

AUTONEUM NORTH AMERICA, INC.  
GENERAL TERMS AND CONDITIONS OF PURCHASE (Indirect)

(Edition: June 2016)

I. OFFER AND ACCEPTANCE

1.1 Offer. Each Purchase Order (as defined in Section 2.1 below), together with these Terms and Conditions as may be amended from time-to-time (the "Terms and Conditions"); Purchaser's Seller Development Manual, as amended from time to time ("Purchaser's Supplier Manual"); and Purchaser's Supplier Code of Conduct, as amended from time to time ("Purchaser's Code of Conduct") (Seller acknowledges that both Purchaser's Supplier Manual and Purchaser's Code of Conduct are and have been made available to Seller on Purchaser's supplier web portal platform); and any other documents specifically incorporated by reference in each Purchase Order issued by Autoneum North America, Inc. or by one of its affiliated companies (the issuing entity being "Purchaser") to the party to whom such Purchase Order is addressed (the "Seller") collectively comprise an offer (the "Offer") to purchase the products ("Products") and services ("Services" and collectively with the Products, the "Products and Services") identified in that Purchase Order.

1.2 Acceptance.

- (a) Seller will be deemed to have accepted an Offer in its entirety when any of the following occurs: Seller (i) executes and returns a written acknowledgement; (ii) otherwise indicates its acceptance of the Purchase Order; (iii) commences performance, including, but not limited to, design, pre-production planning or work, tooling orders or installation, testing, or production; or (iv) delivery of any Products to, or performance of any Services for, Purchaser that are the subject of the Purchase Order. Upon acceptance of the Offer, a single, binding, non-severable contract between Purchaser and Seller will be created, which will consist exclusively of the Offer and will exclude any additional or different terms proposed or sent by Seller (referred to herein as the "Contract"). In addition, the Contract will not include any prior or contemporaneous agreement or documents exchanged between Purchaser and Seller unless specifically referenced in the Purchase Order.
- (b) The Contract may also include additional or different terms, but only if such additional or different terms are included in a separate writing signed by an authorized representative of Purchaser ("Signed Writing") that memorializes Purchaser's agreement to such additional or different terms. Seller acknowledges and agrees that (i) for this purpose, an Electronic Record pursuant to Section 2.2 of these Terms and Conditions do not constitute a Signed Writing; and (ii) any agreement by Purchaser to any additional or different terms made by Purchaser under Seller's threat of non-performance, non-shipment or other threat will not be deemed an agreement to such additional or different terms. In the absence of any such Signed Writing, all additional or different terms of Seller are hereby deemed rejected and will not become part of the Contract no matter how such additional or different terms of Seller are communicated to Purchaser. Any reference in the Contract to an authorized representative of Purchaser means its Chief Executive Officer; Chief Operating Officer; Vice Presidents; or Director or Manager, Purchasing.
- (c) Except for Article XVII of these Terms and Conditions, if any provision of these Terms and Conditions is inconsistent with the Purchase Order, then the specific provisions of the Purchase Order will govern and control. In addition, if the specific terms of any Contract document are inconsistent with Purchaser's Supplier Manual, then the specific provisions of such other Contract document will govern and control. Terms defined in these Terms and Conditions have the same meaning in all documents constituting part of the Contract, unless the context expressly provides otherwise.

II. PURCHASE ORDERS

2.1 Purchase Orders. Purchaser may issue orders for Products and Services for the purpose of (i) ordering such Products and Services for performance or delivery on a single occasion; (ii) ordering such Products and Services for performance or delivery on more than a single occasion or on an ongoing basis, with limitations on the aggregate dollar amount and duration of such ordering set forth therein; and (iii) setting forth a price for Products and Services for a specified period of time during which Purchaser agrees to purchase a specified portion of its requirements for such Products and Services during such period of time (each such order, a "Purchase Order"). Seller shall promptly communicate its acceptance of each Purchase Order, and in the event that Seller neither accepts nor rejects a Purchase Order within three (3) business days following the date of receipt, Seller will be deemed to have accepted such Purchase Order. Purchaser may amend any Purchase Order, including, but not limited to, its specifications, delivery, terms, quality and packaging, provided that each such amendment must be in writing and delivered in the same manner as the Purchase Order that is being amended.

2.2 Electronic Communications. Purchaser agrees to send, and Seller agrees to receive, binding Purchase Orders by means of electronic communication in any format specified by Purchaser. For purposes of this Contract, "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form, and "Electronic Record" means a Record created, generated, sent, communicated, received, or stored by electronic means. Except with respect to Purchaser's

acceptance of additional or different terms pursuant to Section 1.2(b) of these Terms and Conditions (which acceptance may only be evidenced by a traditional writing signed by Purchaser), any requirement that any item sent by either Party related to a Purchase Order (herein referred to as a "Purchase Order Record") be in writing may be satisfied if such item is an Electronic Record (herein referred herein as a "Purchase Order Electronic Record"), and any requirement that it be signed may be satisfied by an electronic signature. Any Purchase Order Electronic Record sent by one Party to the other Party by electronic means will be binding on the Parties to the same extent as if such Purchase Order Record were made by a traditional writing. Any Purchase Order Electronic Record sent by either Party to the other Party will be deemed received when such Purchase Order Electronic Record enters an information processing system used by the recipient for the purpose of receiving Electronic Records, in a form capable of being processed by that system, provided that the sender does not receive any automated message indicating that the Purchase Order Electronic Record was not transmitted to the designated recipient. An Electronic Record will be deemed received under this Section 2.3 even if no individual is aware of its receipt. Purchase Order Electronic Records sent by email by Purchaser will only be valid if sent from purchasingNA@autoneum.com. Seller's Purchase Order Records (both electronic and non-electronic) will be submitted (i) to the Purchaser's plant scheduling department if the Purchase Order Record pertains to shipping and delivery dates and related logistical information; and (ii) to the buyer placing the order if the Purchase Order Record pertains to pricing or other commercial terms; any Purchase Order Records not sent in accordance with these requirements will not be valid for purposes of binding communications to Purchaser.

