

**Heyco-Werk USA, Inc.**  
**(“Buyer”)**

**GENERAL TERMS AND CONDITIONS OF PURCHASE**

**1. Scope and Acceptance.**

(a) Scope. These General Terms and Conditions of Purchase (“Terms”) automatically apply to and are a part of all written and oral purchase orders and amendments thereto and any request for quotation, Releases (as defined below), purchase agreements, supply agreements or similar documents issued to Seller by Buyer (collectively referred to as an “Order”). All goods and services (whether or not ancillary to a sale of goods) such as production and service parts, raw materials, equipment, tooling, engineering and design only, components, intermediate assemblies, work in process, and end products to be provided under an Order are goods (“Goods”).

(b) Offer and Seller’s Quotation. Each purchase order, together with these Terms, is an offer by Buyer or its applicable affiliate as identified in the Order as a Buyer to the party to whom such Order is addressed (“Seller”) to enter into the agreement it describes. An Order does not constitute an acceptance by Buyer of any quotation or any proposal of Seller. Seller acknowledges that Buyer may submit quotations or proposals to its customer (“Customer”) or take other action in reliance on Seller’s quotation or proposal. Thus, the commercial terms in Seller’s quotation or proposal shall remain open and subject to inclusion in an Order until the latest of any date provided in the quotation or the expiration of any quotation, or action taken by Buyer in reliance thereon.

(c) Inconsistent or Additional Seller Terms. No objection to these Terms or reservation of rights by Seller shall be effective. Terms and conditions in an attempted acknowledgment of an Order, offer or other document issued by Seller inconsistent with or in addition to the terms and conditions of an Order are not binding upon buyer (unless specifically accepted by buyer in writing signed by buyer), and buyer hereby objects thereto. If these Terms are inconsistent with the specific provisions of any Order, then the specific provisions of an Order will control.

(d) Relationship to Customer Terms and Conditions of Purchase. The terms and conditions of purchase of Buyer’s Customers for the products, services, and/or systems that include the Goods (“Customer Terms”) are available to Seller upon Seller’s written request to Buyer. Notwithstanding anything to the contrary, at Buyer’s election, Customer Terms may be enforced against Seller to the same extent enforced by Buyer’s Customer against Buyer. Customer Terms shall be construed, to the greatest extent possible, as consistent with the terms and conditions of an Order and as cumulative; provided, however, to the extent of any conflict, the terms and conditions of an Order govern over the Customer Terms. Seller consents to Buyer’s assignment to Buyer’s Customers of all warranties and other rights of Buyer under an Order.

(e) Amendments to Terms. No exception to, deviation from, or waiver of these Terms shall be valid or binding on Buyer unless specified on the face of an Order or Order amendment or made in a signed writing by Buyer’s Vice President or President – Purchasing. Any such exceptions, deviations or waivers shall apply only to the specific purchase order for which they are granted and shall not constitute a course of dealing.

**2. Duration of Order.** An Order for production parts shall continue for the life of the project or programs for which the Goods are used or resold by the Buyer whether for production or as service or replacement parts. Expiration or termination of an Order shall not affect warranty and other obligations which by their nature may continue beyond an initial obligation to provide the Goods.

### 3. **Prices, Payment, Audit, and Security Interest.**

(a) **Pricing and Invoices.** Seller shall furnish the Goods at the prices in an Order. All prices are firm. All prices are in U.S. dollars and destination incoterms 2010 as stated on the face of an Order. Seller shall submit separate invoices for each shipment, in duplicate, which include Seller's supplier number, date and number of Buyer's Order, Seller's tax identification number, the date, place, and quantity of each delivery, and other information requested by Buyer.

(b) **Payment Date.** Unless otherwise stated on the face of an Order, payment terms are due the earlier of 60 days from the Payment Start Date or 30 days after receipt of payment for the Goods by Buyer from its Customer. The "Payment Start Date" is the later of the date of receipt of a valid invoice by Buyer with supporting documents or the date Goods are received.

(c) **Extensions.** Issuance of an Order for a specific period does not constitute an obligation or evidence of an obligation of Buyer to continue to purchase Goods from Seller after expiration of the term of an Order,

(d) **Payment.** All cash discounts shall be computed from the date of receipt by Buyer of a final correct invoice or receipt of the Goods, whichever occurs later. Cash discounts shall be based on the full amount of the invoice, less freight charges and taxes if itemized separately on the invoice. Delay in receiving correct invoices or Goods is good cause for withholding payment and shall extend the cash discount period.

(e) **Auditing.** Buyer may at any reasonable time send its authorized representatives to examine all pertinent facilities, documents and materials in the possession or under the control of Seller relating to any of Seller's obligations under an Order or any payments requested by Seller pursuant to an Order. Seller shall maintain general records relating to an Order for a period of not less than ten years after completion of final delivery of Goods pursuant to that Order or as required by law.

(f) **Customs Invoice.** If Goods will cross an international border during delivery, Seller shall provide a commercial invoice in the form and content as required for customs clearance.

