

## Carlex Glass America, LLC and Carlex Glass Company

### GENERAL TERMS AND CONDITIONS

1. **The Supplies and Parties Covered by the Order.** Each purchase order issued by Buyer is an offer to Seller for the purchase of goods and/or services ("Supplies") and includes and is governed by these General Terms and Conditions, together with any applicable supplements identified by Buyer.

2. **The Terms of the Order**

2.1 Terms of the Order. The "Order" consists of the following, which are sometimes referred to collectively as the Terms of the Order: (i) the purchase order; (ii) Material Releases (as defined in Section 3.1) issued by Buyer to Seller under the purchase order (iii) these General Terms and Conditions; (iv) all other documents specifically incorporated into or otherwise made a part of the Order by Buyer; and (v) Buyer's Policies, as revised by Buyer from time to time. Customer means any entity to which Buyer, directly or indirectly, sells the Supplies, or sells any goods or services into which the Supplies are incorporated, including any original equipment manufacturer and any upper tier supplier to an original equipment manufacturer.

2.2 Seller Acceptance. The Order is an offer by Buyer to purchase the Supplies from Seller on the Terms of the Order. The contract is formed when Seller accepts the offer of Buyer. This occurs upon the earlier of: (a) Seller beginning work or performance; or (b) Seller notifying Buyer of its acceptance of the offer. The Order is limited to and conditional upon Seller's acceptance of these General Terms and Conditions exclusively.

2.3 Seller's Terms Rejected. The Order does not constitute an acceptance of any offer or proposal made by Seller, and Seller acknowledges that: (i) a request for quotation or similar document issued by Buyer is not an offer by Buyer; and (ii) any response by Seller to a request for quotation or similar document issued by Buyer is not an offer by Seller. Any additional or different terms proposed by Seller, whether in Seller's quotation, acknowledgement, invoice or otherwise, are unacceptable to Buyer, are expressly rejected by Buyer, and are not part of the Order. However, additional or different terms proposed by Seller shall not operate as a rejection of the Order if Seller commences work or otherwise accepts Buyer's offer, in which case the Order shall be deemed accepted by Seller without any additional or different terms or variations whatsoever. Any reference in the Order to any prior communication by Seller is solely to incorporate the description or specifications of the Supplies in such prior communication, but only to the extent that such description or specifications are not directly in conflict with the description and specifications in the Order. If the Order is found to be an acceptance of any prior offer or proposal by Seller, such acceptance shall be limited to the Terms of the Order.

2.4 Entire Agreement. The Order is the entire agreement between the parties respecting the Supplies and when accepted, supersedes any prior agreements, negotiations or understandings of the parties respecting the Supplies, whether written or oral. No modification shall be effective unless in writing and signed by Buyer's authorized representative. The Order may be modified only by a writing signed by Buyer.

3. **Quantity; Blanket Orders; Material Releases**

3.1 Releases. Unless specified differently in the Order, Seller shall deliver Supplies in strict conformance with the dates, times, quantities and delivery locations determined by Buyer and identified as firm orders in material authorization releases, manifests, broadcasts or similar releases ("Material Releases"). Time, quantities and location are of the essence under the Order and Seller agrees to 100% on-time delivery of the quantities and at the times specified by Buyer. If the Order does not specify a quantity, states zero, "blanket," "per release" or similar term, the Order is a Blanket Order. If the Order is a Blanket Order, then for consideration of \$10.00 to be paid by Buyer following expiration or termination of the

Order, Seller grants to Buyer an irrevocable option during the term of the Order to purchase Supplies in such quantities specified in Material Releases that are transmitted to Seller during the term of the Order, provided that Buyer may purchase no less than a minimum quantity of at least one piece or unit of each of the Supplies and no more than 100% of Buyer's requirements for the Supplies.

3.2 Forecasts. Seller acknowledges that any estimates or forecasts of production volumes or length of program, whether from Buyer or its Customer, are subject to change from time to time and shall not be binding upon Buyer. Seller bears all risks with respect to such changes.

3.3 EDI. Buyer may require Seller to participate in electronic data interchange or similar inventory management programs, at Seller's expense, for notification of Material Releases, shipping confirmation and other information.

#### 4. **Shipping and Delivery**

4.1 Buyer Requirements. Seller will properly pack, mark, and ship Supplies (and provide related documentation) according to the requirements of Buyer, the involved carriers and the country of destination. If Seller, for any reason, does not comply with Buyer's delivery schedule or any other requirement of a Material Release, Buyer may, in its sole discretion: (a) approve a revised delivery schedule; (b) require expedited or premium shipment of any of the Supplies; or (c) cover, and adjust any quantity requirement under the Order accordingly. Seller shall be liable for all excess costs and for all other direct, consequential, and incidental damages incurred by Buyer as a result of Seller's failure including: (i) additional transportation costs; (ii) the cost of any production disruption; (iii) the cost of obtaining goods from an alternate source. Buyer's rights under this Section are at Seller's sole expense, at Buyer's sole discretion and in addition to and without prejudice to any other right or remedy available to Buyer.

