



Terms and Conditions of Purchase

- 1. Offer; Acceptance** This purchase order ("Order") is an offer to Seller by Buyer for the purchase of goods and services ("Supplies"). This Order does not constitute an acceptance of any offer or proposal made by Seller. Any reference in this Order to any offer or proposal made by Seller is solely to incorporate the description or specifications of Supplies in the prior offer or proposal, but only to the extent that the description or specifications do not conflict with the description and specifications in this Order. Seller's written acceptance, Seller's commencement of any work under this Order or any other conduct by Seller that recognizes the existence of a contract with respect to the subject matter of this Order constitutes Seller's acceptance of these terms and conditions only. Any additional or different terms and conditions proposed by Seller, whether in Seller's proposal form, acknowledgement form, invoice or otherwise, are unacceptable to Buyer, are expressly rejected by Buyer and shall not become part of this Order. THE TERMS OF THIS AGREEMENT ARE EXCLUSIVE. This Order can be modified only in the manner described in Section 33.
- 2. Invoicing and Pricing** The price of Supplies includes storage, handling, packaging, freight, insurance, transportation, and all other expenses, costs and charges of Seller, unless Buyer agrees otherwise in writing in this Order. All invoices under this Order must reference the purchase order number, amendment or release number, Buyer's part number, Seller's part number where applicable, quantity of pieces in the shipment, number of cartons or containers in the shipment, Seller's name and number, bill of lading number and other information required by Buyer. Buyer may return incorrect invoices or related documents. Payment will be made against correct invoices and documentation on the payment terms specified in this Order. The total price includes all freight, duty and tax, except for any value added tax (VAT) imposed by a non-USA jurisdiction, which must be shown separately on Seller's invoice for each shipment, and Buyer shall not be liable for any business activity taxes or taxes on or measured by net income, including without limitation the Michigan Single Business Tax. Seller represents and warrants that the prices will be no less favorable than those which Seller presently, or in the future, offers to any other customer for the same or similar goods or services for similar quantities. If Seller offers a lower price for the same or similar goods or services to any other customer during the term of this Order, then Seller will immediately offer Buyer the same price on the same terms and conditions as offered to the other customer.
- 3. Quantities; Delivery** (a) Quantities listed in this Order as estimated are Buyer's best estimate of its requirements for Supplies from Seller for the contract term specified in this Order. Buyer is required to purchase only those quantities identified as firm orders in material authorization releases, manifests, broadcasts or similar releases ("Material Authorization Releases") or other orders delivered by Buyer to Seller in connection with this Order. Buyer may purchase additional quantities of the listed Supplies at the prices set forth in this Order pursuant to Material Authorization Releases. (b) Delivery of Supplies shall be F.O.B. Buyer's designated facility. The risk of loss passes from Seller to Buyer upon delivery to Buyer's designated facility, unless otherwise agreed to in writing by Buyer. (c) Time and quantities are of the essence under this Order. Seller agrees to 100% on-time delivery of the quantities and at the times specified by Buyer, as set forth in this Order and related Material Authorization Releases, unless otherwise negotiated and agreed in writing by the parties. Failure to meet agreed delivery and quantities shall be considered a breach of this Order, and Seller shall pay to Buyer any damages or expenses imposed upon or incurred by Buyer. (d) Buyer may change the rate of scheduled shipments or direct temporary suspension of scheduled shipments, neither of which entitles Seller to modify the price for Supplies covered by this Order. (e) Buyer is not obligated to accept early deliveries, late deliveries, partial deliveries or excess deliveries.
- 4. Premium Freight; Related Costs** (a) Seller pays all premium freight costs over normal freight costs if Seller needs to use an expedited shipping method to meet agreed upon delivery dates due to its own acts or omissions. Seller pays any costs incurred by Buyer, including costs charged by Buyer's customer(s) to Buyer, as a result of Seller's failure to comply with shipping or delivery requirements. (b) Buyer is not liable for premium freight costs, unless specifically agreed to in advance, in writing, by Buyer.
- 5. Packaging; Marking; Shipping; Disclosure; Special Warnings or Instructions** (a) Seller agrees to: (i) properly pack, mark and ship Supplies in accordance with the requirements of Buyer, the involved carriers and the country of destination, (ii) route the shipments in accordance with Buyer's instructions, (iii) label or tag each package according to Buyer's instructions, (iv) provide papers with each shipment showing the purchase order

