

RECARO CHILD SAFETY, LLC

Purchase Order Terms and Conditions

1. General

These Purchase Order Terms and Conditions ("POTCs") apply to and are incorporated into every Purchase Order and/or Material Release (as defined herein) and subsequent revisions of each (the purchase order, subsequent revisions thereto and these POTCs will collectively be referred to as the "Order") issued by RECARO Child Safety, LLC ("Buyer") as the Buyer of the parts, goods and/or services (the "Supplies") identified on the face of the Order. The seller of the Supplies (the "Supplier") is identified on the Purchase Order and/or Material Release. The POTC may be revised from time to time and, upon a revision to the purchase order, the then current version of the POTC will be applicable. It is Supplier's responsibility to keep current on the terms.

2. Terms of the Order; Offer/Acceptance

- 2.1. The Order is an offer by Buyer to purchase the Supplies from the Supplier on the terms of the Order. The contract is formed when the Supplier accepts the offer of the Buyer. This occurs upon the earlier of: (a) the Supplier commencing work or performance with respect to any part of the Order; (b) the Supplier's written acceptance of the Order; or (c) any conduct by the Supplier that fairly recognizes the existence of a contract for the purchase and sale of the Supplies. **THE ORDER IS LIMITED TO AND CONDITIONAL UPON SUPPLIER'S ACCEPTANCE OF THE TERMS OF THE ORDER EXCLUSIVELY.**
- 2.2. The Order does not constitute an acceptance of any offer, quote or proposal made by Supplier, and Supplier acknowledges that: (i) a request for quotation or similar document issued by Buyer is not an offer to Supplier; and (ii) any response by Supplier to a request for quotation or similar document issued by Buyer is not an offer by Supplier. Within two (2) weeks of its issuance, Buyer may cancel the Order without payment of any kind to Supplier if Supplier refuses to accept the Order in writing after written or oral request. A Material Release is accepted for firm orders and planning volumes if objection is not made within twenty four (24) hours of issuance. Any additional or different terms proposed by Supplier, whether in Supplier's quotation, acknowledgement, invoice or otherwise, are unacceptable to and expressly rejected by Buyer, are hereby waived by Supplier and are not part of the Order. However, additional or different terms proposed by Supplier shall not operate as a rejection of this Order if Supplier commences work or otherwise accepts Buyer's offer, in which case this Order shall be deemed accepted by Supplier without any additional or different terms or variations whatsoever. Any reference in this Order to Supplier's quote or other prior communication does not imply acceptance of any term, condition or instruction but is solely to incorporate the description or specifications of the Supplies, and only then to the extent that such description or specifications are not in conflict with the description and specifications in this Order. If this Order is found to be an acceptance of any prior offer or proposal by Supplier, such acceptance shall be limited to and conditional upon Supplier's acceptance of the terms of the Order exclusively.
- 2.3. Except and only to the extent that they do not conflict with the terms on the face of the Purchase Order, the following documents are incorporated into the agreement between Buyer and Supplier relating to the Supplies: (i) any signed letters of intent, memorandum of understanding, supply agreement and nomination/award letter; (ii) Material Releases (as defined in Section 4.1 below) issued by Buyer to Supplier under the Order (iii) the Statement of Work ("SOW"), prints and specifications for the Supplies; and (iv) Buyer's policies, as revised by Buyer from time to time. Buyer's policies include, without limitation quality assurance documents, logistics guidelines, packaging and logistics specifications, Supplier manuals and quality assurance policies. Buyer's policies may be obtained by contacting the purchasing representative assigned to Supplier or by viewing Buyer's website www.recaro-cs.com
- 2.4. If the terms the Purchase Order, the POTC and/or any document incorporated into the Order, when read together, create a conflict or make the obligations of Buyer and Supplier unclear, the construction and interpretation of such obligations from the documents in the Order will be made in the following order of precedence: (i) the face of the Purchase Order; (ii) the SOW, prints and specifications for the Supplies; (iii) these POTCs; (iv) Buyer's Policies which specifically reference Supplier and the Supplies; (v) the documents referenced in 2.3(i); and (vi) any other document incorporated into the Order.
- 2.5. In the event of any ambiguities, express conflicts or discrepancies in the specification, drawings or other documents which are part of the Order, Supplier shall immediately submit the matter to Buyer for its determination and shall comply with fully with Buyer's determination. Buyer is relying upon the expertise of Supplier in the selection, manufacture and integration of the Supplies. If Supplier is made or becomes aware that the Supplies are not appropriate for the use intended by Buyer or that the specifications given to Supplier by Buyer will result in less than optimal performance of the Supplies, Supplier shall immediately notify by Buyer. Supplier shall also notify Buyer if the location of the Supplies within the vehicle will affect their performance or if additional fusing or shielding of the Supplies (different than that called out in the prints or specifications) is necessary for the Supplies to perform for its intended use.
- 2.6. Unless incorporated in this Section 2, the Order is the entire agreement between the parties respecting the Supplies and when accepted, supersedes any prior agreements, negotiations or understandings of the parties respecting the Supplies, whether written or oral. No modification of the POTC shall be effective unless in writing and signed by Buyer's Director of Purchasing, North America. The Order may be modified only by a writing signed by Buyer.

3. Quantity

- 3.1. Unless otherwise stated on the Purchase Order and/or Scheduling Agreement and subject to Buyer's termination rights, this Order is a requirements contract under which Buyer will purchase all (or, if multiply sourced, a specified percentage or range of Buyer's requirements as stated on the face of the Order) for the length of the program production life (including extensions and model refreshes as determined

by Buyer). Accordingly, Supplier must perform pursuant to and may not reject a Material Release if the releases are within the quantities required by Buyer plus a reasonable safety stock. If the Purchase Order states that it is not a requirements contract (i.e. a spot buy of indeterminate quantity) and does not contain a quantity term (for example, as expressed by "1" or "each" or is left blank) Buyer commits to purchasing no less than a minimum quantity of at least one piece or unit of each of the Supplies and no more than 100% of Buyer's requirements of the Supplies. For consideration of \$10.00 to be paid by Buyer following expiration or termination of the Order, Supplier grants to Buyer an irrevocable option during the term of the Order to purchase Supplies in such quantities specified in Material Releases that are transmitted to Supplier during the term of the Order, provided that the Buyer may purchase no less than a minimum quantity of at least one piece or unit of each of the Supplies and no more than 100% of Buyer's requirements for the Supplies.

- 3.2. Supplier acknowledges that, in a tiered supply chain, Buyer has relied upon Supplier's agreement to manufacture the Supplies at the price and on the terms stated in the Order. Consequently, Supplier may not terminate this Order before expiration. Supplier may request that Buyer resource the Supplies to a new supplier. Buyer may refuse to resource the Supplies for any reason. As a condition precedent to any request to resource, Supplier must agree to the following: (i) pay to Buyer the present value of any increased price for the Supplies over the expected life of the program prior to the time of resource; (ii) cooperate in all respects with the transition to the new supplier including, without limitation, inspections of current production processes at Supplier's facility, licensing any necessary technology to the new supplier, and the removal of all Buyer-owned tooling (including manuals, logs and the like); (iii) reimbursing Buyer for any PPAP costs that it may pay; and (iv) transitioning supply in accordance with Section 16 below.
- 3.3. From time to time (and in connection with requests for quotation issued to Supplier), Buyer may provide Supplier with volume or quantity forecasts or projections for the Supplies or the anticipated duration of the program for which the Supplies are being produced. Supplier acknowledges that the volume/duration projections, unlike a Material Release, are not binding on Buyer. Supplier acknowledges that the volume/duration projections contain business variables and assumptions, some or all of which may change over time or may not have been accurate at the time that they were made or later. Buyer makes no representation, warranty or guaranty of any kind or nature as to the accuracy of the volume/duration projections and Supplier acknowledges: (i) it relied upon the volume estimate or projection at its own risk; and (ii) that the actual volumes/duration could be significantly less or more than what was projected.
- 3.4. Buyer may require Supplier to participate in electronic data interchange or similar inventory management program, at Supplier's expense, for notification of Material Releases, shipping confirmation and other information.

4. **Delivery; Material Releases**

- 4.1. Supplier will manufacture and ship Buyer's requirements for the Supplies in such quantities and at such time as identified by Buyer as firm orders in material releases, manifests, scheduling agreements, manifests or similar releases ("Material Releases") that are transmitted to Supplier during the term of the Order. Material Releases are an integral part of the Order, are governed by the POTC and are not independent contracts. No charge shall be allowed for packing, shipment or handling unless otherwise stated in the

Order. All Supplies received in excess of the quantities in a Material Release shall be subject to return for credit at Supplier's expense.