4.1.1 Except for Tooling, Buyer shall take title to all Supplies upon the earlier of: (i) delivery and acceptance of the Supplies at Buyer's plant; or (ii) payment by Buyer of all or part of the purchase price of identified Supplies. Supplies shall be deemed identified upon fabrication, unless the Supplies are part of Seller's standard stock and sold to persons in addition to Buyer, in which case identification occurs when the Supplies are marked or otherwise designated by Seller as relating to the Order.

4.1.2 If the Supplies are Tooling, Buyer shall take title upon fabrication or acquisition by Seller, regardless of payment. Tooling includes fixtures, gauges, jigs, patterns, castings, cavity dies and molds, with all related software, appurtenances, accessions, and accessories.

4.1.3 Seller shall comply with Section 13 with respect to any Supplies to which Buyer has title but which are in the custody or control of Seller or Seller's suppliers, contractors or agents.

4.2 Country of Origin. Upon request, Seller shall promptly furnish to Buyer all certificates of origin or domestic value-added and all other information relating to the costs and places of origin of the Supplies as may be required by Buyer to comply fully with all customs, tariffs and other applicable Laws (as defined in Section 22). Seller shall comply with all such Laws and warrants that any such information that is supplied to Buyer is true and that all sales covered by the Order will be made at not less than fair value under the anti-dumping laws of the countries to which the Supplies are exported.

4.3 Hazardous Materials. Seller agrees to comply with all Laws (as defined in Section 22), relating to any hazardous or restricted material that is an ingredient or part of the Supplies. Seller will give Buyer sufficient warning in writing (including appropriate labels, containers, and packing, and handling, disposal and recycling instructions, material safety data sheets and certificates of analysis) of any such materials

## 5. **Price and Payment**

5.1 **Price.** The purchase price of the Supplies is set forth on the face of the purchase order. Prices shall not be subject to change based on raw material or market price changes unless agreed upon in writing by Buyer. Unless otherwise stated in the Order, invoices shall be issued on or after delivery of the Supplies to Buyer and payment shall be deemed to occur upon mailing of a check to Seller. All payment shall be made in U.S. Dollars and in compliance with Buyer's policies.

5.2 **Payment Terms.** Unless otherwise stated in the Order, payment Buyer shall pay invoices for the Supplies which are properly presented and not subject to dispute on the first Friday, sixty (60) days from the date of delivery of the Supplies to Buyer. If the payment date is not a business day, payment shall be due the next business day thereafter.

5.3 **Set Off.** In addition to any right of setoff or recoupment provided by law, Buyer shall be entitled at any time to set off or recoup against sums payable by Buyer to Seller or any of its affiliates any amounts for which Buyer determines in good faith Seller or any of its affiliates is liable to it under any Order or other agreements with Seller or any of its affiliates without notice to Seller. Payment for Supplies shall not constitute acceptance of non-conforming Supplies, nor will it limit or affect any rights or remedies of Buyer.

5.4 **Best Price.** Supplier warrants that the prices for the Supplies sold to Seller are no less favorable than those that Supplier currently extends to any other Customer for the same or similar Supplies in similar quantities. If Supplier reduces its prices to third parties during the term of the purchase order for the Supplies, Supplier will correspondingly reduce the prices charged to Seller.

## 6. **Non-Conforming Supplies**

6.1 **Rejection.** If defective or non-conforming Supplies are rejected by Buyer, the quantities under the Order will be reduced unless Buyer otherwise notifies Seller, and Seller will not replace reduced quantities without a new Material Release from Buyer. Following rejection, Seller shall, without prejudice to any other right or remedy of Buyer, at Buyer's sole discretion and at Seller's sole expense: (i) accept return of the Supplies to Seller at full invoice price, plus transportation charges; or (ii) replace the Supplies with conforming Supplies; and correct at any time prior to shipment from Buyer's plant Supplies that fail to meet the requirements of the Order. Seller is liable for all direct, incidental and consequential damages, losses, costs, and expenses incurred by Buyer resulting from Seller's failure to deliver conforming and non-defective Supplies or to comply with the shipping and delivery or other requirements of Buyer, even if Seller has cured the failure.

6.2 **Corrective Action.** Promptly upon learning of defective or non-conforming Supplies, Seller will develop, document and implement corrective actions in accordance with all applicable quality control policies and standards of Buyer and its customers. Seller will immediately notify Buyer in writing when it becomes aware of any ingredient, component, design or defect in the Supplies that is or may become harmful to persons or property.

## 7. **Quality**

7.1 **Buyer and Industry Standards and Policies.** Seller will conform to all quality control and other standards and inspection systems as established or directed by Buyer and its customer for goods and services similar to the Supplies. Seller will also participate in Buyer's supplier quality and development programs as directed by Buyer. For the Supplies used in motor vehicle manufacturing, Seller agrees to meet the full requirements of industry Production Part Approval Processes ("PPAP") as specified by Buyer and (as applicable) customer(s) and agrees to present this information to Buyer upon request, at the level

requested. If there is conflict between any part of the above programs or standards and an express provision of these Terms and Conditions, these Terms and Conditions will control.

