



CHAMPION MANUFACTURING ("Buyer")

GENERAL TERMS AND CONDITIONS OF PURCHASE

1. Scope and Acceptance.

(a) 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 issued by Buyer (collectively referred to as "Order"). All goods and services (whether or not ancillary to a sale of goods) to be provided under an Order are included in the term "Goods."

(b) An Order for which written confirmation is requested may be accepted only by returning a copy thereof signed by Seller within seven days of its date. However, Buyer may elect to consider Seller's oral acceptance, Seller's preparation to provide the Goods, or Seller's delivery of the Goods, as an acceptance of an Order and its terms (and of no other terms) and enforce an Order. Buyer objects to any additional or contrary terms in a quotation, acceptance, or other communication from Seller and only the terms herein shall be binding upon the parties. An Order is not a firm offer and may be revoked prior to acceptance.

(c) An Order does not constitute an acceptance by Buyer of any offer to sell, any quotation, or any proposal. Reference in an Order to any such offer to sell, quotation, or proposal shall not constitute an addition to or a modification of any of the terms and conditions of an Order, except that a specific item of an offer to sell, quotation or proposal referenced and adopted by a purchase order shall be included in an Order without adopting any other portion of the offer to sell, quotation or proposal. TERMS AND CONDITIONS IN AN ATTEMPTED ACKNOWLEDGMENT OF AN ORDER OR OTHER DOCUMENT 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, AND BUYER HEREBY OBJECTS THERETO. No course of performance or dealing by the parties shall be construed to waive, modify or otherwise adversely affect Buyer's rights.

(d) Providing a purchase order number does not constitute an offer or contract for sale, but only a statement of present intent to issue an Order. Issuance of an Order does not constitute an obligation or evidence of an obligation of Buyer to continue to purchase Goods from Seller after expiration of an Order. Seller acknowledges Buyer has no such obligation unless contained in a binding written agreement signed by Buyer.

2. Prices, Payment and Audit.

(a) Seller shall furnish the Goods at the prices in an Order. All prices are in U.S. dollars and FOB shipping point. Seller warrants that the prices for the Goods are no less



favorable than those extended currently or during the 12 months immediately preceding an Order to any other customer of Seller for the same or similar goods in similar quantities. Buyer shall also receive the full benefit of all discounts, premiums and other favorable terms of payment customarily offered by Seller to its best customers. If Seller reduces its prices for similar goods to below prices in an Order, Seller shall reduce the price to Buyer to the same price. Seller warrants that the price in an Order shall be complete, and no additional charges of any type shall be added for any reason without Buyer's express written consent, including but not limited to, current or increased costs of materials, labor or transportation, shipping, packaging, labeling, custom duties, taxes, storage, insurance, boxing and crating. Seller shall submit invoices, in duplicate, which include Seller's supplier number, date and number of Buyer's Purchase Order, Seller's tax identification number, the date, place, and quantity of each delivery, and other information requested by Buyer. 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 invoice, less freight charges and taxes if itemized separately on the invoice. Correct invoices must be received by Buyer at least 10 days prior to the cash discount payment date. Delay in receiving invoices or Goods is considered good cause for withholding payment and shall extend the cash discount period.

(b) Seller warrants prices for tooling, special equipment and other special items required specifically for an Order, which are disclosed in quotations or otherwise, shall be Seller's net cost after all discounts, rebates and other benefits, whether the prices are to be separately paid by Buyer or amortized by Seller in the price for Goods.

(c) Buyer may at any reasonable time send its authorized representatives to examine all pertinent 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 books and records relating to an Order for a period of two years after completion of final delivery of Goods pursuant to an Order.

3. Quantities and Blanket Order.

If an Order is described as a "Blanket" Order 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 the Order are not binding on Buyer, and Buyer's obligation to purchase the Goods is expressly contingent upon the issuance of a release or other written delivery instructions ("Releases") by Buyer identifying the Goods and quantities to be purchased and providing delivery directions. All Orders for production materials and components are presumed to be Blanket Orders. As to such an Order, Seller shall not fabricate or assemble any Goods, procure required materials, nor ship any Goods, except to the extent specifically authorized by the Order or by written Releases. Seller shall maintain at its expense and risk components, materials and finished Goods at the latest design level. Subject to change by Buyer's Releases, Seller is authorized to fabricate and assemble up to four weeks of finished Goods inventory and acquire up to an additional eight weeks of component and materials inventory based on Seller's latest Releases. Releases may be modified by Buyer at any time to the extent not contrary to specific terms of the Order. Buyer shall be obligated only to



purchase Goods and those components and materials fabricated or acquired by Seller in reliance on a Release that established a firm or fixed quantity. Buyer may temporarily suspend delivery or modify delivery dates for fixed or firm quantities. Forecasts and planning advisories are not Releases and may not be relied upon by Seller. Buyer may return over-shipments to Seller at Seller's expense for all packing, handling, sorting and transportation charges. Releases are included in the term "Order". Buyer has and/or will rely upon Seller's obligations to sell under an Order, and the obligation of Seller to sell under the prices and other terms of a Blanket Order continues during the period covered by the Order and thereafter for a reasonable time at the prices in effect at the end of such period after written notice by Seller that it will no longer supply under such prices so that Buyer may resource the Goods.