- 4.2. Time and quantities are of the essence under the Order. Supplier agrees to 100% on-time delivery of the quantities and at the times specified by Buyer as contained on the Material Releases. Buyer is not obligated to accept early deliveries, late deliveries, partial deliveries or excess deliveries; if accepted by Buyer from time to time, such acceptance will not constitute a waiver of Buyer's right to reject any other shipment which does not conform to the Material Release. Buyer may change the rate of previously scheduled shipments or direct temporary suspension of scheduled shipments, neither of which entitles Supplier to compensation or a change in the price of the Supplies. If Supplier's acts or omissions result in Supplier's failure to meet Buyer's delivery requirements and Buyer requires a more expeditious method of transportation for the Supplies than the transportation method originally specified by Buyer, Supplier shall ship the Supplies as directed by Buyer at Supplier's sole expense.
- 4.3. Unless otherwise stated on the Purchase Order and/or Scheduling Agreement, all pricing and shipments are to be made DDP (Incoterms 2010). Supplier warrants full and unrestricted title to Buyer for the Supplies delivered by Supplier, free and clear of any and all liens, restrictions, reservations, security interests or encumbrances.
- 4.4. Upon written request by Buyer in a Material Release, Supplier will manufacture Supplies in excess of Buyer's current requirements as a reserve for shipment at such levels as may be set by Buyer. If the reserve is needed as a result of Supplier's production problems, Buyer will not be obligated to pay for the reserve until sold by Buyer.
- 4.5. If the Supplier is responsible for set-up or installation, Supplier shall bear all of the necessary and incidental costs, including, without limitation travel and living expenses, provision of tools and the like to accomplish Supplier's obligations under the Order.
- 4.6. Supplier will: (i) properly pack, mark, and ship Supplies according to the requirements of Buyer, the involved carriers and the country of destination; (ii) route the shipments according to Buyer's instructions; (iii) label or tag each package according to Buyer's instructions; (iv) provide papers with each shipment showing the Order number, amendment or release number, Buyer's part number, Supplier's part number (where applicable), number of pieces in the shipment, number of containers in the shipment, Supplier'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 according to Buyer's instructions and carrier requirements. Buyer's count shall be accepted as final and conclusive on shipments not accompanied by Supplier's itemized packing list. Partial shipments, if authorized by Buyer, shall not be construed as making the obligations of Supplier severable.
- 4.7. Supplier will promptly provide Buyer with the following information in the form requested by Buyer: (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. Before and at the time Supplies are shipped, Supplier will give Buyer sufficient warning in writing (including appropriate labels on all Supplies, containers, and packing, including, without limitation disposal and recycling instructions, material safety data sheets and certificates of analysis) of any hazardous or restricted 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 respective employees how to take appropriate measures while handling, transporting, processing, using or disposing of the Supplies, containers, and packing to best prevent bodily injury or property damage. Supplier shall comply with all national, state, provincial, and local laws and regulations pertaining to product content and warning labels, including without limitation the U.S. Toxic Substances Control Act and European Union Directive 2000/53/EC or any successor law.

5. **Price; Payment Terms**

- 5.1. The purchase price for the Supplies is set forth on the Purchase Order and/or Scheduling Agreement and, unless otherwise stated, is stated in U.S. Dollars. Unless otherwise stated in the Order, the purchase price: (i) is a firm fixed price for the duration of the Order and not subject to increase for any reason, including increased raw material costs, increased labor or other manufacturing costs, increased development costs, currency fluctuations or changes in volumes or program length from those estimated or expected; (ii) is inclusive of all federal, state, provincial, value added and local taxes and any duties applicable to provision of the Supplies; and (iii) is inclusive of all storage, handling, packaging and all other expenses and charges of Supplier. Supplier will separately invoice Buyer for any sales, value added, or similar turnover taxes or charges that Supplier is required by law to pay or collect from Buyer.
- 5.2. Invoices shall be issued by Supplier to Buyer no earlier than on or after delivery of the Supplies to Buyer in accordance with the Order and payment shall be deemed to occur upon payment of any paper draft or wire transfer of payment into the account of Supplier. Supplier shall, at its expense, comply with Buyer's instructions and policies with respect to the form, content and method for submission of invoices.
- 5.3. Unless otherwise stated in the Order, Buyer shall pay invoices for Supplies which are properly presented and not subject to dispute according to the terms stated on the face of the Order. If no terms are stated, Buyer will pay net sixty (60) days after the later of (i) delivery of the Supplies or (ii) Buyer's receipt of Supplier's invoice. Supplier will promptly submit correct and complete invoices or other agreed upon billing communications with appropriate supporting documentation and other information reasonably required by Buyer after delivery of Supplies and performance of Services. Buyer may withhold payment until a correct and complete invoice or other required information is received and verified. If the payment date is not a business day, payment shall be due the next business day thereafter.
- 5.4. Supplier warrants that the price for the Supplies sold to Buyer is no less favorable than those that the Supplier currently extends to any other customer for the same or similar Supplies in similar quantities. If the Supplier reduces its prices to third parties during the term of the Order, the Supplier will correspondingly and retroactively reduce the prices charged to Buyer. Supplier, at all times, must provide the Supplies competitive in the industry as to price, quality, delivery, technology and customer support with respect to third-parties' and Buyer's internal capacity. Supplier's failure to meet any of these four requirements of this subsection is a basis for termination for cause under Section 13 below. In addition, Supplier shall participate in Buyer's cost savings and productivity programs and initiatives to reduce Supplier's costs and pass those cost savings through to Buyer.

5.5. Supplier's insolvency and/or failure to pay its suppliers have the potential to create a disruption in the supply chain. If Buyer pays Supplier's financial obligations to one or more of Supplier's suppliers in order to continue the flow of Supplies to Buyer, whether or not Buyer has the legal obligation to do so, Buyer shall have a dollar for dollar setoff of funds so paid against any funds due Supplier from Buyer and, if a setoff is insufficient for Buyer to fully recover its payments to Supplier's supplier(s), Supplier shall pay the remaining balance within ten (10) days of Buyer's payment. If Supplier becomes a debtor in bankruptcy or surrenders its assets to a lender or state court receiver and, Buyer, to obtain and/or continue the continuous flow of Supplies, participates in a post petition (or post surrender) loan to Supplier, Supplier acknowledges and agrees that the funds advanced to participate in the loan (including attorneys fees) shall be deemed "cover" damages within the meaning of section 2-712 of the Uniform Commercial Code.

5.6. The Supplies purchased under the Order are identified as industrial processing and may be exempt from sales taxes. In such case, the tax identification number and/or other exemption information are stated in the Order or are otherwise provided by Buyer

5.7. Payment for Supplies shall not constitute acceptance of non-conforming Supplies, nor will it limit or affect any rights or remedies of Buyer.

6. **Quality**

6.1. Supplier will conform to all quality control and other standards and inspection systems as established or directed by Buyer for Supplies and services similar to the Supplies. Supplier will also participate in Buyer's supplier quality and development programs, if any, as directed by Buyer. For Supplies used in motor vehicle manufacturing, Supplier agrees to meet the full requirements of industry Production Part Approval Processes ("PPAP") as specified by Buyer and agrees to present this information to Buyer upon request, at the level requested. If any of the standards, policies or systems cited above are amended, supplemented or replaced, Supplier's obligations under this Order shall be automatically be amended.

6.2. Supplier is responsible for the quality of all of its suppliers, including suppliers which may be directed by Buyer ("Directed Suppliers") and that each such the supplier conform to the POTC such that Supplier can satisfy its obligations under the POTC. Supplier must maintain adequate development, validation, testing, launch and on-going supervision to assure that all Supplies sold to Buyer conform to all specifications, standards, prints, samples and descriptions including, without limitation, as to performance, fit, form, function, PPAP processes and materials and appearance as required under the Order. In the event that Supplier ships any Supplies which are non-conforming or breach the warranties of Section 7 below, Buyer may require Supplier, at Supplier's sole cost and expense, to inspect the Supplies (at its facility or at Buyer's facility) in a such manner (including the use of a third party inspector or sorter) as Buyer determines in its sole judgment will insure that all future supplies will conform to the POTC. Any inspection or testing, the lack thereof, or lack of response shall in no way release Supplier from any quality or warranty obligations under the Order.

6.3. Buyer reserves the right at any reasonable time to review Supplier's quality assurance and quality control procedures. Buyer shall have access to all parts of Supplier's plant(s) or Supplier's sub-supplier's plant(s) engaged in the manufacturing or processing of Supplies or sub-Supplies

under the Order to inspect and witness quality control processes. Supplier shall furnish to Buyer the status of engineering, material procurement, production and shipping information upon request.

- 6.4. If defective or non-conforming Supplies are rejected by Buyer, the quantities under the Order will be reduced unless Buyer otherwise notifies Supplier, and Supplier will not replace reduced quantities without a new Material Release from Buyer. Following rejection, Supplier shall, without prejudice to any other right or remedy of Buyer, at Buyer's sole discretion and at Supplier's sole expense: (a) accept return of the Supplies to Supplier at full invoice price, plus transportation charges; or (b) replace the Supplies with conforming Supplies; and (c) correct at any time prior to shipment from Buyer's plant Supplies that fail to meet the requirements of the Order. Supplier will be responsible to pay any and all costs incurred by Buyer as a result of Supplier's shipment of defective or non-conforming Supplies.
- 6.5. Promptly upon learning of defective or non-conforming Supplies, Supplier will develop, document and implement corrective actions in accordance with all applicable quality control policies and standards of Buyer. Supplier will immediately notify Buyer in writing when it becomes aware of any raw material, component, design or defect in the Supplies that is non-conforming or may become harmful to persons or property.

7. Warranty

- 7.1. In addition to any other express and implied warranties provided by law or otherwise, Supplier warrants to Buyer and its respective successors and assigns that the Supplies shall: (i) be new and conform to this Order and to all specifications, drawings, samples and other descriptions furnished by Buyer or otherwise obtained; (ii) be free from all defects in design (if Supplier in any way designed or participated in the design of the Supplies), workmanship and materials and be of highest quality and workmanship; (iii) be selected, designed, manufactured and assembled by Supplier based upon Buyer's stated use and be fit and sufficient for the purposes intended by Buyer; (iv) conform to all applicable laws in countries where the Supplies (or Buyer's goods into which the Supplies are incorporated) are to be sold, including without limitation, in the case of Supplies used in connection with the manufacture of motor vehicles, the National Traffic and Motor Vehicle Safety Act, all United States and European Union motor vehicle safety and end-of-life standards; (v) for all services, Supplier further warrants that its work will be performed in a professional and workmanlike manner, consistent with all standards and specifications agreed on with Buyer and otherwise consistent with industry standards. Supplier also warrants that it has fulfilled its notice obligations to Buyer under each of the applicable provisions of the POTC.
- 7.2. All warranties of Supplier extend to future performance of the Supplies and are not modified, waived or discharged by delivery, inspection (or lack of inspection by Buyer, whether or not Buyer is obligated to inspect pursuant to the UCC or contract), tests, acceptance and payment. Buyer's approval of any design, drawing, material, process or specifications will not relieve Supplier of these warranties. Supplier waives any right to notice of breach. The warranties in this Section 7 are intended to and shall provide Buyer with protection from any and all warranty claims brought against Buyer relating in any manner to Supplies which are shipped to Buyer in breach of warranty.

