



Shur-Co LLC Purchasing Terms and Conditions

These Purchasing Terms and Conditions ("**Terms**") apply to and are part of every long-term agreement, Purchase Order, Release, or other contract (each, a "**Contract Document**," and together with the Terms, the "**Contract**") between Shur-Co LLC. or its applicable affiliate ("**Buyer**") and the seller or supplier of goods or services under a Contract ("**Seller**").

1. **CONTRACT FORMATION.**

1.01 Offer. Each Contract is an offer by Buyer to purchase the goods or services specified in this Contract (together, the "**Goods**"). Each Contract includes and incorporates these Terms.

1.02 Acceptance. The Contract will be accepted by Seller and effective immediately upon the first to occur of: (a) Seller's written acceptance of this Contract (including any electronic acknowledgement or notification of acceptance); (b) Seller's commencement of any work or shipment of Goods under this Contract; or (c) Seller does not object to the terms of a Purchase Order within five days of receipt.

1.03 Global Supplier Manual. Buyer's Global Supplier Manual is incorporated herein in its entirety.

1.04 Entire Agreement. This Contract sets forth the exclusive terms and conditions under which Buyer will purchase from Seller, and Seller will manufacture, perform, deliver, and sell to Buyer, the Goods for the period(s) described therein. Seller's acceptance is limited to the terms of this Contract. Any different or additional terms and conditions, deviations to, amendments, or waivers of these Terms, are rejected by Buyer, and will not modify or become part of this Contract. This Contract supersedes all prior and contemporaneous oral or written agreements, representations, and communications between Buyer and Seller with respect to the terms and conditions of this Contract.

1.05 Order of Precedence. To the extent there is any conflict between these Terms and the terms of any Contract Document, the order of precedence will be: (a) Buyer's purchase orders(s) issued to Seller (individually and together, "**Purchase Orders**"); (b) any other Contract Documents in the order set forth therein; and (c) these Terms.

2. TERM. The term of this Contract will be stated in the Contract Documents; provided that if the Contract Documents do not state a term, the initial term of this Contract will expire on the date that is 12 months after the effective date of this Contract. Buyer may, at its option, extend the term of this Contract (on the same terms and conditions) for additional, successive periods of one year each by providing written notice of such extension(s) to Seller at least 90 days before the date that this Contract would otherwise expire.



3. FORECASTS; RELEASES; DELIVERY.

3.01 Non-Binding Forecasts. Buyer, from time-to-time, may provide Seller with estimates, forecasts, or projections of its future quantity requirements of the Goods ("**Projections**"). Projections are for informational purposes only. Projections, like any other forward-looking estimates, are based on economic, business, and market, factors, variables, and assumptions, some, or all of which, may change. Projections are not a commitment by Buyer to purchase the quantities specified in the Projections. Buyer makes no representation, warranty, guarantee, or commitment of any kind or nature, express or implied, regarding any Projections. Unless otherwise expressly stated in the Contract Documents, nothing in this Contract will constitute a volume commitment or guaranty of any kind by Buyer to purchase any specific quantity of Goods from Seller.

3.02 Releases. From time-to-time, or on a rolling basis (except in the case of so-called "spot buy" Purchase Orders), Buyer may issue releases under this Contract , separate documents, or updated Purchase Orders), setting forth its volume requirements of and required delivery dates for the Goods (each a "**Release**"). Subject to Buyer's rights under Section 16.02, orders for Goods set forth in a Release are binding on Buyer and Seller.

3.03 Delivery. Seller will comply with Buyer's delivery requirements specified in this Contract. Buyer will not be required to make payment for Goods delivered in excess of quantities stated in this Contract or Buyer's applicable Release.

4. TIME IS OF THE ESSENCE. Time is of the essence in all aspects of Seller's performance of this Contract. Goods will be delivered in the quantities and at the times specified in this Contract. Seller will notify Buyer immediately if Seller has reason to believe that Seller's timely delivery of the Goods in the quantities ordered by Buyer is or will be delayed. If any occurrence beyond the reasonable control of Seller limits Seller's ability to timely deliver goods and services to its customers generally, Seller will equitably allocate its production capacity among its customers, including Buyer, on a pro rata basis, until such limitation is resolved.

5. PACKAGING; SHIPMENT; TRANSFER OF TITLE.

5.01 Packaging. Seller will: (a) properly pack, mark, and ship Goods in a manner to ensure safe shipment in accordance with Buyer's requirements, applicable law, and regulations; and (b) route shipments in accordance with Buyer's instructions.

5.02 Shipping; Transfer of Title. Unless otherwise stated in this Contract, all Goods are sold "Delivered Duty Paid" (DDP) (Incoterms, 2020). Seller will provide Buyer with shipment documents stating: (a) the Purchase Order or Release number; (b) Buyer's part number and Seller's part number (if different); (c) the quantity of pieces in the shipment and number of cartons or containers in the shipment; (d) Seller's name, the bill of lading



number, and the country of origin; and (d) label packaging with handling instructions. Seller will promptly forward to Buyer the original bill of lading or other shipment receipt for each shipment. Title and risk of loss will pass to Buyer in accordance with the applicable delivery term.