4. Directed Supplier Relationship.

If an Order derives from a supplier relationship between Seller and Buyer directed or required by the original equipment manufacturer or higher tier supplier ("Directing Customer"), Seller shall comply with all provisions of the Order plus the terms and conditions of the Directing Customer relating to the Goods. At Buyer's request, Seller shall negotiate performance, pricing, quality, warranty and other contract issues relating to the Goods with the Directing Customer to assure that the Directing Customer's requirements are adequately developed, described, and met. Upon Seller's written request Buyer shall pass through to Seller those non-financial commercial terms which Seller negotiates with the Directing Customer regarding the Goods, provided such commercial terms are also provided and granted also to Buyer and do not adversely affect Seller. Seller is solely responsible to provide in writing all information relating to the Goods including, for example, the Goods' design and performance (as approved by the Directing Customer and Buyer), design for interface of the Goods within Buyer's products, testing data and reports, tooling requirements and timing, and other matters which could affect Buyer's use of the Goods and performance of its obligations to provide, directly or indirectly, products to the Directing Customer. Other than for changes to the terms and conditions of purchase of the Directing Customer granted to Buyer and Seller, Buyer may also require Seller to comply with the Directing Customer's terms and conditions of purchase and these Terms, and to the extent there is a conflict, to the provisions which Buyer elects to apply.

5. Delivery, Documentation and Marking.

(a) Delivery must be on the date indicated, if any, and otherwise as requested by Buyer. If an Order is identified as a Blanket Order or if no delivery schedule is provided, deliveries are to be made only in quantities and at times specified in Releases. Buyer shall have no liability for payment of Goods delivered to Buyer which are in excess of quantities specified in an Order or in Releases. Buyer may, from time to time, change delivery schedules or direct temporary suspension of scheduled shipments without additional charge. Time is of the essence as to delivery.

(b) All Goods shall be delivered clean and ready for further processing. If any rust inhibitor or other chemical protection is required, it must be water soluble and approved by Buyer in writing prior to use.



(c) All drayage, demurrage, storage, insurance, export and import duties, and related charges shall be paid by Seller. If Buyer is specifically responsible for such charges according to the terms of an Order, they shall be prepaid by Seller, and then billed to Buyer.

(d) All Goods shall be suitably packed to avoid damage, marked and shipped in accordance with the requirements of common carriers in a manner to secure the lowest transportation costs consistent with the requirements hereof and to increase the Goods arrive in good condition at the final destination. No additional charge shall be made to Buyer for packaging or shipping. Packing slips identifying the purchase order number, release number and part number must accompany each shipment in an envelope marked "Packing slip enclosed".

(e) Seller shall mark each package with an Order number, and where multiple packages comprise a single shipment, each package shall be shown on packing slips, bills of lading, and invoices. If Buyer is obligated to pay for shipping, Seller shall pay for all extra charges incurred because of Seller's failure to follow Buyer's shipping instructions, including those related to delivery schedules, whether or not Seller's liability for general damages is excused under other provisions of an Order.

(f) Seller shall describe the Goods on the bill of lading or other shipping receipt and route shipments, in accordance with instructions issued by Buyer, if any.

(g) Seller shall pay all express and other charges necessary to speed delivery to enable Seller to meet the delivery schedule. Seller shall ship all late shipments by express or other priority methods of delivery at its expense as requested by Buyer.

(h) 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.

(i) Seller shall provide all packaging and documentation in compliance with the law of all countries of shipment, routing, and destination.

(j) Whether or not the Goods will be provided in multiple deliveries, the Order is for a single contract.

(k) Seller shall comply with C-PAT and other U.S. government programs to improve security and the movement of goods through U.S. Customs.

6. Risk of Loss and Title to Goods.

(a) All shipments are at the risk of Seller until receipt at the final destination, regardless of the F.O.B. point unless otherwise assumed by Buyer in writing. If risk of loss is assumed by Buyer, all risk casualty insurance for replacement value must be provided by Seller for the benefit of Buyer. The cost of any insurance shall be paid by Seller unless otherwise agreed in writing by Buyer. Under no condition will the risk of loss be that of Buyer unless such insurance is provided. Risk of loss shall not be governed by transfer of title.



(b) 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. Buyer's obligation to pay for Goods is limited by terms of the Order.

7. Samples and Specifications.

(a) Seller shall comply with all requirements necessary to complete timely Buyer's, Buyer's Customer's and original equipment manufacturer's production part approval process as adopted from time to time ("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.

(b) 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 terms of an Order. Any purported change shall be binding on Buyer only if made in a writing signed by Buyer. Any difference in price or time for performance necessarily resulting from such changes shall be adjusted and an amendment to the Order shall be provided by Buyer in writing, if Seller makes demand for such adjustments and delivers all supporting documentation within 10 days of receipt of Buyer's written notice of change. Time is of the essence for such demand. Notwithstanding anything to the contrary, 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. Seller may not substitute materials or change the specifications of the Goods in any way without written authorization from Buyer. Seller shall diligently perform all changes while its claim is being evaluated and during any period of dispute regarding requested adjustments.