number, amendment or release number, Buyer's part number, Seller's part number (where applicable), number of pieces in the shipment, number of containers in the shipment, Seller's name and number, and the bill of lading number, and (v) promptly forward the original bill of lading or other shipment receipt for each shipment in accordance with Buyer's instructions and carrier requirements. (b) If requested by Buyer, Seller will promptly provide Buyer with the following information in the form requested: (i) a list of all ingredients in Supplies, (ii) the amount of all ingredients, and (iii) information concerning any changes in or additions to the ingredients. (c) Before and at the time the Supplies are shipped, Seller will give Buyer sufficient warning in writing (including appropriate labels on all Supplies, containers and packing) of any hazardous material that is an ingredient or part of the Supplies, together with any special handling instructions that are needed to advise carriers, Buyer and their employees how to take measures to prevent bodily injury or property damage while handling, transporting, processing, using or disposing of the Supplies, containers and packing. Seller agrees to comply with all federal, state, provincial and local laws and regulations pertaining to product and warning labels. (d) Seller will reimburse Buyer for any expenses incurred as a result of improper packing, marking, routing or shipping. (e) In no event will shipping documents attached to or contained in the shipment display pricing information or any of Buyer's proprietary information. (f) In the event that no packing requirements are provided by Buyer, Seller will pack the Supplies in accordance with the applicable AIAG packing requirement.

6. Inspection; Non-Conforming Goods/Services; Audit (a) Buyer may enter Seller's facility to inspect the facility, Supplies, materials, and any of Buyer's property covered by this Order. (b) Buyer's inspection of Supplies, whether during manufacture, prior to delivery or within a reasonable time after delivery, does not constitute acceptance of any work-in-process or finished goods. Buyer's acceptance, inspection or failure to inspect does not relieve Seller of any of its responsibilities or warranties. Nothing in this Order releases Seller from the obligation of testing, inspection and quality control. (c) If defective Supplies are shipped to and rejected by Buyer, the quantities under this Order will be reduced unless Buyer otherwise notifies Seller. Seller will not replace reduced quantities without a new order from Buyer. (d) In addition to other remedies available to Buyer, (i) Seller agrees to authorize return, at Seller's risk and expense at full invoice price, plus transportation charges, within one (1) working day of Buyer's notification and to replace defective Supplies as Buyer deems necessary, and/or (ii) Buyer may have corrected at any time prior to shipment from Buyer's plant Supplies that fail to meet the requirements of this Order, and (iii) Seller will reimburse Buyer for all reasonable expenses that result from any rejection or correction of defective Supplies. (e) Seller will document corrective actions within a commercially reasonable period after receipt of a defective sample and will take whatever measures necessary to correct the defect. (f) Payment for nonconforming Supplies is not an acceptance, does not limit or impair Buyer's right to assert any legal or equitable remedy, and does not relieve Seller's responsibility for latent defects. (g) Upon reasonable notice to Seller, either Buyer or Buyer's customer may conduct a routine audit at Seller's production facility for the purpose of quality, cost or delivery verification.

7. Payment (a) Payment shall be made as set forth in this Order (or any related document(s) made part of this Order). (b) If not otherwise specified, Buyer's payment will be made net 30 days (c) Buyer may withhold payment pending receipt of evidence, in the form and detail requested by Buyer, of the absence of any liens, encumbrances or claims on Supplies provided under this Order. (d) Payment will be made in U.S. Dollars unless otherwise agreed by the parties in writing.

8. Changes (a) Buyer reserves the right to direct changes, or to cause Seller to make changes, to drawings, specifications, samples or descriptions of Supplies. Buyer also reserves the right to otherwise change the scope of the work covered by this Order, including work with respect to such matters as inspection, testing or quality control. Seller agrees to promptly make any requested changes. Seller agrees to notify Buyer within ten (10) days after receiving notice of a change if Seller expects that the change results in a difference in price or time for performance. Buyer can request additional documentation from Seller of the need for a different price or time for performance. After receiving all requested documentation, Buyer may, at its discretion, equitably adjust the price or time for performance. If Seller does not provide timely notice to Buyer that a requested change may result in a difference in price or time for performance, the parties agree that the Buyer's requested change did not affect the price or time for performance. (b) Seller will not make any change in the Supplies' design, processing, packing, marking, shipping, or date or place of delivery except at Buyer's written instruction or with Buyer's written approval.