- 7.3. The warranty period is the longest of: (i) six (6) years from the date Buyer accepts the Supplies; (ii) the warranty period provided by applicable law; or (iii) the warranty period offered by Buyer to the end user for the products into which the Supplies are incorporated, regardless of the time of acceptance of the Supplies.
- 7.4. At Buyer's request and sole judgment, Supplier shall fully participate in any root cause investigation or analysis conducted by Buyer relating in any manner to the failure of the Supplies and provide all information requested by Buyer concerning the Supplies. In the event that the root cause analysis of a warranty failure is inconclusive but implicates the Supplies, the extent of Supplier's liability to Buyer will be based upon a good faith allocation by Buyer of the responsibility for the warranty failure.
- 7.5. In the event that Buyer voluntarily or pursuant to a government mandate, makes an offer to end-users to provide remedial action to address a defect or non-conforming condition of the Supplies in connection with a recall campaign, service action or other corrective action ("Remedial Action"), the warranty shall continue for such time period as may be dictated by Buyer or the government unit.

8. Remedies; Indemnification Obligation

- 8.1. The rights and remedies reserved to Buyer in each Order will be cumulative with and in addition to all other or legal or equitable remedies available to Buyer. Supplier is liable for all direct, incidental and consequential damages (including lost profits), losses, costs, and expenses incurred by the Buyer resulting from Supplier's breach of warranty, its failure to deliver conforming and non-defective Supplies, to comply with the shipping and delivery or other requirements of the Buyer and/or its failure to comply with this POTC, even if the Supplier has cured the breach. These damages include without limitation costs, expenses and losses incurred directly or indirectly by Buyer: (i) in inspecting, sorting, storing, reworking, repairing or replacing the nonconforming Supplies; (ii) resulting from production interruptions; (iii) conducting or participating in any Remedial Action(s) or other corrective service actions; or (iv) resulting from personal injury (including death) or property damage caused by the nonconforming Supplies. Buyer's damages include reasonable attorneys' fees and other professional fees, settlements and judgments incurred by Buyer and other costs associated with Buyer's administrative time, labor and materials.
- 8.2. In any action brought by Buyer to enforce Supplier's obligations in connection with the production or delivery of Supplies or transition support, for any deviation from PPAP or for possession of property, Supplier acknowledges and agrees that monetary damages are not a sufficient remedy for any actual, anticipatory or threatened breach of the Order and that, in addition to all other rights and remedies that Buyer may have, Buyer shall be entitled to specific performance and injunctive equitable relief as a remedy for any such breach, in addition to Buyer's reasonable attorneys' fees.
- 8.3. If requested by Buyer, Supplier 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 warranty reduction or related programs of Buyer that relate to the Supplies.
- 8.4. If the Supplies or goods sold by Buyer which incorporate the Supplies are subject to a Remedial Action, the extent of Supplier's liability will be based upon a good faith allocation by Buyer of responsibility for the Remedial Action. Buyer

will notify Supplier as soon as practicable after Buyer learns in writing that a Remedial Action being considered implicates the Supplies, and thereafter provide Supplier with supporting data relating to the potential Remedial Action. In the event Buyer determines, in good faith, that the Remedial Action was caused by the failure of the Supplies to conform to the quality standards and/or warranties in Sections 7 and 8 hereof, in whole or in part, Buyer may set-off the costs to Buyer of the Remedial Action against sums due to Supplier prior to the allocation of responsibility set forth above.

- 8.5. To the fullest extent permitted by law, (i) Supplier hereby assumes the entire, sole responsibility for any injury to person, including death, or damage to property of any kind or nature caused by, resulting from or in connection with the furnishing of Supplies by Supplier, its subcontractors, officers, agents or employees; (ii) Buyer shall not be responsible for any injury to person (including death) or damage to property resulting from Supplier's possession, use, misuse or failure of any Buyer's Property or other property furnished to Supplier by Buyer, and the use of any such property by Supplier shall constitute acceptance by Supplier of all responsibility for any claims for such injury or damage, and (iii) Supplier will defend, indemnify and hold harmless Buyer and the end-users of the products sold by Buyer which incorporate the Supplies (if any) and all of their respective agents, customers, invitees, subsidiaries, affiliates, successors and assigns, against all damages, losses, claims, liabilities and expenses (including reasonable attorneys' and other professional fees, settlements and judgments) arising out of or resulting from any defective Supplies, or from any negligent or wrongful act or omission of Supplier or Supplier's agents, employees or subcontractors, or any breach or failure by Supplier to comply with any of Supplier's representations or other terms and conditions of an Order (including any part of these POTC) including without limitation the cost of Remedial Actions.
- 8.6. If Supplier performs any work on Buyer's premises or utilizes the property of Buyer, whether on or off Buyer's premises: (i) Supplier will examine the premises to determine whether they are safe for the requested work and will advise Buyer promptly of any situation it deems to be unsafe; (ii) Supplier's employees, contractors, and agents will comply with all laws and regulations that apply to the premises and may be removed from Buyer's premises at Buyer's discretion; (iii) Supplier'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, Supplier will indemnify and hold Buyer and its agents, successors and assigns, harmless from and against any liability, claims, demands or expenses (including reasonable attorneys' and other professional fees, settlements and judgments) for damages to the property of or personal injuries (including death) to Buyer, its employees or agents, or any other person or entity to the extent arising from or in connection with Supplier's work on Buyer's premises or Supplier's use of Buyer's property.
- 8.7. Supplier'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. Buyer has the right to be represented by and actively participate through its own counsel in the defense and resolution of any indemnification matters, at Supplier's expense. The indemnification obligations of Supplier set forth in this Agreement, including this Section, are independent of and in addition to any insurance and warranty obligations of Supplier. The indemnification obligation under this Section shall not be limited in any way by any

limitation on the amount or type of damages, compensation or benefits payable by or for the benefit of Supplier under Workers' Compensation Acts, occupational disease acts, disability benefits acts or other employee benefits acts.

9. Changes

- 9.1. Buyer reserves the right at any time, by written notice to Supplier, to make changes, or to require Supplier to make changes, to drawings, specifications, sub-suppliers, samples or descriptions of Supplies. Buyer also reserves the right to otherwise change the scope of the work covered by the Order, including work with respect to such matters as inspection, testing or quality control. Buyer may also direct Supplier to purchase raw materials or component parts from itself or from third parties. Supplier will promptly make any such requested change.
- 9.2. In order for Supplier to request a reasonable difference in price or time for performance as a result of such a change, Supplier must notify Buyer of its request in writing within ten (10) days after receiving notice of the change. Buyer can request additional documentation from Supplier relating to any change in specifications, price or time for performance. After receiving all requested documentation, Buyer may, in its sole discretion, equitably adjust the price or time for performance. If Supplier does not provide timely notice to Buyer that a requested change may result in a difference in price or time for performance, Buyer's requested change will not affect the price or time for performance.
- 9.3. Supplier will not make any change relating to Supplies, including without limitation, in the Supplies' contents, design, specifications, processing, packing, marking, shipping, price or date or place of delivery, except at Buyer's written instruction or with Buyer's prior written approval. Upon PPAP approval for the Supplies, Supplier must continue to manufacture the Supplies in strict compliance with the PPAP approval including and may not change or alter in any manner (i) any third party supplier to Supplier of the services, raw materials or Supplies used by Supplier in connection with its performance under the Order, (ii) any facility from which Supplier and/or any such third party supplier operates and that relates in any way to the Supplies, or to services, raw materials or Supplies used by Supplier in connection with performance under the Order, (iii) the price of any Supplies covered by the Order, (iv) the nature, type or quality of any services, raw materials or Supplies used by Supplier or its suppliers in connection with the Order, (v) the fit, form, function, appearance or performance of any Supplies covered by the Order, or (vi) any production method, or any process or software, or any production equipment used in the production or provision of, or as part of, any Supplies under the Order. Supplier acknowledges that any change in the Supplies from the approved PPAP level may materially and detrimentally affect the functionality of Buyer's products which incorporate the Supplies and may also affect the safe or required operation of the vehicle in which the assembly is installed. Accordingly, in addition to a breach of the Order, Supplier agrees that the potential harm of using non-PPAPed Supplies constitutes irreparable injury and that Buyer is entitled to a preliminary injunction prohibiting any deviation from PPAP.
- 9.4. Supplier may seek approval from Buyer for changes in the materials, process or manufacture of the Supplies after PPAP. Buyer may deny its approval for any change for any reason. As a condition precedent to seeking any change or PPAP deviation from Buyer, Supplier must: (i) agree to pay all of the costs involved in re-PPAPing the Supplies including any testing which may reasonably be requested by Buyer; (ii) agree not to change the price charged to Buyer for

the Supplies and that all future price decreases previously agreed to by Supplier will be implemented; (iii) manufacture a bank of PPAPed Supplies in such quantities as Buyer may require for a successful transition; (iii) support Buyer in PPAPing the Supplies; (iv) abide by the decision of the vehicle manufacturer whether to allow deviation from PPAP as final and binding; and (v) fulfill all of the requirements imposed by Buyer including, without limitation, payment and/or reimbursement to Buyer for any costs.