### III. SHIPMENT, DELIVERY, AND TRANSFER OF RISK

- 3.1 Delivery. Seller shall deliver Products and perform Services in the quantity and at the frequency, on the delivery or performance dates and in the manner specified in each Purchase Order. Purchaser shall not be required to pay for Products and Services that exceed or are less than the quantity or frequency set forth in the applicable Purchase Order or not otherwise in accordance with such Purchase Order. Products shipped or Services performed in advance of the delivery or performance date for the quantity or frequency or duration specified in the applicable Purchase Order, or in excess of such quantity or frequency or duration, will be at Seller's risk and may be returned or rejected by Purchaser, and Seller shall pay for all related delivery, return, rejection, shipping and other costs. If no delivery or performance date is specified or otherwise provided for in the Purchase Order, Seller shall contact Purchaser during regular business hours to request the delivery date and instructions. If not otherwise stated in the applicable Purchase Order, delivery of Products will be DDP (Incoterms 2010 Edition) to the destination specified in the Purchase Order. Partial delivery of Products is not permitted without the prior written consent of Purchaser.
- 3.2 Shipping. Seller shall: (i) properly pack, mark, ship and store Products that are the subject of any Purchase Order in accordance with the requirements of Purchaser (as specified in the Purchase Order and any other Contract documents); (ii) be responsible for payment of, and shall reimburse Purchaser for, all costs, expenses and damages incurred by Purchaser as a result of improper packing, marking, shipping, or storing of Products and Services, and for the return of any rejected Products and Services; (iii) unless otherwise provided in the Purchase Order or other Contract Document, arrange for and pay all costs of shipping Products, including, without limitation, the cost of customs, duties, insurance, and freight; (iv) ensure that all shipments of Products are accompanied by packing slips showing Seller's name, Purchase Order number, and shipment quantities, original bills of lading, express receipts, or similar documents signed by the carrier and attached to Seller's invoice and mailed not later than the day after shipment; (v) mark Product packaging with the country of origin as required by applicable law and provide a certificate of origin and any other documents required for customs clearance and/or tax purposes.
- 3.3 Purchase Order Amendments. Purchaser may make changes from time to time to any Purchase Order, including but not limited to, changes in the design (including drawings and specifications), processing, methods of packing and shipping and the place of delivery or performance of Products and Services, or other changes in the scope of Seller's work covered by the Purchase Order (each a "Purchase Order Amendment"), and Seller agrees to comply with such Purchase Order Amendments promptly. No Purchase Order Amendment may impact the price of Products and Services or time of delivery or performance unless: (i) Seller provides Purchaser written notice of a claim of adjustment along with sufficient supporting data within five (5) business days of the notice of the Purchase Order Amendment; and (ii) after Purchaser's receipt of documentation from Seller in such form and detail, as Purchaser in its sole discretion may direct, and determination by Purchaser that an adjustment (up or down) is appropriate; whereupon, Purchaser shall equitably adjust the price or delivery terms of the Purchase Order. In addition, Purchaser may, following notice to Seller, change the rate of scheduled shipments or direct temporary suspension of scheduled shipments, or cancel any Purchase Order, none of which will entitle Seller to a modification of the price of Products and Services covered by the applicable Purchase Order or the assessment of any cancellation charges. Purchaser and Seller acknowledge that it may be necessary for Seller to make advance commitments to purchase certain quantities of customized raw materials to use in manufacturing Products and performing Services based upon Purchase Orders issued by Purchaser, and that Purchaser shall be responsible to pay Seller for the amount of any customized raw materials purchased by Seller to satisfy such cancelled Purchase Order. Purchaser will have no liability for customized materials that are not directly related to a cancelled Purchase Order.
- 3.4 Time of Essence. Time is of essence for performance and delivery of each Purchase Order. Seller shall immediately notify Purchaser in writing if Seller is unable to deliver Products or perform Services in the quantities, at the frequency, for the duration or on the dates specified in the Purchase Order, and Purchaser may require Seller, at Seller's sole cost and expense, to use a more expeditious shipping method than that which was originally specified.
- 3.5 Manufacturing Date. The period of time between the date Products are manufactured and the date such Products are delivered may not exceed three (3) months.

- 3.6 Safety Stock. Seller shall maintain in Seller's inventory a safety stock of finished Products in an amount specified by Purchaser. In the event that the Contract is terminated by Purchaser pursuant to Section 16.3, Purchaser agrees to purchase any remaining safety stock from Seller.
- 3.7 Acceptance of Products and Services. Seller shall immediately notify Purchaser in writing if Seller becomes aware of any Products and Services that are Defective or Non-Conforming (as such terms are defined in Section 7.1), whether before or after delivery or performance of such Products and Services to Purchaser. Seller shall specifically describe the way in which such Products and Services are Defective or Non-Conforming in its notice to Purchaser. Purchaser shall promptly notify Seller of its receipt of any Products and Services that are Defective or Non-Conforming or receipt of any deficient or excess quantity, frequency or duration, provided that any such failure to promptly notify Seller shall not waive Purchaser's rights under the Contract with respect to any of those Products and Services or any other Products and Services that are Defective or Non-Conforming or that are of deficient or excess quantity, frequency or duration. Replacement of Products and Services that are Defective or Non-Conforming and/or re-shipment or re-performance of Products and Services of deficient or excess quantity, frequency or duration will not waive any of Purchaser's rights under the Contract, including, without limitation, its right to terminate the Contract under Article XVI of these Terms and Conditions.
- IV. PRICE, PAYMENT AND SET OFF
- 4.1 Prices. Seller shall sell Products and Services to Purchaser, in such quantities or volume as may be ordered by Purchaser during the Term, at the price set forth in the Purchase Order for such Products and Services. Unless otherwise specified in writing on the applicable Purchase Order, the specified price is the complete price for the Products and Services, including, without limitation, any and all taxes, duties, tariffs, fees and similar assessments, costs for packaging, labeling and shipping materials specified by Purchaser for such Products and Services, and all related costs and expenses incurred by Seller in connection with the performance of its obligations under the Contract. The prices stated in the Purchase Order are firm and not subject to adjustment for any reason, including, without limitation, any change in volume, price of raw materials or labor, unless expressly agreed to in a Signed Writing.
- 4.2 Price Warranty. Seller represents and warrants that as of the effective date of each Purchase Order and again at the time of each shipment of Products or performance of Services thereunder, that the price for Products and Services sold to Purchaser is not less favorable than the price then being extended to any other customer of Seller for the same or substantially similar Products and Services in the same or substantially similar quantity, frequency or duration. In the event that Seller reduces its price to another customer for the same or substantially similar Products and Services in the same or substantially similar quantity, frequency or duration during the Term, Seller shall reduce the price for Products and Services proportionally. In the event that Products and Services provided by Seller are not competitive in price, technology or quality, Purchaser has the option to reduce the quantity, frequency or duration being purchased under the Purchase Order and purchase the cancelled quantity, frequency or duration of Products and Services from a third party and such quantity, frequency or duration purchased from a third party will count toward, and not be deemed to violate, any exclusivity or volume purchase requirements of Purchaser that are part of the Contract.
- 4.3 Invoices. For each shipment of Products and complete performance of Services, Seller shall invoice Purchaser in the form required by Purchaser and at the address designated in the Purchase Order or at such other address as Purchaser may designate from time to time.
- 4.4 Payment. Purchaser shall pay Seller for all conforming Products and Services timely received or performed in accordance with the Contract. Payment is due according to the terms set forth in the Purchase Order or, if time for payment is not otherwise specified in the Purchase Order, the payment term will be net sixty (60) days from the later of (i) the date of Purchaser's receipt of Products or completion of the performance of Services; and (ii) the date of Purchaser's receipt of a correct and complete invoice for Products or Services (such later date, the "Due Date"), with all payments subject to the conditions stated in this Section 4.4. Seller's cash discount privileges to Purchaser shall be extended until the Due Date. Purchaser may withhold payment pending receipt of evidence, in such form and detail as Purchaser may request, of the absence of any liens, encumbrances or claims on or with respect to the Products and Services under the Purchase Order. Notwithstanding the actual Due Date, Purchaser payments will be made in accordance with Purchaser's central payables system ("CPS") if Seller is included in the CPS. If Seller is not included in the CPS, payments will be made on the Friday next following the Due Date, unless such Friday is the last Friday of a calendar month, in which case payment will be deferred until the first Friday of the next calendar month. In the case of Defective or Nonconforming Products and Services, Purchaser will be entitled to withhold payment pro rata to the value of the Defective or Nonconforming Products and Services until such Products and Services have been modified, replaced, repaired or re-performed in accordance with the provisions of Article VII below. Purchaser may from time to time, upon notice to Seller, revise its payment terms to take into account any change in the payment terms of Purchaser's customer. Payment of any invoice does not constitute acceptance of Products and Services.
- 4.5 No Assignment of Receivables. Without the prior written consent of Purchaser, Seller shall not assign its receivables from Purchaser to third parties or to have such receivables collected by third parties.
- 4.6 Set Off. In addition to any right of setoff or recoupment provided or allowed by law, all amounts due by Purchaser to Seller will be considered net of the amount of any indebtedness or obligations of Seller or any of its affiliates or subsidiaries to Purchaser, including any amounts due to Product being Defective or Non-Conforming, and Purchaser may set off against or recoup any such amounts from any amounts due or to become due to Seller.

