



CIE USA's
TERMS AND CONDITIONS OF PURCHASE

1. Formation; Offer; Acceptance; Exclusive Terms.

- a. Each purchase order, together with these Terms and Conditions ("Order") is an offer by purchaser or its applicable affiliate or subsidiary ("Purchaser") to the party to whom such Order is addressed and such party's applicable affiliates and subsidiaries ("Seller") to enter into the agreement it describes and it shall be the complete and exclusive statement of such offer and agreement. An order does not constitute an acceptance by Purchaser of any offer or proposal by Seller, whether in Seller's quotation, acknowledgement, invoice or otherwise unless governed by these Terms & Conditions. In the event that any Seller quotation or proposal is held to be an offer, that offer is expressly rejected and is replaced in its entirety by the offer made expressly subject to these Terms & Conditions.
- b. A contract is formed when Seller accepts the offer of Purchaser as memorialized by the Order. Each Order shall be deemed accepted upon the terms and conditions of such Order by Seller by shipment of Supplies, performance of services, commencement of work on goods, written acknowledgement, or any other conduct of Seller that recognizes the existence of a contract pertaining to the subject matter hereof.
- c. Acceptance is expressly limited to these Terms and Conditions and such terms and conditions as are otherwise expressly referenced on the face of the Order. No purported acceptance of any Order on terms and conditions which modify, supersede, supplement or otherwise alter these Terms and Conditions shall be binding upon Purchaser and such terms and conditions shall be deemed rejected and replaced by these Terms and Conditions **unless** Seller's proffered terms or conditions are accepted in a physically signed writing (a "Signed Writing") by Purchaser's Vice President – Purchasing, notwithstanding Purchaser's acceptance of or payment for any shipment of goods or similar act of Purchaser.
- d. In the event of a conflict between the Order and any prior or contemporaneous agreement or document exchanged between Purchaser and Seller, the Order governs.
- e. CIE may from time to time administer purchasing for its affiliates and subsidiaries and issue Orders containing CIE's logo, but identifying a different Purchaser. Seller acknowledges and agrees that no such Order shall constitute or be interpreted to represent an Order of CIE or a guaranty by CIE of any obligations or liabilities of the Purchaser identified on the purchase order portion of the Order.

2. Applicability of Terms and Conditions.

- a. These terms and conditions, as may be amended from time to time (the "Terms and Conditions"), apply to the purchase by Purchaser of all goods and/or services, as applicable, from Seller as described on the face of each purchase order portion of



the Order (collectively, "Supplies") or on any document expressly referenced on the face of such Order describing such Supplies. The term "Supplies" throughout these Terms and Conditions includes, without limitation, raw materials, components, intermediate assemblies, tooling, molds, equipment and end products and all services, whether or not performed in connection with any of the foregoing items. Certain of the Terms and Conditions apply only to particular types of Supplies, but only where expressly limited to those types of Supplies.

- b. These Terms and Conditions apply to all Sellers under an Order, including, without limitation, any Seller that is a directed supplier. A "Directed Supplier" is any Seller from which Purchaser has been requested or recommended to procure Supplies at the direction or suggestion of Purchaser's customer and/or the ultimate Original Equipment Manufacturer ("OEM") customer, if different (collectively, the "Customer") (including through co-sourcing arrangements), or when, due to a Customer's product description, specification or other limitation, Purchaser is limited to such Seller for the Supplies required. Each Seller that is a Directed Supplier acknowledges the applicability of these Terms and Conditions and agrees to be bound by these Terms and Conditions, including, without limitation, any World Class Supplier requirements under Section 6 and the payment terms under Section 33.
- c. Each earlier order and order amendment issued by Purchaser to Seller shall be deemed to incorporate these Terms and Conditions which shall apply to each such Order, as amended, in its entirety. In addition, CIE may issue additional guidelines on its website, including but not limited to a supplier requirements manual, tooling guidelines and definitions, packaging and shipping requirements, and other instructions, guidelines and requirements which may be made available from time to time under the heading "Ancillary Requirements" through links provided on the CIE web site at <http://www.cieautomotive.com/procedures>. All such written guidelines are incorporated by reference. In the event of a conflict between any Ancillary Requirements and these Terms and Conditions, these Terms and Conditions shall govern. Purchaser may modify any Ancillary Requirements or add additional Ancillary Requirements, at any time, by posting notice of such modified or new Ancillary Requirements through links provided on the CIE Automotive web site at <http://cieautomotive.com> at least ten (10) days prior to any modified or new Ancillary Requirements becoming effective. Seller shall review the CIE website and the Ancillary Requirements periodically. Seller's continued performance under the Order without providing written notice to Purchaser in accordance with Section 44 detailing Seller's objection to any modified or new Ancillary Requirement prior to the effective date of such modified or new Ancillary Requirement will be subject to and will constitute Seller's acceptance of each such modified or new Ancillary Requirement.



- d. The Terms and Conditions and Ancillary Requirements which are applicable to each Order are the Terms and Conditions that are in effect on the Issue Date shown on the later of the Order or any Order amendment applicable to such Order.
 - e. No exception to, deviation from, or waiver of these Terms and Conditions shall be valid or binding on Purchaser unless specified on the face of an Order or Order amendment or made in a Signed Writing by Purchaser's Vice President – Purchasing.
3. Documents used in Purchasing. The following documents may be used by Purchaser as a part of Purchaser's sourcing and purchasing process. Except as otherwise (i) expressly provided in one of the following documents enumerated in subsections a. through i. below that has been signed by Purchaser's Vice President – Purchasing or (ii) expressly provided on the face of the Order, the Order supersedes all such documents in their entirety.
- a. Long Term Agreement ("LTA"). This is an agreement relating to price reductions that also is used, in some cases, as an indicator for eligibility to quote on certain business. LTAs effective prior to March 1, 2006 signed by other authorized Purchasing personnel shall continue in effect notwithstanding Section 3(i) above.
 - b. CIE Supply Agreement ("LSA"). This is an agreement that provides relationship terms between Seller and Purchaser including agreed upon price changes and that also is used, in some cases, as an indicator for eligibility to quote on certain business. LSAs effective prior to March 1, 2006 signed by other authorized Purchasing personnel shall continue in effect notwithstanding Section 3(i) above.
 - c. Joint Development Agreement ("JDA"). This is an agreement between Purchaser and another party to develop jointly a specific product or technology. JDAs effective prior to March 1, 2006 signed by other authorized Purchasing personnel shall continue in effect notwithstanding Section 3(i) above.
 - d. Letter of Intent ("LOI"). This is an agreement by which Purchaser agrees to be liable for certain expenses associated with the acquisition by a third-party of long lead time items, normally tooling or equipment. Such an agreement is binding on Purchaser only if it (i) expressly states that it is binding and (ii) contains a stated maximum liability and a limited duration.
 - e. Early Sourcing and Target Agreement ("ESTA"). This is an agreement that, without commitment by Purchaser to source Seller, provides a prospective supplier with the opportunity to develop required technology and processes that may be necessary for the production of Supplies for Purchaser. Purchaser owns any related developments under an ESTA or has the right to acquire such developments at audited incremental costs.
 - f. Supplier Engineering Target Agreement ("SETA"). This is an agreement between Purchaser and Seller relating to engineering owned by Seller that is used, in certain cases, to supplement the relevant terms of the Order.



- g. Supplier Owned Tooling Agreement ("SOTA"). This is an agreement between Purchaser and Seller relating to tooling owned by Seller that is used, in certain cases, to supplement the relevant terms of the Order.
- h. Request for Quotation ("RFQ"). This is an introductory step in potentially generating an offer from Purchaser to Seller contained in an Order. It may include Volume and Duration Projections (See Section 5) and specifications for the Supplies being quoted.
- i. Engineering Change Notice ("ECN"). This is an alternative introductory step in potentially generating an offer from Purchaser to Seller contained in an Order. It may include Volume and Duration Projections (See Section 5) and specifications for the Supplies being quoted.
- j. Quotation. Following the RFQ or ECN, this is generally the next step in generating the offer from Purchaser to Seller contained in the Order. It also may include Volume and Duration Projections (See Section 5) and may reference projected prices.
- k. Order. The Order describes the Supplies being purchased, specifies the name and address of the Purchaser and Seller, and incorporates these Terms and Conditions. In accordance with Section 1, each Order constitutes Purchaser's offer to Seller to enter into the agreement it describes and is the complete and exclusive statement of such offer and agreement. Each Order is either a Spot-buy Order, a Blanket Order or a requirements contract Order depending on the quantity and duration specified on the face of the Order. A Spot-buy Order is a one-time Order for a specific quantity of Supplies. A Blanket Order is an Order for Supplies in accordance with the firm quantities and delivery schedules specified in Releases issued by Purchaser pursuant to the Order. A requirements contract Order is an Order for all or a designated portion of Purchaser's requirements for Supplies for a specified period of time in accordance with the firm quantities and delivery schedules specified in Releases issued by Purchaser pursuant to the Order. All references to an "Order" shall mean the initial Order, as amended by any Order amendments issued by Purchaser and is subject to these Terms & Conditions.
- l. Release. This is a schedule by which Purchaser (i) specifies the firm quantity of Supplies that Seller is to deliver to Purchaser on at least a weekly basis, (ii) authorizes material fabrication, and/or (iii) authorizes the purchase of raw materials/components, each for the period specified therein. The Release indicates the firm quantity of Supplies and/or the firm quantity of raw materials/components, as applicable, for which Purchaser is liable to Seller and that Seller is obligated to provide to Purchaser for the period specified therein. The Release may also provide a forecast of the quantity of Supplies that will be ordered beyond the firm quantity amount. The forecast is not binding on Purchaser or Seller.