10. Service Parts

10.1. For a period of up to six (6) years after Buyer completes current model purchases or such longer time as may be required by Buyer, Supplier will sell to Buyer the quantity of Supplies needed to fulfill Buyer's past model service and replacement requirements. For the first three (3) years, all Supplies for service parts will be sold at the last price specified in the latest revision to the Order plus the actual cost differentials for packaging and materials. For years four (4) through (6) the purchase price for the Supplies, the parties shall agree to an adjustment in the price which compensates Supplier for the increased costs of manufacture as a result of service volume levels.

10.2. At Buyer's request, Supplier will make service literature and other materials available at no additional charge to support Buyer's service part sales activities. Unless otherwise expressly agreed in writing by an authorized representative of Buyer, or unless Buyer removes tooling from Supplier necessary for the production of service parts, Supplier's obligations under this Section shall survive termination or expiration of the Order for any reason.

11. Customs Regulations

11.1. For Supplies that are to be imported into the United States, Supplier shall comply with all applicable recommendations or requirements of the United States Bureau of Customs and Border Protection's ("US Customs") Customs-Trade Partnership Against Terrorism ("C-TPAT") initiative (for information go to <http://www.cbp.gov/> and find the link to the C-TPAT section). At Buyer's or the Bureau of Customs and Border Protection's request, Supplier shall certify in writing its compliance with the C-TPAT. Supplier shall provide both Buyer and U.S. Customs access to Supplier's facilities and to audit Supplier's compliance with the foregoing. If the Supplies are transported via ocean carrier, Supplier must also comply with U.S. Customs' Importer Security Filing ("ISF") and provide the necessary data to the freight forwarder selected by Buyer who will act as Buyer's agent for filing of the ISF. All data required for the ISF must be in the freight forwarder's possession not later than twenty four (24) hours before the Supplies are loaded onto the ocean carrier or such earlier time as the freight forwarder may require. Neither Buyer nor its agents will be responsible for modifying ISFs after the Supplies is loaded onto the ship. Buyer may disallow the shipment of any Supplies if U.S. Customs issues any response other than accepted.

11.2. For Supplies to be imported into Canada, Supplier shall comply with all applicable recommendations or requirements of the Canada Customs and Revenue Agency's initiative Partner's in Protection ("PIP") (for information go to <http://www.cra-adrc.gc.ca/customs/general/enforcement/partners/menu-e.html>). At Buyer's or the Canadian Customs and Revenue Agency's request, Supplier shall certify in writing its compliance with the foregoing.

11.3. Export licenses or authorizations necessary for the export of Supplies are Supplier's responsibility unless otherwise stated

in the Order, in which case Supplier will provide the information necessary to enable Buyer to obtain the licenses or authorizations. Supplier will promptly notify Buyer in writing of any material or components used by Supplier in filling the Order that Supplier purchases in a country other than the country in which the Supplies are delivered. Supplier 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. Supplier 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, Supplier will mark Supplies "Made in [country of origin]." Supplier 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. Supplier warrants that any information that is supplied to Buyer about the import or export of Supplies is true and that all sales covered by the Order will be made at not less than fair value under the anti-dumping laws of the countries to which the Supplies are exported.

11.4. Supplies and/or containers shall be marked as per the requirements of applicable U.S. law including, but not limited to, 19 CFR §134 (as amended from time to time). Scientific and laboratory instruments shall be legibly and conspicuously so marked by die-stamping, case-in-the-mold lettering, acid or electrolytic etching, engraving, or by means of metal plates securely attached to the Supplies in a conspicuous place by welding, screws, or rivets. If the Supplies are not classifiable as specified above, any method of legible and conspicuous marking is acceptable provided it will require a deliberate and persistent effort to remove such marks of origin. Supplier shall also be responsible for compliance with additional regulations and guidelines regarding supply chain security published by US Customs, the Canada Customs and Revenue Agency, and any other government or agency including, but not limited to, the Security and Accountability for Every Port Act of 2006 (the "SAFE Port Act").

11.5. Credits or benefits resulting from the Order, including trade credits, export credits or the refund of duties, taxes, or fees, belong to Buyer. Supplier will provide all information and certificates (including NAFTA Certificates of Origin) necessary to permit Buyer to receive these benefits or credits. Supplier agrees to fulfill any customs- or NAFTA-related obligations, origin marking or labeling requirements, and local content origin requirements.

11.6. Supplier shall indemnify and hold Buyer harmless from and against any liability, claims demands or expenses (including attorney's fees or other professional fees) arising from or relating to Supplier's noncompliance with this Section. Supplier will be responsible for the full costs of any delay in delivery of the Supplies caused by its failure to comply with the requirements of this Section 12 including, without missing, incomplete, untimely or inaccurate data being furnished to Buyer, Buyer's agents or any governmental authority.

12. Excusable Delay

12.1. Any delay or failure of either party to perform its obligations will be excused if and only to the extent that the party is unable to perform due to an event or occurrence beyond its reasonable control and without its fault or negligence, such as: acts of God; restrictions, prohibitions, priorities or allocations imposed or actions taken by a governmental authority; embargoes; fires; explosions; natural disasters;

riots; wars; sabotage; or court injunction or order (collectively "Excusable Delay"). However, in no event will the Supplier's performance be excused by: (i) the change in cost or availability of raw materials, components or services based on market conditions, supplier actions, labor disruptions or contract disputes; (ii) Supplier's financial distress; (iii) bankruptcy or insolvency of Supplier's suppliers; or (iv) any labor strike or other labor disruption applicable to Supplier or to any of its subcontractors or suppliers.

12.2. Supplier shall immediately give written notice to Buyer of any event or occurrence that threatens to delay or actually delays Supplier's performance under this Order. Such notice shall include all relevant information with respect to such threat, including the possible duration and impact of a delay. In addition, Supplier will notify Buyer in writing: (i) at least sixty (60) days prior to the expiration of any labor contract or collective agreement; and (ii) as soon as Supplier becomes aware of any actual or threatened labor strike or other labor disruption; in each case as may be applicable to Supplier or to any of its subcontractors or suppliers that are engaged in manufacturing or providing Supplies or services to Supplier in connection with Supplier's obligations under this Order. Notwithstanding notice and Supplier's provision of a safety stock for a strike, labor disputes are not an event of Excusable Delay which will excuse performance under the Order. Supplier, at its expense, shall use its best efforts to mitigate any adverse effects or costs to Buyer due to any actual or potential delay, including: (i) the implementation of a production contingency plan; and (ii) upon Buyer's express written authorization, increasing Supplier's inventory of Supplies to a level sufficient to sustain deliveries during such delay.

12.3. During any delay or failure to perform by Supplier, Buyer may at its option and at Supplier's expense: (i) purchase Supplies from other sources and reduce its schedules to Supplier by such quantities, without liability to Supplier; (ii) require Supplier to deliver to Buyer at Buyer's expense all finished Supplies, work in process and parts and materials produced or acquired for work under the Order; or (iii) have Supplier provide Supplies from other sources in quantities and at a time requested by Buyer and at the price set forth in the Order. In addition, Supplier at its expense will take all necessary actions to ensure the supply of Supplies to Buyer for a period of at least forty-five (45) days during any anticipated labor disruption or resulting from the expiration of Supplier's labor contracts.

13. Termination

13.1. Buyer may terminate this Order for cause, without liability to Supplier, which will be effective upon delivery of written notice or upon such other date specified by the Buyer in writing. Cause for termination includes, but is not limited to the following actions by Supplier: (i) breach of any representation, warranty or other term of the Order; (ii) repudiation, breach or threat to breach any of the terms of the Order; (iii) failure to deliver, or threats not to deliver, Supplies in accordance with a Material Release in connection with the Order; (iv) failure to meet the quality requirements so as to endanger timely and proper performance of the Order; (v) making an assignment for the benefit of creditors, or proceedings in bankruptcy or insolvency are instituted by or against Supplier; (vi) a request by Supplier for accommodation from Buyer, financial or otherwise, in order to meet its obligations under the Order; (vii) entering or offering to enter into a transaction that includes a sale of a substantial portion of its assets used for the production of Supplies for Buyer or a merger, sale or exchange of stock or

other equity interests that would result in a change in control of Supplier within the meaning of Section 409A of the Internal Revenue Code and regulations issued there under. Supplier will notify Buyer within ten (10) days after entering into any negotiations (or the first period in which such negotiations can be made public consistent with applicable law) that could lead to the situation specified above, provided that upon Supplier's request, Buyer will enter into an appropriate nondisclosure agreement related to information disclosed to Buyer in relation to such transaction; or (vii) at any time in the Buyer's sole judgment Supplier's financial or other condition or progress on this Order shall be such as to endanger timely performance.

13.2. In the event that this Order is not terminated in accordance with Sections 13.1(iv)–13.1(vii), Buyer may make equitable adjustments in the price, payment terms, sole supply relationship and/or delivery requirements under this Order as Buyer deems appropriate to address the change in Supplier's circumstances, including Supplier's continuing ability to perform its obligations regarding warranty, nonconforming Supplies or other requirements under this Order.

13.3. Buyer also may, at its option and in its sole discretion, immediately terminate all or any part of the Order (other than the minimum quantities specified in Section 3) at any time and for any reason upon seven (7) days written notice to Supplier. Upon receipt of notice of termination, and unless otherwise directed by Buyer, Supplier will: (a) promptly terminate all work under the Order on the effective date of termination; (b) transfer title and deliver to Buyer the finished Supplies, the work in process, and the parts and materials that Supplier reasonably produced or acquired according to quantities ordered by Buyer and that Supplier cannot use in producing Supplies for itself or for others; (c) verify and settle any claims by subcontractors for actual costs incurred directly as a result of the termination; (d) take actions reasonably necessary to protect property in Supplier's possession in which Buyer has an interest until disposal instruction from Buyer has been received; and (e) upon Buyer's request, cooperate with Buyer in transferring the production of Supplies to a different supplier.