8. Quality, Development and Inspection.

(a) All Goods shall be received subject to right of inspection and rejection by Buyer and its Customer. Buyer may rely on Seller's 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 14 days after delivery, to inspect delivered Goods prior to accepting the Goods. Defective Goods and Goods otherwise not in conformity with Buyer's specifications or an Order will be held 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. Goods returned as defective or nonconforming shall not be returned to Buyer or replaced without Buyer's approval and may, at Buyer's option, constitute a reduction in quantity of Goods Buyer may be obligated to purchase. 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.

(b) All Goods (which term includes for this Section, without limitation, raw materials, components, intermediate assemblies, end products, tooling and accessories) shall be subject to inspection and test by Buyer, its "Customer" (which term includes, without limitation, Buyer's



immediate customers, subsequent original equipment manufacturers and end-users), and federal and state governments, at all times and places to the extent practicable, and in any event prior to final acceptance by Buyer and its Customer.

(c) If any inspection or test is made on the premises of Seller or its supplier, Seller without additional charge shall provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties. All inspections and tests on the premises of Seller or its supplier shall be performed in such a manner as not to unduly delay Seller.

(d) Seller shall provide and maintain an inspection and process control system acceptable to Buyer and its Customer covering the Goods. 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.

9. Safe Use.

Seller shall provide with the Goods, in English and in writing, all information necessary for the safe installation, use, maintenance and repair of the Goods and to maximize the efficient use and useful life of the Goods. Prior to and with the shipment of the Goods, Seller shall furnish to Buyer sufficient warning and notice in writing (including material safety data sheets and appropriate labels on the Goods, containers and packing) of any hazardous material that is an ingredient or a part of any of the Goods, together with such special handling instructions as may be necessary to advise carriers, Buyer, and their respective employees, how to exercise that measure of care and precaution that will best prevent bodily injury or property damage in the handling, transportation, processing, use or disposal of the Goods, containers and packing shipped to Buyer. If requested by Buyer, Seller shall promptly furnish to Buyer in such form and detail as Buyer may direct, in addition to standard material safety data sheets: (a) a list of all ingredients in the Goods; (b) the amount of all ingredients; and (c) information concerning any changes in or additions to such ingredients.

10. Confidentiality and Intellectual Property.

(a) At all times prior to, during, and after an Order, Seller shall (i) maintain the confidentiality of any information disclosed by Buyer or any of its parents, subsidiaries, affiliates, customers, and contractors, including but not limited to any technical, process or economic information derived from drawings, specifications 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 for whom such knowledge is essential for performance of an Order; and (iii) not use Confidential Information except for performance of an Order. Seller shall immediately notify Buyer of any disclosure of any Confidential Information that is not permitted by these Terms and Conditions or other misuse of any Confidential Information or breach of these Terms and Conditions. Except as required for the efficient performance of an Order, Seller shall not use such information or make copies or permit copies to be made of such drawings, specifications, or other data without the prior written consent of Buyer and may not sell to any third party any Goods which are constructed with or incorporate such information disclosed to Seller, or reversed engineered from the Goods. If any



copies are made with prior consent, notice referring to the requirements of this Subsection shall be placed on the copies. Without limiting the direct liability of Seller's employees and others who may have received Confidential Information directly or indirectly from Seller, Seller shall be responsible for the improper disclosure or other misuse of Confidential Information by Seller's employees and others, and Seller shall immediately take such steps as may be necessary to terminate any continuing improper disclosure or misuse by any of Seller's employees and others of which Seller becomes aware. Buyer makes no representation or warranty of any kind, express or implied, with respect to any Confidential Information. Buyer may, at its sole discretion, elect at any time, by written notice to Seller, to terminate Seller's further use of Confidential Information for any purpose. Upon receipt of such notice, Seller shall, and shall cause Seller's employees to, promptly cease all further use of Confidential Information, return to Buyer all physical materials containing Confidential Information, whether the materials were originally provided by Buyer or copied or otherwise prepared by Seller or any of Seller's employees, and erase or otherwise destroy any Confidential Information kept by Seller or any of Seller's employees in electronic or other non-physical form. Such termination by Buyer shall not affect Seller's continuing obligations in this Subsection.

(b) Any knowledge or information disclosed by Seller or on its behalf to Buyer, its affiliates or contractors, which in any way relates to an Order, shall not, unless otherwise specifically agreed to in writing by Buyer, be deemed to be confidential or proprietary information, and shall be acquired by Buyer, free from any restrictions (other than a claim for patent infringement), as part of the consideration for an Order.