(g) **Payment Conditions.** Notwithstanding the particular payment terms applicable to an Order if Buyer is to be paid by its Customer for tooling, Seller shall not earn a right to payment for such tooling before Buyer is paid by its Customer for such tooling.

### 4. **Releases, Quantities and Blanket Order.**

(a) **Releases.** If an Order is described as a "Blanket Order", "requirements", or in some other manner which indicates Buyer's obligation to purchase is limited to those Goods and quantities in Releases or other written delivery instructions from Buyer ("Blanket Order"), the quantities and delivery dates in an Order are not binding on Buyer, and Buyer's obligation to purchase the Goods is expressly contingent upon the issuance of a release ("Releases") by Buyer identifying the Goods and materials and quantities to be purchased and providing delivery schedules and directions. Releases are part of the applicable Order. All Orders for Goods used in production by Buyer or its Customer, or in and for their corresponding service and replacement parts, are presumed to be Blanket Orders. Notwithstanding anything to the contrary in an Order, Seller is obligated to provide quantities as required in Releases issued to Seller.

(b) **Period.** If a Blanket Order has no specific period of validity, the obligation of Seller to sell under the prices and other terms of a Blanket Order continues during the periods in which Buyer issues Releases to Seller. If an Order contains a specific period of commitment, the commitment of

Seller continues for the period covered by an Order and thereafter, at the prices in effect at the end of the specific period.

(c) References to Quantities. A reference in a Blanket Order to a quantity is an estimate based upon information from Buyer's Customer or other sources and is not a guarantee of the quantity to be purchased. A reference in an Order to a minimum or maximum quantity of production of Goods is a warranty by Seller of its commitment to maintain the indicated capacity and production levels, and is not a guarantee of a quantity of Goods to be ordered by Buyer.

(d) On Time Delivery and Inventory Bank. Seller shall maintain a 100% on time delivery record and a 100% compliance with other Order requirements. Seller shall maintain production and delivery capacity so that deliveries can be made in accordance with Buyer's Releases. Seller is aware that the actual need for the Goods may be driven by the requirements of Buyer's Customer, and that Seller and Buyer must adopt a flexible approach to adjust to these and other contingencies

(a) Seller's Obligation to Deliver. Seller shall deliver timely the Goods in the specified quantities. Seller shall not have the right of allocation in the event of shortages and shall not interrupt, discontinue or reduce delivery of the Goods.

(b) Requirements and Minimum Quantities. Unless otherwise stated in an Order, an Order for production or service parts quantities shall be for 100% of Buyer's requirements for the Goods during the term of an Order which may be terminated as provided in an Order.

(c) Volume and Duration Projections. From time to time and in connection with quotations, requisitions, Orders, and Releases, Buyer will provide Seller with estimates, forecasts or projections of its possible future volume or quantity requirements for the Goods 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 Buyer.

5. **Directed Supplier Relationship.** If an Order derives from a Directed Supplier relationship directed or recommended by a Customer ("Directing Customer"), Seller shall comply with all provisions of an Order (including these Terms) even though Seller may have negotiated economics and other terms with the Directing Customer. Buyer may require Seller to comply with: (i) the Directing Customer's terms and conditions of purchase as amended by Directing Customer; and (ii) these Terms, and to the extent there is a conflict with an Order, Buyer may elect the provisions which apply.

6. **Delivery, Documentation and Marking.**

(a) General. Delivery, documentation and marking shall be according to Buyer's Customer's specification, as provided by Buyer, and in compliance with the following provisions.

(b) Delivery. Delivery must be on the date indicated in an Order, if any, unless otherwise directed by Buyer. Time is of the essence as to delivery and other performance by Seller.

(c) Packaging. All Goods shall be suitably packed in accordance with the requirements of Buyer, if any, and of common carriers in a manner to secure the lowest transportation costs consistent with the required delivery schedules and to ensure the Goods arrive in good condition at the final destination. No additional charge shall be made to Buyer for packaging or shipping.

(d) Marking. Seller shall mark Goods, packaging and packing as instructed by Buyer.

(e) Condition of Goods. All Goods shall be delivered clean and ready for further processing.

(f) Shipping Charges. All shipping, drayage, demurrage, storage, insurance, export and import duties and fees, tariffs and other charges, packing, are as stated on the face of an Order.

(g) Delivery Materials. Seller shall be responsible for the cleaning, replacement and repair costs of any reusable dunnage, delivery cartons or other materials delivered to Seller by Buyer or its Customer.

(h) Sequencing and Split Loading. Upon Buyer's request, Seller shall package and load Goods purchased under an Order and items purchased under other contracts in their sequence with Buyer's manufacturing process and/or load trucks or containers in zones to assist Buyer supplying its production line with parts on a just-in-time basis. Costs associated are negotiated on a case-by-case basis.

(i) Suspension of Performance. Buyer may at any time, by notice to Seller, suspend performance of deliveries and Seller's other performance obligations for such time as it deems appropriate.