- 4.7 Audit. Purchaser has the right at reasonable times and upon reasonable notice to audit Seller's records as are reasonably necessary for Purchaser to verify the amounts due to Seller. Seller shall make such books and records available to Purchaser or its designees and provide copies of such books and records to Purchaser or its designees upon request.
- V. QUALITY, INSPECTION, PRODUCT SURVEILLANCE, DOCUMENTATION, BLACK AND GRAY LIST
- 5.1 ISO Compliance. Seller represents, warrants and covenants that it is, and for the duration of the Term shall, comply with automotive industry standard TS 16949 and its quality standards under ISO (minimum of ISO 9001 (ver. 2008) *et seq.*).
- 5.2 Quality Requirements. Seller shall meet all specifications and quality requirements of Purchaser and Purchaser's customer. Seller shall participate in Purchaser's quality and development programs as requested by Purchaser. Seller shall provide necessary resources as identified by Purchaser to support product development, process development, validation, production launch and any other aspect impacting the quality of the Products being manufactured or the Services being performed.
- 5.3 Inspection. Prior to each shipment of Products and completion of performing any Services, Seller shall inspect Products and Services to confirm that they conform to Purchaser's specifications and requirements, are merchantable and are fit for their intended use or purpose. Seller shall maintain test records and inspection and test schedules and make these records and schedules available to Purchaser at its request. Seller shall retain test records and inspection and test schedules for not less than fifteen (15) years (from the date the record or schedule was created) and make them available to Purchaser on request. Seller shall be required to enter into written agreements with any subcontractors that impose on subcontractors the same record-keeping requirements and rights to audit test records and inspection and test schedules of subcontractors. At any time during the Term, during regular business hours and following reasonable prior notice, Purchaser and Purchaser's customer have the right, but not the obligation, to inspect and test all Products and Services, work-in-process, and production facilities of Purchaser and its subcontractors, and any property of Purchaser in possession of Seller or its subcontractors, including, without limitation, Tools (as defined in Section 11.1 below) and related documents and records (collectively, "Seller Materials and Facilities"). The fact that Purchaser may have inspected, tested or failed to inspect or test any Seller Materials and Facilities does not affect any rights of Purchaser under the Contract. Purchaser's inspection of Products and Services, whether during manufacturing, prior to delivery or within a reasonable time after delivery, does not constitute acceptance of any work-in-process or finished or completed Products and Services nor does it relieve Seller from any obligation to inspect or test Products and Services. Seller hereby waives any right it may have to require Purchaser to conduct any inspections of Products and Services.
- 5.4 Declaration of Origin. If requested by Purchaser, Seller shall provide a declaration of origin for Products and Services being supplied or performed and materials contained therein or used for the manufacturing thereof or in connection therewith.
- 5.5 Black Substances. Purchaser maintains a "Black and Gray List", available on Purchaser's web site "Autoneum Automotive Global Purchasing" ([http://www.purchasing.autoneum.com/fileadmin/user\\_upload/purchasing/downloads/Autoneum\\_B\\_G\\_List\\_-\\_ind\\_V\\_Final.pdf](http://www.purchasing.autoneum.com/fileadmin/user_upload/purchasing/downloads/Autoneum_B_G_List_-_ind_V_Final.pdf)), which "Black and Gray List" may be modified by Purchaser from time to time. Seller shall check Purchaser's web site not less frequently than weekly for updates and changes to the "Black and Gray List." Seller shall also declare with each shipment of Products or performance of Services whether such Products or products used in the performance of such Services contain any substances listed on the "Black and Gray List" and, if so, Seller shall also represent and warrant that the level of the "Black Substances" contained therein does not exceed the permitted level set forth in Purchaser's "Black and Gray List".
- 5.6 Special Warnings or Instructions. If requested by Purchaser, Seller shall promptly furnish to Purchaser in such form and detail as Purchaser may direct: (i) a list of each ingredient in Products or products used in the performance of Services; (ii) the amount of each ingredient in Products or products used in the performance of Services; and (iii) information concerning any changes in or additions to each such ingredient. Prior to and with each shipment of Products and performance of Services, Seller agrees to furnish to Purchaser sufficient warning and notice in writing (including appropriate labels on Products, containers and packing) of any hazardous material that is an ingredient or a part of any of Products or products used in the performance of Services, together with any special handling instructions as may be necessary to advise carriers, Purchaser, and their respective employees of 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 such Products and Services, containers and packing. Seller shall also provide to Purchaser copies of all Material Safety Data Sheets ("MSDS") for all ingredients used in Products. (see International Material Data System <http://www.mdssystem.com>). Seller shall provide Purchaser with an MSDS for each shipment of Products and any other disclosures and/or documents for Products and Services where required by applicable law, prior to its being approved for purchase hereunder. Such MSDS and other disclosures and/or documents must be compliant with all applicable laws, including without limitation, the laws of the State of California.
- 5.7 Conflict Minerals. Seller represents and warrants that: (i) it does not provide to Purchaser any "conflict minerals," as defined in Section 1502(e)(4) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act") ("Conflict Minerals") or any products for which any Conflict Minerals are necessary to the functionality or production of the products; (ii) it provides Conflict Minerals or products containing Conflict Minerals, and such Conflict Minerals did not originate in the Democratic Republic of the Congo or an "adjoining country," as defined in Section 1502(e)(1) of the Act; or (iii) it provides Conflict Minerals or Products containing Conflict Minerals, and such Minerals are sourced solely from scrap or recycled sources. Seller shall reimburse Purchaser for any costs, fines or penalties that Purchaser incurs if Seller does not comply with this Section 5.7.

## VI. RECALLS

- 6.1 **Right to Initiate Recall.** Purchaser reserves the right to initiate a recall, withdrawal or field correction (each a “**Recall**”) of any Products or product containing any Products or with respect to which Services were performed in its sole and absolute discretion.
- 6.2 **Recall Procedures.** If Purchaser should elect or be required to initiate a Recall for any reason, Purchaser shall notify Seller. Seller shall assist Purchaser (and its parent, subsidiary or affiliated companies) in any investigation to determine the cause and extent of the problem and in handling the Recall. Seller shall not contact or respond to any inquiry by any regulatory authority with regard to any Recall; rather, its communications to any regulatory authority must be by and through Purchaser.
- 6.3 **Recall Expenses.** In the event of any Recall resulting from: (i) Products not conforming to the Warranties; or (ii) the negligent or intentional wrongful act or omission of Seller or any of its affiliates, subsidiaries or subcontractors, then Seller shall pay all costs and expenses of such Recall, including, without limitation, Purchaser’s reasonable attorneys’ fees and expenses associated with such Recall.
- 6.4 **Taxes.** Where applicable, Seller shall pay any federal, state (including territorial), foreign, international and/or local sales, excise, use, value-added, gross receipts, duties and/or other taxes imposed on or with respect to Seller’s reimbursement obligations under this **Article VI** and shall reimburse Purchaser for any such taxes and/or sums imposed on or with respect to Purchaser’s warranty claims payments hereunder (including without limitation, any penalty, additional tax, or interest that may be assessed or levied as a result of the failure of Seller to remit any such tax to the applicable governmental authority, and/or to file any return, form or information statement that may be required to be filed by or with any governmental agency).