5.03 Premium Freight. Seller will be solely responsible for, and will pay, all premium and expedited shipping expenses necessary to satisfy Buyer's delivery schedules, unless the need for premium or expedited shipping was caused solely by Buyer. If Seller contends that premium or expedited shipping expenses are due to the sole fault of Buyer, within ten days following the date of shipment, Seller will provide Buyer with written notice of such premium shipping expenses (including back-up documentation) and the basis for the incurrence of such expenses. All such expenses, and Seller's stated reason for the incurrence thereof, will be subject to audit by Buyer.

6. PRICE.

6.01 Prices charged for Goods will be stated in this Contract and are not subject to increase for any reason, including changes in raw material or component costs, labor costs, overhead costs, market fluctuations, or foreign currency exchange rate fluctuations.

6.02 Prices charged for the Goods include all handling, packaging, storage, and transportation costs and expenses, and all duties, tariffs, taxes (including sales, use, or value-added taxes), fees, and similar charges and costs relating in any manner to the delivery and sale of the Goods.

6.03 The prices charged to Buyer for the Goods will be no higher than the prices charged by Seller to other buyers of similar goods and will remain so during the term of this Contract. If at any time during the term of this Contract, Seller charges any other customer a lower price for goods or products similar to the Goods, such lower price will immediately be applied to the price to the Goods under this Contract.

6.04 If the price for the Goods includes amortized expenses, including for tooling, equipment, or research and development, upon full payment of such amortized amount, the price for the Goods will be automatically decreased by an amount equal to the amortized amount.

7. INVOICES; PAYMENT TERMS.

7.01 Invoices.

- (a) Seller's invoices and/or advance shipping notices for Goods must reference: (i) the Purchase Order or Release number; (ii) Buyer's part number and Seller's part number (if different); (iii) quantity of pieces in the shipment; (iv) number of cartons or containers; (v) bill of lading number; and (vi) any other information necessary for identification of the Goods or reasonably requested by Buyer, including



information required under applicable laws or regulations, and any applicable import declaration number and/or number of any temporary import program.

- (b) No invoice or shipping documents may reference, and Buyer rejects, any proposed different or additional terms and conditions, deviations to, amendments, or waivers of the terms of this Contract. Buyer reserves the right to reject all invoices or related documents submitted incorrectly. Any payment by Buyer of a nonconforming invoice is not an acceptance thereof. All invoices must be submitted by EDI.

7.02 Payment Terms. Unless otherwise stated in this Contract, Seller's invoices will be payable on the 10th day of the second month following Buyer's receipt of both the Goods and Seller's conforming invoice. If a payment date falls on a non-business day, payment will be made on the following business day. No invoice may be issued to Buyer in advance of Buyer's receipt of the Goods subject to such invoice. Unless otherwise stated in this Contract, all payments will be in United States dollars by electronic funds transfer. Payment by Buyer is not a waiver of any breach of this Contract by Seller, nor will it be deemed final acceptance of any Goods or a waiver of any rights of Buyer to reject any Goods.

8. QUALITY; NONCONFORMING GOODS.

8.01 Quality. Seller will satisfy all quality requirements of Buyer. All Goods, including Goods supplied by any sub-tier supplier or subcontractor of Seller, will conform to all specifications, standards, drawings, samples, and descriptions, including as to quality, performance, fit, form, function, and appearance specified in this Contract. Seller will, at its expense, furnish, keep in good condition, and replace when necessary all tooling, machinery, equipment, and other items necessary for the manufacture of the Goods.

8.02 Nonconforming Goods. Buyer may at any time, at Seller's sole risk and expense, reject and return Goods that fail to conform to the requirements of this Contract or are delivered in excess of the quantities requested in the applicable Release. Without limitation as to other rights or remedies of Buyer, at Buyer's option, Seller will replace nonconforming Goods with conforming Goods. Seller will also reimburse Buyer for: (a) all amounts paid by Buyer for rejected Goods, and (b) all costs incurred by Buyer in connection with nonconforming Goods, including inspection, sorting, testing, evaluations, storage, and rework of rejected Goods. Payment by Buyer for nonconforming Goods will not constitute acceptance, limit, or impair Buyer's right to seek any remedy, or relieve Seller of responsibility for any defects.

9. CHANGES.

9.01 Buyer Changes. Buyer may direct changes, or direct Seller to make changes, to drawings and specifications of the Goods covered by this Contract, including, without



limitation, such matters as inspection, testing, or quality control. Seller will accept any amendments to this Contract issued by Buyer in the manner prescribed in Section 1.02. Buyer and Seller will discuss any equitable pricing adjustments (up or down) to be made in connection with such changes. Notwithstanding any such discussions, Seller will promptly implement such changes as directed by Buyer, and any change in the price of the Goods agreed to by Buyer will be retroactive to the date Seller implemented the change. In the event that Buyer and Seller are unable to reach agreement on any pricing adjustments to be made in connection with such changes, any difference in price or time for performance resulting from such changes will be equitably adjusted by Buyer based on a fair cost assessment after receipt of documentation in such form and detail as Buyer may direct.

9.02 Seller Changes. Seller may not make changes to the Goods or change the price or delivery terms of the Goods without the prior written agreement of Buyer. Seller may propose changes to drawings and specifications of the Goods or the scope of the work covered by this Contract. If Buyer agrees to implement such changes, Buyer will amend this Contract to incorporate such changes.