7.2 ISO/TS 16949. Seller shall perform quality system development using ISO/TS 16949 as the fundamental quality system requirement. Seller is required to show proof of TS registration. If the Seller does not have a quality system comparable to ISO/TS 16949, Seller may be required to complete a quality system self-audit form available from the Buyers' Quality Control Department and /or be subject to quality audits by Buyer or an accredited third party registrar.

8. **Changes.** Buyer reserves the right to change to the Supplies, including the design, specifications, engineering level, materials, packaging, testing requirements, shipping date, or time or place of delivery. Seller will promptly make any such change. Seller will not make any change to the Supplies except at Buyer's written instruction or with Buyer's written approval. If Seller learns of a possible change to the Supplies that may reduce costs, improve quality, or otherwise be beneficial to Buyer, Seller shall inform Buyer of the possible change.

9. **Service Parts.** During the fifteen (15)-year period after Buyer completes current model purchases for its customer, Seller will sell to Buyer the Supplies to fulfill its customer's past model service and replacement requirements. All such parts will be sold at the prices specified in the Order plus actual cost differentials for packaging. During the tenth (10<sup>th</sup>) year of such period, Buyer and Seller will negotiate in good faith with regard to Seller's continued manufacture of service and replacement of the Supplies.

If the Supplies are systems or modules, Seller will sell each component or part for service or replacement purposes at a price that does not, in the aggregate, exceed the system or module price specified in the Order, less assembly costs, plus any actual cost differential for packaging.

## 10. **Warranties**

10.1 In addition to any other express and implied warranties provided by law or otherwise, Seller warrants to Buyer, its customer(s) and their respective successors and assigns that the Supplies shall: (i) be new and conform to the Order in all respects; (ii) conform to all specifications, drawings, samples and other descriptions furnished by Buyer or otherwise part of the Order; (iii) be free from all defects in design (to the extent designed by Seller), workmanship and materials and be of highest quality and workmanship; (iv) be selected, designed (to the extent designed by Seller), manufactured and assembled by Seller based upon Buyer's stated use and be fit and sufficient for the purposes intended by Buyer; and (v) conform to all applicable Laws in countries where the Supplies (or goods into which the Supplies are incorporated) are to be sold, including without limitation, in the case of the Supplies used in connection with the manufacture of motor vehicles, the National Traffic and Motor Vehicle Safety Act, United States motor vehicle safety standards and European Union Directive 2000/53/EC.

10.2 For all services, Seller further warrants that its work will be performed in a professional and workmanlike manner, consistent with all standards and specifications agreed on with Buyer and otherwise consistent with industry standards.

10.3 Seller also warrants that title to all of the Supplies shall be vested in Buyer free and clear of any and all liens and encumbrances of any nature.

10.4 All warranties of Seller extend to future performance of the Supplies and are not modified, waived or discharged by delivery, inspection, tests, acceptance and payment. Buyer's approval of any design, drawing, material, process or specifications will not relieve Seller of these warranties. Seller waives any right to notice of breach.

10.5 The warranty period is the longest of: four (4) years from the date Buyer accepts the Supplies, the warranty period provided by applicable Laws, or the warranty period offered by Buyer or its customer to end-users for the products into which the Supplies are incorporated.

## 11. **Indemnification and Audit**

11.1 Seller agrees to indemnify, defend and hold harmless Buyer, its affiliates, customers, dealers and users of the products sold by Buyer (or the products in which they are incorporated) and all of their respective agents, successors and assigns, and each of their shareholders, directors, officers, employers and agents, on demand, (collectively "Indemnified Parties") from and against any and all costs, fees, penalties, damages (consequential and otherwise), attorneys' fees and all other liabilities and obligations whatsoever ("Losses"), arising out of any third party claim which, in whole or in part, arises from or relates to any actual or alleged: (i) defect or non-conformity in the Supplies; (ii) noncompliance by Seller with any of its representations, warranties or obligations under the Order; (iii) negligence or fault of Seller in connection with the design or manufacture of the Supplies; (iv) any recall campaign, corrective service action, or other voluntary or involuntary action in which Buyer or any customer participates with respect to the Supplies or products into which the Supplies are incorporated; (v) any spill, discharge or emission of hazardous wastes or substances which relates, in whole or in part, to the Supplies; (vi) infringement (including claims of direct or contributory infringement or inducement to infringe) of any Intellectual Property Right relating to the Supplies provided by Seller, even if they are made to Buyer's specifications; (vii) damages to the property of or personal injuries to Buyer, its customer, their respective agents, or any other person or entity to the extent arising from or in connection with Seller's work on the premises or Seller's use of Buyer's or customer's property; and (viii) challenge to Buyer's sole right, title and interest in the Tooling (as defined below), or right to possession of the Tooling, brought by any third party, including toolmakers, subcontractors, and lending institutions.