## 7. Changes.

(a) Required Changes and Requests for Adjustments. Buyer reserves the right at any time to make changes in quantities, drawings, specifications, testing or quality control, packing, shipment, scope of work and other specific terms of an Order. Any impact on price (higher or lower) or time for performance necessarily resulting from such changes shall be reported by Seller to Buyer. Time is of the essence for such request. Buyer shall issue an Order amendment promptly if it agrees with the request. Notwithstanding anything to the contrary, if adjusted, the price shall be adjusted solely to compensate Seller for increased costs of materials and other direct production costs (excluding overhead and profit) necessarily incurred as a result of the changes, and the terms for performance shall be adjusted only for the period actually required to comply with the changes.

(b) Limitation on Changes. Without the prior approval of Buyer on the face of an Order amendment or in a signed writing by an officer of Buyer, Seller shall not make any changes to any Order or the Goods covered by an Order. Any changes by Seller to any Order or the Goods covered by an Order without the prior approval by Buyer on the face of an Order amendment or in a signed writing by an officer of Buyer, shall constitute a breach of an Order.

## 8. Risk of Loss and Title to Goods.

(a) Risk of Loss. All shipments are at the risk of Seller until receipt at the final destination designated in an Order.

(b) Title to Goods. Title to all Goods shall vest in Buyer the earlier of the date of an Order and their identification to an Order. Identification shall occur not later than the date Seller acquires or begins manufacture of the Goods.

(c) Right to Possession. Buyer has the right to possession of all Goods at all times from the time the Goods are identified to an Order whether or not Seller is in default subject to Buyer's obligation to pay for the Goods upon obtaining possession.

9. **Quality and Inspection.** Seller shall comply with Buyers Quality Requirements provided in Appendix A, other quality documentation provided by Buyer and Buyer's Customers Quality requirements.

10. **Electronic Data Interchange.**

(a) **EDI.** Seller shall, at Buyer's request and Seller's expense, connect to Buyer's current and future electronic data interchange systems ("EDI"). All transactions initiated under EDI shall be governed by the terms contained in Buyer's transmissions, except that standard terms and conditions which may be a part of Buyer's EDI system shall be supplemented by, and superseded to the extent inconsistent with, these Terms. A transmission shall be deemed signed if it contains the name of the individual authorizing the transaction and is otherwise in accord with authentication and other provisions of Buyer's EDI system.

11. **Confidentiality and Intellectual Property.**

(a) **Confidentiality.** At all times prior to, during and after an Order, Seller shall: (i) maintain the confidentiality of any information disclosed by Buyer or any parent, affiliate, Customer and contractor, including for example only, any technical, process or economic information derived from drawings, specifications, samples and other data furnished by Buyer in connection with an Order, whether or not identified as "confidential" upon disclosure ("Confidential Information"); (ii) not disclose or permit the disclosure of any Confidential Information to any person other than its employees or subcontractors for whom such knowledge is essential for performance of an Order;

(b) **Seller's Duties and Disclosure Requirements.** Seller shall promptly inform Buyer in writing of the full details of all inventions, discoveries, concepts, and all copyright material, ideas, information and improvements relating to the Goods or Buyer's business ("Developments"), whether patentable or not, including, but not limited to: hardware and apparatus; processes and methods; designs; formulae; computer programs; and techniques, as well as any improvements and related knowledge, which Seller conceives, develops, makes, contributes to or reduces to practice (whether alone or jointly with others) while developing or supplying Goods or otherwise in the performance of an Order.

(c) **Restrictions on Seller's Sale Activities.** Except for sale to Buyer, Seller shall not manufacture or sell any product which uses the design or the product model numbers or other designation, of the Goods sold under an Order or any product which is produced with the tooling owned by Buyer or Customer used to produce the Goods.

12. **Warranties.**

(a) **Express Warranties.** Seller warrants and represents to Buyer that all Goods shall be: (i) fit for the particular purposes for which they are purchased; including the specified form, fit, function and performance as a component and in the component system, as a part of the final product subsystem, in the location within the final products to be sold by Buyer and its Customer and in the environment in which the Goods are or reasonably may be expected to perform; (ii) in strict compliance with the specifications, samples, drawings, designs, Seller's advertisements, statements on containers and labels, statements of work and requirements of Buyer and its Customers and other requirements (including performance specifications) approved or adopted by Buyer as of the date of delivery or such other date provided by Buyer in writing; (iii) in strict compliance with all government requirements.

(b) **Warranty Period.** As to each of the Goods, each of Seller's warranties begins on the date of delivery to Buyer and continues until the last to occur of the following: (A) the expiration of all warranties made by Buyer to its Customer concerning Buyer's product incorporating the Goods not to

exceed the earliest of 36 months or 36,000 miles if incorporated into a vehicle; (B) the expiration of the longest time period which Buyer or Buyer's Customer or the original equipment manufacturer in which the Goods may be installed may be required, by contract or law, to repair or replace the Goods or Buyer's product incorporating the Goods; or (C) the period provided by applicable law for the Goods as sold to a consumer.