## VII. WARRANTIES

- 7.1 **Warranties.** In addition to all other warranties, express or implied, Seller represents and warrants to Purchaser that during the Warranties Period (as defined below) the Products and Services will: (i) not be Defective or Non-Conforming (as defined in Section 7.2 below); (ii) conform in all respects to Purchaser’s specifications, drawings, samples, descriptions and performance requirements, as may be amended or replaced by Purchaser from time to time; (iii) at the time of delivery or performance, transfer to Purchaser good and marketable title, free of all liens, encumbrances, and all rights of third parties whatsoever; (iv) be suitable for use under and conform to all laws, regulations and standards for use in the countries in which Products and Services or the vehicles into which Products and Services are to be installed are to be sold; (v) conform and satisfy in all respects the terms and conditions specified in Purchaser’s Supplier Manual; (vi) if Products, (A) be merchantable, (B) be fit for their ordinary purpose or customary use, (C) be fit for the particular purposes intended by Purchaser, and (D) be new and adequately marked, contained, packaged and labeled; and (vii) if Services, be performed in a professional and workmanlike manner and consistent with applicable industry standards (collectively, the “**Warranties**”). Products and Services will be deemed “**Defective**” or “**Non-Conforming**” if: (a) Products and Services fail to comply with the Warranties or any other representations, warranties and requirements set forth in the Contract; (b) Products and Services, or any component or aspect thereof, fail to perform or maintain their appearance in accordance with the reasonable expectations of Purchaser’s motor vehicle customers; (c) any court, governmental agency or arbitration forum determines that any Products and Services are defective; or (d) Purchaser reasonably determines that Products and Services are defective for any other reason.
- 7.2 **Warranties Period.** The period for the Warranties (the “**Warranties Period**”) is the longest of: (i) any period provided by Purchaser to its customer; (ii) any period provided by applicable law; or (iii) any period provided in the applicable Purchase Order. With respect to spare, replacement or repaired parts, the Warranties and the Warranties Period applicable to the original Products and Services delivered will apply (commencing on the date such spare, replacement or repaired parts are delivered). Notwithstanding the expiration of the Warranties Period, Seller will be liable for costs and damages associated with conducting any remedial action or Recall taken as a result of the failure of Products and Services to comply with the Warranties, including, without limitation, all reasonable costs and fees incurred in enforcing this obligation.
- 7.3 **Warranties Claims.** In addition to any other rights and remedies available at law or equity, Purchaser may reject any Products and Services that fail to comply with the Warranties (“**Non-Compliant Products and Services**”), and at Purchaser’s option, (i) request, at Seller’s sole cost and expense, delivery or performance of conforming Products and Services; (ii) retain and either repair or re-perform the Non-Compliant Products and Services itself or have such work undertaken by a third party and reduce the purchase price paid to Seller for such Non-Compliant Products and Services; or (iii) cancel the applicable Purchase Order. Upon Purchaser’s request, Seller shall immediately pay any and all costs incurred by Purchaser or Purchaser’s customer as a result of Non-Compliant Products and Services, including, without limitation, (a) costs incurred to inspect, sort, store, or transport such Non-Compliant Products and Services; (b) costs incurred for repair or re-performance of Non-Compliant Products and Services; (c) costs incurred to remove or re-perform such Non-Compliant Products and Services and obtain, receive and install replacement Products and Services; (d) costs incurred due to line shut down and production interruptions; (e) costs incurred in connection with Recalls, including, without limitation, repairing, replacing or re-working or re-performing of such Non-Compliant Products and Services; (f) costs incurred for any customs duty, taxes, charges, or other levies payable in connection with the performance of repair work and related administrative overhead; (g) costs incurred in connection with claims for personal injury (including death) or property damage, including settlements, judgments, expenses, fines, penalties, remedies and/or damages, attorney’s fees. Any request by Purchaser for Seller to take any of the actions or pay any of the amounts set forth in this **Section 7.3** is referred to herein as a “**Warranties Claim**.” Any Warranties Claim may be made by Purchaser by any type of communications prior to the expiration of the Warranties Period.



- 7.4 Payment of Warranties Claims. Within thirty (30) days after the date of any Warranties Claim, Seller shall electronically submit a response to such Warranties Claim and either (i) pay Purchaser the amount of such Warranties Claim; or (ii) give Purchaser electronic notice of Seller's objection to such Warranties Claim. Seller's failure to respond to any Warranties Claim within such thirty (30) day period will constitute Seller's irrevocable acceptance of such Warranties Claim. Seller hereby authorizes Purchaser to deduct immediately the amount of any accepted or partially accepted Warranties Claim (including any Warranties Claim that is deemed accepted due to Seller's failure to submit a timely response thereto) from any amount due to Seller from Purchaser. Purchaser's failure to deduct the amount of any accepted or partially accepted Warranties Claim from amounts due to Seller from Purchaser will not release Seller from its obligation to pay Purchaser in full the amount of such Warranties Claim. If Seller should request Purchaser to hold Products or maintain Services in their current condition on a disputed Warranties Claim for inspection by Seller to take place more than seven (7) business days after being notified of the Warranties Claim, Seller shall first pay Purchaser in full for that disputed Warranties Claim prior to any inspection taking place.
- 7.5 Storage and Non-Disturbance of Non-Compliant Products and Services. Purchaser shall use commercially reasonable efforts to store or leave undisturbed any Non-Compliant Products and Services for seven (7) business days from the date of delivery of such Non-Compliant Products and Services. Seller shall, at its sole cost and expense, pick-up or arrange to collect the Non-Compliant Products and Services within seven (7) days following the date of Purchaser's notification to Seller of Purchaser's request for Seller to pick up or arrange for the collection or observation of Non-Compliant Products and Services. If Non-Compliant Products and Services are not picked up, collected or observed by Seller within this seven (7) day period, Purchaser may, at Purchaser's option, charge Seller for storage, handling and maintaining of those Non-Compliant Products and Services, and Purchaser will have no liability for any loss or damage to such Non-Compliant Products or Services. With respect to any Non-Compliant Products that Seller has exported outside the continental United States, those Products will be subject to all of the Warranties and the procedures applicable to Warranties Claims; except however, that Purchaser will not be obligated to hold or return to Seller such Non-Compliant Products unless Purchaser and Seller have separately agreed in writing on procedures for such inspections or returns.

## VIII. INDEMNITY, INSURANCE

- 8.1 Indemnification. Seller shall defend, indemnify and hold Purchaser, its shareholders, officers, directors, employees, distributors, dealers, agents, representatives, servants, affiliates, and their respective successors and assigns, and all entities that sell Products and Services or products into which Products and Services are incorporated, and their respective direct and indirect customers and employees (each an "Indemnitee" and collectively, the "Indemnitees"), harmless from and against all liabilities, costs, damages, losses, claims, expenses (including, without limitation, legal expenses, costs of investigation, actual fees for attorneys, experts and consultants, settlement costs and judgments), penalties, sanctions, or suits (each an "Indemnification Claim" and collectively, the "Indemnification Claims") occasioned by or arising out of: (i) any third-party claim alleging bodily injury (including death) or property damage resulting in whole or in part from any alleged Defective or Non-Conforming Products and Services; (ii) any claim by Seller's employees or agents for bodily injury (including death) occurring while performing work on Purchaser's premises or while utilizing the property of Purchaser, except to the extent that any such Indemnification Claim arises solely out of the gross negligence of Purchaser. Notwithstanding the foregoing, Indemnitees retain the right to defend any Indemnification Claims through counsel of their own choosing, to settle Indemnification Claims, and to recover the amount of such settlement or of any judgment and the reasonable costs and expenses of such defense from Seller.
- 8.2 Insurance. Seller shall at all times, at Seller's sole cost and expense, carry and maintain in force during the Term (as defined below) with insurance carriers and in amounts and coverages acceptable to Purchaser, in Purchaser's sole discretion, and sufficient to cover all obligations of Seller under the Contract: (i) statutory workers compensation insurance; (ii) employer's liability insurance; (iii) comprehensive worldwide commercial general liability insurance (including coverage for products/completed operations, blanket contractual liability covering the indemnity provision set forth in Section 8.1 above and coverage for installation and dismantling costs) with minimum coverage of USD\$5,000,000/each occurrence; (iv) automobile liability insurance, including owned, hired and non-owned liability; (v) crime insurance, including employee theft; and (vi) all-risk property insurance covering Seller's property, including, without limitation, all property owned or paid for by Purchaser on Seller's premises (including Tools and work in process for which Purchaser has paid, whether or not title has passed), raw materials and finished Products in Seller's possession, care, custody and control to the full extent of its insurable value, without deductible. Seller shall designate Purchaser as an additional insured under each such liability policy and loss payee under each such property policy and all such insurance must be primary and not excess of, any other insurance available to Purchaser, or any of the other additional insureds. Seller shall provide evidence of such coverage to Purchaser and copies of the above-referenced insurance policies with endorsements naming Purchaser as an additional insured and loss payee, as appropriate (including, without limitation, the exclusions and endorsements to each such policy and a letter from the carrier(s) of such policies certifying that the copies of the policies being furnished constitute true and complete copies of such policies) at the time of execution of the Contract and thereafter, once annually in January of each calendar year and also upon request by Purchaser. Upon renewal of any such insurance policy that expires before the termination of Seller's obligation to carry such insurance pursuant to this Contract, Seller shall provide Purchaser with renewal endorsements not less than fifteen (15) days prior to such expiration together with evidence of the payment of premiums thereon. Each renewal endorsement must contain a provision that the coverage afforded under such policies may not be canceled or modified unless and until at least thirty (30) days prior written notice has been given to Purchaser. Each policy must be written so that the effective (or retroactive) date of the policy is prior to the commencement of the Term. All insurance required hereunder must be maintained until the expiration of any applicable statute of limitations, but in any event for a period of not less than five (5) years following the later of (i) the date of the last delivery of Products and Services; or (ii) the earlier termination of the Contract. Seller shall pay all deductibles. The cost of defending any claims made against the commercial general liability and excess liability policies may not be included in any of the limits of liability for such policies. Seller shall require all other persons, firms or entities engaged or employed by Seller in connection with Products and Services to carry and maintain insurance with limits and coverages not less than those required under this Section 8.2.