10. WARRANTIES.

10.01 Seller warrants that during the Warranty Period all Goods will: (a) be free from defects in design, materials, and workmanship; (b) conform to applicable drawings, specifications, statements of work, quality standards, and samples furnished by Buyer, or furnished by Seller and approved by Buyer in writing; (c) be new, merchantable, and not refurbished or reconditioned; (d) be selected, designed, manufactured, and assembled by Seller based upon Buyer's stated use of the Goods, which Seller acknowledges Buyer has provided, and will be fit and sufficient for the particular purposes intended by Buyer, which Seller acknowledges it understands; (e) be free and clear of all liens, claims, security interests, and other encumbrances; (f) not infringe or contribute to the infringement or misappropriation of any third party's proprietary rights or interests (including patents, trademarks, copyrights, and trade secrets); and (g) comply with all laws and regulations applicable to such Goods.

10.02 Seller warrants that any services performed in the provision of Goods will be rendered in a good and workmanlike manner by skilled personnel and in accordance with best industry standards and practices. Sections 10.01 and 10.02, collectively, along with any other warranties agreed to by the parties in a separate Warranty Agreement, are referred to a "**Seller's Warranty**".

10.03 Buyer's approval of any sample, drawing, specification, or standard will not limit or relieve Seller of any of Seller's obligations under Seller's Warranty.

10.04 The duration of Seller's Warranty (the "**Warranty Period**") will commence on the date of Buyer's receipt of the Goods and end on the later to occur of: (a) five years or one



100,000 miles from the date of first registration of the vehicle into which the Goods are incorporated by Buyer or its customer; (b) the expiration of any warranty period provided under applicable law for the Goods (including government or regulatory agency mandated warranties on emissions related components); and (c) the expiration of any specific warranty period or performance standard provided for in the Contract Documents.

10.05 Seller's Warranties are in addition to all other warranties, express, implied, or statutory, and will survive Buyer's inspection, test, delivery, acceptance, use, and payment of and for the Goods, and inure to the benefit of Buyer, its successors and assigns, its customers, and the purchaser of the vehicle into which the Goods are incorporated. The warranties provided for in this Section may not be limited or disclaimed by Seller.

11. PRODUCT RECALLS. "Recall" means a determination by Buyer, whether voluntary or by order of a governmental authority or agency, to offer to owners, dealers, distributors, or other purchasers of the Goods remedial action in the form of repair, replacement, reimbursement, or repurchase of the Goods (or products into which the Goods have been incorporated) to address a defect, quality concern, or failure to comply with Buyer's requirements. Recall includes: (a) those campaigns that offer to remedy defects related to motor vehicle safety or emissions or noncompliance with applicable safety or emissions regulations in the jurisdiction in which the Goods are distributed; and (b) any other offer to: (i) extend the Warranty Period for the Goods; or (ii) repair, replace, reimburse, repurchase, maintain, modify, or improve the quality, reliability, durability, performance, operation, serviceability, or safety of the Goods. Seller will be responsible for (or will reimburse Buyer for) all costs and expenses of any Recall to the extent caused or contributed by the Goods. Seller will provide reasonable cooperation and support to Buyer as Buyer may request in connection with any Recall. This Section 11 will survive the termination or expiration of this Contract and Seller's Warranties.

12. INTELLECTUAL PROPERTY. This Section applies where the parties have not entered into a separate written agreement with respect to the parties' Intellectual Property Rights (defined below) that expressly prevails over these Terms.

12.01 Definitions.

(a) "**Background Intellectual Property Rights**" means any Intellectual Property Rights of either Buyer or Seller relating to the Goods: (i) existing as of the earlier of the effective date of this Contract or the date Buyer and Seller began any technical cooperation relating to the Goods, (ii) that each party acquires or develops after these dates but in a strictly independent manner and entirely outside of any work conducted under this Contract.



- (b) **"Buyer Intellectual Property Rights"** means Buyer's Background Intellectual Property Rights and all Foreground Intellectual Property Rights other than Seller Retained Improvements.
- (c) **"Foreground Intellectual Property Rights"** means any Intellectual Property Rights, except Background Intellectual Property Rights, (i) that are developed in whole or in part by Buyer alone, by Buyer and Seller jointly, or by Seller alone, in connection with this Contract, or (ii) relating to the Goods.
- (d) **"Intellectual Property Rights"** means any patents, patented articles, patent applications, designs, industrial designs, copyrights, software (including, without limitation, source code and object code), database rights, moral rights, inventions (whether or not capable of protection by patent or registration, techniques), technical data, trade secrets, know-how, and any other proprietary right, whether registered or unregistered, including applications and registrations thereof, all related and continuing rights, and all similar or equivalent forms of protection anywhere in the world. Intellectual Property Rights excludes all brands, trademarks, trade names, slogans, and logos of Seller and Buyer unless specifically identified as a deliverable or work product of Seller pursuant to this Contract.
- (e) **"Personnel"** means a Buyer's or Seller's (as applicable) employees, agents, and subcontractors.
- (f) **"Seller Intellectual Property"** means Seller's Background Intellectual Property Rights together with Seller Retained Improvements.
- (g) **"Seller Retained Improvements"** means improvements to Seller's Background Intellectual Property made by Seller and its Personnel that are not based on Buyer's Intellectual Property Rights or Confidential Information.