(c) Warranty Intent and Purpose. All warranties are intended to provide Buyer with protection from any and all warranty claims brought against Buyer by its Customer. This includes, but is not limited to, satisfying any Customer-required warranties relating to the Goods or products into which the Goods are incorporated. All such Customer-required warranties are incorporated by reference.

(d) Buyer's Defense of Third Party Claims. To mitigate its damages, Buyer may elect to fully defend any Claim from any Customer or other third party that any Goods supplied by Seller are defective, in breach of warranty, or otherwise did not meet applicable legal or contractual requirements because such claimant may attempt to hold Buyer responsible for problems caused in whole or in part by Seller. Seller and Buyer agree that this defense is in the interest of both Seller and Buyer. Seller waives the right to assert that Buyer took any such position in any way limits Buyer's right to assert a Claim against Seller by Buyer 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.

(e) Costs of Remedial Action. Notwithstanding the expiration of the warranty period set forth in these Terms, 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 Goods fail to conform to the warranties set forth in an Order. Where applicable, Seller shall pay all reasonable expenses associated with determining whether a Remedial Action is necessary.

(f) Continuous Improvement and Competitiveness. Seller shall participate in Buyer's value added/value engineering and warranty reduction programs to lower the price of Goods. Seller shall promptly advise Buyer in writing of any possible changes to the Goods which would result in cost savings or quality improvement. Seller shall remain competitive with respect to the Goods in terms of quality, technology, price and delivery with any supplier of the same or similar goods during the term of an Order. Should another supplier demonstrate technology and/or offer other terms which results in similar goods of equal or better quality, performance, lower price, or delivery to Buyer during the term of an Order, Buyer may notify Seller in writing of such event and request that Seller replicate such technology and/or terms to the advantage of Buyer, provided that such replication and/or terms would not violate any proprietary rights of any other person.

(g) Assignability. All warranties under this Section are assignable by Buyer to its Customers, end users and other third parties without notice to or consent by Seller.

(h) Warranty Cost Sharing Program. Seller shall participate in cost reduction and warranty cost sharing programs as required by Buyer's Customers as they relate to the Goods and in such programs as adopted by Buyer from time to time.

### 13. Service and Replacement Parts.

(a) Supply. Seller shall sell Goods to Buyer as ordered and released by Buyer for use as production and as service and aftermarket replacement parts. During the period in which Buyer is required by its Customer to provide service or replacement parts, Seller shall sell Goods to Buyer as ordered to fulfill Buyer's service and replacement parts requirements. The price for Goods shall negotiated on a case-by-case basis.

14. **Indemnity Insurance and Performance on Buyer's Premises.**

(a) **Indemnification.** Seller expense shall defend, (at Buyer's request), indemnify and hold harmless Buyer and its successors, assigns, and Customers and their respective employees, agents, contractors or representatives (collectively "Indemnified Parties") with respect to any claim, demand, action, suit, application, cause of action, assessment or reassessment, charge, judgment, debt, liability, expense, cost, damage, including for damages to property and personal injury, or loss, contingent or otherwise, including loss of value, that may be brought against an Indemnified Party.

(b) **Insurance.** Seller shall obtain and maintain insurance coverage according to respective Buyer's Customer's requirements and automotive industry standards.

15. **Termination for Other than Default.** Buyer may at its option terminate all or any part of an Order or any Releases on 30 days notice, for (a) the termination or material reduction in Customer demands; (b) a change in Buyer's requirements; (c) Seller's failure to remain competitive in price, quality, delivery, and/or technology whether or not such failure would be a default or breach by Seller; or (d) Buyer's convenience; and Seller shall cooperate with Buyer in any transfer of production or other performance to a new supplier.

16. **Security and Solvency.**

(a) **Security Interest.** Seller grants to Buyer a security interest ("Security Interest") in the materials, components, contracts, Intellectual Property, and all other property and any proceeds thereof that may be acquired or allocated by Seller for use in the design, acquisition, assembly, and manufacture of the Goods, including Furnished Property and in the completed Goods ("Collateral") to secure Seller's return of any deposits and Seller's performance of other obligations under an Order.

(b) **Seller's Financial Information.** Upon request by Buyer, Seller shall promptly deliver to Buyer information to demonstrate that Seller will be able to perform its obligations under an Order (including but not limited to production schedules, accounts receivable agings, accounts payable agings, and organizational charts).

(c) **Seller's Representation of Solvency.** Seller represents and warrants to Buyer as of the date of each Order (i) that it is solvent and is paying all debts as they become due.

(d) **Buyer's Use of Seller's Facilities.** If Seller experiences any delivery or performance problems related to an Order, Buyer may, but is not required to, designate a representative to be present in Seller's applicable facility to observe Seller's operations, at times to be mutually established by Buyer and Seller. The cost are negotiated on a case-by-case basis.