IX. SPARE OR SERVICE PARTS AND SUBSUPPLIERS

- 9.1 Spare Parts. Seller agrees to maintain service and repair parts for the Products and Services during the Term and until the date that is fifteen (15) years thereafter (the “Expiration Date”). The price for service and repair parts will be as agreed upon by the parties, provided that: (i) if directly related to a product of Purchaser’s customer, during the first five (5) years after the end of the product series for Purchaser’s customer, the price will not exceed those in effect at the end of such product series; and (ii) in no event will the price of service and repair parts, in the aggregate, exceed the price of the services, system or module for which it is used less assembly costs. When requested by Purchaser, Seller shall make service literature and any other materials necessary for service available at no additional charge to support Purchaser’s service part sales activities.
- 9.2 Subcontractors. If subcontractors of Seller discontinue production of key materials or components used for the manufacture of Products or the performance of Services, Seller shall inform Purchaser immediately; provided, however, that any such discontinuation will not excuse Seller’s performance obligations under any Purchase Order or these Terms and Conditions.

X. TOOLS

- 10.1 Ownership. All tools, equipment, dies, gauges, models, matrixes, patterns, samples, testing devices drawings or other materials and all related documentation, together with all replacements thereof and materials fixed or attached thereto (collectively, the “Tools”) furnished or paid for by Purchaser (the “Purchaser-Furnished Tools”) will be and remain the exclusive property of Purchaser. In addition, all Purchaser-Furnished Tools may be used by Seller solely for manufacturing Products and performing Services for Purchaser. Seller hereby grants to Purchaser a security interest in any Purchaser-Furnished Tools and agrees that Purchaser may file a financing statement evidencing such security interest. With respect to any Tools that are not Purchaser-Furnished Tools and that have been used by Seller to fabricate any part for the Products and Services (“Other Tools”), Purchaser is hereby granted an irrevocable option to purchase any such Other Tools at any time during the Term or at the end of the Term at an option price equal to the net book of such Other Tool at the time.
- 10.2 Liability. Seller will be liable for any loss, damage or destruction to Purchaser –Furnished Tools until Seller returns the Purchaser-Furnished Tools while such Tools are in Seller’s possession or control, including any such loss, damage or destruction or refusal to return any such Purchaser-Furnished Tool by one of Seller’s subcontractors.
- 10.3 Marking and Storage. Seller shall clearly mark all Purchaser-Furnished Tools as the property of Purchaser in the manner specified by Purchaser and safely store Purchaser-Furnished Tools separate and apart from Seller’s property wherever practicable. Seller shall obtain Purchaser’s prior written consent before moving any Purchaser-Furnished Tools to another location. Seller shall not substitute any property for Purchaser-Furnished Tools and shall not deliver or make available to any third party any Purchaser-Furnished Tools without Purchaser’s prior written consent.
- 10.4 No Liens. Seller shall keep all Purchaser-Furnished Tools free and clear of all liens, claims, encumbrances and interests of third parties and promptly resist any attempt by any third party to seize or impound any Purchaser-Furnished Tools. To the extent permitted by law, Seller waives any lien or similar right it may have with respect to Purchaser-Furnished Tools and will hold Purchaser-Furnished Tools on a bailment basis. Purchaser has the right to enter Seller’s premises and take immediate possession of Purchaser-Furnished Tools.
- 10.5 Return. Seller shall immediately return to Purchaser upon Purchaser’s request, and Purchaser may retake immediate possession of, all Purchaser-Furnished Tools. Seller shall return the requested Purchaser-Furnished Tools to Purchaser, properly packaged and marked in accordance with the requirements of Purchaser’s freight carrier.
- 10.6 Maintenance. Seller shall, at its sole cost and expense until the Expiration Date, (i) maintain all Purchaser-Furnished Tools in good condition and repair, including regular maintenance, lubrication and climate controlled storage of all Purchaser-Furnished Tools; and (ii) not make any material modifications to Purchaser-Furnished Tools without the prior written consent of Purchaser. All replacement parts, additions, improvements, and accessories to Purchaser-Furnished Tools will become part of the Purchaser-Furnished Tools. Without the prior written consent of Purchaser, Seller shall not dispose of any Purchaser-Furnished Tools. Purchaser will have the right to enter Seller’s premises and take immediate possession of any Tools if Purchaser determines that it is not being properly maintained.
- 10.7 Capacity. Seller warrants that Tools used to manufacture Products or perform Services will be capable of producing the volume of Products or performing the level of Services forecast by Purchaser, including service and repair parts required under Article IX hereof.
- 10.8 Contracts with Third-Party to Manufacture Tools. In the event that Seller engages a third party to manufacture any Tools, Seller shall cause Purchaser to be designated as a third-party beneficiary under any contract with such third-party Tool manufacturer.
- 10.9 Taxes on Tools. Seller shall be responsible for any all taxes, duties, tariffs, fees and similar assessments on Tools.

## XI. INTELLECTUAL PROPERTY RIGHTS

- 11.1 No Infringement. Seller represents, warrants and covenants that Products and Services (and where Seller has been notified of the intended use of the Products and Services, any Products and Services with which Products and Services are combined) do not and will not infringe any third party's intellectual or industrial property rights such as patents, copyrights, industrial designs, trademarks, trade secrets and the like ("Intellectual Property Rights").
- 11.2 Infringement Indemnity. Seller shall indemnify and hold Purchaser harmless from and against any damages resulting from any claim of infringement of Intellectual Property Rights brought by third parties with respect to Products and Services (and where Seller has been notified of the intended use of Products and Services, any Products and Services with which Products and Services are combined). Seller shall, at Purchaser's request and Seller's sole cost and expense, cooperate and assist Purchaser in the defense of any legal proceeding brought against Purchaser by a third party that alleges infringement by Purchaser of such third party's Intellectual Property Rights.
- 11.3 Technical Information and Materials Disclosed to Purchaser. Seller acknowledges and agrees that certain technical information, data and other materials provided by Purchaser to Seller may be subject to Intellectual Property Rights of Purchaser or Purchaser's customer. Seller shall not assert any ownership or right with respect to any such technical information, data or materials, or any Intellectual Property Rights pertaining thereto. In addition, Seller shall furnish to Purchaser or any third party designated by Purchaser, without restrictions on use or disclosure, all technical information, data and other materials Seller acquires or develops in the course of Seller's activities under this Contract.