9. Warranties (a) Seller expressly warrants and guarantees to Buyer, to Buyer's successors, assigns and customers, and to users of Buyer's products, that all Supplies delivered to Buyer will: (i) conform to the specifications, standards, drawings, samples, descriptions and revisions as furnished to or by Buyer, (ii) conform to

all applicable laws, orders, regulations or standards in countries where Supplies or vehicles or other products incorporating Supplies are to be sold, including without limitation the National Traffic and Motor Vehicle Safety Act (and the federal motor vehicle safety standards), (iii) be merchantable and free of defects in design (to the extent designed by Seller), materials and workmanship, and (iv) be selected, designed (to the extent designed by Seller), manufactured or assembled by Seller based upon Buyer's intended use and be fit and sufficient for the purposes intended by Buyer. The foregoing warranties are in addition to those available to Buyer by law. (b) The warranty period provided by applicable law applies, except that if Buyer or Buyer's customer offers a longer warranty to customers for Supplies installed on or as part of vehicles, the longer period will apply. (c) If Buyer intends to bring a claim against Seller for breach of warranty under this Order, Buyer will provide Seller with a written claim indicating: (i) the existence and nature of the breach of warranty, and (ii) the amount of the actual or anticipated warranty loss.

10. Supplier Quality and Development; PPAP; Parts Identification (a) Seller will conform to the quality control standards and inspection system, as well as related standards and systems (including without limitation quality control policies, ISO/TS 16949), that are established by Buyer, and (to the extent directed by Buyer) Buyer's customer(s). (b) Seller will also participate in supplier quality and development programs of Buyer, and (to the extent directed by Buyer) Buyer's customer(s) that apply to the Supplies described in this Order. (c) Seller agrees to meet the full requirements of industry Production Part Approval Processes (PPAP) as specified by Buyer and (as applicable) Buyer's customer(s) and agrees to present this information to Buyer upon request, at the level requested unless otherwise specifically agreed by Buyer in writing. (d) All Supplies that are a completed part shall permanently bear Buyer's part number and name or code name, Seller's part number and Seller's date of manufacture unless otherwise agreed by Buyer in writing.

11. Remedies The rights and remedies reserved to Buyer in this Order shall be cumulative with and additional to all other or legal or equitable remedies. Buyer will notify Seller if: (i) any Supplies fail to conform to the warranties set forth in Paragraph 9, (2) Seller fails to comply with or breach any of Seller's representations in this Order or any of the terms and conditions of this Order, or (3) Seller (or its agents, employees or subcontractors) commits any other negligent or wrongful act or omission. At Buyer's request, Seller will reimburse Buyer for any incidental or consequential damages caused by nonconforming Supplies, including but not limited to costs, expenses and losses incurred directly or indirectly by Buyer or its customer(s): (a) in inspecting, sorting, repairing or replacing the nonconforming Supplies, (b) resulting from production interruptions, (c) conducting recall campaigns or other corrective service actions, or (d) resulting from personal injury (including death) or property damage caused by the nonconforming Supplies. Consequential damages include professional fees incurred by Buyer. If requested by Buyer, Seller will enter into a separate agreement for the administration or processing of warranty charge-backs for nonconforming Supplies, and will participate in and comply with any warranty reduction or related programs of Buyer or (to the extent directed by Buyer) Buyer's customer(s) that relate to the Supplies. In any action brought by Buyer to enforce Seller's obligation to produce and deliver Supplies under this Order, the parties agree that Buyer does not have an adequate remedy at law and Buyer is entitled to specific performance of Seller's obligations under this Order.

12. Indemnification (a) To the fullest extent permitted by law, Seller will defend, indemnify and hold harmless Buyer, Buyer's successors, assigns and customers (both direct and indirect, including manufacturers of vehicles in which Supplies are incorporated), and dealers and users of the products sold by Buyer (or the vehicles in which they are incorporated), against any and all claims, damages, liabilities, or expenses (including attorney's fees and other professional fees, settlements and judgments) arising out of or resulting in any way from any defective Supplies, or from any negligent or wrongful act or omission of Seller, or Seller's agents, employees or subcontractors, or any breach or failure by Seller to comply with any of Seller's representations or other terms and conditions of this Order. Seller's obligation to defend and indemnify under this Section will apply regardless of whether the claim arises in tort, negligence, contract, warranty, strict liability or otherwise except for claims that arise as a result of the sole negligence of Buyer. (b) If Seller performs any work on Buyer's or Buyer's customer's premises or utilizes the property of Buyer or Buyer's customer, whether on or off Buyer's or Buyer's customer's premises: (i) Seller will examine the premises to determine whether they are safe for the requested services and will advise Buyer promptly of any situation it deems to be unsafe; (ii) Seller's employees, contractors and agents will comply with all regulations that apply to the premises; (iii) Seller's employees, contractors and agents will not possess, use, sell, transfer or be under the influence of alcohol or unauthorized, illegal or controlled drugs or substances on the premises; and (iv) to the fullest extent permitted by law, Seller will indemnify and hold Buyer and Buyer's customer (and their respective officers, directors, employees, agents, successors and assigns) harmless from