(e) **Seller's Insolvency.** Buyer may immediately change payment terms, terminate or suspend an Order or, including for clarity, Releases without any liability of Buyer to Seller except for payment of Goods previously delivered and in compliance with an Order upon the occurrence of any of the following or any other similar or comparable event: Seller's inability to promptly provide Buyer with adequate and reasonable assurance of Seller's financial capability to perform timely any of Seller's obligations under any Order. If Seller objects to the amount of compensation Seller shall still provide such access while the dispute is resolved so long as Buyer pays the amount established by Buyer.

17. **Default and Remedies.**

(a) **General.** Seller shall be in default if Seller fails to perform any obligation within the time specified in an Order (including a Release) or any extension thereof granted by Buyer in writing, or upon Buyer's demand if no time has been specified.

(b) **General Remedies.** Upon Seller's default, Buyer may by written notice of default to Seller, in addition to such other rights, remedies and choices as it may have under an Order or by law, at its option and sole discretion take one or more of the following actions: (i) rescind, cancel or terminate an Order; (ii) reject and return non-conforming or defective Goods at Seller's expense; (iii) require Seller to inspect the Goods and remove and replace non-conforming or defective Goods with Goods that conform to an Order.

(c) **Damages.** Seller shall reimburse Buyer for all direct, incidental, consequential and special damages, and damages caused by or related to Seller's default including but not limited to lost profits, revenue and opportunity and business interruption.

(d) **Duty to Deliver.** Seller's continued holding of the Goods and Furnished Property, after demand has been made by Buyer for delivery, will substantially impair their value, and Buyer shall be entitled to a court order for possession without bond. Seller shall continue to sell Goods under an Order during any dispute with Buyer provided Buyer continues to pay Seller amounts owed in excess of any right of offset.

(e) **Restrictions on Waiver.** A delay by Buyer in notification of a default or making a Claim shall not constitute a waiver of a default or remedy. No waiver of a breach of any provision of an Order by Buyer shall constitute a waiver of any other breach, or of the breached provision itself. No Claim or right of Buyer arising under, or related to, an Order can be discharged in whole or in part by a waiver or renunciation unless supported by additional consideration and in writing signed by Buyer.

(f) **Limitation on Seller's Remedies and Rights.** Money damages, as limited by these Terms and an Order, are Seller's exclusive remedy for breach of contract and all other claims or theories of recovery. Seller may not allege breach of contract or other theory of recovery for such money damages without providing a written notice of breach, documentation supporting the Claim, and a reasonable time for Buyer to cure any breach and otherwise resolve the matter. Seller acknowledges that Buyer may supply to Customers the Goods in the form purchased from Seller or as a component of a system or other product sold to Customers. Seller's rights and remedies against Buyer also shall be limited to the extent Buyer's rights against the Customers are limited.

(g) **Disclaimer of Liability for Certain Damages and Claims.** Under no circumstances shall buyer be liable for consequential, incidental, punitive, or exemplary damages or damages for lost profit, revenue, or opportunity, or for business interruption. Seller waives all claims arising under or relating to this agreement under theories of account stated or open account unless buyer acknowledges liability for such an amount in a writing signed by buyer.

(h) **Time, Quality and Quantity Requirements.** Without limitation, timeliness, quality and quantity requirements for Seller's performance are of the essence of an Order.

(i) **Remedial Work.** If repair, sorting, inspection, or similar activities ("Remedial Work") is determined by Buyer necessary for any rejected Goods, then Buyer may elect either to perform the Remedial Work itself or to have a third party perform it. In either case, the reasonable cost of such Remedial Work shall be either: (i) offset against the amounts otherwise due Seller for such rejected Goods; or (ii) charged separately to Seller.



(j) **Resourcing Goods.** Seller acknowledges that an interruption of business at Buyer's plant or Customer's plant would result in damages and/or difficulties for which money damages would not be a sufficient remedy. While the cost of a plant shutdown may easily generate substantial costs, the damages to Buyer's relationship with Buyer's Customer through potential loss of business, and other damages which are equally difficult to calculate, can be a much worse consequence. 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, Buyer may, upon notice to Seller, whether or not Buyer may otherwise be obligated to purchase the Goods from Seller, resource the production of Goods from Seller to another supplier or dual source any of the Goods covered hereby (*i.e.*, have another supplier produce or be prepared to produce Goods being produced by Seller), to protect Buyer and its Customers.

(k) **Transition of Supply.** In connection with Buyer's termination or non-renewal of an Order, or Buyer's other decision to source the Goods from any alternate supplier(s), Seller shall cooperate with Buyer in the transition of supply of the Goods.

(l) **Reimbursement for Warranty Claims.** Seller shall reimburse Buyer for warranty claim costs determined by Buyer to be the result of a defect in the Goods

18. **Limitations of Seller's Liability.** Seller shall not be liable for incidental consequential or damages because of delays or other defaults due to causes beyond its control and without its fault or negligence. However, any such delay due to default of subcontractor, material supplier or carrier will be excused as to incidental damages only if beyond the control, and without the fault or negligence of, both Seller and its subcontractor, material supplier or carrier, and if Seller establishes that it could not obtain components, materials or services from any other source in time to meet the delivery schedule. This paragraph shall apply only if: (i) Seller provided immediate written notice to Buyer of any delay which Seller does or could reasonably anticipate, of the length thereof, and of the reasons therefore; and (ii) Seller provides thirty (30) days written notice to Buyer of the expiration date of its collective bargaining agreement and those of its subcontractors and suppliers which expire prior to anticipated delivery date of the Goods. This limitation or incidental damages shall not affect Buyer's right to cancel or any other remedy.