(c) Seller at its expense shall defend, indemnify and hold harmless Buyer and its successors, assigns, Customers, and users with respect to every claim that may be brought against Buyer or others that use the Goods of an Order, for any actual or alleged infringement of any present or future patent, copyright, industrial design right or other proprietary right based on Seller's activity under an Order, or the manufacture, sale, or sue of the Goods (i) alone; (ii) in combination by reason of their content, design or structure; or (iii) in combination in accordance with Seller's recommendations. Seller shall investigate and defend or otherwise handle every such claim, and at Buyer's request, assist Buyer in Buyer's investigation, defense, or handling of any such claim. Seller shall pay all expenses and damages or settlement amounts that Buyer and others selling buyer's products or using the Goods of an Order may sustain by reason of each such indemnified claim. If the use or sale of the Goods is enjoined, Seller shall, at its own expense and at Buyer's option, either: (i) procure the right to continue using the Goods; (ii) replace same with a non-infringing equivalent; or (iii) remove the Goods and refund the purchase price and the transportation and installation costs thereof. Seller's obligations shall apply even though Buyer furnishes all or any portion of the design and specifies all or any portion of the processing used by Seller.

(d) Any copyrightable materials created during the performance of an Order shall be work for hire and be the exclusive property of Buyer and to the extent it cannot qualify as work for hire, Seller assigns all such copyrightable material to Buyer.

(e) 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. Seller shall grant, and hereby does grant, an irrevocable, paid-up worldwide license to make, sell, use, and exploit the Developments (with the right to sublicense), to Buyer or Buyer's designee, all Developments; all trademarks, copyrights and mask work rights in Developments; and all patent applications filed and patents granted on any Development, including those in foreign countries, necessary or convenient to the use, sale, or manufacture of the Goods, or any improvements or derivatives. Seller shall execute any papers and take such further actions as Buyer may consider necessary or helpful to obtain, maintain, defend and enforce patent, copyright, trademark or other intellectual property rights, and all related expenses shall be paid by Buyer.

(f) Seller shall specifically identify in a writing delivered to Buyer prior to any shipment, all patented components, processes, tooling or equipment used in the production of the Goods now or in the future.

11. Service and Replacement Parts.

Seller shall sell to Buyer Goods as ordered by Buyer for use as service and replacement parts, at the price set forth in the Order. If the Goods are systems or modules, Seller shall sell to Buyer as ordered by Buyer the system or module, or the components or parts that comprise the system or module. The prices for the components or parts shall not, in the aggregate, exceed the price of the system or module less assembly costs. During the eight years after Buyer completes production for use by an original equipment manufacturer's current model purchases, Seller shall sell Goods to Buyer as ordered to fulfill Buyer's past model service and replacement parts requirements. Unless otherwise agreed to by Buyer, the price during the first five years of this period shall be those in effect at the conclusion of purchases for production for the original equipment manufacturer. For the remainder of this period, the price for Goods shall be as agreed to by the parties, not to exceed the lower of (a) the cost of manufacturer and a reasonable contribution to overhead and profit; (b) the price at which Buyer is obligated to sell to its Customer; and (c) the price at the conclusion of production for use by an original equipment manufacturer's current model. When requested by Buyer, Seller shall make service literature and other materials available at no additional charge to support Buyer's service part sales activities. Notwithstanding the foregoing, this is not a requirements contract, and Buyer is only obligated to purchase Goods as stated in an Order.

12. Warranties.

(a) Seller warrants and represents to Buyer, its Customer, and any other original end user, that all Goods shall be: (i) merchantable; (ii) free from failure in the final product as sold to the end user for the periods of all Buyer's warranties to its Customer but not less than the lesser of five years; (iii) free from all defects including for example design, workmanship and materials; (iv) fit for the particular purposes for which they are purchased; (v) in strict compliance with the specifications, samples, drawings, designs or 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; (vi) composed of all new materials and components; (vii) produced and provided with the highest degree of care; (viii) furnished promptly; (ix) provided by experienced and well trained personnel; and (x) to



the satisfaction of Buyer and its Customers. Any attempt by Seller to limit, disclaim, or restrict any such warranties or any remedies of Buyer, by acknowledgement or otherwise, in accepting or performing an Order, shall be null, void, and ineffective without Buyer's prior written consent. Approval by Buyer of Seller's design drawings, specifications, samples, etc. does not waive or limit any warranty.

(b) Seller warrants that it shall engage in the continuous improvement of the Goods, other than Goods which by their nature cannot be improved, and advise Buyer in writing promptly of any possible changes to the Goods which would result in cost savings or quality improvement.

(c) If Seller is certified under ISO-9000, QS-9000, or any original equipment manufacturer quality program, Seller shall maintain such certification during the performance of any Order.

(d) All warranties and remedies provided by these Terms are in addition to those provided by law.

