



**MATCOR METAL FABRICATION INC.**

**PURCHASE ORDER  
GENERAL TERMS AND CONDITIONS**

Version GTC.2 issued July 27, 2015

**1. ACCEPTANCE**

The seller ("Seller") named in any purchase order to which these general terms and conditions (the "Order") are incorporated by reference or are otherwise attached has read and understands this order and agrees that Seller's written acceptance or commencement of any work or services under this order shall constitute Seller's acceptance of these general terms and conditions only. All terms and conditions proposed by Seller which are different from or in addition to those terms and conditions contained in these general terms and conditions are not accepted by the purchaser named in the Order ("Buyer"). Any such different or additional terms or conditions are hereby expressly rejected by Buyer and shall not form part of the Order. The Order and these general terms and conditions supersede and take priority over any and all previous verbal or written arrangements in connection with the Order.

**2. SHIPPING, BILLING AND CERTIFICATION**

Seller agrees that it will: (a) properly pack, mark and ship goods in accordance with the requirements of Buyer, the involved carriers, and, if applicable, the country of destination, (b) route shipments in accordance with Buyer's instructions, (c) make no charge for handling, packaging, storage, or transportation of goods, protective packaging material, delivering of parts to various plants in special racks/different container types or re-assignment of all kind of containers unless otherwise stated as an item on this order, (d) provide with each shipment packing slips with Buyer's order and/or release number and date of shipment marked thereon (e) properly mark each package with a label/tag according to Buyer's instructions, and (f) promptly forward the original bill of lading or other shipping receipt for each shipment in accordance with Buyer's instructions. Seller will include on bills of lading or other shipping receipts correct classification identification of the goods shipped in accordance with Buyer's instructions and the carrier's requirements. The marks on each package and identification of the goods on packing slips, bills of lading, and invoices shall be sufficient to enable Buyer to easily identify the goods purchased. Seller further agrees to accept payment based upon Buyer's receipt procedure and to accept payment by electronic transfer of funds or, at Buyer's discretion, payment by check. Buyer reserves the right to require an invoice. The payment date is set forth in the Order. Buyer may withhold payment pending receipt of evidence, in such form and detail as Buyer may direct, of the absence of any liens, encumbrances and claims on the goods or services under the Order.

**3. DELIVERY SCHEDULES**

Time is of the essence, and deliveries of goods shall be made both in quantities and at times, and performance of services shall be performed at times, specified in the Order or as otherwise specified by Buyer from time to time. Buyer shall not be required to make payment for goods delivered to Buyer which are in excess of quantities specified in the Order or otherwise specified by Buyer. Buyer may change the rate of scheduled shipments or performance or direct temporary suspension of scheduled shipments or performances, neither of which shall entitle Seller to a modification of the price for goods or services covered by the Order.

**4. PREMIUM SHIPMENTS**

If Seller's acts or omissions results in Seller's failure to meet Buyer's delivery requirements and Buyer requires a more expeditious method of transportation for the goods than the transportation method originally specified by Buyer, Seller shall ship the goods as expeditiously as possible at Seller's sole expense.

## 5. CHANGES

Buyer reserves the right at any time to change, or cause Seller to make changes, to drawings and specifications of the goods or services or to otherwise change the scope of the work covered by the Order including work with respect to such matters as inspection, testing or quality control, and Seller agrees to promptly make such changes. Any difference in price or time for delivery or performance resulting from such changes shall be equitably adjusted by Buyer after receipt of documentation in such form and detail as Buyer may direct.

## 6. SUPPLIER QUALITY AND DEVELOPMENT, INSPECTION

Seller agrees to participate in Buyer's supplier quality and development program(s) and to comply with all quality requirements and procedures specified by Buyer from time to time, including those set forth in ISO 9001/14001, TS 16949 and Buyer's Supplier Quality Assurance Guide (as delivered by Buyer from time to time), each as applicable. In addition Buyer and Buyer's customers shall have the right to enter Seller's facility at reasonable times to inspect the facility, goods, materials and any property of Buyer covered by this order.

Buyer's inspection of the goods, whether during manufacture, prior to delivery or within a reasonable time after delivery, shall not constitute acceptance of any work-in-process or finished goods.