12.02 Foreground Intellectual Property Rights. Except with respect to Seller Retained Improvements, Buyer shall own all right, title, and interest in and to any and all Foreground Intellectual Property Rights that are created or made by Buyer or Seller, and each of their respective Personnel. For clarity, unless an express written period of exclusivity has been promised to Buyer, Seller Retained Improvements may be immediately exploited by Seller in connection with its business with its other customers and will not be exclusive to Seller's performance of this Contract. Seller hereby grants to Buyer and causes its affiliates and Personnel to grant to Buyer, an irrevocable, worldwide, nonexclusive, perpetual to the maximum extent permitted by law, royalty free, fully paid-up license, with right to sublicense, to all Seller Retained Improvements to make, have made, use, reproduce, modify, improve, prepare derivative works of, distribute, display, perform, repair, offer to sell, sell and import, without limitation. Seller hereby assigns, agrees to assign, and behalf of itself and its Personnel, to Buyer, all right, title, and interest in and to all Buyer



Intellectual Property Rights and shall assist Buyer in connection with the procurement, defense, and enforcement of same.

12.03 Background Intellectual Property Rights. Buyer and Seller will each retain ownership of their respective Background Intellectual Property Rights. Seller hereby grants to Buyer and causes its affiliates and Personnel to grant to Buyer, an irrevocable, worldwide, nonexclusive, royalty free, fully paid-up license, with right to sublicense to Buyer's affiliates, to all Background Intellectual Property Rights to make, have made, use, reproduce, modify, improve, prepare derivative works of, distribute, display, perform, offer to sell, sell, and import the Goods (the "**Limited License**"), provided that Buyer or its affiliates will only use this Limited License in the event that (a) Seller breaches or repudiates its obligations by being unable or unwilling to timely deliver goods or services under this Contract, and in such case the term of the license will be perpetual or (b) in the event Seller is unable to supply goods or services under this Contract as a result of a force majeure event, the term of the license will be only for the duration of Seller's inability to supply.

12.04 Copyrights. Copyrightable works created under this Contract will be considered "works made for hire" for Buyer except to the extent that the works do not qualify as "works made for hire" for Buyer in which case Seller hereby assigns to Buyer all right, title and interest in all copyrights and if lawfully permitted waives all moral rights therein.

12.05 Right to Repair. For the avoidance of doubt, Buyer, its dealers, its customers, and its subcontractors have the right to repair, reconstruct, remanufacture, reflash, or rebuild the Goods delivered under this Contract without payment of any royalty to Seller.

12.06 Delivery of Materials. Within ten days of Buyer's written request to Seller, Seller will promptly deliver to Buyer (or Buyer's designee) all materials, software (source code, object code, and other forms requested by Buyer), documentation, and instructions (a) related to the Intellectual Property Rights embodied in the Goods, or (b) necessary or helpful for the manufacture and reproduction of such Goods and Intellectual Property Rights and, in each case, in those formats requested by Buyer ("**Related Materials**"). All such Related Materials shall at all times be maintained and provided to Buyer or Buyer's designee in a manner that enables one skilled in the art to continue developing, compiling, and otherwise using the Related Materials as such are or were used by Seller in connection with its performance hereunder without undue burden. With respect to Related Materials constituting Buyer's Background Intellectual Property Rights, Buyer covenants that, except for performing an audit of same to ensure Seller's compliance with this Section 12.06, it will not use such Related Materials except to the extent that it is permitted to do so under its Limited License.

12.07 Miscellaneous.



- (a) Goods manufactured based on Buyer's drawings, designs, and/or specifications, as well as any software code or models provided by Buyer, may not be used for Seller's own use or sold to third parties without Buyer's prior written authorization.
- (b) Nothing in this Contract is an admission by Buyer of the validity of any Intellectual Property Rights claimed by Seller, including an admission that any license is required by Buyer to manufacture the goods or continue the services contracted. Seller will claim and acquire all rights and waivers of Seller's personnel required to enable Seller to grant Buyer the rights and licenses in this Contract. Seller assumes full and sole responsibility for compensating Seller's personnel for such rights and waivers, including the remuneration of employees.
- (c) Seller will comply with all obligations with respect to software that forms any part of the Goods or services contracted, including obligations under any licenses.

13. SERVICE AND REPLACEMENT PARTS. Seller will sell to Buyer all Goods necessary for Buyer to fulfill its current model service and replacement parts requirements at the prices set in this Contract, adjusted only for reasonable, unique packaging and logistics costs, as approved by Buyer. If the Goods are systems, modules, or assemblies, Seller will sell the parts of such systems, modules, or assemblies to Buyer at prices that will not, in total, exceed the price of the Good less assembly costs. During the 15-year period after Buyer completes its current model year purchases of Goods, Seller will sell Goods to Buyer to fulfill its past model year service requirements. Pricing for past model year Goods will be negotiated by the Buyer and Seller but will not exceed this Contract price for the Goods during the first five years of such 15-year period.

14. REMEDIES FOR BREACH. Buyer's rights and remedies under this Contract are cumulative with, and in addition to, all other rights and remedies of Buyer under applicable law or in equity.