19. **Property Furnished or Purchased by Buyer or Its Customer for Seller's Use.** Provisions related to Buyer and Customer property are included in Appendix B.

20. **Compliance with Laws.**

(a) Seller shall comply with all applicable federal, state and local laws, statutes, rules, regulations and ordinances, including, without limitation, laws pertaining to equal employment opportunity, employment practices, immigration, and export, and obtain all necessary permits, certificates and licenses to perform the services.

(b) **Vehicle Safety and Other Protective Laws.** Seller warrants that it and the Goods shall comply with all applicable national, state/provincial and local statutes, rules and regulations directly or indirectly relating to the manufacture of vehicles, vehicle equipment, vehicle materials or vehicle supplies, as well as compliance with similar statutes and rules effective in North America. Seller shall provide to Buyer originals or copies of the test reports and reports to government agencies related to the satisfaction of such legal requirements upon the earliest of their availability or the date required by law or Buyer.

21. **Subcontracting.** Subcontracting any part of an Order without the prior written consent of Buyer is prohibited.

22. **Applicable Law, Jurisdiction, Waiver of Liens and Sovereignty.**

(a) **Applicable Law and Jurisdiction.** An Order shall be construed under and enforced under the laws of Indiana, other than its rules on conflicts of law. The parties adopt the law governing sales of goods in such jurisdiction at the time of an Order as the law governing the sale of goods hereunder, including the Uniform Commercial Code (“UCC”). The Convention on the International Sales of Goods shall not apply. The parties consent to the exclusive jurisdiction and the convenience of the courts of Indiana, including the Circuit Court for any county in which Buyer has an administrative office, to resolve any issues arising under or related to an Order or the furnishing of Goods by Seller to Buyer.

(b) **Liens.** Seller warrants that no lien shall be filed by Seller or anyone claiming under or through Seller against Buyer, the Goods, the Furnished Property, the site for delivery or installation of the Goods, or Buyer’s Customer, for materials, labor, services, equipment or goods furnished as part of the Goods or Furnished Property.

(c) **Limitations of Actions.** No Claims against Buyer can be brought as maintained unless filed in a court of competent jurisdiction as identified in an Order within one year of the date in which the Claim accrued as determined under the UCC.

23. **Waiver.** The failure of either party at any time to require performance by the other party of any provision of an Order shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver by either party of a breach of any provision of an Order constitute a waiver of any succeeding breach of the same or any other provision. Payment or performance by Buyer shall not constitute a waiver of any breach, right or remedy.

24. **Severability.** If any of these Terms or any Order is invalid or unenforceable under any statute, regulation, ordinance/by-law, or any other rule of law, such term shall be reformed or deleted, but only to the extent necessary to comply with such statute, regulation, ordinance/by-law, order or rule, and the remaining provisions of an Order shall remain in full force and effect. Any declaration of unenforceability of a provision hereof shall be as narrow as possible and shall not void an Order or any other provision.

25. **Seller’s Notice of Claims.** Communications from Seller concerning claims of Seller, including an instrument tendered as full satisfaction of a debt or claims, must be sent to the President of Buyer.

## Appendix A

### Quality and Inspection

These terms are supplemental to and in addition to the General Terms and Conditions of Purchase.

(a) Quality Requirements. Seller shall comply with quality requirements and procedures specified by Buyer from time to time, including at minimum, current versions of ISO 9001, QS 9000, TS16949. Seller shall design and manufacture the Goods to be suitable for installation and use in the product to be sold to the end user.

(b) Validation and PPAP. Seller shall comply with all requirements necessary to complete timely Buyer's, Buyer's Customer's and the eventual original equipment manufacturer's validation of the Goods including but not limited to the production part approval process as adopted from time to time (collectively, "PPAP"). Seller shall deliver sample parts required by Buyer for testing and inspection, including without limitation, the PPAP. Seller shall inspect such samples before delivery and shall certify inspection results in the manner requested by Buyer. Seller shall not begin the manufacture of Goods for production prior to the satisfactory completion of PPAP procedures of Buyer, its Customer and the original equipment manufacturer. Seller shall provide annual PPAP revalidations for Goods. Seller shall not make any changes in the materials or manufacturing process without completion and approval of a Level 3 PPAP. Seller shall retain PPAP documentation and PPAP samples as required by Buyer's Customer until at least three years after the original equipment manufacturers use of the Goods in production terminates or such period as otherwise established by Buyer in writing.