## 7. NONCONFORMING GOODS

Seller acknowledges that Buyer will not perform incoming inspections of the goods, and waives any rights to require Buyer to conduct such inspections. Any incoming inspection performed by Buyer shall not constitute acceptance of the goods. Seller waives any applicable obligation of Buyer to provide notice of any deficiency upon delivery. To the extent Buyer rejects goods as nonconforming, the quantities under the Order will automatically be reduced unless Buyer otherwise notifies Seller. Seller will not replace quantities so reduced without a new order or schedule from Buyer. Nonconforming goods held by Buyer will be held in trust for Seller in accordance with Seller's reasonable instructions at Seller's cost and risk for up to 10 days, or such shorter period as may be commercially reasonable under the circumstances, following delivery of Buyer's notice of nonconformance. Seller's failure to provide written instructions within such 10 day or shorter period shall entitle Buyer, to dispose of the goods without liability to Seller. Payment for nonconforming goods shall not constitute an acceptance of them, limit or impair Buyer's right to assert any legal or equitable remedy or relieve Seller's responsibility for latent defects.

## 8. FORCE MAJEURE

Any delay or failure of either party to perform its obligations hereunder shall be excused to the extent that such party is caused by an event or occurrence beyond its reasonable control and without its fault or negligence, such as, by way of example and not by way of limitation, acts of God, actions by any governmental authority (whether valid or invalid), fires, floods, windstorms, explosions, riots, natural disasters, wars, sabotage, labor strikes and slowdowns, inability to obtain power, material, labor, equipment or transportation, or court injunction or order, provided in all cases that written notice of such delay (including the anticipated duration of the delay) is given by the affected party to the other party as soon as possible after the event or occurrence (but in no event more than 10 days thereafter). During the period of such delay or failure to perform by Seller, Buyer, at Buyer's option, may purchase goods from other sources and reduce the quantities under the Order accordingly, without liability to Seller, or have Seller provide the goods from other sources in quantities and at times requested by Buyer, and at the price set forth in the Order. In addition, Seller at its expense shall take such actions as are necessary to ensure the supply of goods to Buyer for a period of at least 30 days during any anticipated labor disruption or resulting from the expiration of Seller's labor contract(s). If requested by Buyer, Seller shall within 10 days of such request provide assurances satisfactory to Buyer that the delay shall not exceed 30 days. If the delay lasts more than 30 days or Seller fails to provide such assurances, Buyer may immediately terminate the Order without any liability to Seller.

## 9. WARRANTY

Seller represents, warrants and guarantees that the goods and services covered by the Order will conform to the specifications, drawings, samples, or descriptions furnished to or by Buyer, and will be of merchantable quality, of good material and workmanship and free from defect (design or otherwise). In addition, Seller acknowledges that Seller knows of Buyer's intended use for the goods or services and Seller represents, warrants and guarantees that the goods and services covered by the Order have been selected, designed, manufactured or assembled by Seller based upon Buyer's stated use and will be fit and sufficient for the particular purposes intended by Buyer. Seller further warrants that it will comply with all applicable laws and regulations relating to the production and, if applicable, to the development of the goods and to the performance of Seller's obligations under the Order and these general terms and conditions. The warranty period shall be the longest of (a) five years after the date the goods are delivered or the services are performed, (b) such longer period as is provided by applicable law and (c) the length of the warranty period provided by Buyer to its customers for goods installed or services performed on vehicles purchased by such customers.

The foregoing warranties are available to, and for the benefit of, Buyer, its subsidiaries and affiliates, their respective successors and assigns, and their respective customers and users of products (including without limitation an original equipment manufacturer of vehicles, whether directly or indirectly through an upper tier supplier, or any other third party customer) containing the goods purchased or for which the services were performed.

## 10. INGREDIENTS DISCLOSURE, SPECIAL WARNINGS AND INSTRUCTIONS

If requested by Buyer, Seller shall promptly furnish to Buyer in such form and detail as Buyer may direct: (a) a list of all ingredients in the goods, (b) the amount of all ingredients, (c) information concerning any changes in or additions to such ingredients and (d) information concerning the services being provided by the Seller. Prior to and with the shipment of the goods, Seller agrees to furnish Buyer reasonable notice in writing (including appropriate labels on the goods, containers and packing) of any hazardous material that is an ingredient or a part of any of the goods, together with such special handling instructions as may be necessary or advisable to advise carriers and Buyer, and their respective employees and representatives, of how to exercise that measure of care and precaution that will best prevent bodily injury or property damage in the handling, transportation, processing, use or disposal of the goods, containers and packing shipped to Buyer.

## 11. INSOLVENCY

Buyer may immediately terminate the Order without liability to Seller upon the occurrence of any of the following or any other comparable event: (a) Seller becomes insolvent or generally not able to pay its debts as they become due, (b) Seller admits in writing its inability to pay its debts generally or makes a general assignment for the benefit of creditors or (c) Seller institutes or has instituted against it any proceeding seeking to adjudicate it a bankrupt or insolvent or relating to its liquidation, winding up, protection, relief or composition of it or its debts under any applicable law relating to bankruptcy, insolvency, or relief of debtors or the entry of an order for relief or the appointment of a receiver, receiver-manager, administrator, custodian, monitor, trustee or other similar official for it or for any substantial part of its assets and such proceeding is not vacated or nullified within 15 days after its institution. Seller shall reimburse Buyer for all costs and expenses incurred by Buyer in connection with any of the foregoing, including, but not limited to, all legal and other professional fees.