13.4. Upon termination by Buyer under Section 13.3, Buyer will be obligated to pay only the following without duplication: (i) the Order price for all finished Supplies in the quantities ordered by Buyer in Material Releases that conform to the Order for which Supplier has not been paid; (ii) Supplier's reasonable actual cost of merchantable and useable work-in-process and the parts and materials transferred to Buyer under Section 13.3; (iii) Supplier's reasonable actual costs of settling claims regarding its obligations to its subcontractors required under the Order, to the extent directly caused by the termination, but limited to the amount of the firm quantities of Supplies and raw materials/components specified in Material Releases issued by Buyer and then currently outstanding; (iv) Supplier's reasonable actual cost of carrying out its obligations under Section 13.3(d), and (e) if applicable, amounts due in connection with Transition Support under Section 15.

14. Limitation on Buyer's Obligations to Supplier for Termination

14.1. Buyer's obligations under Section 13.3 are conditioned upon Supplier's furnishing to Buyer, within one (1) month after the date of termination, a termination claim, which will consist exclusively of the items of Buyer's obligation to Supplier that are expressly permitted by this Section and Section 13. Buyer may audit Supplier's records before or after payment to verify amounts requested in Supplier's termination claim. Buyer shall not be obligated to make any

payment for Supplies, work-in-process, parts or raw materials inventory: (i) in excess of those authorized or required under any Material Release, (ii) that are damaged or destroyed or that are not merchantable or useable; (iii) that are in Supplier's standard stock or that are readily marketable; or (iv) that can be returned to Supplier's suppliers or subcontractors for credit. Unless otherwise stated on the face of the Order or in a Material Release, Buyer is not required to release more than three weeks of firm orders and three weeks for planning purposes/raw material orders.

14.2. BUYER WILL HAVE NO OBLIGATION FOR AND WILL NOT BE REQUIRED TO PAY SUPPLIER, DIRECTLY OR ON ACCOUNT OF CLAIMS BY SUPPLIER'S SUBCONTRACTORS, FOR LOSS OF ANTICIPATED PROFIT, FAILURE TO REALIZE ANTICIPATED PRODUCTION VOLUMES, REVENUES OR SAVINGS, UNABSORBED OVERHEAD, INTEREST ON CLAIMS, PRODUCT DEVELOPMENT AND ENGINEERING COSTS, TOOLING, FACILITIES AND EQUIPMENT REARRANGEMENT COSTS OR RENTAL, UNAMORTIZED CAPITAL OR DEPRECIATION COSTS, OR GENERAL ADMINISTRATIVE BURDEN CHARGES FROM TERMINATION OR EXPIRATION OF THE ORDER, EXCEPT AS OTHERWISE EXPRESSLY AGREED IN A SEPARATE ORDER ISSUED BY BUYER.

15. Transition of Supply

15.1. In connection with the expiration, cancellation or termination of the Order by either party, in whole or in part, for any or no cause (including, without limitation, Buyer's decision to change to an alternate source for manufacture of the Supplies whether or not to a Buyer-owned or -operated facility), Supplier will cooperate in the transition of supply. Supplier will continue production and delivery of all Supplies as ordered by Buyer, at the prices and in compliance with the terms of the Order, without premium or other condition, during the entire period reasonably needed by Buyer to complete the transition to the alternate supplier(s). Subject to Supplier's reasonable capacity constraints, Supplier will provide special overtime production, storage and/or management of extra inventory of Supplies, extraordinary packaging and transportation and other special services (collectively, "Transition Support") as expressly requested by Buyer in writing.

15.2. At no additional cost to Buyer, Supplier will promptly provide all requested information and documentation regarding and access to Supplier's manufacturing process, including on-site inspections, bill-of-material data, tooling and process detail and samples of Supplies and components. Supplier shall provide all notices necessary or desirable for Buyer to resource the Order to an alternative supplier.

15.3. If and when requested by Buyer, Supplier will return to Buyer all Buyer's Property in as good condition as when received by Supplier (reasonable wear and tear excepted) and will comply with Supplier's obligations relating to Supplier's Property in Section 20 and in relation to subcontracts.

15.4. If resource of the Supplies occurs for reasons other than Supplier's termination or breach, Buyer will, at the end of the transition period, pay the reasonable, actual cost of Transition Support as requested and incurred, provided that, upon request, Supplier has advised Buyer prior to incurring such amounts of its estimate of such costs. If the parties disagree on the cost of Transition Support, Buyer will pay the agreed portion to Supplier and pay the disputed portion into third-party escrow for disbursement by arbitration.

16. Insurance

16.1. Supplier will obtain and maintain, with insurance companies acceptable to Buyer, the insurance coverage listed below or in additional amounts and coverages as may be requested by Buyer, in each case naming Buyer and its affiliates (as applicable) as loss payee(s) and/or "additional insured(s)". Such coverages shall include, without limitation, providing full fire and extended coverage insurance for the full replacement value of all Supplier's Property and all bailed Buyer's Property. Supplier hereby waives all mechanics' liens and claims and agrees that none shall be filed or maintained against Buyer's premises on account of any Supplies and shall cause all its subcontractors, materialmen and suppliers (and subcontractors of such parties) to provide similar waivers and agreements in form satisfactory to Buyer.

16.2. Supplier 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 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 Supplier of its obligations or liabilities under the Order. Minimum required coverage is as follows:

<u>COVERAGE</u>	<u>LIMITS OF LIABILITY</u>
Workers compensation	Statutory
Employer's liability	US\$500,000 / each accident, disease policy limit, disease each employee
Comprehensive general liability insurance	US\$5,000,000 / each occurrence, general aggregate, products & completed operations aggregate
Comprehensive automobile liability insurance	US\$5,000,000 / each occurrence, combined single limit
Business interruption insurance	As specified by Buyer

16.3. Supplier agrees to furnish to Buyer promptly upon request a certificate from its insurance brokers or agent showing that it carries adequate Workers' Compensation. The certificate must show the amount of coverage, policy number, and date of expiration and must require the broker or agent to give Buyer thirty (30) days prior written notice of any lapse or cancellation of any policy. If Supplier is self-insured for Workers Compensation coverage, it will, if requested by Buyer, provide the applicable state certificate establishing such status to Buyer.

17. Audit; Plant Inspections

17.1. Upon reasonable notice to Supplier, Buyer (or a third party designee) may audit Supplier's production facility, Supplies and any other Buyer property (including all pertinent documents, data and other information) related to the Order at facility for the purpose of verifying Supplier's costs and its compliance with or its ability to perform its obligations under the Order. Supplier shall provide, without additional charge, all reasonable facilities and assistance. Buyer's inspection does not constitute acceptance of any work-in-process or

finished goods and does not relieve Supplier of any of its responsibilities or warranties.

- 17.2. Upon reasonable notice to Supplier, Buyer or a third party designated by Buyer may review the financial condition of Supplier and its affiliate. Supplier will fully cooperate in such review and will promptly provide copies of or access to requested documents, including without limitation financial records and statements, forecasts, business plans, banking contacts and loan documents, and will make its financial managers available for discussions during reasonable business hours. Buyer and any designated third party will keep confidential any nonpublic information about Supplier obtained in a financial review and use such information only for purposes of the review, except as needed to enforce the Order.
- 17.3. Supplier represents and warrants that it is fully in compliance with any and all of its financial covenants as required by any financial institution with whom Supplier has a business relationship and that there are no outstanding claims (whether or not in litigation) which may or have been asserted against Supplier which, if decided unfavorably to Supplier, would reasonably be expected to have a material adverse effect on Buyer's or Supplier's ability to fulfill its respective obligations under the Order.
- 17.4. Buyer's right to conduct any inspection, audit or review under this section or otherwise is at its sole discretion. Buyer has no obligation to Supplier to conduct any inspection, audit or review and Buyer's decisions as to whether, how and when to conduct any inspection, audit or review does not modify or relieve Supplier of any obligations under the Order, does not give rise to any liability of Buyer to Supplier and is without prejudice to any rights or remedies available to Buyer.

18. Buyer's Property

- 18.1. "Buyer's Property" shall mean and include: all information and materials, including without limitation, tooling which has been provided by Buyer or for which Supplier has been reimbursed by Buyer (such as fixtures, gauges, jigs, patterns, castings, cavity dies, molds, with all related appurtenances, accessions, and accessories, collectively called "Tooling"), packaging, documents, standards, specifications, samples, trade secrets, manufacturing processes, marketing and pricing data, proprietary information and other materials and items (including whether or not such materials are in any way modified, altered or processed) furnished by Buyer either directly or indirectly to Supplier to perform the Order, along with any and all Supplies, tooling, deliverables, data, and intellectual property rights which are property of Buyer under the terms of the Order. Buyer's Property shall be and remain the sole and exclusive property of Buyer.
- 18.2. With respect to Buyer's Property in the custody or control of Supplier or Supplier's suppliers, contractors or agents: (i) Supplier shall use it only for the production of Supplies for Buyer; (ii) Supplier, at its own expense, shall keep Buyer's Property in good working condition, house, maintain, repair and replace it, except for normal wear and tear; (iii) Supplier shall keep it fully insured for the benefit of Buyer at all times while in Supplier's possession; and (iv) Supplier shall keep it segregated from all other assets and labeled as being the property of Buyer. Supplier may not release, relocate or dispose of Buyer's Property to any third party without the express written permission of Buyer. Supplier shall promptly notify Buyer of the location of the Buyer's Property if located at any place other than Supplier's facility.

18.3. Supplier shall have only temporary possession of Buyer's property as a bailee at will. Supplier shall execute Buyer's Tooling Agreement or other bailment agreement as Buyer may reasonably request.