- m. Order amendment. This is an amendment to the Order issued by Purchaser on Purchaser's purchase order form through Purchaser's standard purchasing protocol to reflect an amendment or modification to the Order.
4. Quantity and Duration.
- a. The quantity applicable to each Order and its duration are specified on the face of the Order. The quantity specified may be for up to one hundred percent (100%) of Purchaser's requirements for the Supplies. For all Blanket Orders and requirements contract Orders, Purchaser shall issue a Release (see Section 3.1) to specify the quantities needed, delivery locations, and dates. Seller acknowledges and agrees that, notwithstanding anything in any Order to the contrary, Seller is obligated to provide Supplies to Purchaser in at least the quantity and for at least the period specified in any Release. A Release will specify a firm quantity of Supplies and/or a firm quantity of raw materials/components that Purchaser will be responsible for in the event of termination (see Section 17.b). Releases may include Volume and Duration Projections (see Section 5), but Releases are only binding upon Purchaser for, and Purchaser will have no obligation or liability beyond, the quantity specified as firm in the Release. Seller acknowledges and agrees to accept the risk associated with the lead times of the various components if they are beyond the firm Release amounts provided by Purchaser.
 - b. Unless the Order specifically provides that Seller shall produce one hundred percent (100%) of Purchaser's requirements for the Supplies, Purchaser shall have the right to obtain a portion of such Supplies from another third party source or from Purchaser's internal sources.
5. Volume and Duration Projections. From time to time and in connection with quotations, requisitions and Orders, Purchaser may provide Seller with estimates, forecasts or projections of its future volume or quantity requirements for the Supplies and/or the term of a program ("Volume and Duration Projections"). Volume and Duration Projections, unlike a Release for a firm quantity, are not binding on Purchaser. They also are not evidence of a requirements contract. Seller acknowledges that the Volume and Duration Projections, like any other forward looking projections, are based on a number of economic and business factors, variables and assumptions, some or all of which may change over time, and may or may not be accurate at the time they were made or later. Purchaser makes no representation, warranty, guaranty or commitment of any kind or nature, express or implied, regarding any Volume and Duration Projections or other estimate, forecast or projection provided to Seller, including as to its accuracy or completeness. Seller accepts that Volume and Duration Projections may not be accurate and that actual volume or duration could be less than or greater than the projections. Seller acknowledges that this risk, and possible reward, is an aspect of the automotive industry.
6. As a world-class supplier, Seller shall provide competitive Supplies in terms of cost (see Section 7), quality (see Section 8), delivery (see Section 9), technology (see Section 10) and customer support (see Section 11) ("World Class Supplier").



7. Cost.

- a. Prices charged for Supplies listed on the Order are not subject to increase, including specifically, any increase based upon changes in raw material or component pricing, labor or overhead, unless specifically agreed to by Purchaser on the face of an Order amendment or in a Signed Writing by Purchaser's Vice President – Purchasing.
- b. Seller represents that the price charged to Purchaser for Supplies is at least as low as the price charged by Seller to buyers of a class similar to Purchaser under conditions similar to those specified in the Order and that all prices comply with all applicable governmental laws and regulations in effect at the time of quotation, sale and delivery. Seller agrees that any price reduction implemented by Seller for any Supplies or related charges will apply to all shipments of such Supplies under the Order or any Order amendment from and after Seller's implementation of the price reduction.
- c. Seller shall ensure that the price charged to Purchaser for Supplies remains competitive with the price for similar Supplies available to Purchaser from other sellers.
- d. Seller agrees to reasonably participate in Purchaser's cost savings and productivity programs and initiatives and to implement Seller's own cost savings and productivity programs and initiatives to reduce Seller's costs.

8. Quality.

- a. Seller shall reasonably meet all quality requirements of Purchaser and all quality requirements of Purchaser's Customers.
- b. Seller agrees to participate in Purchaser's quality and development program(s) and to comply with all quality requirements and procedures reasonably specified by Purchaser, as revised from time to time.
- c. Seller must assure overall equipment (shared and specific) and plant capacity are adequate to meet Purchaser's needs. Ongoing capacity analysis must account for at least: scrap variation, downtime, maintenance, and other Customer requirements. Each production process must successfully complete a Run-at-Rate.
- d. Unless dictated by Purchaser, Seller is responsible for all sub-tier providers of goods or services. Seller must maintain adequate development, validation, launch, and ongoing supervision to assure all Supplies provided to Purchaser conform to all specifications, standards, drawings, samples and descriptions, including, without limitation, as to quality, performance, fit, form, function and appearance, under the Order.
- e. For all Supplies, Seller shall provide the warranties specified in Section 12.

9. Delivery, Shipment, Title and Risk of Loss. All shipment of Supplies shall be subject to:

- a. Title and risk of loss or damage to the Supplies shall pass to Purchaser upon delivery to and acceptance by Purchaser.
- b. Time is of the essence. All Supplies shall be delivered to Purchaser in strict



conformance with each delivery schedules specified in Releases issued by Purchaser with respect to an Order.

- c. Purchaser may periodically review worksite lead time situations and re-adjust and/or confirm its delivery demands. In the event Purchaser requests Seller to hold the Supplies beyond the scheduled delivery date, no additional charges may be made for warehousing, trucking, and other expenses incident to such delay. Payment from Purchaser's buyer for goods supplied under an Order is a condition precedent to Purchaser's duty to pay Seller. Acceptance of the Supplies when delivery has been delayed shall not constitute a waiver of any claims for damages or any other remedy available to Purchaser.
- d. Supplies may be returned by Purchaser without first obtaining Seller's permission. In the event Purchaser rejects the Supplies, Purchaser shall, at Seller's cost, crate and ship the Supplies to Seller, with risk of loss and damage shifting to Seller upon receipt by carrier.
- e. Deliveries shall be made both in quantities and at times specified on the Order or on Releases furnished by Purchaser. Seller shall adhere to shipping directions specified on the Order or Releases. With each delivery, Seller shall be deemed to have made the representations, warranties and covenants with respect to its financial and operating condition provided in Section 14.
- f. Premium shipping expenses and/or other related expenses necessary to meet delivery schedules set forth in Releases shall be Seller's sole responsibility, unless the delay or expense was solely the result of Purchaser's acts or omissions and Seller provides Purchaser with notice of any claim against Purchaser within thirty (30) days after the occurrence of the alleged negligent action of Purchaser giving rise to such claim.
- g. Notwithstanding any agreement concerning payment of freight expenses, delivery shall not have occurred, and the risk of loss shall not have shifted to Purchaser until the Supplies have been delivered to Purchaser's applicable facility.
- h. Liquidated Damages for Delay. In the event of delay in shipment of all or any of the components of the Equipment required to operate the Equipment as contemplated in this Order, which delay is not excused, Seller shall pay to the Buyer, as liquidated damages and not as a penalty, the amount of 0.5% of the Price for each full week of delay, in recognition of the inconvenience or non-feasibility of Buyer otherwise obtaining an adequate remedy and the difficulties of proof of Buyer's loss as a result of such delay; provided, however, that the maximum amount of liquidated damages payable for delay shall be 2.5% of the Price. In the event that the Seller has delivered timely part, but not all, of the Equipment, the entire amount of liquidated damages would be due unless otherwise agreed to by the Buyer, in writing. Seller acknowledges that liquidated damages calculated as provided in this subsection are reasonable in light of the anticipated harm to Buyer caused by a delay in delivery. However, nothing in this provision shall limit Buyer's rights, including termination for cause, in the event of a material breach of the performance of any obligations under this Order, including a delay in performance.