14.01 Without limiting the foregoing, in the event that any Goods fail to conform to the terms of this Contract, or if Seller breaches any of its obligations under this Contract, Buyer will be entitled to recover from Seller all damages, costs, expenses, claims, and losses suffered by Buyer, including, without limitation, all direct, indirect, incidental, and consequential damages, and all legal and professional fees and costs, incurred by Buyer. Buyer's damages may also include all of Buyer's costs and expenses incurred with respect to or resulting from: (a) inspecting, sorting, testing, repairing, or replacing nonconforming Goods or nonconforming deliveries; (b) conducting Recall campaigns or other corrective service actions; or (c) any personal injury, including death, or property damage.

14.02 Seller acknowledges and agrees that (a) a breach or threatened breach by Seller of any of its obligations under this Contract would give rise to irreparable harm to Buyer for which monetary damages would not be an adequate remedy and (b) in the event of a breach or a threatened breach by Seller of any such obligations, Buyer shall, in addition



to any and all other rights and remedies available at law, at equity, or otherwise in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance, and any other relief available from a court of competent jurisdiction, without any requirement to post a bond or other security, and without any requirement to prove actual damages or that monetary damages will not afford an adequate remedy.

14.03 If requested by Buyer, Seller will enter into a separate agreement for the administration and processing of warranty chargebacks for nonconforming Goods.

15. INDEMNIFICATION. To the fullest extent permitted by applicable law, Seller will indemnify, hold harmless, and, at Buyer's option, defend, Buyer and its directors, officers and employees ("**Representatives**") against any actual or alleged claims, suits, and demands, including, without limitation, lawsuits, administrative claims, regulatory actions, and other proceedings, in any way related to the Goods, and arising from or relating to: (a) Seller's representations, performance, breach, or failure to perform this Contract; (b) violation of any law, ordinance, regulation, or order; (c) any damages to any property or personal injuries to or death of any person arising from or in connection with Seller's performance under this Contract; (d) Seller's use of Buyer's Property, or the performance of any work by Buyer or its employees, designees, or agents at Seller's facilities, except to the extent caused solely by the gross negligence or intentional acts of Buyer; (e) Buyer's compliance with any third party request or order of any court or governmental agency for information relating to the Goods; (f) any Recall or corrective service actions; and (g) any actual or alleged claims of infringement or other assertions of proprietary rights violations (including patent, trademark, copyright, industrial design right, or other proprietary right, misuse, or misappropriation of trade secret), and resulting damages and expenses (including legal and professional fees) arising in any way in relation to the Goods. Seller's indemnification obligations will apply even if Buyer furnishes all or a portion of the design and specifies all or a portion of the processing used by Seller to produce the Goods.

16. TERMINATION.

16.01 Termination for Cause.

- (a) Buyer may terminate immediately all or any part of this Contract, without liability to Seller, if Seller: (i) repudiates, breaches, or threatens to repudiate or breach, any of the terms of this Contract or any other Contract with Buyer; (ii) fails to perform or deliver Goods in accordance with this Contract, or fails to make progress in performance so as to endanger timely and proper completion of services or delivery of Goods under this Contract; (iii) fails to timely provide Buyer with adequate assurances of due performance; or takes or fails to take any action that imminently threatens the continuity or timing of Buyer's vehicle assembly operations; (iv) has its export privileges denied, suspended, or revoked in whole or



in part by the government of the United States or any agency thereof; (v) if Buyer market tests the price of the Goods and determines that the price charged for the Goods is not competitive and Seller does not promptly reduce its price for the Goods to equal not more than the lowest price identified in Buyer's market test; or (v) is insolvent or commences, or has commenced against it, any case, proceeding, or other action under Title 11 of the United States Code or any other liquidation, bankruptcy, assignment for the benefit of creditors, conservatorship, receivership, insolvency, reorganization, or similar proceeding, under debtor relief laws of any applicable jurisdiction in effect, seeking to have an order for relief entered with respect to it or to adjudicate it as bankrupt or insolvent or winding-up, liquidation, or dissolution of its business or all or any substantial portion of its assets.

- (b)** Notwithstanding Section 16.01(a), if any failure or breach under Sections 16.01(a)(i) or 16.01(a)(ii) is curable by Seller, Buyer will provide Seller an opportunity to cure such breach within a commercially reasonable period of time under the circumstances, but in no case exceeding 30 days after Buyer provides notice of the failure or breach to Seller.
- (c)** Buyer may terminate this Contract, without liability to Seller, upon at least 30 days' prior written notice to Seller, if a direct or indirect change in control or ownership of Seller occurs without Buyer's prior written consent.