13. Liability, Indemnity, and Insurance.

(a) Seller shall defend and indemnify Buyer against all liabilities, claims or demands for injuries or damages to any person or property arising out of the performance of an Order, by Seller, its servants, employees, contractors, agents, or representatives or from the storage or use of the Goods. Seller shall furnish an insurance carrier's certificate showing that Seller has adequate insurance coverage in the following amounts: workman's compensation – statutory limits for jurisdiction in which work is to be performed; general liability \$1,000,000 each occurrence, \$2,000,000 aggregate. Liability coverage shall include completed products, completed operations, and (if available) recall. Buyer shall be named as an additional insured under the policies. Seller shall furnish to Buyer a Certificate of Insurance completed by its insurance carrier(s) certifying that the required insurance coverages are in effect and will not be canceled or materially changed until 30 days after prior written notice has been delivered to Buyer. The certificate must set forth the amount of each coverage, number of policies, date of expiration, and Seller as an additional insured. If Seller is a self-insurer of workers compensation liability, Seller shall furnish Buyer a certificate of the Department of Labor of the jurisdiction in which any labor is to be performed approving the self-insurance. The purchase of such insurance coverage or the furnishing of a certificate shall not be a satisfaction of Seller's liability hereunder, or in any way modify Seller's obligation to indemnify Buyer.

(b) If Seller's work under an Order involves operations by Seller on the premises of Buyer or one of its Customers, Seller shall take all necessary precautions to prevent the occurrence of any injury to persons or damage to property during the progress of such work, and except to the extent that any such injury or damage is due solely and directly to Buyer's negligence, Seller shall defend and indemnify Buyer against any claim which may result in any way from any act or omission of Seller, its agents, employees or subcontractors.

14. Termination for Convenience.

In addition to any other rights of Buyer to cancel or terminate an Order or any Releases issued pursuant to an Order, Buyer may at its option immediately terminate all of any part of an Order or any Releases issued pursuant to an Order for Buyer's convenience, at any time and for any or no reason by giving 30 days' written notice to Seller. Upon such termination for convenience, Buyer shall



pay to Seller the following amounts without duplication: (i) the Order price for all conforming Goods which have been completed in accordance with an Order not previously paid; and (ii) the actual direct costs of work in process and raw materials incurred by Seller in furnishing the Goods under an Order or any Releases issued pursuant to an Order to the extent such costs are reasonable in amount and are properly allowable or apportionable, under generally accepted accounting principles, to the terminated portion of an Order or any Releases issued pursuant to an Order; less, however, the reasonable value or cost (whichever is higher) of any Goods or materials subsequently used or sold by Seller with Buyer's written consent and of the cost of any damaged or destroyed Goods or materials. Notwithstanding the foregoing or any transfer to Buyer, Buyer shall not be liable to pay for finished Goods, work in process or raw materials obtained, fabricated or processed by Seller in amounts in excess of those authorized in Releases (if Releases are required by an Order), for any undelivered Goods which are Seller's standard stock or which are readily marketable, or for any finished Goods which are not promptly delivered to Buyer after request by Buyer. Payments made under this Section shall not exceed the aggregate price payable by Buyer for finished Goods which would be produced by Seller under Releases outstanding at the date of termination. Except as provided in this Section, Buyer shall not be liable for and shall not be required to make payments to Seller, directly or on account of claims by Seller's subcontractors, for loss of anticipated profit, unabsorbed overhead, product development and engineering costs, facilities and equipment, rearrangement cost or rental, unamortized depreciation costs, general and administrative burden charges arising from termination of an Order, or interest on claims. Within 60 days from the effective date of termination, Seller shall submit a comprehensive termination claim to Buyer with sufficient supporting data to permit Buyer's audit and shall thereafter promptly furnish such supplemental and supporting information as Buyer shall request. Buyer or its agent shall have the right to audit and examine all books, records, facilities, work, material, inventories and other items relating to any termination claim of Seller. Buyer, however, shall have no obligation to Seller if Buyer terminates its purchase obligations under an Order or any releases issued pursuant to an Order other than for Buyer's convenience. Payment under this Section shall constitute the exclusive liability of Buyer if an Order is terminated by Buyer for its convenience.

15. Default and Remedies.

(a) Seller shall be in default: (1) if Seller fails to perform any obligation within the time specified herein or any extension thereof or upon Buyer's demand if no time has been specified; or (2) if Seller fails to make progress in the performance of any obligation so as to make Buyer reasonably apprehensive about Seller's ability or willingness to perform its obligations; and if in either of these two circumstances Seller does not cure such failure within five days or such longer period as Buyer may authorize in writing after receipt of notice from Buyer specifying such failure. Upon such default, Buyer may by written notice of default to Seller (i) terminate the whole or any part of an Order; and (ii) procure alternative product or services upon such terms as it shall deem appropriate. Seller shall continue performance of an Order to the extent not terminated and shall be liable to Buyer for any excess costs for such similar Goods and other direct, incidental, and consequential damages. As an alternative remedy, and in lieu of termination for default, Buyer, at its sole discretion, may elect: (x) to extend the delivery schedule; (y) procure alternative Goods upon such terms and for such periods as it deems proper; and/or (B) to waive other deficiencies in Seller's performance; in which case an equitable reduction in an Order price shall be established by Buyer to compensate Buyer for its damages. If Seller for any reason anticipates difficulty in complying with the required delivery date, or in meeting any of the other requirements of an Order, Seller shall promptly notify Buyer in writing of the potential default, the cause thereof, and the estimated length of the anticipated default.