18.4. Buyer will have the right to enter Supplier's premises to inspect Buyer's Property and Supplier's records regarding Buyer's Property. Supplier agrees neither to create nor permit any liens on Buyer's Property and Supplier agrees to immediately sign any UCC-1 forms or other documents reasonably required by Buyer to perfect Buyer's rights granted herein. Supplier grants to Buyer a limited and irrevocable power of attorney, coupled with an interest, to execute and record on Supplier's behalf any notice financing statements with respect to Buyer's Property that Buyer determines are reasonably necessary to reflect and protect Buyer's interest in Buyer's Property.

18.5. Supplier shall assume all risk of death or injury to persons or damage to property arising from its use of Buyer's Property. TO THE EXTENT PERMITTED BY LAW, BUYER SHALL HAVE NO LIABILITY TO SUPPLIER OR ANYONE CLAIMING BY OR THROUGH SUPPLIER FOR ANY INCIDENTAL OR CONSEQUENTIAL OR OTHER DAMAGES OF ANY KIND WHATSOEVER RELATING TO BUYER'S PROPERTY SUPPLIED BY BUYER. BUYER DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO SUCH BUYER'S PROPERTY, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND SUPPLIER WAIVES, FOR ITSELF AND ITS SUCCESSORS AND ASSIGNS, ALL CLAIMS OF NEGLIGENCE AND STRICT LIABILITY.

18.6. Immediately upon Buyer's request, pursuant to any bailment agreement or upon any bankruptcy or insolvency filing, and without payment of any kind, the Supplier will return Buyer's Property, and will comply with Buyer's instructions relating to its return, including but not limited to the method and location for its return. Supplier is responsible for labor and other costs incidental to its return. The Supplier will cooperate with the Buyer and will provide Buyer with access to all facilities at which Buyer's Property is located. Supplier expressly waives any right to additional notice or process relating to Buyer's exercise of its rights under this Section. Supplier waives, to the extent permitted by law: (i) any lien or other rights that Supplier might otherwise have on any of Buyer's Property, including but not limited to molder's and builder's liens; and (ii) any objection to the Buyer's repossession and removal of Buyer's Property for any or no reason, including bankruptcy or insolvency proceedings.

19. Tooling

19.1. Supplier shall not purchase any Tooling for the account of Buyer or charge Buyer for any tooling except as authorized in the Order or in a Tooling Purchase Order. Supplier represents that the price in the Order or the Tooling Purchase Order for the Tooling is Supplier's cost and that there is no mark-up for profit (unless as authorized in this Section 20).

19.2. If Supplier is responsible for fabricating or acquiring Tooling, such Tooling shall: (i) comply with any specifications provided by Buyer; (ii) be capable of producing Supplies that satisfy the Order, including meeting any volume requirements or estimates provided to Supplier during the life of the product as well as satisfying the requirements for Service Parts. Supplier represents and warrants that the Tooling fabricated or acquired by Supplier does not infringe on the intellectual property of a third-party and shall defend, hold harmless and indemnify Buyer, its

successors and assigns against any suit, claim or action for actual or alleged direct or contributory infringement of or inducement to infringe any Intellectual Property and against any resulting damages or expenses (including attorney's and other professional fees, settlements and judgments) arising in any way to the Tooling including any claim against Buyer that the infringement arose out of compliance with Buyer's specifications. If the use of the tooling for manufacture of the Supplies is enjoined or, in Buyer's sole judgment, is likely to be enjoined, Supplier will, at Buyer's election and Supplier's sole expense, procure for Buyer to right to continue using the Supplies, modify the Tooling so it becomes non-infringing. Time is of the essence for Supplier's acquisition or fabrication of Tooling. Supplier shall provide Tooling progress reports on Buyer's request and shall promptly notify Buyer in writing if it believes that the Tooling might not be completed by the completion date specified on the Order.

- 19.3. If all or part of the fabrication, modification, repair or refurbishment of Tooling will be subcontracted to a third-party toolmaker, the Supplier will: (a) give Buyer advance written notice of the identity of the toolmaker and the location of the Tooling; (b) inform the toolmaker in writing that it is a bailee-at-will, through the Supplier, of Tooling owned by the Buyer; and (c) be solely responsible for payments to the toolmaker. The Buyer has no obligation to the Supplier or subcontractor other than payment to the Supplier of the Order price. If a subcontractor brings an action against the Supplier for payment of the Tooling, the Supplier will not join the Buyer in the action.
- 19.4. The Supplier shall be entitled to receive payment only after the Tooling is completed. Tooling is not complete until Supplier, at its own expense, has successfully completed all required testing (including, for Tooling used in connection with motor vehicle parts production, completion of the PPAP process) and has submitted all necessary documentation.
- 19.5. If Supplier's primary business is to fabricate Tooling, Supplier will be permitted a reasonable profit percentage as indicated by the Order. In the absence of a mutually-accepted profit percentage, Buyer will determine a reasonable profit percentage following the completion of its audit. Supplier will invoice Buyer for (and Buyer will only be obligated to pay) the lower of Supplier's actual cost plus such profit percentage or the amount set forth in the Order.
- 19.6. Supplier will provide to Buyer, as requested, access to Supplier's premises and all documentation relating to the Tooling, prior and subsequent to payment, to inspect work performed and to verify charges submitted by Supplier against the Order. For any Tooling or parts thereof that Supplier obtains from any third party, Supplier will provide Buyer with such access and documentation to the ultimate production source. Supplier will have ninety (90) days from the date Buyer notifies Supplier of Buyer's intention to audit Supplier to provide the requested access and copies of requested documentation for Buyer's exclusive use and records. Any information submitted following such ninety (90) day period need not be considered by Buyer. The price set forth in the Order will be adjusted to credit Buyer in the amount, if any, by which the price exceeds Supplier's actual cost as verified. Supplier will not disclose to any third party, except for its attorneys and professional advisors who are required to maintain confidentiality, the results of such Tooling audits or any adjustments made by Buyer to the prices and amounts payable to Supplier as a result of such audit. Supplier will retain (and cause its Tooling sub-suppliers to retain) all cost records for a period of three years after receiving final payment of the charges.

19.7. To the extent permitted by applicable law, any payments made by Buyer for Buyer-owned Tooling that is manufactured by a third-party are expressly intended by Buyer to be held in trust for the benefit of any subcontractor(s) used by Supplier to produce the Buyer-owned Tooling that are covered by such payments and Supplier agrees to hold such payments as trustee in trust for such subcontractor(s) until Supplier has paid the subcontractor(s) in full for the Buyer-owned Tooling. Supplier acknowledges and agrees that such subcontractor is an intended third party beneficiary of the terms of this Section 19.7 relating to the trust and as such, such Tooling subcontractor shall have the right to enforce these terms of this Section 19.7 directly against Supplier in subcontractor's own name. Supplier agrees that Buyer has no obligation to Supplier or Supplier's Tooling subcontractor under this Section other than making the payment to Supplier in accordance with a Tooling Purchase Order. In the event Supplier's Tooling subcontractor brings an action against Supplier under this section, Supplier agrees that it will not join Buyer in any such action.

20. Supplier's Property

- 20.1. Supplier's property shall mean and include all capital equipment, buildings, materials, machinery, equipment, tools, jigs, dies, gauges, fixtures, molds, patterns, blueprints, designs, specifications, drawings, photographic negatives and positives, art work copy layout and all other items that are not Buyer's Property and that are necessary for the production of Supplies under any Order.
- 20.2. Supplier, at its expense, will furnish, keep in good working condition capable of producing Supplies meeting all applicable specifications, and replace when necessary, all Supplier's Property. Supplier will insure Supplier's Property with full fire and extended coverage insurance for its replacement value. If Supplier uses Supplier's Property to produce goods or services similar to Supplies for other customers, including aftermarket customers, such goods or services will not incorporate any of Buyer's logos, trademarks, trade names or part numbers. Supplier will not disclose or imply in its marketing efforts that the goods it produces for others are equivalent to or better than those purchased by Buyer.
- 20.3. Supplier grants to Buyer an irrevocable option to purchase and/or temporarily take possession of Supplier's Property that is special for production of Supplies under an Order (including, by way of example, and without limitation, Supplier's Property specially designed or configured for the manufacture or assembly or other processing of Supplies), upon payment to Supplier of its net book value less any amounts that Buyer has previously paid to Supplier for the cost of such items, or (if applicable) any such other amount as may be required by applicable law. This option does not apply if Supplier's Property is used to produce goods that are the standard stock of Supplier or if substantial quantities of goods substantially similar to the Supplies are being sold by Supplier to others. Buyer's option rights under this Section with respect to Supplier's Property are intended to be subject to Buyer's rights and elections under 11 USC Section 365(n), as and to the extent that such Supplier's Property represents embodiments of intellectual property, including intellectual property licensed by Supplier to Buyer under Section 21 below.
- 20.4. In addition to any and all other remedies available to Buyer at equity or law, in the event of termination or breach or anticipatory breach of this Agreement for any reason and, on account of the breach, the continuous manufacture and delivery of the Supplies is immediately threatened, Supplier

hereby grants Buyer the right to access Buyer's Property and Supplier's Property in Supplier's manufacturing facility on 24 x 7 x 365 basis to do one of the following, at Buyer's option: (i) enable Buyer's employees and/or designated representatives to use Buyer's Property and Supplier's Property to manufacture and obtain sufficient quantity of the Supplies to meet Buyer's obligations; (ii) hire Supplier's employees (at Buyer's cost and expense subject to Buyer's right to recover such expenses under the Order) to use the Buyer's Property and Supplier's Property to manufacture and obtain sufficient quantity of the Supplies to meet Buyer's obligations.