(c) Reports and Inspections. Seller shall provide periodic written reports, and additional reports as requested by Buyer, e.g. annually requalification according to ISO/TS 16949, on the status of all Seller's performance under an Order. All Goods shall be received subject to right of inspection and rejection by Buyer and its "Customer" (which term includes, without limitation, Buyer's immediate customers and subsequent original equipment manufacturers). In order to assess Seller's work quality, conformance with Buyer's specifications and compliance with these Terms, upon reasonable notice by Buyer, all: (i) Goods, materials and services related in any way to the Goods (including without limitation raw materials, components, intermediate assemblies, work in process, tools and end products) shall be subject to inspection and test by Buyer and its Customer and (ii) of Seller's books and records relating to an Order shall be subject to inspection by Buyer. It is Seller's obligation to inspect all Goods for compliance with samples, specifications and other obligations of Seller with respect to the Goods prior to delivery. Buyer may rely on Seller's inspection obligations and is not required to inspect the Goods prior to use. In addition, Buyer and its Customer shall have a reasonable time, but not less than 28 days after delivery to the final destination, to inspect delivered Goods prior to accepting the Goods. All Goods shall be subject to inspection and test by Buyer, Buyer's Customers and national, state/provincial and/or local governments, at all times and places to the extent practicable.

(d) Non-Conforming and Defective Goods. Seller shall not ship non-conforming or defective production Goods to Buyer or Buyer's Customer unless Buyer has delivered to Seller a written acceptance of a written deviation. Acceptance of a deviation by Buyer does not waive any warranty obligation of Seller. Defective Goods and Goods otherwise not in conformity with Buyer's specifications or an Order may be held by Buyer pending Seller's instructions at Seller's risk and expense and, if Seller so directs, may be returned at Seller's expense; provided, if Seller fails to provide written instructions within seven days of notice, Buyer may return the Goods freight collect or otherwise dispose of them at Seller's expense and without liability to Seller. Goods returned as defective or non-conforming shall be replaced by Seller within 24 hours of notice of the defect or non-conformity with new Goods unless instructed otherwise by Buyer. Payment for the Goods prior to inspection shall not constitute an

acceptance thereof or waive Buyer's right to revoke acceptance. Acceptance, whether or not it has been revoked, shall not release Seller's responsibility for defects, non-conformities, warranty or other claims. Seller shall provide a failure analysis report in the format requested by Buyer (e.g., 8 D report) specifying the reason for failure of any rejected product. Seller shall in good faith work to resolve problems that impact the Goods, regardless of the actual or suspected root cause of the problems. If Buyer inspects Goods prior to use, Buyer may reject an entire shipment on the basis of sampling testing. Seller shall also provide Buyer with convincing evidence that any error or failure within Seller's control will not reoccur. Buyer's failure to inspect, accept, reject or detect defects by inspection shall neither relieve Seller from responsibility for Goods that are not in accordance with an Order requirement nor impose liabilities on Buyer.

(e) Process Control. Seller shall provide and maintain an inspection, testing and process control system acceptable to Buyer and its Customer covering the Goods. Acceptance of such control systems by Buyer shall not alter the obligations and liability of Seller under an Order. Records of all manufacture, testing and inspection by Seller of the Goods shall be kept complete, separate and available to Buyer and its Customer during the performance of an Order and for such longer periods as may be specified in an Order, but not less than ten years after the last delivery of the Goods to Buyer.

(f) Seller's Responsibilities. Buyer's failure to inspect, accept, reject or detect defects by inspection shall neither relieve Seller from responsibility for Goods that are not in accordance with an Order requirement nor impose liabilities on Buyer. Seller shall provide and maintain an inspection, testing and process control system acceptable to Buyer and its Customer covering the Goods to ensure compliance with an Order. Acceptance of such control systems by Buyer shall not alter the obligations and liability of Seller under an Order.

(g) Defects and Correction. Seller shall provide Goods with zero percent defects. Seller shall maintain a capability process ( $cpk > 1,33$ ) to meet this and other requirements of an Order and maintain control of those processes. Seller shall be responsible for all costs resulting from the receipt of the defective Goods, including but are not limited to, containment, sorting, rework, scrap, returns to Seller, returns and fines from Buyer's Customer, value-added to the parts by Buyer, down time and transportation.

## **Appendix B**

### **Furnished Property**

These terms are supplemental to and in addition to the General Terms and Conditions of Purchase.

(a) **Ownership.** Unless otherwise agreed in a writing signed by Buyer, all tooling, equipment, material and other property of every description furnished to Seller by Buyer or its Customer, or acquired by Seller but paid for or to be paid for by Buyer or its Customer as a separate price or amortized in the price of the Goods, and any materials affixed or attached thereto and replacement thereof (all of which constitutes "Furnished Property"), shall be and remain exclusively the personal property of Buyer or its Customer and held as an at-will bailment and in trust for the benefit of Buyer or its Customer as their interests may exist. All additions, attachments, accessories and repairs to the Furnished Property, and replacements thereof, shall be deemed Furnished Property and shall become the exclusive property of the owner of the affected Furnished Property without payment. Seller shall not substitute any of its own property for use in place of Furnished Property and to the extent it does so, such property shall become the Furnished Property of the owner of the property replaced. Title to the Furnished Property which is acquired by Seller and its contractors, and the components thereof, shall vest in Buyer upon their acquisition or production even though the Furnished Property is not completed. Seller shall sign separate at-will bailment and other agreements confirming the status of Furnished Property under these Terms if requested by Buyer. Seller is also bound by any additional obligations relating to Furnished Property which are contained in Buyer's contract with its Customer and Seller agrees that Buyer, in its own name, may enforce such obligations on behalf of its Customer.