and against any and all liability claims, demands or expenses (including attorney's fees and other professional fees, settlements and judgments) for damages to the property of or personal injuries to Buyer, its customer, their respective employees or any other person or entity if the claims arise from or in connection with Seller's work on the premises or Seller's use of Buyer's or Buyer's customer's property, except for any liability, claim or demand arising out of the sole negligence of Buyer or Buyer's customer.

13. Insurance Seller shall maintain insurance coverage for the Supplies in amounts as may be reasonably requested by Buyer or (to the extent directed by Buyer) Buyer's customer(s). Seller will furnish to Buyer a certificate showing compliance with this requirement or certified copies of all insurance policies within ten (10) days of Buyer's written request. The certificate will provide that Buyer (and, if applicable, Buyer's customers) will receive thirty (30) days prior written notice from the insurer of any termination or reduction in the amount or scope of coverage. The existence of insurance does not release Seller of its obligations or liabilities under this Order.

14. Compliance with Laws Seller, and any Supplies supplied by Seller, shall comply with all applicable laws, including rules, regulations, orders, conventions, ordinances or standards, that relate to the manufacture, labeling, transportation, importation, exportation, licensing, approval or certification of the goods or services, including laws relating to environmental matters, wages, hours and conditions of employment, subcontractor selection, discrimination, occupational health or safety, and motor vehicle safety. This Order incorporates by reference all clauses required by these laws. All materials used by Seller in the Supplies or in their manufacture shall satisfy current governmental and safety constraints on restricted, toxic and hazardous materials as well as environmental, electrical and electromagnetic considerations that apply to the country of manufacture, sale or destination. Seller will indemnify Buyer against and hold Buyer harmless from any liability claims, demands or expenses (including attorney's fees and other professional fees, settlements and judgments) relating to Seller's noncompliance.

15. Customer Requirements Seller agrees to comply with the applicable terms and conditions of any agreements ("Customer Purchase Orders") received by Buyer from a third party ("Customer"), in which Buyer agrees to supply to Customer, or incorporate into goods supplied to Customer, Supplies purchased by Buyer from Seller. Buyer may supply Seller with information regarding the Customer Purchase Orders, but Seller shall be responsible for ascertaining any terms and conditions contained in Customer Purchase Orders that may affect Seller's obligations under this Order. Seller will do everything within its control to enable Buyer to meet the terms and conditions of the Customer Purchase Orders. If this Section conflicts any other paragraph in this Order, Buyer has the right to have the provisions of this Section prevail.

16. Insolvency This Order may be terminated immediately by Buyer without liability to Seller if any of the following events, or any other comparable events, and Seller shall reimburse Buyer for all costs incurred by Buyer in connection with any of the following, including but not limited to all attorney's and other professional fees: (a) Seller becomes insolvent, (b) Seller files a voluntary petition in bankruptcy, (c) an involuntary petition in bankruptcy is filed against Seller, (d) a receiver or trustee is appointed for Seller, (e) Seller needs accommodations from Buyer, financial or otherwise, in order to meet its obligations under this Order, or (f) Seller executes an assignment for the benefit of creditors.

17. Termination for Breach or Nonperformance Buyer reserves the right to terminate all or any part of this Order, without liability to Seller, if Seller: (a) repudiates, breaches or threatens to breach any of the terms of this Order, including Seller's warranties, (b) fails to perform or threatens not to perform services or deliver Supplies as specified by Buyer, (c) fails to make progress so as to endanger timely and proper completion or delivery of Supplies and does not correct the failure or breach within ten (10) days (or such shorter period of time if commercially reasonable under the circumstances) after receipt of written notice from Buyer specifying the failure or breach, (d) sells or offers to sell a substantial portion of its assets used for the production of Supplies for Buyer, or sells or exchanges or offers to sell or exchange an amount of its stock or other equity interests that would result in a change in control of Seller, or (e) fails to remain competitive with respect to quality, technology, delivery and pricing of the Supplies. Seller shall notify Buyer within ten (10) days after entering into any negotiations that could lead to the situation specified in subsection (d) above; upon Seller's request, Buyer will enter into an appropriate nondisclosure agreement related to information disclosed to Buyer in relation to such transaction.