11.2 If Seller is obligated to indemnify under this Section, then Buyer may at its option participate in the defense of any claim with its own counsel, at Seller's expense.

11.3 Audit. Upon reasonable notice to Seller, either Buyer or its customers (or a third party designee) may inspect or audit Seller's production facility, Supplies and any other Buyer property (including all pertinent documents, data and other information) related to the Order at the facility for the purpose of verifying Seller's costs and its compliance with its obligations under the Order. Seller shall provide, without additional charge, all reasonable facilities and assistance for such inspection or audit. Buyer's inspection or audit does not constitute acceptance of any work-in-process or finished goods and does not relieve Seller of any of its responsibilities or warranties. Upon reasonable notice to Seller, Buyer or a third party designated by Buyer may review the financial condition of Seller and its affiliate.

## 12. **Duration and Termination of the Order**

12.1 Duration. The Order shall be effective on the date specified in the Order, or if no date is specified, when issued by Buyer. Unless terminated earlier, the Order shall terminate on the date specified in the Order; or, if no date is specified, one (1) year from the effective date unless the term is expressly extended in writing. The Order will automatically renew for successive one (1) -year periods after the initial term unless Seller provides written notice at least one hundred eighty (180) days prior to the end of the current term of its desire that the Order not be renewed.

12.2 Termination by Buyer. Buyer may terminate the Order in whole or in part by written notice (a "Termination Notice"), as follows, which shall not relieve Seller of any liability: (i) For convenience, effective three (3) days following delivery of the Termination Notice or upon such other date specified by Buyer in writing; or (ii) For default, effective upon delivery of the Termination Notice or upon such other date specified by Buyer in writing. Seller shall be in default if it (a) breaches any warranty or other Term of the Order; (b) repudiates, breaches or threatens to breach any of the terms of the Order; (c) fails to deliver,

or threatens not to deliver, Supplies in connection with the Order; (d) fails to make progress or to meet reasonable quality requirements so as to endanger timely and proper performance of the Order; (e) makes an assignment for the benefit of creditors, or proceedings in bankruptcy or insolvency are instituted by or against Seller; (f) needs accommodations from Buyer, financial or otherwise, in order to meet its obligations under the Order; or (g) at any time in Buyer's sole judgment Seller's financial or other condition or progress on the Order shall be such as to endanger timely performance.

12.3 Termination by Seller. Seller may terminate the Order only for non-payment of the purchase price for Supplies which are thirty (30) or more days past due and material in amount, and then only if: (i) Seller first provides Buyer written notice specifying the amounts past due and Seller's intent to terminate the Order if the past due amount is not paid; and (ii) Buyer, within sixty (60) days of such notice, does not either: (x) pay the past due amounts; or (y) notify Seller that the amount claimed to be unpaid are disputed by Buyer. Seller shall terminate under this Section by delivering a Termination Notice to Buyer. Seller may not terminate or cancel the Order for any reason except as permitted under this Section. Seller may not suspend performance of the Order for any reason.

12.4 Seller's Obligations Following Termination. Following delivery of a Notice of Termination, Seller shall, unless otherwise directed by Buyer and subject to its obligation to provide Transition Support as provided in Section12.8:

12.4.1 terminate promptly all work under the Order and transfer title and deliver to Buyer all finished work completed prior to receipt of the Notice of Termination;

12.4.2 transfer title and deliver to Buyer all work in process, and the parts and materials which Seller produced or acquired in accordance with the Order and which Seller cannot use in producing goods for itself or for others;

12.4.3 verify/settle all claims by subcontractors for actual costs that are rendered unrecoverable by such termination and provided the recovery of materials in Seller's possession is ensured; and

12.4.4 take actions reasonably necessary to protect property in Seller's possession in which Buyer has an interest until disposal instruction from Buyer has been received.

12.5 Buyer's Obligations Following Termination. Subject to Section12.7.2, Buyer shall pay to Seller in connection with Termination only the following amounts, without duplication, in complete and final satisfaction of any liabilities relating to the Order :

12.5.1 The purchase price for all conforming Supplies received by Buyer prior to Notice of Termination or delivered following Notice of Termination pursuant to Section12.4.1, Section12.8 or at the written direction of Buyer;

12.5.2 Any amounts owed for Transition Support pursuant to Section12.8.3; and

12.5.3 if terminated for any reason other than default by Seller, Seller's reasonable actual cost of: (i) merchantable and useable work- in-process and the parts and materials transferred to Buyer under Section12.4.2 above (but not to exceed the Order price of the Supplies had the work been completed); (ii) settling claims under Section12.4.3; and (iii) carrying out its obligation under Section12.4.4.

12.6 Buyer's Obligations Following Expiration. If the Order expires, Buyer shall pay to Seller, in complete and final satisfaction of any liabilities relating to the Order, only the purchase price for all conforming Supplies received by Buyer prior to expiration and, if applicable, any amounts owed for Transition Support pursuant to Section12.8.3.