21. Technology

21.1. Intellectual Property shall mean and include patents, copyrights, trademarks, trade names, trade dress, trade secrets, copyrights, know-how, concepts, ideas, discoveries, inventions (whether or not patentable), processes, developments, designs, suggestions, materials, improvements, works of authorship, artwork, software, documentation, intellectual property/proprietary rights, rights in other tangible and intangible assets of a proprietary nature, domain names, company names, and the like. "Intellectual Property Rights" means all forms of intellectual property protection or proprietary rights available throughout the world, including, without limitation, utility patents, design patents, patent applications, design registrations, utility models, industrial designs, copyrights, trademarks, trade dress, trade secrets, and rights in domain names.

21.2. Supplier warrants that the Supplies or other deliverables provided under this Order (including, for example, computer programs, technical specifications, documentation and manuals) and the sale and/or use thereof (before or after incorporation into products during manufacture) are original to Supplier and do not and will not infringe any third-party's Intellectual Property Rights.

21.3. Supplier agrees: (i) to defend, hold harmless and indemnify Buyer, its successors and assigns against any suit, claim or action for actual or alleged direct or contributory infringement of or inducement to infringe any Intellectual Property and against any resulting damages or expenses (including attorney's and other professional fees, settlements and judgments) arising in any way to the manufacture, sale or use of the Supplies, including cases in which Supplier has provided only part of Supplies; (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 Buyer for infringement of any Intellectual Property Right, including any claim against Buyer that the infringement arose out of compliance with Buyer's specifications; and (iii) that if the sale or use of the Supplies is enjoined or, in Buyer's sole judgment, is likely to be enjoined, Supplier will, at Buyer's election and Supplier's sole expense, procure for Buyer to right to continue using the Supplies, replace the same with equivalent non-infringing goods or modify such Supplies so they become non-infringing.

21.4. All Supplies, tooling (including fixtures, gauges, jigs, patterns, castings, cavity dies and molds, with all related appurtenances, accessories, and accessories), and all other deliverables which include Intellectual Property, for which Buyer has agreed to reimburse Supplier, along with all Intellectual Property relating thereto and needed to manufacture, sell or use the Supplies are the sole and exclusive property of Buyer. Supplier will promptly disclose in an acceptable form and assign to Buyer all Intellectual Property. Supplier will cause its employees to sign any papers necessary to enable Buyer to file applications for patents throughout the world and to record rights in and to

such intellectual property. To the extent that the Intellectual Property includes any works of authorship created by or on behalf of Supplier, such works shall be considered "works made for hire", and to the extent that such works do not qualify as "works made for hire," Supplier hereby assigns to Buyer all right, title, and interest in all copyrights and moral rights therein.

21.5. Supplier hereby grants to Buyer, its subsidiaries and affiliates, and their respective successors and assigns, and Buyer hereby accepts, a non-exclusive, irrevocable, royalty-free, fully paid up worldwide license, including the right to sublicense to others in connection with providing the Supplies to Buyer, under: (i) any Intellectual Property owned or controlled by Supplier or its affiliates, and relating to the Supplies, to make, have made, repair, reconstruct, rebuild, relocate, use, sell and import the Supplies, and (ii) any works of authorship fixed in any tangible medium of expression (including drawings, prints, manuals and specifications) furnished by Supplier in the course of Supplier's activity under this Order, to reproduce, distribute and display such works and to prepare derivative works based thereon, subject to the other provisions of this Order (all items in clauses (i) and (ii) above, collectively, "Supplier's Intellectual Property", and such license in respect thereof, the "License"). Supplier acknowledges and understands that the License shall be effective from the first date of delivery of the Supplies under this Order and extend for the length of the Order. The License is intended to be subject to 11 USC Section 365(n), as an executory agreement under which Buyer has license rights to Supplier's Intellectual Property, and is supplementary to any other rights of Buyer under this Order and any other agreement with Supplier.

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

22. Proprietary Information; Record Retention

22.1. Any information or knowledge which Buyer may have disclosed or may hereafter disclose to Supplier in connection with this Order (including but not limited to the Terms of the Order) and any and all services to be rendered and/or work to be performed pursuant to this Order is and shall be deemed confidential and proprietary information of Buyer. Supplier shall not, without authorization in writing from Buyer, use (except as necessary to the performance of the Order), communicate or disclose the confidential and proprietary information of Buyer or use such information for any purpose other than to perform its obligations under the Order. Supplier agrees to safeguard the confidential and proprietary information of Buyer by using reasonable efforts, consistent with those used in the protection of its own proprietary information of a similar nature, to prevent its disclosure to third parties. Supplier agrees to cause its employees, "contractors", officers, directors, agents and representatives to be bound by and comply with the foregoing restrictions regarding the use or disclosure of such confidential and proprietary information. Supplier further agrees not to assert any claims with respect to any technical information which Supplier shall have disclosed or may hereafter disclose to Buyer in connection with the Supplies.

22.2. The restrictions and obligations of Section 22.1 will not apply to information that: (a) is already publicly known at the time of its disclosure by Buyer; (b) after disclosure by Buyer becomes publicly known through no fault of Supplier; or (c) Supplier can establish by written documentation was properly in its possession prior to disclosure by Buyer or was independently developed by Supplier without use of or reference to Buyer's information. Notwithstanding anything

to the contrary in these Terms, any confidentiality or non-disclosure agreement between the parties that predates the Order will remain in effect except as expressly modified by the Order, and to the extent of a conflict between the express terms of such an agreement and this Section, the terms of that agreement will control.

- 22.3. All documents containing proprietary information relating to the Supplies produced or acquired by Supplier in connection with this Agreement will belong to Buyer. All drawings, know-how, and confidential information supplied to Supplier by Buyer and all rights therein will remain the property of Buyer and will be kept confidential by Supplier in accordance with Section 22.1 above.
- 22.4. Supplier agrees not to assert any claim against Buyer or its suppliers with respect to any technical information that Supplier has disclosed or may disclose to Buyer in connection with the Supplies covered by the Order, except to the extent expressly covered by a separate written confidentiality and/or license agreement signed by Buyer or by a valid patent expressly disclosed to Buyer prior to or at the time of the Order.
- 22.5. In the event that Supplier has reasonable cause to seek adequate assurance of performance from Buyer (within the meaning of Section 2-609 of the Uniform Commercial Code), Buyer, in its sole discretion, will be deemed to have provided adequate assurance of performance, if, within thirty (30) days after Supplier's request, Buyer has either: (i) making one of its financial officers available to respond to Supplier's concerns and thereby providing information to assure Supplier that Buyer will perform its obligations under the Order; or (ii) providing such documents as Buyer reasonably determines provides sufficient information assure Supplier that Buyer will perform its obligations under the Order. All information provided will be subject to the confidentiality protection of Section 22.1.
- 22.6. Supplier shall, within five (5) business days of Buyer's request or the expiration or termination of this Order, return all confidential and proprietary information (including all copies, notes and/or extracts thereof). This Section 22 shall survive termination of the Order.
- 22.7. The Supplier will keep all relevant documents, data and other written information relating in any manner to the Supplies for at least six (6) years following: (a) in the case of the Supplies, the later of the last delivery of the Supplies or the date of the final payment to the Supplier under the Purchase Order; and (b) in the case of Tooling, the later of the date of completion of the Production Part Approval Process (PPAP), the date of submission of the Part Submission Warrant (PSW), or the date of final payment. The Buyer may make copies of these materials at any time prior to their destruction.

23. **Setoff**

- 23.1. In addition to any right of setoff or recoupment permitted by law, all amounts due Supplier shall be considered net of indebtedness or obligations of Supplier to Buyer. Buyer may set off against or recoup from any amounts due or to become due from Supplier, any amounts due to Buyer however and whenever arising. If an obligation of Supplier to Buyer is disputed, contingent or unliquidated, Buyer may defer payment of all or a portion of the amount due to Supplier until such obligation is resolved. Further, in the event Buyer reasonably feels itself at risk, Buyer may withhold and recoup a corresponding amount due Supplier to protect against such risk. For purposes of this Section only, the terms "Buyer" and "Supplier" shall include their parent

companies, subsidiaries, brother/sister companies and affiliates.

24. **Social Responsibility and Protection of the Environment**

- 24.1. Supplier shall comply with all laws and regulations regarding environmental protection and to work on reducing the adverse effects of its activities on human beings and the environment. In this respect the Supplier shall set up and further develop a management system in accordance with ISO 14001 wherever possible.
- 24.2. Supplier warrants that neither it nor any of its subcontractors will utilize child, slave, prisoner or any other form of forced or involuntary labor, or engage in abusive employment or corrupt business practices, in the supply of Supplies or provision of services under this contract. At Buyer's request, Supplier shall certify in writing its compliance with the foregoing.

25. **Compliance With Laws; Ethics**

- 25.1. Supplier warrants that Supplier, and all Supplies furnished by Supplier under the Order will comply with all applicable local, state, and Federal laws, ordinances and regulations. Supplier shall provide all permits, certificates, licenses, insurance approvals and inspections which may be required for the performance of the Order. In the event there are any changes in laws applicable to the manufacture and/or sale of the Supplies, Supplier must immediately notify Buyer and must identify the impact of such changes on the Supplier's performance and Buyer's receipt of such Supplies. Supplier must develop and implement any modifications that are necessary to comply with the law prior to the deadline imposed by the law; provided, however, if a change in the law impacts requires changes to the manufacture of the Supplies in any manner, any changes must be PPAPed and approved by Buyer prior to the implementation of any modifications.
- 25.2. Supplier also warrants that all Supplies furnished by Supplier in performance of the Order shall comply fully with the Occupational Safety and Health Act of 1970 (84 USC 1590), as amended, and State plans approved under this Act; the Toxic Substance Control Act (15 USC 2601); and the regulations promulgated under both Acts, to the extent applicable to such equipment and in addition to any other rights or remedies which Buyer may have. Supplier also warrants all Supplies fully comply with all federal and state environmental regulations including, without limitation, state laws regulating the amount of mercury. Supplier shall promptly notify Buyer in the event that any environmental factors associated with Supplier's products, services and/or processes may adversely impact Buyer or its employees, either directly or indirectly. Such impacts may involve, but are not limited to, direct exposure to toxic substances in Supplier's products and/or processes, and/or negative publicity or litigation arising from Supplier's use of endangered species or other environmentally sensitive materials.
- 25.3. Buyer serves from time to time as a contractor and/or a subcontractor concerning contracts to supply to the United States government. In those cases, Supplier shall comply with the federal laws, regulations, and rules applicable to subcontractors of government contractors, including but not limited to those relating to equal employment opportunity and affirmative action in the employment of minorities (Executive Order 11246), women (Executive Order 11375), the handicapped (29 USC 793), and certain veterans (36 USC 2012), and contracting with women-owned or small and

disadvantaged business concerns. Where applicable, Supplier certifies that it maintains no segregated employee facilities as provided in 41 CFR 60-1.8 and that it is not debarred from being awarded federal or federally assisted contracts.