10. Technology

- a. If Purchaser furnished or supplied Seller with any designs, drawings, specifications, blueprints or other materials that contain proprietary information, Seller shall not disclose or use for the benefit of Seller or others such designs, drawings, specifications, blueprints or other material including any copies thereof, except as approved by Purchaser on the face of an Order or Order amendment or in a Signed Writing by Purchaser's Vice President - Purchasing.
- b. Seller expressly warrants that all Supplies covered by each Order will not, and do not, infringe on any patent, trademark, copyright or other intellectual property of any third party. Seller (i) agrees to defend, hold harmless and indemnify Purchaser and its Customers against all claims, demands, losses, suits, damages, liability and expenses (including actual fees for attorneys, experts and consultants, settlement costs and judgments) arising out of any suit, claim or action for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark, copyright or other proprietary right by reason of the manufacture, use or sale of the Supplies ordered, including infringement arising out of compliance with specifications furnished by Purchaser or for actual or alleged misuse or misappropriation of a trade secret resulting directly or indirectly from Seller's actions; and (ii) waives any claim against Purchaser and its Customers, including any hold-harmless or similar claim, whether known or unknown, contingent or latent, in any way related to a claim asserted against Seller or Purchaser for infringement of any patent, trademark, copyright or other proprietary right, including claims arising out of compliance with specifications furnished by Purchaser. Seller hereby assigns to Purchaser all right, title and interest in and to all inventions, trademarks, copyrights and other proprietary rights in any material created for and paid for by Purchaser under each Order. Technical information and data furnished to Purchaser in connection with each Order are disclosed on a non-confidential basis.
- c. Seller expressly warrants that all copyrightable works of original authorship (including but not limited to computer programs, technical specifications, documentation and manuals), ideas, inventions (whether patentable, patented or not), know-how, processes, compilations of information, trademarks and other intellectual property (collectively, "Deliverables") shall be original to Seller and shall not incorporate any intellectual property (including copyright, patent, trade secret, mask work, or trademark rights) of any third-party.
- d. All Deliverables that are created in the course of performing any Order (separately or as part of any Supplies), and all intellectual property rights in Deliverables, are owned by Purchaser and not by Seller. Seller agrees that all works of original authorship created by Seller in connection with each Order are "works made for hire" as that term is used in connection with the U.S. Copyright Act. To the extent that, by operation of law, Seller owns any intellectual property rights in the



Deliverables, Seller hereby assigns to Purchaser all rights, title and interest, including copyrights and patent rights, in such Deliverables.

- e. Seller grants to Purchaser an irrevocable, non-exclusive, worldwide license with the right to grant sublicenses to affiliates to use any technical information, know-how, copyrights and patents owned or controlled by Seller or its affiliates to make, have made, use and sell any Supplies provided by Seller under each Order. The license shall be effective from the first delivery of Supplies under the Order. For a period of two (2) model years from Seller's first delivery of Supplies under the Order, Purchaser shall pay to Seller a "reasonable royalty" for such license, which is acknowledged by Seller to be included in the price paid by Purchaser to Seller for the Supplies. In the event Purchaser sources the Supplies from a party other than Seller, Purchaser shall pay Seller a "reasonable royalty" for a period of two (2) model years from the date of Seller's first delivery of Supplies and thereafter, Purchaser's license shall be royalty-free, fully paid-up, permanent and irrevocable.
- f. Seller shall ensure that any subcontractors to Seller shall have contracts with Seller in writing consistent with the terms of this Section 10 to ensure that the protections required by Purchaser from Seller are also received from subcontractors for the benefit of Purchaser and Seller.

11. Customer Support.

- a. Seller shall support all supplier initiatives of Purchaser and support Purchaser in meeting the initiatives of its Customers. Upon Seller's written request, Purchaser shall cooperate with Seller to explain to Seller the terms, conditions and requirements of Purchaser's Customers.
- b. As all elements of the automotive tiered supply network must work together to ensure that Purchaser's Customer's terms, conditions and requirements are met, it is the intent of both Seller and Purchaser that the applicable terms, conditions and requirements of Purchaser's Customer shall flow through Purchaser to Seller to the extent that they do not conflict with the terms of the Order. To the extent that Seller does not meet the applicable terms, conditions or requirements of Purchaser's Customer or to the extent that the terms of Purchaser's Customer do conflict with the terms of the Order, Seller agrees, notwithstanding any such conflict, to indemnify and hold harmless Purchaser from any and all claims and demands from Purchaser's Customer relating to any actual or alleged problem or issue with the Supplies sold by Seller under any Order or the manner in which Seller has supplied such Supplies under the Order.
- c. The automotive industry is customer focused and Seller agrees to work with Purchaser to meet the requirements of Purchaser's Customers. Therefore, in the event that any requirement imposed by any Order on Seller is found to be unenforceable or a gap is otherwise created in the terms applicable to any Order through operation of law, conflict in terms or otherwise, the parties agree that the corresponding requirement of Purchaser's Customer shall be applicable to and



binding on Seller for the benefit of Purchaser. Seller acknowledges that it is familiar with the automotive industry and the applicable terms of Purchaser's Customer that would apply in such an event.

12. Warranty.

- a. Seller expressly warrants that all Supplies covered by each Order will conform to all specifications, standards, drawings, samples or descriptions furnished to or by Purchaser, and all industry standards, laws and regulations in force in countries where Supplies or vehicles equipped with such Supplies are to be sold and that all Supplies will be merchantable, of good material and workmanship, and free from defects. In addition, Seller acknowledges that Seller knows of Purchaser's intended use and expressly warrants that all Supplies covered by each Order will be fit and sufficient for the particular purpose intended by Purchaser.
- b. Seller expressly warrants that, for all Supplies under the Order, Seller shall convey good title to Purchaser, free and clear of all liens, claims or other encumbrances.
- c. All warranties will be effective for the longer of (i) the period provided by applicable law, or (ii) the warranty period provided by Purchaser to its Customer; provided, however, in the event that Purchaser or its Customer voluntarily or pursuant to a government mandate, makes an offer to owners of vehicles (or other finished products) on which the Supplies, or any parts, components or systems incorporating the Supplies, are installed to provide remedial action to address a defect or condition that relates to motor vehicle safety or the failure of the vehicle to comply with any applicable law, safety standard or guideline, whether in connection with a recall campaign or other customer satisfaction or corrective service action (a "Remedial Action"), the warranty shall continue for such time period as may be dictated by Purchaser's Customer or the federal, state, local or foreign government where the Supplies are used or provided and Seller shall fully comply with the requirements under Section 12..c.i.
- d. The warranty period for non-production Supplies shall be the longer of one (1) year after final acceptance by Purchaser or the period stated in Seller's sales materials.
- e. All warranties are intended to provide Purchaser with protection from any and all warranty claims brought against Purchaser by its Customer. This includes, but is not limited to, meeting any Customer-required warranties relating to the Supplies in question or products into which the Supplies are incorporated. All such Customer-required warranties are incorporated by reference.
- f. The following communications shall each constitute notice of breach of warranty under the Order: (i) any communication specifying a defect, default, claim of defect or other problem or quality issue with Supplies sold under the Order; (ii) any communication to Seller claiming that Seller's Supplies are in breach of any warranty or that Seller is in default under the Order; and (iii) a termination notice from Purchaser under Section 17.a. Any such claim of breach by Purchaser may only be rescinded in writing by an authorized member of Purchaser's Legal Department.



- g. To mitigate its damages, Purchaser may fully defend any claim from any Customer that any Supplies supplied by Seller are defective, in breach of warranty, or otherwise did not meet applicable legal or contractual requirements because such Customer may attempt to hold Purchaser responsible for problems caused in whole or in part by Seller. Seller and Purchaser agree that this defense is in the interest of both Seller and Purchaser. Seller hereby waives the right to argue that the fact that Purchaser took any such position in any way limits Purchaser's right to assert a claim against Seller by Purchaser for breach of warranty, contribution, indemnification or other claim that may arise from or be related to the subject matter of any of the foregoing.
- h. In the event that Seller wishes to participate in any of the negotiations with Purchaser's Customer regarding any of the foregoing or any related litigation or defense of any such claim, then in each case that Seller receives notice of default or claim of breach, Seller shall give Purchaser prompt notice of its request to participate in accordance with Section 44, which notice shall describe with particularity the details of the alleged default or breach. Notwithstanding the expiration of the warranty period set forth in Section 12.c, Seller shall nonetheless be liable for costs and damages associated with the conduct of any Remedial Action to the extent that such Remedial Action is based upon a reasonable determination (including by use of statistical analysis or other sampling methodology) that the Supplies fail to conform to the warranties set forth in the Order. Where applicable, Seller shall pay all reasonable expenses associated with determining whether a Remedial Action is necessary. Purchaser and Seller agree that any Remedial Action involving Supplies for Purchaser shall be treated separately and distinctly from similar Remedial Actions of other goods of Seller; provided that such separate and distinct treatment is lawful and Seller shall in no event fail to provide at least the same protection to Purchaser on such Supplies as Seller provides to its other customers in connection with such similar Remedial Actions.

13. Changes.

- a. Purchaser reserves the right at any time to direct changes, or cause Seller to make changes, to the Supplies under any Order or Order amendment, including, but not limited to, changes in the design (including drawings and specifications), processing, methods of packing and shipping and the date or place of delivery of the Supplies covered by the Order or 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, and Seller agrees to promptly make such changes. Any such changes shall be deemed not to affect the time for performance or cost under the Order unless (i) Seller provides Purchaser with written notice in accordance with Section 44 of a claim for adjustment to time for performance or cost within ten (10) days after Purchaser's notice to Seller of the change and (ii) after auditing such claim, Purchaser determines that an adjustment (up or down) is appropriate. Any such



claim by Seller for adjustment to time for performance or cost under an Order must be solely and directly the result of the change directed by Purchaser and any notice of such claim shall be effective only if accompanied by all relevant information sufficient for Purchaser to verify such claim. In addition, Purchaser shall have the right to audit all relevant records, facilities, work or materials of Seller to verify any claim. Seller shall consider and advise Purchaser of the impact of a design change on the system in which the Supplies covered by the Order are used. Nothing in this Section 13 shall excuse Seller from proceeding with the Order as changed.