Buyer is under no obligation to waive any default.

(b) If any of the Goods are found at any time to be defective in design, material or workmanship, or otherwise not in conformity with the requirements of an Order, Buyer, 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 may: (i) reject and return such Goods at Seller's expense; or (ii) require Seller to inspect the Goods and remove and replace nonconforming Goods with Goods that conform to an Order. If Buyer elects option (ii) and Seller fails to promptly make the necessary inspection, removal and replacement, Buyer may at its option and Seller's cost, inspect and repair or replace the Goods.

(c) Seller grants Buyer a security interest in the Goods to secure Seller's return of any deposits and performance of other obligations of Seller, and grants Buyer an irrevocable power of attorney coupled with an interest to execute and file appropriate financing statements evidencing such interest and the interests of Buyer and its Customers in property furnished by them.

(d) Seller's continued holding of the Goods, Furnished Property or Required Property (as defined herein), 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) If Buyer or Seller shall be sued by any third party, including original equipment manufacturers, distributors or dealers, for loss, damage to property or for personal injury or death that is alleged or may have been caused by a failing of Goods supplied by Seller to conform to Seller's warranties, Seller and Buyer will cooperate with each other and provide technical assistance in defending such suit, provided that Buyer and Seller give the other prompt notice of any such suit. Buyer and Seller shall use their best efforts to defend and minimize any damages and costs in connection with such suit or a settlement thereof. If it shall be alleged that failure of the Goods supplied by Seller to conform to any of Seller's warranties is a proximate cause of any damage, losses, injuries or claims asserted in such lawsuits, then Seller shall defend, indemnify and hold harmless Buyer, its affiliates, subsidiaries, directors, officers, employees, agents and other representatives from and against any and all claims for loss, property damage, death or personal injury, including, without limitation, product liability claims, directly resulting from such breach of Seller's warranties.

(f) In the event of any service program, general recall or similar action ("Recall") involving the Goods, whether initiated by Buyer, Seller, an original equipment manufacturer, or any regulatory or other governmental body, both Buyer and Seller shall use reasonable commercial efforts to minimize costs in connection with such Recall. If it shall be alleged or determined that failure of Goods supplied by Seller to conform to Seller's warranty is a proximate cause of any Recall, Seller shall defend, indemnify and hold harmless Buyer, its affiliates, subsidiaries, directors, officers, employees, agents and other representatives from and against all expenses and costs of such Recall.

(g) Buyer's remedies under this Section and the U.C.C. shall be cumulative and additional to any other or further remedies provided under these Terms or by statute, law or equity, including, but not limited to, the recovery of direct, incidental and consequential damages and the entry of injunctive relief, but Buyer shall be entitled to only one full recovery of all of its damages and enforcement of all its rights.



(h) A delay in notification of a breach or making a claim shall not constitute a waiver of a breach 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.

(i) Seller acknowledges that Buyer may supply to Customers the Goods as purchased from Seller or as a component of a system. Seller's rights and remedies against Buyer shall be limited to the extent Buyer's rights against the Customers are limited.

(j) Termination of an Order or any Release by Buyer for any reason permitted by the Order does not affect Seller's obligations under the Order as to Goods delivered or obligations not directly dependent upon the delivery of Goods.

(k) Seller's remedies for breach of contract or other theory are limited to money damages, as limited by the Terms. Seller may not allege breach of contract or other theory of recovery 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 claims.

(l) UNDER NO CIRCUMSTANCE SHALL BUYER BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, OR EXEMPLARY DAMAGES.

16. Limitations of Seller's Liability.

Seller shall not be liable for incidental or consequential 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 and consequential 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. Buyer, at its option, may acquire possession of all finished Goods, work in process, and parts and materials produced or acquired for the performance of Seller's obligations, and Seller shall deliver such articles to Buyer, at Buyer's option F.O.B. carrier, Seller's facility or F.O.B. Buyer's facility, freight collect. This Section shall apply only if: (a) Seller provides immediate written notice to Buyer of any delay which Seller does or could reasonably anticipate, of the length thereof, and of the reasons therefore; (b) Seller provides 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; and (c) Seller promptly complies with other instructions of Buyer. The limitations on incidental and consequential damages in this Section shall not affect Buyer's right to cancel, reduce quantities in delivery schedules or Releases, or any other remedy. This is a full statement of Seller's rights to rely on the doctrines of force majeure, impracticability, impossibility and similar doctrines.