16.02 Termination for Convenience.

- (a)** Buyer may terminate all or any part of this Contract at any time and for any reason by giving written notice to Seller. Upon receipt of such notice, unless otherwise directed in writing by Buyer, Seller will: (i) immediately terminate all work under the terminated portion of this Contract; (ii) transfer title and deliver to Buyer all finished Goods and work-in-process that Seller produced in accordance with Buyer's Releases; (iii) sell to Buyer at its cost all raw materials and components that Seller produced or acquired in accordance with Buyer's Releases, which Seller cannot reasonably use in producing other products for itself or for others; and (iv) take all actions reasonably necessary to protect Buyer's Property. In the event Buyer terminates this Contract under this Section, Buyer will pay to Seller only the following amounts to the extent not exceeding the amounts authorized in Buyer's Releases: (A) the Contract price for Goods that have been completed and delivered to Buyer in accordance with this Contract and not previously paid for; (B) Seller's actual costs of work-in-process produced in accordance with Buyer's Releases, to the extent such costs are reasonable in amount and are properly allocable or apportionable under generally accepted accounting principles to the terminated



portion of this Contract; and (C) in accordance with (iii) above, Seller's actual costs of raw materials and components. Any request for payment submitted to Buyer under this Section must be made in writing within 30 days of the effective date of termination and include sufficient supporting data to permit an audit by Buyer, including, without limitation, such supplemental and supporting information as Buyer may request. Buyer's payment under this Section is Seller's sole remedy for termination of this Contract under this Section.

- (b) Because Buyer's commitments to its customers are made in reliance on Seller's commitments under this Contract, Seller has no right to terminate any Contract for convenience.

16.03 Resourcing Assistance.

- (a) Upon the expiration or termination of this Contract for any reason, Seller will take such actions as reasonably requested by Buyer to assist Buyer in promptly and efficiently transitioning and resourcing the manufacture of the Goods to an alternative seller, including providing an inventory bank of Goods covered by this Contract in such quantities as Buyer may reasonably request.
- (b) Seller will promptly return to Buyer all Buyer's Property and any other property furnished by or belonging to Buyer or Buyer's customers in the condition originally received by Seller, reasonable wear and tear excepted.

17. LIMITATION OF DAMAGES. Under no circumstances will Buyer be liable to Seller for anticipated or lost profits, special, incidental, consequential, exemplary, or punitive damages.

18. SETOFF. All amounts due to Seller will be considered net of indebtedness of Seller and its affiliates and subsidiaries to Buyer and its affiliates and subsidiaries; and Buyer will have the right to setoff against or to recoup from any amounts due to Seller and its affiliates and subsidiaries from Buyer and its affiliates and subsidiaries.

19. BUYER'S PROPERTY. All supplies, materials, prototype and production tooling, jigs, dies, gauges, fixtures, molds, patterns, equipment, related software, and other items (together with any accessions, appurtenances, modifications, repairs, refurbishments, and replacements thereof) (collectively, "**Equipment**") furnished by Buyer, either directly or indirectly, to Seller, or manufactured or acquired by Seller for Buyer, to perform this Contract by Buyer ("**Buyer's Property**") will be and remain the property of Buyer. All right, title and interest in Buyer's Property will remain with Buyer, subject only to Seller's limited right of use and possession of Buyer's Property, as Buyer's bailee-at-will, in connection with Seller's manufacture of the Goods. If title to any Equipment subject to a Purchase Order has not otherwise passed to Buyer, title will pass to Buyer, free and clear of all liens, claims, security interests, and other encumbrances, immediately upon Buyer's



first payment to Seller relating to such Equipment, and such Equipment will then be deemed to be Buyer's Property. Seller will bear all risk of loss of and damage to Buyer's Property. Buyer's Property will (a) at all times be properly housed and maintained by Seller, at its expense, (b) not be used by Seller for any purpose other than the performance of this Contract; (c) be deemed to be personalty; (d) be conspicuously marked by Seller as the property of Buyer; (e) not be commingled with the property of Seller or with that of a third person; and (f) not be moved from Seller's premises without Buyer's prior written approval. Upon Buyer's request, Buyer's Property will be immediately released to Buyer or delivered to Buyer by Seller, either: (A) FCA transport equipment at Seller's plant (Incoterms, 2020), properly packed and marked in accordance with the requirements of the carrier selected by Buyer to transport such property, or (B) to any location designated by Buyer, in which case Buyer will pay to Seller the reasonable costs of delivering such property to such location. **TO THE FULLEST EXTENT PERMITTED BY LAW, SELLER WAIVES ANY LIENS, CLAIMS, ENCUMBRANCES, INTERESTS OR OTHER RIGHTS THAT SELLER MIGHT OTHERWISE HAVE OR ASSERT ON OR WITH RESPECT TO ANY OF BUYER'S PROPERTY FOR WORK PERFORMED ON SUCH PROPERTY OR OTHERWISE.** If Seller and Buyer dispute whether any property in Seller's possession or control is Buyer's Property, it will be considered Buyer's Property pending resolution of the dispute and subject to this Section; provided that Seller will retain any claim or right to payment for disputed amounts despite Seller's relinquishment of possession of such property.

19.01 Rights of Entry, Inspection, and Reclamation. Buyer may enter Seller's facilities during normal business hours to inspect the facilities, Goods, tooling, and Buyer's Property and, without the necessity of a court order, remove any (a) Buyer's Property or (b) Goods or inventory that has been purchased by Buyer. Buyer's inspection of the Goods, whether during manufacture, prior to delivery or within a reasonable time after delivery, will not constitute acceptance of any work in process or finished Goods.