12.7 Limitations on Buyer's Obligations Following Termination or Expiration

12.7.1 Buyer's obligations under Section12.5 are conditioned upon Seller's furnishing to Buyer, within one (1) month after the date of termination (or such shorter period as may be required by its

Customer), a termination claim, which will consist exclusively of the items of Buyer's obligation to Seller that are expressly permitted by this Section. Buyer may audit Seller's records before or after payment to verify amounts requested in Seller's termination claim.

12.7.2 Buyer shall not be obligated to make any payment for the Supplies, work-in-process, parts or raw materials inventory: (i) in excess of those authorized or required under any Material Release, (ii) that are damaged or destroyed or that are not merchantable or useable; (iii) that are in Seller's standard stock or that are readily marketable; or (iv) that can be returned to Seller's suppliers or subcontractors for credit.

12.7.3 In the event of a termination of the Order by Buyer as a result of Buyer ceasing to be a supplier to the customer for the product in respect of which Buyer issued the Order, Buyer shall only be obligated to compensate Seller for any costs under Section 12.5.3 if, when and to the extent that the customer reimburses Buyer for such costs.

12.7.4 Buyer will have no obligation for and will not be required to pay Seller, directly or on account of claims by Seller's subcontractors, for loss of anticipated profit, failure to realize anticipated production volumes, revenues or savings, unabsorbed overhead, interest on claims, product development and engineering costs, tooling, facilities and equipment rearrangement costs or rental, unamortized capital or depreciation costs, or general administrative burden charges from termination or expiration of the Order, except as otherwise expressly agreed in a separate Order issued by Buyer.

12.8 Transition of Supplies Following Termination or Expiration. Following expiration or its termination of the Order by either party for any reason (including termination by Seller) and notwithstanding any claimed or actual breach of any obligation by Buyer, Seller will cooperate in the transition of supply to a successor supplier, including the following, which will collectively be referred to as "Transition Support":

12.8.1 Seller will continue production and delivery of all Supplies as ordered by Buyer, at the prices and other terms stated in the Order, without premium or other condition, during the entire period reasonably needed by Buyer to complete the transition to the alternate supplier(s), such that Seller's action or inaction causes no interruption in Buyer's ability to obtain Supplies as needed;

12.8.2 at no cost to Buyer, Seller will promptly provide all requested information and documentation regarding and access to Seller's manufacturing process, including on-site inspections, bill-of-material data, tooling and process detail and samples of Supplies and components; and

12.8.3 subject to Seller's actual capacity constraints, Seller will provide special overtime production, storage and/or management of extra inventory of Supplies, extraordinary packaging and transportation and other special services as expressly requested by Buyer in writing. If the transition occurs for reasons other than Seller's termination for Default, Buyer will, at the end of the transition period, pay the reasonable, actual cost of the assistance under this Section 12.8.3, provided that Seller has advised Buyer prior to incurring such amounts of its estimate of such costs. If the parties disagree on the cost of Transition Support, Buyer will pay the agreed portion to Seller without prejudice to Seller's right to seek to recover any disputed amounts.

### 13. **Customer Requirements**

13.1 In the event that Buyer's customer files or has filed against it a petition in bankruptcy or insolvency and, in the course of such proceeding, Buyer permits a reduction in the price(s) paid to Buyer for products incorporating the Supplies, the price paid to Seller for the Supplies from and after the date of such reduction will be automatically adjusted proportionally by the same percentage as the price paid to Buyer by its customer, and the Order will otherwise remain in effect without modification.

13.2 If Buyer's customer directed, recommended, requested, suggested or otherwise identified Seller as a source of the Supplies: (a) Buyer will pay Seller for the Supplies only following and to the extent of Buyer's actual receipt of payment from that Customer for those goods in which the specific Supplies are incorporated; (b) within three (3) business days of any change in price, specifications or other terms negotiated or proposed between Seller and the customer, Seller will notify Buyer in writing and will

immediately adjust its invoices to reflect any price reduction, provided that no change will be binding on Buyer without Buyer's specific written consent.

#### 14. **Buyer's Property**

14.1 Buyer's Property means any tangible or intangible property to which Buyer has title. Buyer's Property includes: (i) Supplies together with materials and components incorporated or to be incorporated in the Supplies; (ii) all property which is furnished by Buyer, either directly or indirectly to Seller to perform the Order; or (iii) Inventions, Intellectual Property and Proprietary Information of Buyer, as specified in Section 16 and 17; (iv) Tooling and other property (including, by way of example, returnable packaging) which Buyer has agreed in an Order to compensate Seller; (v) any modifications, repairs, refurbishments, and replacements of Buyer's Property.