17. Required Tooling.



Seller, at its own expense, shall furnish, keep in good condition, and replace, when necessary, all tooling, jigs, dies, gages, fixtures, molds, patterns, other, and other personal property, whether or not they are Furnished Property or they are owned or leased by Seller, which are necessary for the production of the Goods without defects and in accordance with an Order (“Required Tooling”). All Required Tooling must be maintained in a condition that is adequate for at least one year of production based on Buyer’s forecasts and historical production levels. The cost of changes to Required Tooling necessary to make design changes and specification changes authorized by Buyer in writing shall be paid for by Seller unless otherwise provided in an Order. Buyer may inspect Required Tooling and Seller’s facilities during normal working hours upon reasonable notice to Seller. Seller shall advise Buyer of any required repair or replacement of Required Tooling and be responsible for obtaining any required production part approval process. Seller shall insure Required Tooling with fire and extended coverage insurance for its replacement value and provide Buyer with certificates of insurance evidencing such coverage. Seller grants Buyer an irrevocable option to take possession of and title to some or all of the Required Tooling (including leases thereof) that is not Furnished Property as selected by Buyer and is special for the production of Goods upon tender to Seller of the book value thereof less any amounts Buyer has previously paid to Seller in any manner for the cost of Required Tooling (e.g., by separate payment or an allocated portion of the price); provided, however, that this option shall not apply to any Required Tooling used to produce products that are standard stock of Seller. Seller grants Buyer a security interest in Required Tooling to secure Buyer’s rights in Required Tooling and waives any rights which may conflict with this Section. Seller shall have no right to retain possession of Required Tooling to secure payment of amounts owed or for any other reason, as a claim for damages is an adequate remedy.

18. Indemnification.

In addition to any rights to indemnification or remedy provided by the U.C.C., Seller shall indemnify Buyer and its employees for any and all damages and reasonable expenses (including reasonable attorney fees) incurred because of property damages, personal injury, or other claims arising out of the condition, labeling, engineering, use, sale, storage, design, safety, etc. of the Goods whether or not incorporated in another product, if the damages claimed were not caused solely by Buyer. Seller waives the application of the doctrine of comparative negligence and other doctrines that may otherwise allocate the liability covered by Seller’s indemnity. Seller shall maintain general liability and completed operations insurance and waives subrogation.

19. Insolvency.

If Seller ceases to conduct its operations in the normal course of business, including inability to meet its obligations as they mature, or if any proceeding under the bankruptcy or insolvency laws is brought by or against Seller, or a receiver for Seller is appointed or applied for, or an assignment for the benefit of creditors is made by Seller, Buyer may terminate an Order without liability, except for Goods previously delivered and for Goods covered by an Order then completed and subsequently delivered in accordance with the terms of an Order.

20. Maintenance and Safe Use; Compliance with Laws.

(a) Seller shall provide to Buyer appropriate installation, operation and maintenance



manuals in English to maximize the useful life and performance of the Goods. Seller shall also provide Buyer with any and all specific warnings or instructions regarding the safe installation, operation and maintenance of the Goods which should be reasonably provided to the ultimate users of the Goods. Seller shall promptly furnish to Buyer (i) upon written request a list of all materials in the Goods and, as necessary, the quantities of such and (ii) thereafter information concerning any change in the composition of the Goods. Seller shall provide material safety data sheets for the Goods.

(b) Seller shall comply with any provisions, representations or agreements, or contractual clauses required thereby to be included or incorporated by reference or operation of law in the contract resulting from acceptance of an Order and dealing with, Equal Employment Opportunity, Employment of Veterans, Employment of the Handicapped, Employment Discrimination Because of Age, Utilization of Disadvantaged Business Enterprises, and the related Acts and Executive Orders as now or hereafter amended or codified.

(c) Seller warrants that it is, and shall continue to be, in compliance with the requirements for non-segregated facilities set forth in 41 CFR Chapter 601.8 and is an equal opportunity employer.

(d) Seller warrants that each chemical substance constituting or contained in the Goods sold is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control Act (15 U.S.C. Sec. 2601 *et seq.*) as amended, and that the Goods are not hazardous under any state or federal law except as clearly stated on the shipping and storage containers. Seller shall defend and indemnify Buyer from any claim alleging improper or illegal dispositions of the Goods except for grossly negligent dispositions by Buyer.

(e) Seller warrants that the Goods shall be in compliance with applicable sections of the Federal Consumer Product Safety Act (15 U.S.C. Sec. 2051 *et seq.*) as amended, and the Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq.*) as amended, and lawful standards and regulations thereunder.

(f) Seller warrants that the Goods shall be produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended, including Section 12(a) and Seller shall insert a certificate to that effect on all invoices submitted in connection with an Order.

(g) Seller shall comply with all applicable industry standards and United States, federal, state and local laws, rules, regulations and ordinances applicable to the Goods and performance of an Order.

(h) Seller warrants that it and the Goods shall comply with all federal, state and provincial 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, including, but not limited to, the North American Free Trade Agreement and the North American Free Trade Agreement Implementation Act, American Automobile Labeling Act, Section 329 of the Motor Vehicle and Cost Savings Act, as amended, Fastener Quality Act, the Hazardous Materials Transportation Act, as amended, as well as all laws and regulations related or applicable thereto (including, but not limited to, 49



C.F.R. Part 171 *et seq.*), and all laws, rules, regulations and orders in North America, the Federal Motor Vehicle Safety Standards and rules, regulations and procedures promulgated by the National Highway Traffic Safety Administration of the United States Department of Transportation under the Safety Acts, and rules, regulations and procedures promulgated by the National Institute of Standards and Technology of the Department of Commerce to implement the provisions of the Fastener Quality Act. 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. Non-Assignment and Subcontracting.