20. COMPLIANCE WITH LAWS.

20.01 Seller and the Goods will comply with all applicable laws, rules, regulations, orders, conventions, ordinances, or standards of the country(ies) of destination or that relate to the manufacture, labeling, transportation, importation, exportation, licensing, approval or certification of the Goods, including, without limitation, those relating to environmental matters, the handling and transportation of dangerous goods or hazardous materials, data protection and privacy, wages, hours and conditions of employment, subcontractor selection, discrimination, occupational health/safety, and motor vehicle safety.

20.02 Seller represents that neither it nor any of its subcontractors, vendors, agents or other associated third parties will utilize child, slave, prisoner or any other form of forced or involuntary labor, or engage in abusive employment or corrupt business practices, in the supply of goods or provision of services under this Contract.



20.03 Seller will comply with all applicable anti-corruption laws, including, without limitation, the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act, and that neither it nor any of its subcontractors, vendors, agents, or other associated third parties will engage in any form of commercial bribery, nor directly or indirectly provide or offer to provide, anything of value to or for the benefit of, any official or employee of a governmental authority or of any government-owned, government-controlled, or government-affiliated entity to obtain or retain any contract, business opportunity, or other business benefit, or to influence any act or decision of that person in his/her official capacity. At Buyer's request, Seller will certify in writing its compliance with the foregoing.

20.04 Upon Buyer's request, Seller will promptly provide to Buyer, in such form as Buyer may request, information to enable Buyer and Buyer's customers, as the case may be, to timely comply with all due diligence, disclosure and/or audit requests and requirements with respect to the ingredients and materials used in the Goods, including under so-called "conflict minerals" laws (for example, Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act and other laws passed in any jurisdiction requiring any disclosure or restriction on the use of ingredients or materials (collectively, "**Ingredients Laws**"). Seller's responses will be sufficiently detailed and include any requested written certifications regarding the accuracy and completeness thereof, so as to enable Buyer and Buyer's customers to fully comply with all Ingredients Laws and will be subject to audit by Buyer. If requested by Buyer, Seller's response will include a thorough inquiry of Seller's supply chain (and written certifications by all entities in such supply chain) identifying the ingredients or materials in the Goods and the country of origin of such ingredients or materials (or, following due inquiry, information regarding why such country of origin cannot be determined). Seller will be responsible for the timeliness, accuracy and completeness of its sub-tier suppliers' and subcontractors' responses to such inquiries. Seller will take all actions necessary to ensure that the Goods will be free of ingredients or materials restricted by Ingredients Laws, including ensuring that Seller's contracts with its sub-tier suppliers and subcontractors enable Seller to timely obtain, from such sub-tier suppliers and subcontractors, information sufficient for Seller to timely respond to Buyer's and Buyer's customers' requests for information under Ingredients Laws

21. EXPORT CONTROLS; GOVERNMENT CONTRACTING.

21.01 Seller will comply with all applicable export control and sanctions laws and regulations of the United States of America and any other relevant country (the "**Export Control Laws**"). Seller will not violate, and will not cause Buyer to violate, any Export Control Laws (e.g., by transshipping goods through, or supplying goods or services from, sanctioned countries or individuals). Licenses or other authorizations required for the export of goods or services will be the responsibility of Seller unless otherwise indicated in this Contract, in which event Seller will provide such information as may be requested by Buyer to enable Buyer to obtain such licenses or authorizations.



21.02 Buyer and Seller shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, national origin, or for inquiring about, discussing, or disclosing information about compensation. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. Buyer and Seller shall also abide by 29 CFR Part 471, Appendix A to Subpart A, as required.

22. INSURANCE.

22.01 Coverage. Seller will carry and maintain the following insurance coverage during the term of this Contract and for five (5) years thereafter:

- (a)** Workers' Compensation and Employer's Liability Insurance with statutory coverage for Workers' Compensation, and a \$1,000,000 per occurrence limit for Employer's Liability;
- (b)** Commercial General Liability insurance, using an ISO (Insurance Services Office) (or equivalent) policy form including full Contractual Liability coverage as per the form with a per occurrence limit of not less than \$3,000,000, and \$5,000,000 in the aggregate for personal injury, death, property damage, bodily injury, contractual liability, independent contractors, broad-form property damage, and Products and completed operations coverage; and
- (c)** Commercial Automobile Liability Insurance with a combined single limit of not less than \$1,000,000 per occurrence for bodily injury, death, and property damage for hired, owned and non-owned vehicles.

22.02 Policy Requirements.

- (a)** All policies will be underwritten by insurance companies with an A- or better rating as designated by A.M. Best. Each policy will: (i) provide that Buyer and its subsidiaries and affiliates be named as additional insured (other than for Workers' Compensation); (ii) provide that not less than 30 days prior written notice will be given to Buyer in the event of any alteration, cancellation, or termination of such policy; (iii) provide that the Commercial General Liability coverage will be primary



insurance with respect to coverage maintained by Seller and its subsidiaries and affiliates; and (iv) include a waiver of subrogation in favor of Buyer.

- (b) Seller will provide Buyer with a certificate of insurance evidencing such coverage upon the Effective Date of this Contract and at least 30 days prior to each renewal period of this Contract and/or such insurance policy. The minimum insurance requirements provided in this Section will, in no way, limit Seller's obligations to Buyer under this Contract. Seller may utilize a Commercial Umbrella policy to meet the above limits requirements.