18. Termination (a) In addition to any other rights of Buyer to cancel or terminate this Order, Buyer may, at its option, immediately terminate all or any part of this Order at any time and for any reason by giving written notice to Seller, and notwithstanding the existence of any event of force majeure as defined in this Order. (b) Upon receipt

of any notice of termination, and unless otherwise directed by Buyer, Seller will: (i) terminate promptly all work under this Order, (ii) transfer title and deliver to Buyer the finished Supplies, the work in process, and the parts and materials that Seller produced or acquired in accordance with the terms and conditions of this Order and which Seller cannot use in producing goods for itself or for others, (iii) verify and settle any claims by subcontractors for actual costs made unrecoverable by the termination and ensure the recovery of materials in subcontractor's possession, (iv) take actions reasonably necessary to protect property in Seller's possession in which Buyer has an interest until disposal instruction from Buyer has been received, and (v) upon Buyer's reasonable request, cooperate with Buyer in transferring the production of Supplies to a different supplier. (c) Upon termination by Buyer under this Section 18, Buyer's obligation to Seller will be: (i) the Order price for all finished Supplies that conform to the requirements of this Order and were not previously paid for, (ii) Seller's reasonable actual cost of work-in-process and the parts and materials transferred to Buyer in accordance with subsection (b)(ii) above, (iii) Seller's reasonable actual costs of settling the claims of the obligation Seller would have had to the subcontractors in the absence of termination, and (iv) Seller's reasonable actual cost of carrying out its obligation under subsection (b)(iv). Notwithstanding anything to the contrary, Buyer shall have no obligation for and shall not be required to make payments to Seller, directly or on account of claims by Seller's subcontractors, for loss of anticipated profit, unabsorbed overhead, interest on claims, product development and engineering costs, tooling, facilities and equipment rearrangement costs or rental, unamortized depreciation costs, finished goods, work-in-process or raw materials that Seller fabricates or procures in amounts that exceed those authorized in the Material Authorization Releases, and general administrative burden charges from termination of this Order, unless otherwise expressly agreed to in writing by Buyer. (d) Buyer's obligation upon termination under this Section 18 shall not exceed the obligation Buyer would have had to Seller in the absence of termination. (e) Seller will furnish to Buyer, within one (1) month after the date of termination under this Section 18 (or such shorter period as may be required by Buyer's customer), its termination claim, which shall consist exclusively of the items of Buyer's obligation to Seller that are listed in subsection 18(c) above. Buyer may audit Seller's records before or after payment to verify amounts requested in Seller's termination claim. (f) Buyer will not have any obligation under subsections 18(a), (c), (d) or (e) above if Buyer terminates Buyer's obligations under the Order because of a default or breach by Seller.

19. Force Majeure Any delay or failure of either party to perform its obligations shall be excused if, and to the extent, that it is caused by an event or occurrence beyond the reasonable control of the party and without its fault or negligence. By way of example, this includes acts of God, restrictions, prohibitions, priorities or allocations imposed by or actions taken by any governmental authority (whether valid or invalid), embargoes, fires, floods, windstorms, explosions, riots, natural disasters, wars, sabotage, inability to obtain power, or court injunction or order. Written notice of such delay (including the anticipated duration of the delay) must be given to the other party as soon as possible after the occurrence (but no more than ten (10) days after). During the delay or failure to perform by Seller, Buyer may, at its option (i) purchase Supplies from other sources and reduce its schedules to Seller by such quantities, without liability to Seller, (ii) ask Seller to deliver to Buyer at Buyer's expense all finished goods, work in process and parts and materials produced or acquired for work under this Order, or (iii) have Seller provide Supplies from other sources in quantities and at a time requested by Buyer and at the price set forth in this Order. In addition, Seller at its expense shall take all necessary actions to ensure the supply of Supplies to Buyer for a period of at least thirty (30) days during any anticipated labor disruption or resulting from the expiration of Seller's labor contracts. If Buyer requests, Seller shall, within ten (10) days of Buyer's request, provide adequate assurance that the delay will cease within thirty (30) days of Buyer's request.

20. Technical Information Disclosed to Buyer (a) Unless otherwise agreed to in writing by the Parties, no information disclosed in any manner at any time by Seller to Buyer will be deemed secret or confidential. (b) Seller agrees not to assert any claim (other than a claim for patent infringement) against Buyer, Buyer's customers or their respective suppliers, with respect to any technical information that Seller has disclosed or may disclose to Buyer in connection with the Supplies and services covered by this Order. (c) Seller may not release or disclose Buyer's Property to any third party without the express written permission of Buyer.