14.2 With respect to Buyer's Property in the custody or control of Seller or Seller's suppliers, contractors or agents:

14.2.1 Seller shall use it only for the production of Supplies or Products for Buyer;

14.2.2 Seller at its own expense shall: (i) keep it in good working condition house, maintain, repair and replace it, except for normal wear and tear; (ii) keep it fully insured for the benefit of Buyer at all times while in Seller's possession; and (iii) keep it segregated from all other assets and labeled as being the property of Buyer;

14.2.3 Seller shall have only temporary possession as a bailee at will. Seller may not release, relocate or dispose of Buyer's Property to any third party without the express written permission of Buyer. Seller shall promptly notify Buyer of the location of Buyer's Property if located at any place other than Seller's facility;

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

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

#### 15. **Tooling**

15.1 Seller shall not purchase any Tooling for the account of Buyer or charge Buyer for any tooling except as authorized in an Order.

15.2 If Buyer has agreed to compensate Seller for Tooling in writing:

15.2.1 The price for Tooling set forth in the Order will be adjusted to credit Buyer in the amount, if any, by which the price exceeds Seller's actual cost as verified or as in Seller's reasonable discretion if no documentation is provided. Seller will retain all cost records for a period of two (2) years after receiving final payment of the charges. Seller will provide to Buyer, as requested, access to Seller's

premises and all documentation relating to the Tooling prior and subsequent to payment, to inspect work performed and to verify charges submitted by Seller against the Order.

15.2.2 Seller shall be entitled to receive payment only after it is completed. Tooling is not complete until Seller, at its own expense, has successfully completed all required testing (including, for Tooling used in connection with motor vehicle parts production, completion of the PPAP process) and has submitted all necessary documentation.

15.2.3 Seller shall be entitled to receive payment only after and to the extent of, and in proportion to, Buyer's actual receipt of such reimbursement or other payment from the customer.

15.3 All Tooling furnished by Buyer, either directly or indirectly to Seller, to perform the Order or for which Buyer has agreed to reimburse Seller will become Buyer's property (including passage of title) as it is fabricated or acquired. Further, it will remain Buyer's property regardless of payment. Buyer's property will be held by Seller or by a third party, to the extent that Seller has transferred possession of Buyer's property to a third party, on a bailment basis as a bailee-at-will. Seller bears the risk of loss of and damage to Buyer's property. Seller shall not release, dispose of or use Buyer's property or Tooling for any other third party orders or developments without the prior, express written permission of Buyer.

In the event of a dispute between the parties over whether any Tooling is subject to this Section 15.3, the Tooling subject to the dispute will be presumed to be Buyer's Tooling pending resolution of the dispute, and Buyer will have the right to immediate possession of the Tooling pending resolution of the dispute, but will remain subject to any claim or right to payment for the disputed amounts (despite relinquishment of possession). The rights and obligations contained in this Section are in addition to (and not in lieu of) the rights of Buyer in its respective purchase orders, including these General Terms and Conditions.

15.4 If Seller is responsible for fabricating or acquiring Tooling, such Tooling shall: (i) comply with any specifications provided by Buyer (or, where directed by Buyer, those of its Customer); (ii) be capable of producing Supplies that satisfy the Order, including meeting any volume requirements or estimates provided to Seller during the life of the product as well as satisfying the requirements for Service Parts. Time is of the essence for Seller's acquisition or fabrication of Tooling. Seller shall provide Tooling progress reports on Buyer's request and shall promptly notify Buyer in writing if it believes that the Tooling might not be completed by the completion date specified on the Order.

15.5 If all or part of the fabrication, modification, repair or refurbishment of Tooling will be subcontracted to a third-party toolmaker, Seller will: (i) give Buyer advance written notice of the identity of the toolmaker and the location of the Tooling; (ii) inform the toolmaker in writing that it is a bailee-at-will, through Seller, of Tooling owned by Buyer; and (iii) be solely responsible for payments to the toolmaker. Buyer has no obligation to Seller or subcontractor other than payment to Seller of the Order price. If a subcontractor brings an action against Seller for payment of the Tooling, Seller will not join Buyer in the action.

15.6 If Seller intends to subcontract all or part of the manufacture of the Supplies to a third-party subcontractor and to locate Tooling on the subcontractor's premises, Seller will: (i) provide Buyer with written notice of the identity of the subcontractor and the location of the Tooling; (ii) obtain the written permission of Buyer in advance of Seller's doing so; (iii) inform the subcontractor in writing that it is a bailee-at-will, through Seller, of Tooling owned by Buyer; and (iv) be solely responsible for payments to the subcontractor.

## 16. **Intellectual Property**

16.1 Seller warrants that the Supplies and the sale and/or use thereof (before or after incorporation into products during manufacture) do not and will not infringe any Intellectual Property Rights. Intellectual Property Right means any right arising under U.S. or foreign law relating to patent, trademark, copyright, moral, industrial design right or trade secrets.