23. AUDIT. Seller grants Buyer access to Seller's premises and books and records for the purpose of auditing Seller's performance under and compliance with the terms of this Contract (including, without limitation, all charges under this Contract). Seller will cooperate with Buyer and facilitate any such audits, including by promptly producing such records as Buyer may reasonably request. Seller will preserve all records pertinent to this Contract, and Seller's performance under this Contract, for a period of not less than one year after Buyer's final payment to Seller under this Contract.

24. RELATIONSHIP OF THE PARTIES. Buyer and Seller are independent contracting parties. Nothing in this Contract will make either party the agent or legal representative of or grant either party authority to assume or create any obligation on behalf of or in the name of the other party.

24.01 SUBCONTRACTING; ASSIGNMENT. Seller will not subcontract any of its duties or obligations under this Contract without Buyer's prior written consent. Seller will ensure that any approved subcontractor complies with all requirements of the Contract. Seller may not assign or delegate its rights or obligations under Contract without Buyer's prior written consent. Any purported assignment in violation of this Section will be invalid. Buyer may assign this Contract or any of its rights and interests in this Contract without Seller's consent.

25. FORCE MAJEURE. Any delay or failure of either party to perform its obligations under this Contract will be excused to the extent that Seller is unable to produce, sell, or deliver, or Buyer is unable to accept delivery, buy, or use, the Goods directly as the result of an event or occurrence beyond the reasonable control of such party, without such party's fault or negligence, including, as applicable, actions by any governmental authority (whether valid or invalid), fires, floods, windstorms, explosions, riots, natural disasters, epidemics, pandemics, wars, and sabotage; provided that written notice of such force majeure event (including the anticipated duration of the delay) must be given by the affected party to the other party as soon as possible (but in no event more than ten days after the force majeure event occurs). During any *force majeure* event affecting Seller's performance, Buyer may, at its option, purchase substitute goods or services from other sources and reduce its delivery schedules to Seller by such quantities, without liability to



Seller, or require Seller to provide substitute goods or services from other sources in quantities and at times requested by Buyer at the price set forth in this Contract. Seller will use all diligent efforts to ensure that the effects of any force majeure event are minimized and, as promptly as possible, resume full performance under this Contract. If requested by Buyer in writing, Seller will, within five days after Buyer's request, provide adequate assurances that the delay in Seller's performance resulting from such event will not exceed 30 days. If the delay lasts more than 30 days or Seller does not provide such adequate assurances, Buyer may immediately terminate this Contract without liability to Seller. Seller's financial inability to perform this Contract is not a *force majeure* event.

26. CONFIDENTIALITY. Seller will maintain the confidentiality of all information provided by Buyer or its representatives, and any materials or information that contain, are created from, or are based on, any such information. Seller may only use such information in connection with its performance under this Contract and will not provide such information to any third party (including, without limitation, Seller's subcontractors) without Buyer's advance written consent. Seller will not refer to Buyer or Buyer's trademarks and/or trade names without Buyer's prior written consent, in connection with advertising, public releases, or otherwise. The confidentiality provisions of this Section 26 will be in addition to the terms of any confidentiality agreement entered into by the parties.

27. CYBER SECURITY. Seller warrants that its information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, and databases are adequate for, and operate and perform in all material respects as required in connection with the operation of Seller's business and performance of this Contract, free and clear of all material bugs, viruses, disabling code, errors, defects, Trojan horses, time-bombs, malware and other malicious software (each a "**Cyber Threat**"). Seller will not introduce any Cyber Threat into any Goods provided hereunder or into Buyer's network or system. Seller has implemented and maintained commercially reasonable physical, technical, and administrative controls, policies, procedures, and safeguards to protect against Cyber Threats and maintain the integrity, continuous operation, redundancy, and security of all information technology systems and data. Seller will promptly, but in no event more than 24 hours after, notify Buyer of any breach of its information technology systems by a Cyber Threat that may impact Seller's performance under this Contract or compromise any of Buyer's information.

28. GOVERNING LAW; JURISDICTION; WAIVER OF JURY TRIAL.

28.01 Governing Law. All matters arising out of or relating to this Contract will be governed by the laws of the State of South Dakota, excluding any choice or conflict of law rule that would require the application of the law of another jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980) is expressly excluded from this Contract.



28.02 Jurisdiction. All lawsuits, actions, or proceedings arising out of or relating to this Contract will be instituted and resolved by the Yankton County, South Dakota Circuit Court or the United States District Court of South Dakota, and each party consents to the personal jurisdiction of and venue in such courts.

29. SEVERABILITY; NO WAIVER; CONTINUING OBLIGATIONS. If any terms(s) of this Contract are invalid or unenforceable under any statute, regulation, ordinance, Executive Order or other rule of law, such term(s) will be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule, and the remaining provisions of this Contract will remain in full force and effect. The failure of either party to require performance by the other party of any provision of this Contract will in no way affect the right to require such performance at any time thereafter, nor will the waiver of either party of a breach of any provision of this Contract constitute a waiver of any subsequent breach of the same or any other provision. The terms of this Contract (including Sections 10, 11, 12, 14, 15, 16, 17, 18, 19, 23, 26, 27, 28, and 29) will survive expiration, non-renewal, or termination of all or part of any Contract.

May 2023