21. Proprietary Rights Seller may not release or disclose Buyer's Property to any third party without the express written permission of Buyer. (a) Seller agrees: (i) to defend, hold harmless and indemnify Buyer, its successors and customers against claims of actual or alleged direct or contributory infringement or inducement to infringe any proprietary right (including any patent, trademark, copyright, moral, industrial design right or other proprietary right or misuse or misappropriation of trade secret) and against any resulting damages or expenses (including attorney's and other professional fees, settlements and judgments) arising in any way in relation to Supplies covered by this Order (including without limitation their manufacture, purchase, use and/or sale), including

such claims where Seller has provided only part of Supplies, and Seller expressly waives any claim against Buyer that such infringement arose out of compliance with Buyer's specification, (ii) to waive any claim against Buyer, including any hold harmless or similar claim, in any way related to a third-party claim asserted against Seller or Buyer for infringement of any proprietary right (including any patent, trademark, copyright, moral, industrial design right or other proprietary right or misuse or misappropriation of trade secret), including claims arising out of specifications furnished by Buyer, (iii) that Buyer, Buyer's subcontractor, or direct and indirect customers (including their affiliates and subcontractors) have the worldwide, irrevocable right to repair, reconstruct or rebuild, and to have repaired, reconstructed or rebuilt, Supplies delivered under this Order without payment of any royalty or other compensation to Seller, (iv) that manufactured parts based on Buyer's drawings or specifications may not be used for Seller's own use or sold to third parties without Buyer's express written authorization, (v) to assign to Buyer each invention, discovery or improvement (whether or not patentable) that is conceived or first reduced to practice by Seller, or by any person employed by or working under the direction of Seller, in the performance of this Order, (vi) that if the sale or use of the Supplies is enjoined or, in Buyer's sole judgment, is likely to be enjoined, Seller will, at Buyer's election and Seller's sole expense, procure for Buyer the right to continue using the Supplies, replace the same with equivalent non-infringing goods or modify such Supplies so they become non-infringing. Upon completion of this Order, Seller will promptly disclose in an acceptable form to Buyer all such inventions, discoveries or improvements and will cause its employees to sign any papers necessary to enable Buyer to obtain title to and to file applications for patents throughout the world, and (vi) to the extent that this Order is issued for the creation of copyrightable works, that the works shall be considered "works made for hire" to the extent that the works do not qualify as "works made for hire," and Seller hereby assigns to Buyer all right, title, and interest in all copyrights and moral rights therein. (b) All Supplies or other deliverables provided under this Order (including, for example, computer programs, technical specifications, documentation and manuals) shall be original to Seller and shall not incorporate any intellectual property rights (including copyright, patent, trade secret, mask work or trademark rights) of any third party, unless otherwise expressly agreed by Buyer. (c) All Supplies or other deliverables provided under this Order, and all related intellectual property rights, are owned by Buyer and not by Seller, unless otherwise expressly agreed by Buyer. (d) Seller will ensure that the terms of its contracts with its subcontractors will be consistent with the terms of this Section.

22. Service and Replacement Parts If requested by Buyer and so that Buyer can satisfy the current model service and replacement parts requirements of itself or its customers, Seller agrees to supply Buyer with Supplies, component parts and materials that are the same as the Supplies, component parts and materials that Buyer purchases under this Order at the price(s) set forth in this Order plus any actual cost differential for packaging. If the Supplies are systems or modules, Seller agrees to sell each component or part at a price that does not, in the aggregate, exceed the system or module price specified in this Order, less assembly costs, plus any actual cost differential for packaging. After Buyer completes its purchases for its customers' current model requirements, Seller will sell Supplies to Buyer in order to fulfill Buyer's past model service and replacement parts requirements, at price(s) based on the most recent price(s) under this Order, taking into account differences in the cost of materials, packaging and costs of production after the current model purchases have been completed, as mutually agreed-upon by the parties. At Buyer's request, Seller will make service literature and other materials available at no additional charge to support Buyer's service part sales activities.