16.2 If Seller, or any person employed by or working under the direction of Seller, in the performance of the Order conceives or first reduces to practice: (i) any invention or any experimental, development or research activities, including engineering related thereto, whether or not patentable, (ii) any reduction to practice of any subject matter, application or discovery which could be patented or copyrighted, or (iii) any improvement in the design of the Supplies or any alternative or improved method of accomplishing the objectives of the Order (collectively, Inventions), such Inventions shall be owned by Buyer and be deemed confidential and proprietary property of Buyer, whether such Inventions or any portions thereof can be copyrighted or patented or not. Seller shall immediately disclose all Inventions to Buyer and shall cooperate (and cause its employees to cooperate) in executing any documents and taking any other actions necessary or convenient to patent, copyright, assign to Buyer or otherwise perfect or protect such Inventions for the benefit of Buyer.

16.3 Seller shall not manufacture or provide, or offer to manufacture or provide, any goods or services that are based in whole or in part upon Inventions, confidential or proprietary information of Buyer or intellectual property of Buyer, whether for its own purposes (other than to satisfy its obligations under the Order), for the Customer or any other third parties, without Buyer's prior written consent.

16.4 Seller hereby grants to Buyer, its subsidiaries and affiliates, and their respective successors and assigns, and Buyer hereby accepts, a non-exclusive, irrevocable, royalty-free, fully paid up worldwide license, including the right to sublicense to others in connection with providing the Supplies to Buyer or the customer, under: (i) any Intellectual Property Rights owned or controlled by Seller or its affiliates, and relating to the Supplies, to make, have made, repair, reconstruct, rebuild, relocate, use, sell and import the Supplies, and (ii) any works of authorship fixed in any tangible medium of expression (including drawings, prints, manuals and specifications) furnished by Seller in the course of Seller's activity under the Order, to reproduce, distribute and display such works and to prepare derivative works based thereon, subject to the other provisions of the Order (all items in clauses (i) and (ii) above, collectively, "Seller's Intellectual Property", and such license in respect thereof, the "License"). Seller acknowledges and understands that the License shall be effective from the first (1<sup>st</sup>) date of delivery of the Supplies under the Order and extend for so long as Buyer has contractual obligations to the Customer. The License is intended to be subject to 11 U.S.C. Section 365(n), as an executory agreement under which Buyer has license rights to Seller's Intellectual Property, and is supplementary to any other rights of Buyer under the Order and any other agreement with Seller.

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

## 17. **Proprietary Information**

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

17.2 The restrictions and obligations of Section 17.1 will not apply to information that: (a) is already publicly known at the time of its disclosure by Buyer; (b) after disclosure by Buyer becomes publicly known through no fault of Seller; or (c) Seller can establish by written documentation was properly in its possession prior to disclosure by Buyer or was independently developed by Seller without use of or reference to Buyer's information. Notwithstanding anything to the contrary in these Terms and Conditions, any confidentiality or non-disclosure agreement between the parties that predates the Order will remain in effect except as expressly modified by the Order, and to the extent of a conflict between the express terms of such an agreement and this Section, the terms of that agreement will control.

17.3 All documents containing proprietary information relating to the Supplies produced or acquired by Seller under the Order will belong to Buyer. All drawings, know-how, and confidential information supplied to Seller by Buyer and all rights therein will remain the property of Buyer and will be kept confidential by Seller in accordance with Section 17.1 .

17.4 Seller shall, within five (5) business days of Buyer's request or the expiration or termination of the Order , return all confidential and proprietary information (including all copies, notes and/or extracts thereof).

18. **Excusable Delay.** Any delay or failure of either party to perform its obligations will be excused if and to the extent that the party is unable to perform due to an event or occurrence beyond its reasonable control and without its fault or negligence, such as: acts of God; restrictions, prohibitions, priorities or allocations imposed or actions taken by a governmental authority; embargoes; fires; explosions; natural disasters; riots; wars; sabotage; or court injunction or order (collectively "Excusable Delay"). However, in no event will Seller's performance be excused by: (i) the change in cost or availability of materials, components or services based on market conditions, supplier actions, labor disruptions or contract disputes; (ii) Seller's financial distress; or (iii) any labor strike or other labor disruption applicable to Seller or to any of its subcontractors or suppliers. Seller shall immediately give written notice to Buyer of any event or occurrence that threatens to delay or actually delays Seller's performance under the Order.

18.1 Seller shall immediately give written notice to Buyer at least ninety (90) days prior to the expiration of any labor contract or collective agreement. Such notice shall include all relevant information with respect to such threat, including the possible duration and impact of a delay.

19. **Buyer's Liability.** Buyer's sole liability under the Order (including its termination, expiration or cancellation) is to pay for the Supplies in accordance with Section 5.2 and to pay the specific termination related amounts described in Section 12.5 and 12.8. In no event shall Buyer be liable for anticipated profits, interest, penalties or incidental, consequential, punitive, multiple, or exemplary damages or liabilities in connection with the Order , whether for breach of contract, late payment, property damage, personal injury, illness, or death or otherwise.