- b. Without the prior approval of Purchaser on the face of an Order amendment or in a Signed Writing by Purchaser's Vice President – Purchasing, Seller shall not make any changes to any Order or the Supplies covered by the Order, including, without limitation, changing (i) any third party supplier to Seller of services, raw materials or goods used by Seller in connection with its performance under the Order, (ii) the facility from which Seller or such supplier operates, (iii) the price of any of the Supplies covered by the Order, (iv) the nature, type or quality of any services, raw materials or goods used by Seller or its suppliers in connection with the Order; (v) the fit, form, function, appearance, performance of any Supplies covered by the Order; or (vi) the production method, or any process or software used in the production or provision of any Supplies under the Order. Any changes by Seller to any Order or the Supplies covered by the Order without the prior approval by Purchaser on the face of an Order amendment or in a Signed Writing by Purchaser's Vice President – Purchasing shall constitute a breach of the Order.

14. Financial and Operational Condition of Seller.

- a. Seller represents and warrants to Purchaser as of the date of each Order (which representations and warranties shall be deemed repeated as of the date of Seller's acceptance of each Release under the Order and at the time of each delivery under the Order) that it is not insolvent and is paying all debts as they become due; that it is in compliance with all loan covenants and other obligations; that all financial information provided by Seller to Purchaser concerning Seller is true and accurate; that such financial information fairly represents Seller's financial condition; and that all financial statements of Seller have been prepared in accordance with generally accepted accounting principles, uniformly and consistently applied.
- b. Seller shall permit Purchaser and its representatives to review Seller's books and records concerning compliance with each Order and Seller's overall financial condition and agrees to provide Purchaser with full and complete access to all such books and records for such purpose upon Purchaser's request. Seller agrees that, if Seller experiences any delivery or operational problems, Purchaser may, but is not required to, designate a representative to be present in Seller's applicable facility to observe Seller's operations. Seller agrees that, if Purchaser provides to Seller any accommodations (financial or other) that are necessary for Seller to fulfill its obligations under any Order, Seller shall reimburse Purchaser for all costs, including



attorneys' and other professionals' fees, incurred by Purchaser in connection with such accommodation and shall grant a right of access to Purchaser to use Seller's premises, machinery, equipment and other property necessary for the production of Supplies covered by such Order (and a lien to secure the access right) under an access and security agreement.

15. Seller Insolvency. Purchaser may immediately terminate each Order without any liability of Purchaser to Seller upon the occurrence of any of the following or any other similar or comparable event (each, a "Seller Insolvency"): (i) insolvency of Seller; (ii) Seller's inability to promptly provide Purchaser with adequate and reasonable assurance of Seller's financial capability to perform timely any of Seller's obligations under any Order; (iii) filing of a voluntary petition in bankruptcy by Seller; (iv) filing of an involuntary petition in bankruptcy against Seller; (v) appointment of a receiver or trustee for Seller; or (vi) execution of an assignment for the benefit of creditors of Seller.
16. Remedies for Breach by Seller.
 - a. The rights and remedies reserved to Purchaser in each Order, including, without limitation, the rights of entry, reclamation and inspection under Section 22, shall be cumulative with, and additional to, all other or further remedies provided in law or equity. Without limiting the generality of the foregoing, should any Supplies fail to conform to the warranties set forth herein or should Seller or any Supplies provided by Seller fail to meet any of the conditions of a World Class Supplier under Section 6, Purchaser shall notify Seller and Seller shall, if requested by Purchaser, reimburse Purchaser for any special, incidental and consequential damages caused by nonconforming Supplies, including, but not limited to, costs, expenses and losses incurred by Purchaser (i) in inspecting, sorting, testing, repairing or replacing such nonconforming Supplies; (ii) resulting from production interruptions, (iii) in conducting Remedial Actions, and (iv) in connection with claims for personal injury (including death) or property damage caused by such nonconforming Supplies. If requested by Purchaser, Seller shall, without charge to Purchaser, administer and process warranty charge-backs for nonconforming Supplies in accordance with Purchaser's directions. Seller acknowledges and agrees that money damages would not be a sufficient remedy for any actual, anticipatory or threatened breach of any Order by Seller with respect to its delivery of Supplies to Purchaser and that, in addition to all other rights and remedies which Purchaser may have, Purchaser shall be entitled to specific performance and temporary, preliminary and permanent injunctive or other equitable relief as a remedy for any such breach, without proof of actual damages and without bond or other security being required.
 - b. In addition, notwithstanding the foregoing, Seller acknowledges that shutting down Customer's plant creates issues for which money damages are not a sufficient remedy. While the cost of a plant shutdown may easily generate substantial costs, the damages to Purchaser's relationship with Purchaser's Customer through potential loss of business, and other damages which are equally difficult to calculate,



are far worse. Because of these risks, in the event of a breach or threatened breach by Seller of any of the representations, warranties or covenants of Seller (including without limitation, any commitment related to being a World Class Supplier), Purchaser may, without notice to Seller, resource the production of Supplies from Seller to another supplier or dual source any of the Supplies covered hereby (i.e., have another supplier produce or be prepared to produce Supplies being produced by Seller), to protect Purchaser and its Customers. This process of moving business may take a considerable amount of time and Seller understands that, given the risks posed by the possible shutdown of Purchaser's Customer, Purchaser is justified in initiating and transferring business without prior notice to Seller.

- c. Seller understands that the resourcing of business during a program, while not desirable, is a part of the automotive business and is an acknowledged risk to Seller in the industry. Even the risk of Seller's financial or operational uncertainty, in light of the huge risks to Purchaser and Purchaser's Customer, is an example of a justified reason to move production, without notice, and that any incidental or related activity by Purchaser is understandable and reasonable.
- d. Notwithstanding anything to the contrary contained in any Order, Purchaser does not release any claim against Seller that is based in whole or in part on any fraud or duress in connection with the Order or any breach or anticipatory breach of the Order or any other Order between Purchaser and Seller (even if that Order relates to other products).

17. Termination.

- a. Purchaser's Right to Terminate for Breach. Purchaser reserves the right to terminate immediately all or any part of each Order, without any liability of Purchaser to Seller if Seller: (i) repudiates, breaches or threatens to breach any of the terms of the Order including, without limitation, Seller's warranties and World Class Supplier provisions; (ii) fails to perform or deliver Supplies as specified by Purchaser; or (iii) fails to provide Purchaser with adequate and reasonable assurance of Seller's ability to perform timely any of Seller's obligations under any Order, including, without limitation, delivery of Supplies; or if Purchaser terminates for breach any other Order issued by Purchaser to Seller in accordance with the terms of such other Order (whether or not such other Order is related to the Order).
- b. Purchaser's Right to Terminate for Convenience.
 - i. In addition to any other rights of Purchaser to terminate each Order, Purchaser may at its option, immediately terminate all or any part of the Order at any time and for any reason by giving written notice to Seller.
 - ii. Upon receipt of notice of termination pursuant to this Section 17.b, Seller, unless otherwise directed in writing by Purchaser, shall (i) terminate immediately all work under the Order; (ii) transfer title and deliver to Purchaser the usable and merchantable finished Supplies, work in process, and raw materials/components that Seller produced or acquired in



accordance with firm Release amounts under the Order and which Seller cannot use in producing goods for itself or for others; (iii) settle all claims by subcontractors approved by Purchaser on the face of an Order or Order amendment or in a Signed Writing by Purchaser's Vice President – Purchasing, if any, for reasonable actual costs that are rendered unrecoverable by such termination; (iv) take actions reasonably necessary to protect property in Seller's possession in which Purchaser has an interest and (v) upon Purchaser's request, cooperate with Purchaser in effecting the resourcing of the Supplies covered by the Order to an alternative supplier designated by Purchaser.

- iii. Upon termination of any Order by Purchaser under this Section 17.b, Purchaser shall pay to Seller the following amounts without duplication: (i) the Order price for all finished and completed Supplies that conform to the requirements of the Order and not previously paid for; (ii) Seller's reasonable actual cost of the usable and merchantable work in process and raw materials/components transferred to Purchaser in accordance with subsection b(ii) hereof; (iii) Seller's reasonable actual cost of settling claims for the obligations Seller would have had to the subcontractors approved by Purchaser on the face of an Order or Order amendment or in a Signed Writing by Purchaser's Vice President – Purchasing in the absence of termination, and (iv) Seller's reasonable actual cost of carrying out its obligations under subsections b(ii)(iv) and b(ii)(v). Purchaser shall not be liable for and shall not be required to make payments to Seller, directly or on account of claims by Seller's subcontractors, for any other alleged losses or costs, whether denominated as loss of anticipated profit, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs or rental, unamortized depreciation costs, general and administrative burden charges resulting from termination of the Order or otherwise. Notwithstanding anything to the contrary, Purchaser's obligation to Seller upon termination under this Section 17.b shall not exceed the obligation Purchaser would have had to Seller in the absence of termination.
 - iv. Within twenty (20) days after the effective date of termination under this Section 17.b, Seller shall furnish to Purchaser its termination claim, together with all supporting data which shall consist exclusively of the items of Purchaser's obligation to Seller that are listed in subsection b(iii). Purchaser may audit Seller's records before or after payment to verify amounts requested in Seller's termination claim.
- c. No Termination Right by Seller. Because Purchaser's commitments to its Customers are made in reliance on Seller's commitments under each Order, Seller has no right to terminate any Order.