23. Confidentiality; Buyer's Property All tooling (including fixtures, gauges, jigs, patterns, castings, cavity dies and molds, with all related appurtenances, accessions, and accessories), and all documents, standards or specifications, trade secrets, information, materials (including whether or not such materials are in any way modified, altered or processed), and other items furnished by Buyer, either directly or indirectly (collectively "Buyer's Property"), to Seller to perform this Order, or for which Seller is reimbursed by Buyer, shall remain Buyer's property. Buyer does not guarantee the accuracy of any tooling or dies or the availability or suitability of any supplies or material furnished by it. Seller agrees carefully to check and approve all tooling, dies or materials supplied by Buyer prior to using it. Seller shall assume all risk of death or injury to persons or damage to property arising from use of tools, dies or materials supplied by Buyer. Buyer's Property will be held by Seller or by a third party, to the extent that Seller has transferred possession of Buyer's Property to a third party, on a bailment basis, as a bailee-at-will. Seller bears the risk of loss of and damage to Buyer's Property. Buyer's Property shall be housed, maintained, repaired and replaced by Seller at Seller's expense, shall not be used by Seller for any purpose other than the performance of this Order, shall be deemed to be personalty, shall be conspicuously marked by Seller as the property of Buyer, shall not be commingled with the property of Seller or with that of a third person, and shall not be moved from Seller's premises without Buyer's approval. Seller shall insure Buyer's Property with full fire and extended coverage insurance for its replacement value. Seller shall take all reasonable precautions to (i) disclose

Buyer's Property within Seller's organization only to those employees who have a need to know in order to fulfill Seller's obligations hereunder and who have agreed to keep the Buyer's Property confidential, and (ii) prevent any such Buyer's Property from being divulged to third persons not employed by Seller, including having recipients acknowledge the confidential status of such Buyer's Property and agreeing to similar restrictions. This obligation of confidence shall survive termination of this Agreement and will continue for a period of three (3) years thereafter, or for as long as the Buyer's Property remains a trade secret, whichever is longer. Buyer shall have the right to enter Seller's premises to inspect Buyer's Property and Seller's records regarding Buyer's property. Only Buyer (or Buyer's affiliates) has any right, title or interest in Buyer's Property, except for Seller's limited right, subject to Buyer's unfettered discretion, to use Buyer's property in the manufacture of Supplies. Buyer and its affiliates shall have the right to take immediate possession of Buyer's Property at any time without payment of any kind. Seller agrees to cooperate with Buyer if Buyer elects to take possession of Buyer's Property. Likewise, effective immediately upon written notice to Seller, without further notice or court hearings, Buyer has the right to enter the premises of Seller and take possession of all of Buyer's Property. Seller expressly waives any right to additional notice or process and agrees to provide Buyer or its nominee(s) with immediate access to Buyer's Property. Seller grants to Buyer a limited power of attorney to execute and record on Seller's behalf any notice financing statements with respect to Buyer's Property that Buyer determines are reasonably necessary to reflect Buyer's interest in Buyer's Property. At Buyer's request, Buyer's Property shall be immediately released to Buyer or delivered by Seller to Buyer either (i) FOB transport equipment at Seller's plant, properly packed and marked in accordance with the requirements of Buyer's selected carrier, or (ii) to any location designated by Buyer, in which case Buyer will pay Seller the reasonable costs of delivery. Seller waives, to the extent permitted by law, any lien or other rights that Seller might otherwise have on any of Buyer's Property.

24. Seller's Property Seller, at its expense, shall furnish, keep in good condition and replace when necessary, all machinery, equipment, tools, jigs, dies, gauges, fixtures, molds, patterns, and items other than Buyer's Property that are necessary for the production of Supplies ("Seller's Property"). Seller shall insure Seller's Property with full fire and extended coverage insurance for its replacement value. If Seller uses Seller's Property to produce goods or services, similar to Supplies, for other customers, including aftermarket customers, such goods or services shall not incorporate any of Buyer's logos, trademarks, trade names or part numbers. Seller shall not disclose or imply in its marketing efforts that these goods or services are equivalent to those purchased by Buyer. Seller grants to Buyer an irrevocable option to take possession of and title to Seller's Property that is special for the production of Supplies under this Order upon payment to Seller of its net book value less any amounts that Buyer has previously paid to Seller for the cost of these items. This option does not apply if Seller's Property is used to produce goods that are the standard stock of Seller or if a substantial quantity of like goods are being sold by Seller to others.