20. **Insurance; Waiver of Liens.** Promptly upon request, Seller agrees to furnish to Buyer a certificate from its insurance brokers or agent showing that it carries adequate workers' compensation, and comprehensive general liability insurance coverage, including contractual liability insurance applicable to the Order. The certificate must show the amount of coverage, policy number, and date of expiration and must require the broker or agent to give Buyer thirty (30) days prior written notice of any lapse or cancellation of any policy. Buyer shall also be shown as an additional insured on the comprehensive general liability policy reflected on the certificate of insurance if services are to be performed on Buyer's premises. If Seller is self-insured for workers compensation coverage, it will, if requested by Buyer, provide the applicable state certificate establishing such status to Buyer. Seller hereby waives all mechanics' liens and claims and agrees that none shall be filed or maintained against Buyer's premises on account of any Supplies and shall cause all its subcontractors, materialmen and suppliers (and subcontractors of such parties) to provide similar waivers and agreements in form satisfactory to Buyer.

21. **Limitation on Assignment and Subcontracting.** The Order is issued to Seller, in reliance upon its personal performance of the duties imposed. Without prior written consent of Buyer, Seller may not: (i) assign the Order or delegate the performance of its duties hereunder; or (ii) assign any accounts receivable from Buyer to third parties.

22. **Compliance with Laws.** Seller agrees to comply with all applicable laws, rules, regulations, ordinances or other requirements of any national, state, provincial, local, multi-national or international body (collectively "Laws") relating to the manufacture, sale, delivery and use of the Supplies. Upon request, Seller will submit to Buyer evidence of such compliance.

23. **Special Situations.**

23.1 In addition to its indemnity obligations under Section 11.1, if Seller performs any work on Buyer's or customer's premises or utilizes the property of Buyer or its customer, whether on or off Buyer's or customer's premises, (i) Seller will examine the premises to determine whether they are safe for the requested services and will advise Buyer promptly of any situation it deems to be unsafe; (ii) Seller's employees, contractors, and agents will comply with all regulations that apply to the premises and may be removed from Buyer's premises at Buyer's discretion; and (iii) Seller's employees, contractors, and agents will not possess, use, sell, transfer or be under the influence of alcohol or unauthorized, illegal, or controlled drugs or substances on the premises.

23.2 If Seller is required to furnish raw materials and Buyer deems the raw material type to possess excessive price and lead-time variability, Seller shall be required to provide documentation verifying protection against raw material market price and lead-time variability. Such documentation shall cover all raw material types required to build the parts contained in this contract order and any option period, if applicable. The required documentation may be in the form of packing slips, invoices, long term contract, written pricing and availability assurance from mills, available stock on hand, or other substantive documentation. If Seller is unable to provide such documentation, the Order may be cancelled pursuant to Section 12.2, at Buyer's discretion, and the resulting cancellation will be completed at no cost to Buyer.

24. **Remedies.** The rights and remedies reserved to Buyer in the Order will be cumulative with and in addition to all other legal or equitable remedies. In any action brought by Buyer to enforce Seller's obligations in connection with the production or delivery of Supplies or transition support, or for possession of property, the parties agree that Buyer does not have an adequate remedy at law and Buyer is entitled to an immediate order for specific performance of Seller's obligations (including related temporary and preliminary injunctive relief).

25. **Miscellaneous**

25.1 Jurisdiction and Applicable Law.

25.1.1 If the location of Buyer from which the Order issued is in the United States of America: (i) the Order shall be interpreted and enforced in accordance with the local, domestic laws of the State of Tennessee and of the United States of America, exclusive of the choice of law rules thereof; and (ii) the state courts presiding in Davidson County, Tennessee or the federal courts in the Middle District of Tennessee shall have exclusive jurisdiction and venue over any lawsuit arising out of or related to the Order.

25.1.2 Seller irrevocably waives and agrees not to raise any objection it might now or hereafter have to any such claim or proceeding in any court having jurisdiction under this Section, including any objection that the place where such court is located in an inconvenient forum or that there is any other claim or proceeding in any other place relating in whole or in part to the same subject matter.

25.1.3 The United Nations Convention on Contracts for the International Sale of Supplies shall not apply to the Order.

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

25.3 Severability. If any provision of the Order , or portion of any provision, is declared or found to be unenforceable, the balance of the Order or such provision shall be interpreted and enforced to the greatest extent possible as if the unenforceable provision or portion had never been a part hereof. In particular, if any interest rate provided for herein is higher than that permitted by applicable law it shall automatically be amended to the highest legal rate.

25.4 Survival. The obligations of Seller to Buyer survive termination of the Order, except as otherwise provided in the Order.

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

25.6 No Publicity. Seller will not advertise, publish or disclose to any third party (other than to Seller's professional advisors on a confidential and need-to-know basis) in any manner the fact that Seller has contracted to furnish Buyer the Supplies covered by the Order or any terms of the Order (including prices), or use any trademarks or trade names of Buyer in any press release, advertising or promotional materials, without first obtaining Buyer's written consent.

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