Assignment of an Order or any interest herein of any payment due or to become due hereunder, without the prior written consent of Buyer, shall be void and not binding on Buyer. Seller may not subcontract any part of an Order without the prior written consent of Buyer. Buyer shall not be obligated to any subcontractor. Seller is responsible for all actions or inactions of any subcontractor and shall bind its subcontractors for the benefit of Seller and Buyer to perform its obligations under these terms.

22. Set-Off.

Buyer shall have the right to reduce and set-off against amounts payable under an Order any indebtedness or other claim which Buyer, its parent, subsidiaries or affiliates, may have against Seller, its parent, subsidiaries and affiliates, under an Order or any other agreement between or among Seller, Buyer, and/or such third parties.

23. Foreign Purchases.

The following applies to all transactions involving imported Goods:

(a) Seller warrants that all sales made hereunder are or will be made at not less than fair value under the United States Anti-Dumping Law (19 U.S.C. Sec. 160 *et. seq.*) and Seller will indemnify, defend and hold Buyer harmless from and against any costs or expenses (including but not limited to any anti-dumping duties which may be imposed) arising out of or in connection with any breach of this warranty.

(b) Buyer shall not be a party to the importation of the Goods, the transaction(s) represented by an Order will be consummated subsequent to importation, and Seller will neither cause nor permit Buyer's name to be shown as "Importer of Record" on any customs declaration.

(c) Upon request and where applicable, Seller shall provide Buyer U.S. Customs Form 7543 entitled "Certificate of Delivery" (or its replacement) properly executed. Upon request, Seller shall furnish promptly all documents required for customs drawback purposes, properly completed in accordance with government regulations applicable thereto. Unless otherwise stated herein, all customs drawback will be credited to Buyer.

(d) Upon request, Seller shall furnish promptly to Buyer certificates of local value added and certificates of origin in accordance with applicable government regulations.



(e) An Order includes all related customs duty and import drawback rights, if any, including rights developed by substitution and rights that may be acquired from Seller's supplier(s) that Seller can transfer to Buyer.

24. Applicable Law, Jurisdiction, Waiver of Liens.

(a) An Order shall be construed and enforced under the laws of Indiana. 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 party's 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. If a claim arises under an Order, by or against Seller, which is related to a similar claim by or against Seller in another jurisdiction or in an arbitration, Seller consents on the request of Buyer to the resolution of such claims by or against Seller in such jurisdiction or arbitration proceeding, which shall be binding on the parties and enforceable in a court of record. Any declaration of unenforceability of a provision hereof shall be as narrow as possible and shall not void an Order or any other provision.

(b) 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. Seller waives any right it may have pertaining to, and agrees not to file or otherwise assert or prosecute or suffer or permit any mechanic's, materialman's, or other type of liens to be filed or continued against any property. Seller shall insert the prior sentence in any lower tier subcontract or purchase order for labor, equipment or materials furnished. If any such lien shall be filed by Seller's direct subcontractor, or any of its lower tier subcontractors, Buyer shall take any and all steps necessary for the immediate release and discharge of such lien, in the manner required by the law upon demand by Buyer. Seller shall defend and indemnify Buyer and its Customer from and against all liens, losses, damages, claims, debts and actions of any kind whatsoever, which might be asserted at any time whatsoever, arising in any way out of the recording of a lien by subcontractor or any lower tier subcontractor under it, including without limitation all costs, reasonable attorney fees and expenses incurred by Buyer or its Customer in the releasing, satisfying and discharging of such liens and enforcement of this clause. Further, Seller shall secure and furnish to Buyer and its Customer, upon request, a waiver of lien from each lower tier subcontractor under it.

25. Third Party Representatives. Seller represents and warrants that Seller has not and will not pay any third parties any commissions, fees, or other compensation for acquiring or attempting to acquire an Order without providing Buyer with written notice thereof at the time an Order is solicited.

26. Entire Agreement and Modifications.

An Order (including these Terms) is intended by the parties as a complete and exclusive statement of the terms of their agreement. It supersedes all prior agreements, written or oral. No course of prior dealings between the parties and no usage of the trade may be used by Seller to supplement or explain any term used in an Order. All modifications must be in a writing signed by Seller and



Buyer, except as otherwise provided in an Order.

27. No Implied 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.

28. Relationship of Parties.

Seller and Buyer are independent contracting parties and nothing in an Order shall make either party the agent, joint venturer or legal representative of the other for any purpose whatsoever, or grant either party any authority to assume or to create any obligation on behalf of or in the name of the other. Although third parties may be referenced, there are no third-party beneficiaries to an Order.

29. Severability.

If any term of an Order is invalid or unenforceable under any statute, regulation, ordinance, 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, order or rule, and the remaining provisions of an Order shall remain in full force and effect.

30. 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.