- d. Transition of Supply. Upon the expiration or earlier termination of any Order for whatever reason, Seller agrees to take such action as may be reasonably required by Purchaser to accomplish the transition from Seller to an alternative seller, including, without limitation the actions set forth below. The term "alternative seller" expressly includes, but is not limited to, a Purchaser-owned facility.
 - i. Seller shall provide all notices necessary or desirable for Purchaser to resource the Order to an alternative seller.
 - ii. Seller shall provide a sufficient bank of Supplies covered by the Order to ensure that the transition to any alternative seller chosen by Purchaser will proceed smoothly. Unless otherwise specified by Purchaser on the face of an Order amendment or in a Signed Writing by Purchaser's Vice President – Purchasing, a six week parts inventory bank will be deemed sufficient to accomplish the transition. Such "six week parts bank" will be calculated using the Orders of Purchaser from the six weeks immediately prior to Seller's notice of termination not including any temporary interruptions, plant or industry shutdowns or other reduced schedules.
 - iii. Seller shall return to Purchaser all Bailed Property and any other property furnished by or belonging to Purchaser or any of Purchaser's Customers in as good as condition as when received by Seller, reasonable wear and tear excepted.
 - iv. Seller shall, at Purchaser's option, (i) assign to Purchaser any or all supply contracts or orders for raw material or components relating to the Order, (ii) sell to Purchaser, at Seller's cost, any or all inventory and work in process relating to the Order and (iii) sell to Purchaser, at the unamortized portion of the cost of such items, less any amounts Purchaser previously has paid to Seller for the cost of such items, any or all Seller's Property relating to the Order (see Section 21).
18. Limitation of Damages. In no event shall Purchaser be liable to Seller for anticipated profits or for special, incidental or consequential damages. This limitation of liability provision applies notwithstanding the type of the Order (including, without limitation, Spot-buy Orders, Blanket Orders or requirements contract Orders). Purchaser's liability for a claim of any kind or for any loss or damage arising out of or in connection with or resulting from each Order, the Supplies or any other agreement between Purchaser and Seller is the Reasonable Obsolescence, if any, created by the event giving rise to the claim. Purchaser and Seller agree that "Reasonable Obsolescence" means the following amounts without duplication: (i) the Order price for all finished and completed Supplies that conform to the requirements of the Order and not previously paid for; (ii) Seller's reasonable actual cost of the usable and merchantable work in process and raw materials/components transferred to Purchaser in accordance with the termination and that are covered by outstanding firm Releases from Purchaser; and (iii) Seller's reasonable actual cost of settling claims for the obligations Seller would have had to the subcontractors approved in a Signed Writing by



Purchaser's Vice President – Purchasing in the absence of termination limited to the amount of the firm quantities of Supplies and raw materials/components specified in Releases issued by Purchaser that are currently outstanding. Purchaser shall not be liable for and shall not be required to make payments to Seller, directly or on account of claims by Seller's subcontractors, for any other alleged losses or costs, whether denominated as loss of anticipated profit, recoupment of investment, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs or rental, unamortized depreciation costs, general and administrative burden charges resulting from termination of the Order or otherwise. Notwithstanding anything to the contrary, Purchaser's obligation to Seller upon termination of any Order shall not exceed the obligation Purchaser would have had to Seller in the absence of termination of such Order.

19. Assignment. Seller shall not assign or delegate any of its duties or obligations under any Order without the prior consent of Purchaser on the face of an Order or Order amendment or in a Signed Writing by Purchaser's Vice President – Purchasing, which consent may be withheld in Purchaser's sole discretion. Any sale or other transfer of stock or other securities of Seller that would result in a change in control of Seller shall be deemed an assignment under the Order. Seller may assign its claims for money under any Order as collateral security for indebtedness of Seller, but Purchaser shall not be required to pay the assignee until Purchaser receives written notice of the assignment, a true copy of the assignment and a release from Seller reasonably acceptable to Purchaser. Any such assignment shall not prohibit Purchaser from enforcing its rights against Seller or the assignee, including, without limitation, Purchaser's rights to setoff and recoupment under Section 34, all of which rights of Purchaser against Seller or assignee are senior to any rights of such assignee. Purchaser may freely assign to any third party its rights and obligations under any Order without the consent of Seller.

20. Bailed Property.

a. All supplies, materials, molds, machinery, equipment, patterns, tools, dies, jigs, fixtures, blueprints, designs, specifications, drawings, photographic negatives and positives, art work, copy layout, consigned material for production or repair and other items furnished by Purchaser, either directly or indirectly, to Seller or to any sub-supplier of Seller in connection with or related to any Order, or for which Seller has been reimbursed by Purchaser (collectively, "Bailed Property"), shall be and remain the property of Purchaser and be held by Seller on a bailment at-will basis. Seller shall bear the risk of loss of and damage to the Bailed Property and Seller, at its own expense, shall keep such Bailed Property insured for the benefit of Purchaser, naming Purchaser as the loss payee and additional insured. The Bailed Property shall at all times be properly housed and maintained by Seller; shall not be used by Seller for any purpose other than the performance of the Order; shall be deemed to be personal property; shall be conspicuously marked by Seller to identify it as the property of Purchaser and indicate Purchaser's name and address; shall not



be commingled with the property of Seller or with that of a third-party and shall not be moved from Seller's premises without the prior approval by Purchaser on the face of an Order or Order amendment or in a Signed Writing of Purchaser's Vice President – Purchasing. Seller, at its expense, shall maintain, repair and refurbish Bailed Property in first-class condition. All replacement parts, additions, improvements and accessories for such Bailed Property shall automatically become Purchaser's property upon their incorporation into or attachment to the Bailed Property.

- b. Seller agrees that Purchaser has the right, at any time, with or without reason and without payment of any kind to retake possession of or request return of any or all Bailed Property, without the necessity of obtaining a court order. Upon the request of Purchaser, the Bailed Property shall be immediately released to Purchaser or delivered to Purchaser by Seller, either (i) F.O.B. transport equipment at Seller's plant, properly packaged and marked in accordance with the requirements of the carrier selected by Purchaser to transport such property, or (ii) to any location designated by Purchaser, in which event Purchaser shall pay to Seller the reasonable cost of delivering such Bailed Property to such location. Purchaser shall have the right to enter onto Seller's premises at all reasonable times to inspect the Bailed Property and Seller's records with respect thereto. When permitted by law, Seller waives any lien or other rights that Seller might otherwise have on any of the Bailed Property for work performed on such property, for the purchase price of any Supplies or otherwise. Seller agrees that any missing components of or inserts to any Bailed Property shall be replaced by Seller at current costs.
- c. Seller acknowledges and agrees that (i) Purchaser is not the manufacturer of the Bailed Property nor the manufacturer's agent nor a dealer therein; (ii) Purchaser is bailing the Bailed Property to Seller for Seller's benefit; and (iii) Seller has inspected the Bailed Property and is satisfied that the Bailed Property is suitable and fit for its purposes, and (iv) PURCHASER HAS NOT MADE AND DOES NOT MAKE ANY WARRANTY OR REPRESENTATION WHATSOEVER, EITHER EXPRESS OR IMPLIED, AS TO THE FITNESS, CONDITION, MERCHANTABILITY, DESIGN OR OPERATION OF THE BAILED PROPERTY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE. Purchaser will not be liable to Seller for any loss, damage, injury or expense of any kind or nature caused, directly or indirectly, by the Bailed Property, including, without limitation, its use or maintenance, or its repair, service or adjustment, or by any interruption of service or for any loss of business whatsoever or howsoever caused, including, without limitation any anticipatory damages, loss of profits or any other indirect, special or consequential damages.
- d. Seller authorizes Purchaser to file a UCC-1 financing statement or similar document with the appropriate filing authority to give notice of Purchaser's ownership interest in the Bailed Property. Failure to file a financing statement will not alter or



amend Purchaser's ownership rights to the Bailed Property. Seller shall provide Purchaser, upon Purchaser's request, with a written inventory of all Bailed Property.