(b) **Maintenance and Replacement.** Seller shall install, maintain, repair, replace and return Furnished Property in good condition and working order, reasonable wear and tear excepted. In addition, all Furnished Property must continue to be maintained or repaired by Seller in a condition that is adequate for at least one year of production of Goods based on Buyer's forecasts and historical purchase levels. The Seller has to notify the Buyer in time, e.g. considering the usual delivery times for the replacement of the respective Furnished Property or its production, at which time a replacement Furnished Property has to be acquired as a result of normal wear or otherwise or deterioration of contractual use and / or reaching the service life. The Seller shall bear the cost of replacement if they have been damaged, destroyed or otherwise have been made unusable by events within in the supplier's control (e.g., non-conforming use).

(c) **Markings.** Each individual item of Furnished Property (and the container in which it may be stored) shall be plainly and permanently marked or otherwise adequately identified and permanently marked by Seller as the property of Buyer and/or Buyer's Customer as directed by Buyer and with the project and part number on which it is used. Seller shall safely store the Furnished Property separate and apart from Seller's property. Seller shall maintain the character of Furnished Property as personal property and not as a real estate fixture.

(d) **Location.** Seller shall not move the Furnished Property from any location without the prior written consent of Buyer.

(e) **Buyer's Warranty Disclaimer.** Seller accepts and/or shall produce the Furnished Property "AS IS" and without any representation, warranty or duty from Buyer except as may be specifically stated as such in an Order. It is Seller's obligation to determine if the Furnished Property is suitable for its intended purpose. Any implied warranties of merchantability, fitness for a particular purpose and non-infringement of buyer and its customer are disclaimed.

(f) Risk of Loss and Insurance. Seller shall be responsible for any and all loss or damage to Furnished Property, including loss or damage which occurs despite Seller's exercise of reasonable care, the entire time Furnished Property is in Seller's possession in accordance with an Order. Furnished Property, while in Seller's custody or control, shall be held at Seller's risk and shall be kept insured by Seller.

(g) Delivery to Buyer. Furnished Property may be reclaimed and removed at any time by Buyer, at Buyer's written request (whether or not Buyer and Seller are engaged in litigation or other dispute), in which event Seller shall prepare Furnished Property for shipment.

(h) Maintenance, Repair, Replacements and Taxes. Seller, at Seller's expense, shall maintain the Furnished Property in first class condition and immediately replace any items which are lost or destroyed or become worn out. All repaired or replaced Furnished Property shall be the property of Buyer. Wear and repair of the Furnished Property is Seller's responsibility. The costs associated are negotiated on a case by case basis.

(i) Records. Seller shall keep at the location of the Furnished Property all records related to the Furnished Property as Buyer may reasonably require. Buyer may inspect and copy such records with 24-hour notice.

(j) Responsibility for Safe Use. Seller shall use Furnished Property in a careful and safe manner and shall defend and indemnify Buyer from any claims, liabilities, expenses and damages arising from or related to the installation, use, possession, storage or repair of the Furnished Property. Seller shall maintain a liability insurance policy and name Buyer as an additional insured. Seller, without additional charge to Buyer, shall furnish appropriate safety systems for Furnished Property to meet OSHA and any other applicable safety rules and regulations at Seller's responsibility and cost. The Furnished Property must comply with latest regulations, particularly with the German Equipment and Product Safety Act, the accident prevention regulations of the professional association and all safety regulations, including all applicable EU Directives.

(k) Return. Furnished Property shall be delivered by Seller to Buyer, at Buyer's written request which may be given at any time, whether or not Buyer and Seller are engaged in litigation or other dispute, in which event Seller shall prepare Furnished Property for shipment and shall redeliver it to Buyer or its Customer in the same or equal condition as originally received by Seller, reasonable wear and tear excepted, all at Seller's expense. Seller shall have no right to retain possession of Furnished Property to secure payment of amounts owed for Furnished Property or Goods or for any other reason, as a claim for damages is an adequate remedy. Seller waives any statutory, common law, equitable, or other rights to claim a lien on the Furnished Property provided Buyer tenders any unpaid portion of the purchase price.

(l) Waiver of Jury Trial. Certain jurisdictions provide the right to a trial by jury, but this right may be waived. Seller hereby knowingly, voluntarily and without coercion, waives all rights to a trial by jury of all disputes arising out of or in relation to a proceeding by buyer to obtain possession of required tooling.