## XII. CONFIDENTIALITY

- 12.1 Confidential Information. During the Term and five (5) years thereafter, Seller, on behalf of itself and its agents, employees, contractors and representatives, agrees that it and they shall treat as confidential and not disclose or permit the disclosure to any third party or use for any purpose other than to perform Seller's obligations under this Contract with Purchaser, any Confidential Information. For purposes of these Terms and Conditions, "Confidential Information" includes, without limitation, all confidential information of Purchaser, or Purchaser's customers, relating to any designs, know-how, inventions, technical data, ideas, uses, processes, methods, formulae, research and development activities, work in process, or any scientific, engineering, manufacturing, marketing, business, cost, pricing or financial information relating to Purchaser, its present or future products, sales, suppliers, customers, employees, investors, business, or products and services, whether in oral, written, graphic or electronic form disclosed by Purchaser prior to or during the Term.
- 12.2 Restrictions on Third Parties. Seller shall cause its employees, agents, subcontractors, and representatives to whom it has provided Confidential Information to hold it under the same restrictions as those imposed on Seller under these Terms and Conditions. Prior to disclosure to any third party, Seller shall obtain Purchaser's prior written consent, which consent may be denied in Purchaser's sole and absolute discretion.
- 12.3 Disclosure of Contract; Use of Purchaser Trademarks. Seller shall not, without obtaining the prior written consent of Purchaser: (i) advertise or publish the fact that Seller has contracted to furnish Purchaser any Products and Services or services; (ii) use any trademarks or trade names of Purchaser in Seller's advertising or promotional materials; or (iii) use Purchaser's name or information in any form of electronic communication such as web sites (internal or external), blogs, or other types of postings.
- 12.4 No Reproduction of Confidential Information. Drawings, models, patterns, samples and similar objects are deemed to contain or reflect Confidential Information, and Seller shall not reproduce, disclose or otherwise make them available to third parties without the prior written consent of Purchaser.
- 12.5 Protection of Confidential Information. If Seller is required to disclose Confidential Information under applicable law or by any court or to any governmental authority, Seller shall, prior to such disclosure, notify Purchaser of such requirement and all particulars related to such requirement. Purchaser shall have the right, at its expense, to object to such disclosure and to seek confidential treatment of any of its Confidential Information to be so disclosed on such terms as Purchaser shall determine, and the notifying party shall fully cooperate with Purchaser in this regard.
- 12.6 Return of Confidential Information. Upon the termination or expiration of this Contract for any reason, Seller agrees to return to Purchaser or destroy (and certify such destruction to Purchaser's reasonable satisfaction) all documentation or other tangible evidence or embodiment of Confidential Information and not to use same.
- 12.7 Injunctive Relief. Seller acknowledges that any breach or threatened breach by Seller of any of its obligations under this Article XII would give rise to irreparable harm to Purchaser for which monetary damages would not be an adequate remedy, and Seller hereby agrees that in the event of a breach or a threatened breach by Seller of any such obligations, Purchaser shall, in addition to any and all other rights and remedies that may be available to Purchaser in respect of such breach, be entitled to equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond).



### XIII. DELAYS; EXCUSABLE DELAY

- 13.1 Notice of Delay. Whenever any actual or potential issue threatens to delay deliveries or Seller's performance under the Contract, Seller shall immediately give written notice thereof to Purchaser describing all relevant information with respect to such issue, including the anticipated duration of the delay. In addition, Seller shall notify Purchaser in writing: (i) at least sixty (60) days prior to the expiration of any labor contract or collective bargaining agreement; and (ii) as soon as Seller becomes aware of any actual or threatened labor strike or other labor disruption as may be applicable to Seller or to any of its subcontractors that are engaged in manufacturing or providing materials to Seller in connection with Seller's obligations under this Contract.
- 13.2 Consequences of Delay. If Seller fails or refuses to proceed with the Contract or fails to deliver Products and Services within the delivery dates specified in this Contract, then Purchaser may, without limiting or affecting its other rights or remedies available hereunder or at law, cancel the then-remaining balance of the Contract or the affected portion of the Contract, unless the delay is an Excusable Delay (as defined in Section 13.3 below). If Seller is delayed or unable to perform for any reason, Purchaser may purchase Products and Services from other sources and reduce its purchases from Seller accordingly without liability to Seller, notwithstanding any express commitment by Purchaser to make Seller its sole source of those Products and Services, with all quantities purchased on account of such delay counting toward any volume purchase requirements of Purchaser. In addition, with respect to any Products not received or Services not performed on or before the delivery or completion date in any Purchase Order accepted by Seller other than by reason of an Excusable Delay ("Late Deliveries"), Purchaser may, without limiting or affecting its other rights or remedies available hereunder or at law, direct expedited shipment and/or incur premium freight or transportation costs, and Seller shall pay upon demand all such costs incurred by either Purchaser or Seller thereby, including additional handling charges and all other direct, indirect, consequential, and incidental damages incurred by Purchaser as a result of Late Deliveries, including the cost of any line shutdown and any additional cost of obtaining Products and Services from an alternate source and other expenses resulting therefrom (collectively, "Late Delivery Expenses"). Seller shall be responsible for and shall reimburse Purchaser within thirty (30) days following issuance of Purchaser's invoice for all Late Delivery Expenses. To the extent that Purchaser exercises its rights to "cover" due to Late Deliveries, that action will not be deemed a general waiver by Purchaser of non-performance by Seller of its delivery obligations under this Contract or limit or impair Purchaser's right to assert any legal or equitable remedy for any non-performance by Seller. Further, Seller shall use its best efforts to mitigate any adverse effects or costs to Purchaser for Late Deliveries, including preventive measures such as: (i) the implementation of a production contingency plan; and; (ii) upon Purchaser's express written authorization, increasing Seller's inventory of finished Products and Services to a level sufficient to sustain deliveries during such delay.
- 13.3 Excusable Delay. The term "Excusable Delay" means any delay by Seller in delivering Products or performing Services due to war, damage to facilities caused by natural disaster or acts of terrorism or embargoes. For the avoidance of doubt, any delay or nonperformance by Seller due to the following does not constitute Excusable Delay: (i) financial difficulties or financing conditions; (ii) a change in costs or availability of materials and components based on market condition or subcontractors' action affecting Seller; or (iii) any labor strike or any labor disruption applicable to Seller or to any of its subcontractors.

### XIV. SELLER REPRESENTATIONS, WARRANTIES AND COVENANTS; FINANCIAL INFORMATION

- 14.1 Seller Representations. Seller represents, warrants and covenants to Purchaser as of the date of each Purchase Order and as of the date of Seller's acceptance of such Purchase Order, that Seller is solvent and is paying all of its debts as they become due and that all financial information provided to Purchaser is true, complete and correct and fairly represents Seller's financial condition and that all financial statements of Seller provided to Purchaser have been prepared in accordance with generally accepted accounting principles, uniformly and consistently applied.
- 14.2 Financial Reports. During the Term, Seller shall provide Purchaser financial information concerning its condition and operations as Purchaser may reasonably request from time to time, including income statements, balance sheets, cash flow statements and supporting data. If any such financial information would reasonably call into question Seller's longevity, financial stability, solvency or ability to perform its obligations under this Contract, Seller shall advise Purchaser of the circumstances giving rise to such adverse financial information, any expected impact on Seller's performance of its obligations under this Contract, and the measures being taken by Seller to address such circumstances. Thereafter, Seller shall provide any additional information as Purchaser may reasonably request to confirm Seller's financial stability and the viability of Seller's plans to perform its obligations hereunder. In addition, upon Purchaser's request, Seller shall meet with Purchaser at any time and from time to time to discuss Seller's financial condition and, if requested by Purchaser, submit a plan for addressing any issues that Purchaser reasonably determines could have an adverse impact on Seller's ability to perform its obligations under this Contract.
- 14.3 Use of Financial Reports. Purchaser may use financial information provided under this Article XIV only to make an assessment of Seller's ongoing ability to perform its obligations under this Contract (such as accountants or auditors engaged by Purchaser to assist Purchaser in making such assessment) and for no other purpose.