21. Seller's Property. Unless otherwise agreed to by Purchaser and Seller in a written agreement signed by both Seller and Purchaser's Vice President – Purchasing, Seller, at its expense: shall (i) furnish, (ii) keep in good condition, and (iii) replace when necessary all Seller's Property (hereinafter defined). Seller hereby grants Purchaser an irrevocable option to purchase, free and clear of all liens, claims and other encumbrances, any or all of Seller's supplies, materials, molds, machinery, equipment, patterns, tools, dies, jigs, fixtures, blueprints, designs, specifications, drawings, photographic negatives and positives, art work, copy layout and other items necessary for the production of the Supplies under any Order (collectively, "Seller's Property") that are specially designed or configured for manufacture or assembly of Supplies under the Order upon Purchaser's payment of the unamortized portion of the cost of such items of Seller's Property, less any amounts Purchaser previously has paid to Seller for the cost of such Seller's Property. Seller shall permit Purchaser to audit Seller's records to verify the amount due for any of Seller's Property. This option will not apply to any of Seller's Property that is used by Seller to produce a substantial quantity of like products for other customers of Seller which cannot readily be obtained by Seller's customer(s) from third-parties unless, at Purchaser's election upon exercise of the option, Seller assigns to Purchaser and Purchaser or its designee assumes Seller's obligation to produce such products for Seller's other customers using those items of Seller's Property during the period subsequent to the sale of Seller's Property to Purchaser. Seller shall cooperate with Purchaser's reasonable requests for information regarding any such obligation to Seller's other customer(s) and to effect such assignment and assumption. Purchaser's right to exercise the option under this Section 21 is not conditioned on a breach by Seller or Purchaser's termination of the Order.
22. Rights of Entry, Reclamation and Inspection. Purchaser shall have the right to enter Seller's facility during normal business hours or, in the event of a Seller shutdown, at reasonable times, to inspect the facility, Supplies, materials and any property of Purchaser covered by each Order and, without the necessity of a court order, may enter upon Seller's property and remove property belonging to Purchaser or any Customer of Purchaser, including, without limitation, Bailed Property and other Supplies, inventory or Seller's Property that has been or is agreed to be sold to Purchaser under the Order. Purchaser's inspection of the Supplies, whether during manufacture, prior to delivery or within a reasonable time after delivery, shall not constitute acceptance of any work in process or finished Supplies.
23. Subcontracting.
 - a. Seller shall not subcontract any of its duties or obligations under any Order without prior approval by Purchaser on the face of an Order or Order amendment or in a Signed Writing by Purchaser's Vice President – Purchasing. Seller shall ensure that any subcontractor so approved complies with all production part approval process requirements of Purchaser's Customer and any other requirements of Purchaser. Purchaser or Purchaser's representative shall be afforded the right to verify at any



subcontractor's premises and Seller's premises that subcontracted Supplies conform to specified requirements. Verification by Purchaser or Purchaser's representative shall not (i) shift responsibility for quality by the subcontractor from Seller to Purchaser, (ii) absolve Seller of the responsibility to provide acceptable Supplies nor (iii) preclude subsequent rejection of Supplies by Purchaser. Notwithstanding any verification by Purchaser or Purchaser's representative, Seller remains fully liable for any work subcontracted.

- b. In the event Seller's subcontracting of any of the work under any Order is approved by Purchaser on the face of an Order or Order amendment or in a Signed Writing by Purchaser's Vice President – Purchasing, and as a condition to such approval, Seller shall provide Purchaser with written evidence that the subcontractor agrees to be bound by these Terms and Conditions and the Order.
 - c. In the event Seller cannot fulfill any of its obligations under any Order, Seller shall, at Purchaser's option and in addition to any other rights or remedies available to Purchaser under the Order or otherwise, assign to Purchaser all of Seller's rights with respect to any subcontractors under such Order.
24. Nonconforming Supplies. Purchaser, at its option, may reject and return at Seller's risk and expense, or retain and correct, Supplies received pursuant to any Order that fail to conform to the requirements of the Order even if the nonconformity does not become apparent to Purchaser until the manufacturing, processing or assembly stage or later. To the extent Purchaser rejects Supplies as nonconforming, the quantities under the Order will not be reduced by the quantity of nonconforming Supplies unless Purchaser otherwise notifies Seller in writing. Seller shall replace nonconforming Supplies with conforming Supplies unless otherwise notified in writing by Purchaser, including, without limitation by way of a termination notice from Purchaser under Section 17.a. Nonconforming Supplies will be held by Purchaser for disposition in accordance with Seller's written instructions at Seller's risk. Seller's failure to provide written instructions within ten (10) days (or such shorter period as may be commercially reasonable under the circumstances) after notice of nonconformity shall entitle Purchaser, at Purchaser's option, to charge Seller for storage and handling, or to dispose of the Supplies without any liability of Purchaser to Seller. Seller shall reimburse Purchaser for (a) any amounts paid by Purchaser on account of the purchase price of any rejected nonconforming Supplies, and (b) any costs incurred by Purchaser in connection with the nonconforming Supplies, including, but not limited to inspection, sorting, testing, evaluations, storage or rework, within ten (10) days after a debit memo for the costs has been issued by Purchaser. Payment by Purchaser for nonconforming Supplies shall not constitute an acceptance, limit or impair Purchaser's right to assert any legal or equitable remedy, or relieve Seller's responsibility for latent defects.
25. Indemnification.
- a. Seller hereby covenants and agrees to indemnify and hold harmless Purchaser, its affiliates and subsidiaries, and their respective directors, officers, employees and agents from any claims, liabilities, damages (including special, consequential,



punitive and exemplary damages), costs and expenses (including actual fees for attorneys, experts and consultants, settlement costs and judgments) incurred in connection with any claims (including lawsuits, administrative claims, regulatory actions and other proceedings to recover for personal injury or death, property damage or economic losses) that are related in any way to or arise in any way from the Supplies, Seller's representations, Seller's performance of or failure to perform obligations under any Order, including claims based on Seller's breach or alleged breach of warranty (whether or not the Supplies have been incorporated into Purchaser's products and/or resold by Purchaser), and claims for any violation of any applicable law, ordinance or regulation or government authorization or order. Seller's obligation to indemnify will apply regardless of whether the claim arises in tort, negligence, contract, warranty, strict liability or otherwise, except to the extent of any such liability arising solely out of the gross negligence of Purchaser. Seller's indemnification obligations will apply even if Purchaser furnishes all or a portion of the design and specifies all or a portion of the processing used by Seller unless a separate written agreement signed by Seller and Purchaser's Vice President – Purchasing provides otherwise.

- b. If Seller performs any work on Purchaser's premises or utilizes the property of Purchaser, whether on or off Purchaser's premises, Seller shall indemnify and hold harmless Purchaser, its affiliates and subsidiaries, and their respective directors, officers, employees and agents from and against any liabilities, claims, demands or expenses (including actual fees for attorneys, experts and consultants, settlement costs and judgments) for damages to the property of or injuries (including death) to Purchaser, its employees or any other person arising from or in connection with Seller's performance of work or use of Purchaser's property except to the extent of any such liability, claim or demand arising solely out of the gross negligence of Purchaser.
26. Insurance. Seller shall obtain and maintain at its sole expense insurance coverage customary in the industry and as otherwise required by law or reasonably requested by Purchaser with such insurance carriers and in such amounts as are reasonably acceptable to Purchaser. This includes, without limitation, providing full fire and extended coverage insurance for the replacement value of (i) all Seller's Property and (ii) any Bailed Property, both for their full replacement value. All such insurance coverage shall name Purchaser as loss payee and additional insured. Seller shall furnish to Purchaser certificates of insurance setting forth the amount of coverage, policy number and date(s) of expiration for insurance maintained by Seller and such certificates must provide that Purchaser shall receive thirty (30) days prior written notification from the insurer of any termination or reduction in the amount or scope of such coverage. Seller's furnishing of certificates of insurance or purchase of insurance shall not release Seller of its obligations or liabilities under any Order. If Seller shall fail to maintain any insurance under any Order, Purchaser shall have



the right to procure such insurance and Seller shall reimburse Purchaser on demand, for all actual costs and expenses of procuring such insurance.

27. Compliance.

- a. Seller agrees to comply with all federal, state, local and foreign laws, Executive Orders, rules, regulations and ordinances that may be applicable to Seller's performance of its obligations under each Order, and each Order shall be deemed to incorporate by reference all the clauses required by the provisions of said laws, orders, rules, regulations and ordinances. All purchased materials used in manufacture of the Supplies shall satisfy current governmental and safety constraints on restricted, toxic and hazardous materials as well as environmental, electrical and electromagnetic considerations applicable to the country of manufacture and sale. All suppliers must be in compliance with ISO14001, TS16949 and ELV or their successors, as amended from time to time.
- b. Seller shall not (i) utilize forced or involuntary labor, regardless of its form, (ii) employ any child, except as part of a government approved job training, apprenticeship or similar program, or (iii) engage in abusive employment or corrupt business practices, in the supply or provision of Supplies under any Order.
- c. Seller shall adopt and enforce a code of conduct for business practices with principles, policies and procedures consistent with the principles, policies and procedures set forth in Purchaser's Code of Business Conduct and Ethics available through links provided on the CIE Automotive web site located at http://www.cieautomotive.com/Suppliers-Corporate_And_Social_Responsibility_Commitment. Seller shall promptly report all violations of Seller's code of conduct to Purchaser's Vice President – Purchasing.
- d. Seller shall provide Purchaser written notice immediately upon becoming aware that any director, officer or employee of Seller, or any of its subsidiaries or affiliates, is also a director, officer or immediate family member of any director or officer of Purchaser, or any of its subsidiaries or affiliates. As to employees of Seller only, Seller only needs to report this information to Purchaser if the employee (excluding an officer or director of Seller) is substantively involved in Seller's business relationship with Purchaser or receives any direct or indirect compensation or benefit based on Seller's business relationship with Purchaser.
- e. In the event Seller subcontracts any of its duties or obligations under any Order in accordance with Section 23, Seller shall ensure that all subcontractors comply with the requirements under this Section 27. At Purchaser's request, Seller shall certify in writing Seller's and its subcontractor's compliance with all such requirements. Purchaser shall have the right to audit and monitor Seller's and its subcontractor's compliance with Seller's and its subcontractor's obligations under any Order. Seller shall indemnify and hold harmless Purchaser, its affiliates and subsidiaries, and their respective directors, officers, employees and agents from and against any liability claims, demands or expenses (including actual fees for attorneys, experts



and consultants, settlement costs and judgments) arising from or relating to Seller's or its subcontractor's noncompliance.