- 25.4. Supplier and/or any agent or representative of Supplier, may not offer or give any gratuities, in the form of entertainment, gifts, or otherwise to any officer or employee of Buyer with a view toward securing any Order or securing favorable treatment with respect to the awarding, amending or making of any determinations with respect to the performance of the Order or future Orders.
- 25.5. The Supplier will promptly notify the Buyer if Supplier has provided information to any Government agency (including agencies of foreign governments) regarding the Supplies, including information provided to the U.S. Government in accordance with the following reporting requirements of U.S. law: 49 CFR Part 573 (Defect and Noncompliance Reporting) and 49 CFR Part 579 (Reporting of Information and Communications About Potential Defects). This e-mail notification will include the following information: the date the notification was provided to a Government, the affected Supplies (or components of the Supplies, as applicable), and the report type (e.g., for reporting to the U.S. Government, an Early Warning Report or Noncompliance Report). The Supplier will also promptly notify the Buyer if Supplier has provided information to a governmental agency regarding goods of a comparable or derivative nature to the Supplies including information provided to the U.S. Government.
- 25.6. Supplier shall indemnify and hold Buyer harmless from and against any liability claims, demands or expenses (including attorney's or other professional fees) arising from or relating to Supplier's noncompliance with this section 25.

26. Buyer's Limited Liability to Supplier

Buyer's sole liability under the Order (including its termination, expiration or cancellation) is to pay for the Supplies in accordance with Section 5 and to pay the specific termination related amounts described in Section 13.4. IN NO EVENT SHALL BUYER BE LIABLE TO SUPPLIER FOR ANTICIPATED OR LOST PROFITS, INTEREST, PENALTIES OR INCIDENTAL, CONSEQUENTIAL, PUNITIVE, MULTIPLE, OR EXEMPLARY DAMAGES OR LIABILITIES IN CONNECTION WITH THIS ORDER, WHETHER FOR BREACH OF CONTRACT, TORT LIABILITY, LATE PAYMENT, PROPERTY DAMAGE, PERSONAL INJURY, ILLNESS, OR DEATH OR OTHERWISE.

27. Assignment

- 27.1. Supplier may not, without Buyer's prior written consent (as expressly set forth on Purchase Order and/or Scheduling Agreement, or in a signed writing by an authorized representative of Buyer): (i) assign or delegate (including without limitation by subcontract) its obligations under the Order, or (ii) enter or offer to enter into a transaction that includes a sale of a substantial portion of its assets used for the production of the Supplies for Buyer or a merger, sale or exchange of stock or other equity interests that would result in a change of control of Supplier. In the event of any approved assignment (including without limitation subcontract), sale or delegation authorized by Buyer, Supplier shall retain all responsibility for Supplies, including all related warranties and claims, unless otherwise expressly agreed in writing by Buyer.
- 27.2. With Buyer's prior written consent, Supplier may make an assignment of receivables due or to become due to a single

financial institution; provided, however, that any such assignment shall be subject to set-off (see Section 24 above) or other proper method of enforcing any claims that Buyer may have under the Order.

- 27.3. Buyer will have the right to assign any benefit or duty under an Order to any third party upon notice to Supplier with or without consent

28. No Publicity

Supplier will not advertise, publish or disclose to any third party (other than to Supplier's professional advisors on a confidential and need-to-know basis) in any manner the fact that Supplier has contracted to furnish Buyer the Supplies covered by the Order or any terms of the Order (including prices), or use any trademarks or trade names of Buyer in any press release, advertising or promotional materials, without first obtaining Buyer's written consent.

29. Relationship of the Parties

Supplier and Buyer are independent contracting parties and nothing in the Order will make either party the employee, agent or legal representative of the other for any purpose. The 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. Supplier will be solely responsible for all employment and income taxes, insurance premiums, charges and other expenses it incurs in connection with its performance of the Order, except as expressly provided in a written agreement signed by Buyer. All employees and agents of Supplier or its respective contractors are employees or agents solely of Supplier or such contractors, and not of Buyer, and are not entitled to employee benefits or other rights accorded to Buyer's employees. Buyer is not responsible for any obligation with respect to employees or agents of Supplier or its contractors.

30. Conflict of Interest

Supplier represents and warrants that its performance of the Order will not in any way conflict with any continuing interests or obligations of Supplier or its employees or contractors. Supplier further warrants that while the Order is in effect, Supplier and those of its employees and contractors participating in the performance of the Order will refrain from any activities which could reasonably be expected to present a conflict of interest with respect to Supplier's relationship with Buyer or its performance of the Order.

31. Governing Law; Dispute Resolution

- 31.1. Buyer and Supplier will first endeavor to resolve through good faith negotiations any dispute arising under the Order. If a dispute cannot be resolved through good faith negotiations within a reasonable time, either party may request non-binding mediation by a mediator approved by both parties. If mediation fails to resolve the dispute within thirty (30) days after the first mediation session, all disputes arising out of or relating to the Order shall be resolved through binding arbitration. The arbitration proceedings will be conducted before a panel of three arbitrators (one appointed by each party and the neutral appointed by the other two arbitrators) in accordance with the Commercial Rules of the American Arbitration Association including application of the Optional Rules for Emergency Measures of Protection and will be governed by the *United States Arbitration Act*, 9 U.S.C. §§1-16, and this Section 32. The arbitration will be conducted in Detroit, Michigan and the language of the arbitration shall be English. The arbitrators will issue a written opinion setting forth the basis for the arbitrator's decision, which may include an award of legal

fees and costs. While arbitration proceedings are pending, the parties will continue to perform their obligations under the Contract without setoff for any matters being contested in the arbitration proceedings.

31.2. Venue for confirmation of or any challenge to the Arbitration Award will be exclusive in the state or US District Courts within Wayne or Oakland Counties in Michigan.

31.3. The Order will be governed by the laws of the State of Michigan and the United States of America. The provisions of the United Nations Convention on Contracts for the International Sale of Goods, and any conflict-of-laws provisions that would require application of another choice of law, are excluded.

31.4. Neither course of performance, course of dealing or usage of trade may be used to vary the terms of the Order.

32. No Waiver

Buyer's failure to insist on the performance by Supplier of any term or failure to exercise any right or remedy reserved in this Order, or Buyer's waiver of any breach or default hereunder by Supplier shall not, thereafter, waive any other terms, conditions, rights, remedies, breaches or defaults, whether of the same or a similar type or not.

33. Severability

If any provision of this Order, or portion of any provision, is declared or found to be unenforceable, the balance of this Order or such provision shall be interpreted and enforced to the greatest extent possible as if the unenforceable provision or portion had never been a part hereof.

34. Survival

34.1. The obligations of Supplier to Buyer survive termination of the Order, except as otherwise provided in the Order.

35. Notices

35.1. Use of written notice. A written notice is used by the parties to provide a required notice or instructions to each other, or to authorize an exception, deviation or waiver of a pre-existing obligation or requirement under this Order. A written notice is also used by either party to provide any notice to the other party that is required to be in writing. In the case of Buyer, any written notice is valid only if signed by a representative of the Buyer's purchasing activity. A written notice may be signed manually or electronically.

35.2. How Provided. A written notice may be provided by: (a) first class mail; (b) courier service; (c) fax; or (d) standard e-mail. A written notice using method (a) or (b) is effective as of the date of delivery, and using method (c) or (d) is effective as of the date of transmission.

36. Interpretation

No provision may be construed against the Buyer as the drafting party. Section headings are for convenience or reference only, and do not affect the meaning of the Order.

37. Entire Agreement

37.1. Except as described in Section 1, the Order, together with the NAPTC, attachments, exhibits, supplements or other terms of Buyer specifically referenced therein, constitutes the entire agreement between Supplier and Buyer with respect to the matters contained in the Order. The Order may only be

modified (i) by a written amendment executed by authorized representatives of each party or, (ii) for changes within the scope of Section 9, by an amendment to the Order issued by Buyer.

37.2. Buyer may modify purchase order terms and conditions from time to time by posting revised purchase order terms and conditions to Buyer's internet website (or such other website as may be directed through links available on such website) as specified on the Purchase Order prior to the date when any modified terms and conditions become effective. Such revised purchase order terms and conditions shall apply to all purchase order revisions/amendments and new Orders issued on or after the effective date thereof. Supplier shall be responsible to review Buyer's Website periodically.

37.3. Buyer's Website may also contain specific additional requirements for certain items covered by this Order, including labeling, packaging, shipping, delivery and quality specifications, procedures, directions and/or instructions. Any such requirements shall be deemed to form part of the terms and the Order. Buyer may periodically update such requirements by posting revisions thereto on Buyer's Website. In the event of any inconsistency between the Order and Buyer's Website, the terms of the Order shall prevail, unless the requirements specified on Buyer's Website expressly provide otherwise.