### XV. REQUIRED COMPLIANCE

- 15.1 Compliance with Laws. In its performance hereunder, Seller, and all Products and Services supplied or performed under this Contract, shall comply with all applicable federal, state, provincial and local laws, statutes, rules, regulations, ordinances, codes, treaties, orders, writs, judgments, injunctions, decrees, stipulations, awards or determinations entered by or with any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authorities have the force of law), or any arbitrator, court or tribunal of competent jurisdiction, executive orders, common law, or other requirement of any governmental authority in effect during the Term, including without limitation those in relation to the manufacturing, labeling, transporting, importing, exporting, licensing, approving, certifying, handling, packaging, storing and shipping of Products and Services as well as those relating to hiring, wages, hours and conditions of employment, international prohibitions on child labor, subcontractor selection, discrimination, occupational health or safety, environmental, safety and emission, such as the National Traffic and Motor Vehicle Safety Act, Federal Motor Vehicle Safety Standards, the Consumer Product Safety Act, the Occupational Health and Safety Administration Act, and Hazard Communication Standard (HCS), the Toxic Substances Control Act of 1976, as amended, the U.S. Toxic Substances Control Act, European Union Directive 2002/96/EC and 2002/95/EC regarding restrictions of certain hazardous substances, and European Union Regulation 1907/2006/EC regarding Registration, Evaluation, Authorization and Restriction of Chemicals and the Restriction of Hazardous Substances Directive, and the U.S. Foreign Corrupt Practices Act (collectively, "Applicable Laws"). Not in limitation of the generality of the foregoing, if deemed necessary by Purchaser, Seller shall comply with (i) all applicable requirements of the United States Bureau of Customs and Border Protection's Customs-Trade Partnership Against Terrorism Initiative or any successor or re-placement initiative or program; and (ii) the Canada Border Services Agency's Partners in Protection Program or any successor or replacement initiative or program.
- 15.2 FCPA Compliance. With regard to the U.S. Foreign Corrupt Practices Act ("FCPA"), Seller shall not act in any manner or fail to take any action that would render Purchaser or any of its affiliates liable for a violation of the FCPA, which prohibits the offering, giving or promising to offer or give, directly or indirectly, money or anything of value to any official of a government, political party or instrumentality to assist Seller or Purchaser in obtaining or retaining business or in carrying out Seller's duties and activities under the Contract. Seller shall not pay, offer, give or promise to pay, nor authorize the payment of, any monies or other things of value, directly or indirectly, to any former or current officer or employee of, or any person acting in an official capacity for, any government, public international organization, or any department, agency or instrumentality thereof (including a government-owned commercial enterprise) or any former or current official of any political party or any candidate for political office on behalf of or for the benefit of Seller or Purchaser if such payment(s) could be construed as violating the applicable laws of any jurisdiction or any laws applicable to Seller or Purchaser or any of Products and Services. For this purpose, "directly or indirectly" is deemed to include, without limitation, receipt or the intention to provide something of value to a relative, friend and/or associate of any of the foregoing officers, employees, persons, officials and/or candidates identified above. Additionally, Seller agrees not to receive or accept any payments or other benefits from any parties associated with the performance of its duties and payments or other benefits from any parties associated with the performance of its duties and activities under this Contract. Seller agrees failure to comply with the FCPA or receipt of payment or other benefits in violation of the FCPA could compromise the integrity of the work performed and, therefore, Purchaser would have the right to terminate the Contract immediately.
- 15.3 Seller Requirements. Seller shall provide and perform world-class competitive Products and Services in terms of cost, quality, delivery, technology and customer support, in addition to all of the conditions, provisions and requirements pertaining to this Contract.
- 15.4 Permits and Licenses. Seller shall obtain and maintain during the Term all permits, consents, licenses, equipment, software, systems and supplies as necessary and/or appropriate to perform under this Contract, at Seller's sole cost, except as otherwise specifically agreed in writing by the parties hereto.

#### XVI. TERM; TERMINATION; BREACH

- 16.1 Term. The Contract will commence upon acceptance of the Offer pursuant to Section 1.2(a) of these Terms and Conditions, and, unless a termination date is otherwise stated on the first page of the Purchase Order in which case this Contract will expire on such date, the Contract will end on the date that is the end of the last applicable vehicle production program for which any Products and Services will be incorporated (the "Term").
- 16.2 Termination for Default or Breach; Purchaser's Remedies. If any event of breach or default by Seller occurs, Purchaser will have all rights and remedies afforded by applicable law or at equity, including, without limitation, the right: (i) if such breach or default is a material breach or default, to terminate all or any part of the Contract with no liability to Seller; and (ii) to collect from Seller all of Purchaser's damages, costs and expenses associated with Seller's breach or default, including incidental and consequential damages, court costs and attorneys' fees and expenses. Each of the following constitutes an event of breach or default by Seller: (i) Seller's delivery of Defective or Non-Conforming Products and Services; (ii) Seller's failure to deliver conforming Products and Services on the delivery date set forth in any Purchase Order; (iii) Seller's other failure to perform, observe or comply with or Seller's repudiation of any provisions of the Contract, including, without limitation, the Warranties; (iii) Seller's failure to make progress so as to endanger timely and proper delivery of Products and Services in Purchaser's reasonable commercial judgment; (iv) Seller's threat not to

deliver Products and Services in accordance with the terms of this Contract; (v) Seller's entering or offering to enter into a transaction that includes a sale of a substantial portion of its assets used for the production of Products and Services or a merger, sale or exchange of stock or other equity interests that would result in a change in control of Seller; (vi) Seller's failure to remain competitive with respect to quality, technology, delivery, service or pricing of Products and Services; (vii) Seller's failure to conduct its operations in the normal course of business; (viii) involuntary proceedings under any bankruptcy or insolvency laws being brought against Seller, or a receiver for Seller being appointed or applied for or an assignment for the benefit of creditors being made by Seller, (ix) Seller's filing of a voluntary petition for bankruptcy; and (x) insolvency of Seller.