28. Production Part Approval Requirements. With respect to Orders for production parts, Seller agrees to meet the full requirements identified in the industry production part approval process manual and agrees to present this information and data relating thereto to Purchaser upon request unless otherwise authorized by Purchaser on the face of an Order or Order amendment or in a Signed Writing by Purchaser's Vice President – Purchasing.
29. Identification of Supplies. All Supplies supplied pursuant to each Order that are construed as a completed part shall permanently bear Purchaser's part number and name or code name, Seller's name or code name, and date of manufacture by Seller.
30. Shipping.
 - a. Seller agrees (i) to properly pack, mark and ship Supplies in accordance with the requirements of Purchaser and the involved carrier in a manner to secure the lowest transportation cost; (ii) to route shipment in accordance with Purchaser's instructions; (iii) to make no charge for handling, packaging, storage, transportation (including duties, taxes, fees, etc.), cost of vehicle or other transport expenses or drayage of Supplies unless otherwise approved by Purchaser on the face of an Order or Order amendment or in a Signed Writing by Purchaser's Vice President – Purchasing; (iv) to provide with each shipment papers showing the Order number, Order amendment or Release number, Purchaser's part number, Seller's part number where applicable, quantity of pieces in shipment, number of cartons or containers in shipment, Seller's name and vendor number, the bill of lading number and the country of origin; and (v) to promptly forward the original bill of lading or other shipment receipt for each shipment in accordance with Purchaser's instructions and carrier requirements. The marks on each package and identification of the Supplies on packing slips, bills of lading and invoices shall be sufficient to enable Purchaser to easily identify the Supplies purchased.
 - b. For Supplies that may contain potentially hazardous and/or restricted materials, if requested by Purchaser, Seller shall promptly furnish to Purchaser in whatever form and detail Purchaser requests (i) a list of all potentially hazardous ingredients in the Supplies, (ii) the quantity of one or more such ingredients, and (iii) information concerning any changes in or additions to such ingredients. Before shipping the Supplies, Seller agrees to furnish to Purchaser sufficient warning and notice in writing (including appropriate labels on the Supplies, containers and packing) of any hazardous material that is an ingredient or a part of any of the Supplies, together with such special handling instructions necessary to advise the involved carriers, Purchaser, and their respective employees how to exercise that measure of care and precaution that will best prevent bodily injury or property damage in the handling, transportation, processing, use or disposal of the Supplies, containers and packing shipped to Purchaser. Seller shall comply with all applicable federal, state, local and foreign laws and regulations pertaining to product and



warning labels. If Supplies are shipped by Seller to European destinations, before shipments are made, Seller shall notify Purchaser of the "Classification of Dangerous Goods" as required by the European Agreement concerning the "International Carriage of Dangerous Goods".

- c. Any packaging made of wood (including pallets) must conform to the international softwood standards, including USDA Regulations on Wood Packaging Material Imports. In the event Seller fails to comply with such standards, Seller shall be liable for all related replacement and transportation costs.
31. Customs Drawback Documents, Other Government Requirements, and Export Controls.
- a. Upon Purchaser's request, Seller shall furnish promptly all documents required for customs drawback purposes, properly completed in accordance with government regulations applicable thereto. Seller shall furthermore, at its expense, provide all information necessary (including written documentation and electronic transaction records relating to the Supplies, tooling and equipment necessary for Purchaser to fulfill any customs-related or other Governmental agency-related obligations, origin marking or labeling requirements and certification or local content reporting requirements, to enable Purchaser to claim preferential duty treatment at the time of entry for Supplies, tooling and equipment eligible under applicable trade preference regimes, and to make all arrangements that are necessary for the Supplies to be covered by any applicable duty deferral or free trade zone program(s) of the country of import). Seller shall, at its expense, provide Purchaser or Purchaser's nominated service provider with all documentation to enable the Supplies to be exported, and obtain all export licenses or authorizations necessary for the export of the Supplies, tooling and equipment unless otherwise indicated in the Order, in which event Seller shall provide all information as may be necessary to enable Purchaser to obtain such licenses or authorization(s). Credits or benefits resulting or arising from any Order, including trade credits, export credits or the refund of duties, taxes or fees, shall belong to Purchaser.
 - b. Seller is responsible for any incorrect information provided by Seller or any noncompliance with the U.S. Customs Regulations by Seller that results in penalties and/or additional duties for Purchaser. Seller also acknowledges and agrees to adhere to all security procedures required by the Customs-Trade Partnership Against Terrorism (C-TPAT). Seller shall share with Purchaser any audit or inspection information related to C-TPAT inspection and/or validation at Seller's location.
32. Invoices. All invoices and/or advanced shipping notices ("ASN") for Supplies shipped pursuant to each Order must reference the Order number, Order amendment or Release number, Purchaser's part number, Seller's part number where applicable, quantity of pieces in shipment, number of cartons or containers, Seller's name and number, and bill of lading number, before any payment will be made for Supplies by Purchaser. In addition, no invoice may reference any term separate from or different than these Terms and Conditions or the



terms that appear on the face of the Order. Purchaser reserves the right to return all invoices or related documents submitted incorrectly. Payment terms will begin to run once the latest correct invoice or ASN is received and input into Purchaser's system by the applicable Purchaser facility. Any payment by Purchaser of a nonconforming invoice is not an acceptance of any nonconforming element or terms on such invoice.

33. Payment Terms.

- a. Payment terms are set forth on the Order.
- b. If a payment date falls on a non-business day, payment will occur on the following business day.
- c. Notwithstanding the particular payment terms applicable to an Order, (i) in no event will Seller have a right to payment for Tooling before Purchaser is paid by its Customer for such Tooling, (ii) in no event will a Seller who is a Directed Supplier have a right to receive payment from Purchaser until Purchaser is fully paid by Purchaser's Customer for the related Supplies or, as applicable, the Supplies into which such Supplies are incorporated, and (iii) Purchaser may, at its option, upon notice to Seller, revise its payment terms for production Supplies to take into account any change in the payment terms of Purchaser's Customer applicable to the Supplies under any Order.

34. Setoff and Contractual Recoupment.

- a. In addition to any right of setoff or recoupment provided or allowed by law, all amounts due Seller, or any of its subsidiaries or affiliates shall be considered net of indebtedness or obligations of Seller, or any of its subsidiaries or affiliates to Purchaser or any of its subsidiaries or affiliates, and Purchaser or any of its subsidiaries or affiliates may setoff against or recoup from any amounts due or to become due from Seller, or any of its subsidiaries or affiliates to Purchaser or any of its subsidiaries or affiliates however and whenever arising. In the event that Purchaser or any of its subsidiaries or affiliates reasonably feels itself at risk, Purchaser or any of its subsidiaries or affiliates may withhold and recoup a corresponding amount due Seller or any of its subsidiaries or affiliates to protect against such risk.
- b. An "affiliate" of a party means any other company that controls, is controlled by, or is under common control with such party. For purposes of this definition, the term "control" means the ownership, directly or indirectly, of twenty percent (20%) or more of the capital or equity of a company or the ability, by voting securities, contract or otherwise, to elect a majority of the board of directors or other governing body of such company.
- c. If an obligation of Seller or any of its subsidiaries or affiliates to Purchaser or any of its subsidiaries or affiliates is disputed, contingent or unliquidated, Purchaser or any of its subsidiaries or affiliates may defer payment of all or any portion of the amount due until such obligation is resolved. Without limiting the generality of the foregoing and by way of example only, in the event of a bankruptcy of Seller, if all of the Orders



between Purchaser and Seller have not been assumed, then Purchaser may defer payment to Seller, via an administrative hold or otherwise, for Supplies against potential rejection and other damages.

