Section 13.2.

33. **Customs and Export Controls.** 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 shall be responsible for all ordinary duties to the extent specified in the Purchase Orders and shall always be responsible for any special duties, including but not limited to marking, anti-dumping and countervailing duties. Seller shall provide all information necessary (including written documentation and electronic transaction records) to other law. 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 shall 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 by Buyer, or in a federal district court located in the district in which the Purchase Order was issued by Buyer, or in or any other courts having jurisdiction over Seller.

34. **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 shall 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 shall 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 shall reimburse Buyer for the costs of such audit upon demand. Seller shall retain all such records for a period of at least five (5) years following the final payment under the Purchase Order. Seller shall provide Buyer with reasonable access to its facilities and otherwise provide reasonable assistance in connection with such audits.

35. **Language.** The English language version of these General Terms and Conditions shall 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.

36. **Non-Compete.** Seller shall not engage in the sale or manufacture of any Product to any other third party (including the customer's of Buyer) to the extent the Product, the manufacturing process or customer relationship is based upon information transmitted by Buyer pursuant to the terms of Section 14.