25. Customs; Related Matters Credits or benefits resulting from this Order, including trade credits, export credits, or the refund of duties, taxes or fees, belong to Buyer. Seller will provide all information and certificates (including NAFTA Certificates of Origin) necessary to permit Buyer (or Buyer's customers) to receive these benefits or credits. Seller agrees to fulfill any customs or NAFTA related obligations, origin marking or labeling requirements, and local content origin requirements. Export licenses or authorizations necessary for the export of Supplies are Seller's responsibility unless otherwise indicated in this Order, in which case Seller will provide the information necessary to enable Buyer to obtain the licenses or authorizations. Seller will promptly notify Buyer in writing of any material or components used by Seller in filling this Order that Seller purchases in a country other than the country in which the Supplies are delivered. Seller will furnish any 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 Supplies' purchase price. If Supplies are manufactured in a country other than the country in which Supplies are delivered, Seller will mark Supplies "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 Supplies into the country in which Supplies are delivered. Seller warrants that any information that is supplied to Buyer about the import or export of Supplies is true and that all sales covered by this Order will be made at not less than fair value under the anti-dumping laws of the countries to which the Supplies are exported.

26. Set-Off; Recoupment In addition to any right of setoff or recoupment provided by law, all amounts due to Seller shall be considered net of indebtedness of Seller and its affiliates or subsidiaries to Buyer and its affiliates or subsidiaries. Buyer shall have the right to set off against or to recoup from any payment or other obligation owed to Seller, in whole or in part, any amounts due to Buyer or its affiliates or subsidiaries from Seller or its affiliates or subsidiaries. Buyer will provide Seller with a statement describing any offset or recoupment taken by Buyer.

27. **No Advertising** Seller shall not advertise or publish in any manner the fact that Seller has contracted to furnish Buyer the Supplies covered by this Order, or use any trademarks or trade names of Buyer in Seller's advertising or promotional materials, without first obtaining Buyer's written consent.

28. **Relationship of Parties** Seller and Buyer are independent contracting parties and nothing in this Order shall make either party the agent or legal representative of the other for any purpose. This Order does not grant either party any authority to assume or to create any obligation on behalf of or in the name of the other.

29. **Non-Assignment** Seller may not assign or delegate its obligations under this Order without Buyer's prior written consent. In the event of any approved assignment or delegation authorized by Buyer, Seller retains all responsibility for Supplies, including, without limitation, all related warranties and claims, unless otherwise expressly agreed in writing by Buyer. Buyer will have the right to assign any benefit or duty under an Order to any third party upon notice to Seller with or without consent.

30. **Governing Law; Jurisdiction** This Order is to be construed according to the laws of the State of Michigan, excluding 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. Any litigation on contractual claims arising from this Order may be brought by Buyer in any court(s) having jurisdiction over Seller or, at Buyer's option, in court(s) having jurisdiction over any Buyer's location listed above, in which event Seller consents to jurisdiction and service of process in accordance with applicable procedures. Any actions or proceedings by Seller against Buyer may be brought by Seller only in the court(s) having jurisdiction over the location of Buyer from which this Order issued.

31. **Severability** If any term of this Order is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, the term shall be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with applicable law. The remaining provisions of this Order shall remain in full force and effect.

32. **Survival** The obligations of Seller to Buyer survive termination of this Order, except as otherwise provided in this Order.

33. **Entire Agreement; Modifications; No Implied Waiver** (a) This Order, together with the attachments, exhibits, supplements, or other terms of Buyer specifically referenced in this Order, constitutes the entire agreement between Seller and Buyer with respect to the matters contained in this Order and supersedes all prior oral or written representations and agreements. This Order may only be modified by a written amendment executed by authorized representatives of each party or, in the case of changes within the scope of Section 8, by a purchase order amendment issued by Buyer. (b) The failure of either party at any time to require performance by the other party of any provision of this Order shall in no way affect the right to require performance at any later time, nor shall the waiver of either party of a breach of any provision of this Order constitute a waiver of any later breach of the same or any other provision of this Order.

34. **Sales Tax Exemption** Buyer certifies that Supplies purchased under this Order and identified as industrial processing are eligible for state and federal sales tax exemption under the federal identification number indicated on the face of this Order or otherwise provided by Buyer.

35. **Tooling** The provisions of this Section apply only to tooling orders. Buyer shall have access to Seller's premises, prior or subsequent to payment, to inspect work performed and to verify charges submitted by Seller against this Order or amendment. The price set forth in this Order or amendment shall be adjusted so as to credit Buyer in the amount, if any, by which the price exceeds Seller's actual cost as verified. Seller further agrees to retain all cost records for a period of two (2) years after receiving final payment of the charges. All tools and equipment are to be made to Buyer's specifications (or, where directed by Buyer, those of Buyer's customer). Exceptions are to be covered in writing on this Order or in writing from the manufacturing engineer.