35. Sales Tax Exemption. Purchaser hereby certifies that Supplies purchased under each Order and identified as industrial processing are eligible for state and federal sales tax exemption under the Federal taxpayer identification number indicated on the face of the Order.
36. Advertising. Seller shall not refer to Purchaser in advertising or public releases without the prior approval in a Signed Writing of Purchaser's Vice President – Purchasing and shall not use Purchaser's trademarks or trade names in advertising or promotional materials.
37. Force Majeure. Any delay or failure of Purchaser or Seller to perform its obligations under the Order will be excused if, and to the extent that, the party is unable to perform specifically 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 inability to obtain power. As soon as possible (but no more than one full business day) after the occurrence, Seller shall provide written notice describing such delay and assuring Purchaser of the anticipated duration of the delay and the time that the delay will be cured. During the delay or failure to perform by Seller, Purchaser may at its option: (a) purchase Supplies from other sources and reduce its Releases to Seller by such quantities, without liability of Purchaser to Seller and require Seller to reimburse Purchaser for any additional costs to Purchaser of obtaining the substitute Supplies compared to the prices set forth in the Order; (b) require Seller to deliver to Purchaser at Purchaser's expense all finished Supplies, work in process and parts and materials produced or acquired for work under the Order; or (c) require Seller to provide Supplies from other sources in quantities and at a time requested by Purchaser and at the price set forth in the Order. In addition, Seller at its expense shall take all actions deemed reasonably necessary by Seller to ensure that in the event of any anticipated labor disruption, strike or worker slowdown or resulting from the expiration of Seller's labor contracts, an uninterrupted supply of Supplies will be available to Purchaser in an area that will not be affected by any such disruption for a period of at least thirty (30) days. If upon request of Purchaser, Seller fails to provide within ten (10) days (or such shorter period as Purchaser requires) adequate assurances that any delay will not exceed thirty (30) days or if any delay lasts longer than thirty (30) days, Purchaser may terminate the Order without liability and Seller shall reimburse Purchaser for costs associated with the cancellation. Seller acknowledges and agrees that the change in cost or availability of materials, components or services based on market conditions, supplier actions or contract disputes will not excuse performance by Seller under theories of force majeure, commercial impracticability or otherwise and Seller expressly assumes these risks.
38. Service and Replacement Parts.
 - a. Upon receipt of a Release, Seller shall sell to Purchaser all Supplies necessary for Purchaser to fulfill Purchaser's and its Customer's service and replacement parts



requirements for its current model year at the then current production prices plus any actual net cost differential for required unique packaging. If the Supplies are systems, modules or assemblies, Seller shall sell the components or parts of such systems, modules or assemblies at prices that will not in the aggregate exceed the then current production price of the system, module or assembly less the costs of labor involved in connection with the system, module or assembly plus any actual net cost differential for required unique packaging.

- b. After termination of the current model production of the vehicle involved, Seller shall sell to Purchaser Supplies necessary for Purchaser to fulfill Purchaser's and its Customers' service and replacement parts requirements for past model years at the prices then specified in the last Order for current model production plus any actual net cost differential for required unique packaging for the first five (5) years of past model service. For the following ten (10) years of past model service or such longer period as Purchaser's Customer requires service parts, the prices shall be as specified in the last Order for current model production plus any actual net cost differential for required unique packaging, plus any actual net cost differential for manufacturing costs as mutually agreed between Purchaser and Seller.
39. Compliance with Equal Employment Opportunity. To the extent that the Supplies provided under any Order may be deemed to be necessary for the performance of a government contract, Seller agrees to comply with the EEO Clause in Section 202 of Executive Order 11246, as amended, and any successor thereto.
40. Packaging. All packaging must conform to Purchaser's standard packaging requirements, as may be supplemented from time to time in the Ancillary Requirements.
41. Claims from Seller. Any action by Seller under any Order must be commenced within one (1) year after the breach or other event giving rise to Seller's claim occurs, regardless of Seller's lack of knowledge of the breach or other event giving rise to such claim.
42. Severability. If any term(s) of the Order is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such term(s) shall be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule, and the remaining provisions of the Order shall remain in full force and effect.
43. Electronic Communications and Electronic Signatures. Seller shall comply with any method of electronic communication specified by Purchaser, including requirements for electronic funds transfer, purchase order transmission, production Releases, electronic signature, and communication. E-mails, even those containing a signature block of one of Purchaser's representatives shall not constitute a Signed Writing.
44. Notices. All notices, claims and other communications to Purchaser required or permitted under the Order shall be made in writing and sent by certified or registered mail, return receipt requested and proper postage prepaid to the following address and shall be effective only upon receipt by Purchaser:



CIE Automotive
15030 23 Mile Road, Shelby Township, Michigan 48315
Attn: Chief Executive Officer

Seller's failure to provide any notice, claim or other communication to Purchaser in the manner and within the time periods specified in the Order shall constitute a waiver by Seller of any and all rights and remedies that otherwise would have been available to Seller upon making such notice, claim or other communication.

45. Confidentiality.
- a. Seller shall (i) keep all Purchaser's information confidential and disclose it only to its employees who need to know such Purchaser's information in order for Seller to supply Supplies, tooling, and equipment to Purchaser under the Order and (ii) use Purchaser's Information solely for the purpose of supplying Supplies to Purchaser. "Purchaser's information" means all information provided to Seller by Purchaser or its representatives or subcontractors in connection with the business, programs, and Supplies covered by the Order, including without limitation, pricing and other terms of the Order, specifications, data, formulas, compositions, designs, sketches, photographs, samples, prototypes, test vehicles, manufacturing, packaging or shipping methods and processes and computer software and programs (including object code and source code). Purchaser's information also includes any materials or information that contain, or are based on, any Purchaser's Information, whether prepared by Purchaser, Seller or any other person.
 - b. Seller shall promptly notify Purchaser if it has provided information to a Government regarding the Supplies, tooling or equipment provided, 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.)
46. Tooling & Equipment - Supplemental Terms. In addition to being governed by these Terms and Conditions, each Order for the purchase of tooling ("Tooling") and equipment ("Equipment") may be supplemented by Purchaser's Ancillary Requirements covering Tooling and Equipment Terms; provided, that in the event of an inconsistency between these Terms and Conditions and the Ancillary Requirements, the Ancillary Requirements shall control as to all such Tooling and Equipment.
47. Service Terms - Supplemental Terms. In addition to being governed by these Terms and Conditions, each Order for the purchase of services unrelated to production Supplies shall be governed by CIE promulgated Supplemental Service Terms, if any, found in the Ancillary Requirements; provided that, in the event of an inconsistency between these Terms and Conditions and the Ancillary Requirements, the Ancillary Requirements shall control as to all such services unrelated to production Supplies.
48. Construction. When used in the Order, "including" means "including, without limitation," and terms defined in the singular include the plural and vice versa. The headers, titles and



numbering are for convenience of reference only and shall not affect the construction or interpretation of the Order.

49. Entire Agreement; Modification. The Order, together with the attachments, exhibits or supplements specifically referenced in the Order, constitutes the entire agreement between Seller and Purchaser with respect to the matters contained in the Order and supersedes all prior oral or written representations and agreements. Purchaser may modify the Terms and Conditions, at any time, by posting notice of such modified Terms and Conditions through links provided on the CIE Automotive web site at <http://cieautomotive.com> under Supplier Information at least ten (10) days prior to any modified Terms and Conditions becoming effective. Seller shall review the CIE Automotive website and the Terms and Conditions periodically. Seller's continued performance under the Order without providing written notice to Purchaser in accordance with Section 44 detailing Seller's objection to any modified Terms and Conditions prior to the effective date of such modified Terms and Conditions will be subject to and will constitute Seller's acceptance of such modified Terms and Conditions. Except as provided in the preceding sentences or as otherwise provided in these Terms and Conditions, the Order may only be modified by an Order amendment or a Signed Writing by Purchaser's Vice President – Purchasing.
50. Governing Law; Jurisdiction; Venue. Each Order shall be governed by the internal laws of the State of Michigan without regard to any applicable conflict of laws provisions. The United Nations Convention on the International Sale of Supplies is expressly excluded. Subject to the arbitration provisions of Section 51, Seller consents to the exclusive jurisdiction of the appropriate federal court in the U.S. District Court for the Eastern District of Michigan, Southern Division or of the state courts in Macomb County, Michigan for any legal or equitable action or proceeding arising out of, or in connection with, each Order. Seller specifically waives any and all objections to venue in such courts.
51. Arbitration. All disputes arising under or in connection with any Order or any other document pertaining to any Order shall be finally settled by arbitration in Southfield, Michigan, before a single arbitrator appointed by the American Arbitration Association ("AAA") which arbitration shall be conducted under AAA's commercial arbitration rules then in effect at the time of the Order provided, however, that discovery shall be permitted in accordance with the United States Federal Rules of Civil Procedure. The decision of the arbitrator shall be final and binding upon Purchaser and Seller, shall not be appealable, and judgment on the award rendered may be entered in any court of competent jurisdiction. The arbitrators will have no authority to award punitive or other damages not measured by the prevailing party's actual damages. Each party will bear equally the costs and expenses of AAA and of the arbitrator. Each party will bear its own costs and expenses. The failure by one party to pay its share of arbitration fees constitutes a waiver of such party's claim or defense in the arbitration. All arbitration proceedings shall be confidential, except to the extent that disclosure is necessary to enforce an arbitration award in a court of competent jurisdiction. Notwithstanding anything to the contrary, Purchaser shall have the right, without waiving any remedy under the Order, to seek from any court of competent



jurisdiction (a) equitable relief and (b) any interim or provisional relief that is necessary to protect the rights or property of Purchaser.

52. Waiver of Jury Trial. PURCHASER AND SELLER ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH OF PURCHASER AND SELLER, AFTER CONSULTING (OR HAVING THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING TO ANY ORDER OR ANY OTHER DOCUMENT PERTAINING TO ANY ORDER