- 16.3 Termination at Purchaser's Option. In addition to any other rights of Purchaser to cancel or terminate the Contract due to Purchaser's breach or default, Purchaser may, at its option, terminate all or any part of any Purchase Order, and all of its obligations thereunder, at any time and for any reason, by giving written notice of termination to Seller and upon any such termination Purchaser's obligation to Seller is limited to: (i) payment for conforming Products and Services received or performed as of the date of termination and not yet paid for; and (ii) Seller's actual costs of work-in-process and parts and Purchaser-specific materials that Seller produced or acquired hereunder pursuant to Purchase Orders and that cannot be returned to the supplier (all of which shall be provided to Purchaser upon request). Purchaser shall not be required to make any payments to Seller with respect to any items that are not unique to Purchaser or are readily marketable. In no event will Purchaser's obligations upon termination exceed the amount that Purchaser would have been required to pay Seller for the cancelled Purchase Order had it not been cancelled. Purchaser may audit Seller's records, before or after payment, to verify Seller's termination claim. Purchaser's cancellation of any Purchase Order will not release Seller from its delivery obligations in respect of other Purchase Orders. Purchaser shall not be liable for and shall not be required to make payment to Seller, directly or on account of claim 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, or general and administrative burden charges, in connection with the cancellation of any Purchase Order pursuant to this Section 16.3.
- 16.4 No Termination Right by Seller. Because Purchaser's commitments to its customers are made in reliance on Seller's commitments under each Purchase Order and Purchase Order, Seller has no right to terminate this Contract or to cancel or refuse any Purchase Order.
- 16.5 Transition of Supply. Immediately upon the request of Purchaser, Seller agrees to take such action as may be reasonably requested by Purchaser to accomplish the transition from Seller to an alternative Seller, including without limitation, a Purchaser-owned facility. Seller shall provide a sufficient bank of Products covered by any pending Purchase Orders to ensure that the transition to an alternative Seller selected by Purchaser proceeds smoothly. Unless otherwise specified by Purchaser on a Purchase Order, a six (6) week parts inventory bank will be deemed sufficient to accomplish the transition, calculated using Purchase Orders from the six (6) week period immediately preceding Purchaser's request for transition assistance (excluding any time during which there were temporary interruptions, plant or industry shutdowns or other reduced schedules).
- 16.6 Return of Property. Upon the termination of this Contract or the cancellation or expiration of any Purchase Order for whatever reason, Seller agrees to return to Purchaser all property of Purchaser that is in Seller's possession or control in as good a condition as when received by Seller, and to, in the meantime, take all reasonable steps to safeguard such property. Further, Seller agrees not to retain or file a lien against any such property in connection with any claim Seller may have against Purchaser.

## XVII. GENERAL PROVISIONS

- 17.1 Severability. If any provision of this Contract or the application thereof is for any reason and to any extent, declared to be invalid or unenforceable, the remainder of this Contract will not be affected thereby but rather will be enforced to the greatest extent permitted by law.
- 17.2 Assignment and Subcontracting. Seller may not assign this Contract, or any part of this Contract, or to subcontract any of its obligations under this Contract, without Purchaser's prior written consent. Notwithstanding any assignment or subcontracting by Seller to which Purchaser has granted its prior written consent, Seller remains responsible for ensuring that its permitted assignees and subcontractors comply with all provisions of this Contract, and shall indemnify, defend and hold Purchaser harmless from and against all loss or damage resulting from any failure of such assignee or subcontractors to comply herewith.
- 17.3 Remedies. Every right and remedy of Purchaser provided for under these Terms and Conditions is cumulative and concurrent and may be pursued singularly, successively, or together, in Purchaser's sole discretion, with, and in addition to, any other rights and remedies at law or in equity. Seller agrees that any violation by Seller of Seller's obligations in connection with confidentiality, Intellectual Property Rights, the production or delivery of Products and Services or for possession of property would cause irreparable damage to Purchaser for which damages alone would be an inadequate remedy and that would not be readily calculable. Therefore, in addition to monetary damages, Purchaser is entitled to

specific, injunctive (temporary, preliminary and permanent) or other equitable relief (without the requirement of posting of a bond or other security) in order to enforce such provision.

- 17.4 Prevailing Party. If any dispute regarding the enforcement of this Contract arises, then the non-prevailing party in such dispute will be required to pay the prevailing party all reasonable costs and expenses incurred by the prevailing party in connection with the enforcement of its rights under this Contract, including reasonable attorneys' fees.
- 17.5 Waiver. No course of dealing nor any failure or delay by Purchaser at any time to require performance by Seller of any provision of this Contract will in any way affect Purchaser's right to require such performance at any time thereafter, and any waiver by Purchaser of any breach of or any default under any provision of the Contract by Seller shall not constitute a waiver of any subsequent breach or default under and will in no way affect Purchaser's ability to enforce any other terms of this Contract.
- 17.6 Entire Agreement. Seller agrees that this Contract, including any attachments, exhibits or supplements attached thereto, constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior or contemporaneous oral or written discussions, understandings, representations and agreements. This Contract may be modified only by a writing signed by an authorized representative of Purchaser. Acceptance of deliveries, performance and/or payment by Purchaser will not be deemed acceptance or approval of any modifications proposed by Seller.
- 17.7 Survival. The provisions of Articles VI, VIII, X, XI, XII, XV and XVII; and Sections 16.5, Section 16.6 of these Terms and Conditions will indefinitely survive the termination, expiration or cancellation of all or any part of this Contract or any Contract document.
- 17.8 Relationship of the Parties. Seller is solely an independent contractor of Purchaser, and neither party will be deemed the employee, servant, agent, partner, joint venturer or legal representative of the other party for any purpose.
- 17.9 Limitation of Liability. UNDER NO CIRCUMSTANCES WILL PURCHASER BE LIABLE UNDER ANY CONTRACT OR OTHERWISE FOR (i) ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR OTHER INDIRECT DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES DENOMINATED AS LOSS OF ANTICIPATED PROFIT OR REVENUE, UNABSORBED OVERHEAD, INTEREST ON CLAIMS, PRODUCTION DEVELOPMENT AND ENGINEERING COSTS, FACILITIES AND EQUIPMENT REARRANGEMENT COSTS OR RENTAL, UNAMORTIZED DEPRECIATION COSTS, GENERAL AND ADMINISTRATIVE BURDEN COSTS; OR (ii) DAMAGES IN EXCESS OF THE PRICE OF PRODUCTS AND SERVICES THAT ARE THE SUBJECT OF THE CLAIM. THESE LIMITATIONS OF LIABILITY APPLY NOTWITHSTANDING THAT THEY CAUSE ANY REMEDY TO FAIL OF ITS ESSENTIAL PURPOSE AND NOTWITHSTANDING THAT PURCHASER KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.
- 17.10 Dispute Resolution. Any action brought in connection with this Contract may be brought only in a court of competent jurisdiction sitting in Oakland County, Michigan, or in the United States District Court for the Eastern District of Michigan, Southern Division. The parties agree that exclusive jurisdiction and venue in such courts is proper. Seller hereby waives any objection to jurisdiction and venue of any action instituted hereunder, and further agrees not to assert any defense based on lack of jurisdiction or improper venue, including forum non-conveniens. Place of performance is the legal domicile of Purchaser.
- 17.11 Governing Law. The Contract is to be governed by the laws of the State of Michigan, without regard to conflicts of law principles. In addition, except to the extent the provisions of these Terms and Conditions are clearly inconsistent therewith, the Contract, including, without limitation, these Terms and Conditions, will be governed by the applicable provisions of the Michigan Uniform Commercial Code. To the extent the Contract entails delivery or performance of services, such services will be deemed "Goods" within the meaning of the Michigan Uniform Commercial Code, except when deeming such services, as "Goods" would result in a clearly unreasonable interpretation.
- 17.12 WAIVER OF JURY TRIAL. THE PARTIES HEREBY MUTUALLY, VOLUNTARILY, IRREVOCABLY AND UNCONDITIONALLY WAIVE FOR THE BENEFIT OF THE OTHER, ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, ARISING OUT OF, IN CONNECTION WITH, RELATED TO, OR INCIDENTAL TO THE CONTRACT, THE TRANSACTIONS RELATED THERETO OR THE RELATIONSHIP ESTABLISHED THEREBY. THIS PROVISION IS A MATERIAL INDUCEMENT TO PURCHASER TO ENTER INTO THIS TRANSACTION AND DOES NOT IN ANY WAY AFFECT, WAIVE, LIMIT, AMEND OR MODIFY THE ABILITY OF EITHER PARTY TO PURSUE ITS REMEDIES UNDER THE CONTRACT, OR AS AVAILABLE BY LAW OR IN EQUITY.
- 17.13 Notices. Except for Purchase Order Records, which may be sent electronically pursuant to Section 2.2 of these Terms and Conditions, all notices, claims and other communications to Purchaser required or permitted under this Contract must be made in writing and sent to Autoneum North America, Inc., Attention: Purchasing, 38555 Hills Tech Drive, Farmington Hills, MI 48331-5752.