## 12. TERMINATION FOR BREACH OR NONPERFORMANCE

Buyer reserves the right to terminate all or any part of the Order, without liability to Seller, if Seller: (a) repudiates or breaches any terms of the Order or these general terms and conditions, (b) fails to perform services or deliver goods as specified by the Buyer, (c) fails to make progress so as to endanger timely and proper completion of services or delivery of goods and does not correct such failure or breach within 10 days (or such shorter period

of time if commercially reasonable under the circumstances) after receipt of written notice from Buyer specifying such failure or breach.

### **13. TERMINATION FOR CONVENIENCE**

In addition to any other rights of Buyer to terminate the Order or these general terms and conditions, Buyer may, at its option, immediately terminate all or any part of this order, at any time and for any reason, by giving written notice to Seller. Upon such termination, Buyer shall pay to Seller the following amounts without duplication: (a) the order price for all goods or services which have been completed in accordance with this order and not previously paid for; and (b) the actual costs of work-in-process and raw materials incurred by Seller in furnishing the goods or services under this order 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 order; less, however, the sum of the reasonable value or cost (whichever is higher) of any goods or materials used or sold by Seller with Buyer's written consent, and the cost of any damaged or destroyed goods or material. Buyer will make no payments for finished goods, work-in-process or raw materials fabricated or procured by Seller in amounts in excess of those authorized by Buyer in delivery releases nor for any undelivered goods which are in Seller's standard stock or which are readily marketable. Payments made by Buyer under this paragraph shall not exceed the aggregate price payable by Buyer for the finished goods to be delivered or the services to be performed under the Order outstanding at the date of termination. Except as provided in this paragraph, Buyer shall not be liable for payment in respect of finished goods to be delivered or services to be performed outstanding at the date of termination. Except as provided in this paragraph, Buyer shall not be liable for and shall not be required to make payments to Seller, directly or on account of claims by Seller's subcontractors, for loss of anticipated profit, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs or rental, unamortized depreciation costs, or general and administrative burden charges from termination of this order. Within fifty days after the date of termination, Seller shall submit a comprehensive termination claim to Buyer for amounts owing under this paragraph, with sufficient supporting data to permit Buyer's audit of such claim, and shall thereafter promptly furnish such supplemental and supporting information as Buyer shall request. Buyer or its agents shall have the right to audit and examine all books, records, facilities, work, material, inventories and other items relating to any termination claim of Seller.

### **14. CONFIDENTIALITY**

Except as and to the extent required by law, Seller shall not disclose or use, and it shall cause its representatives not to disclose or use, any Confidential Information (as defined below) with respect to Buyer furnished, or to be furnished, by Buyer or its representatives to Seller or its representatives, or observed by Seller or its representatives at Buyer's facilities, at any time or in any manner other than in connection with its provision of the goods and services that are the subject of the Order. "Confidential Information" means any information, whether written, oral or in any other form or medium, disclosed to Seller relating to Buyer's business, operations, assets, liabilities, plans, prospects and affairs, drawings, designs, manufacturing data and other information, samples, models and prototypes of parts, products, process and equipment and design ideas processes, procedures and equipment. Confidential Information does not include any information that (i) is or becomes generally available to the public other than as a result of disclosure directly or indirectly by Seller, (ii) can be shown by Seller to have become available to Seller on a non-confidential basis from a source other than Buyer unless Seller knows after reasonable inquiry that such source is prohibited from disclosing the information to Seller by a contractual, fiduciary or other legal obligation to Buyer, or (iii) can be shown to have been independently acquired or developed by Seller without use of any Confidential Information. Seller acknowledges that because of the unique and proprietary nature of the Confidential Information, in the event of any breach of this paragraph by Seller, Buyer shall be entitled to injunctive relief to protect its rights and Seller shall be responsible for all legal and other costs incurred by Buyer in pursuing that or any other remedy at law or in equity. It is understood that all Confidential Information shall be and remain the exclusive property of Buyer. All Confidential Information, all copies thereof and any work product derived therefrom shall be provided to or returned to Buyer upon the earliest of (i) Seller having no further need thereof in the performance of the Order, (ii) the delivery of the related goods or performance of the related services and (iii) Buyer's written request.

Any knowledge or information which Seller shall have disclosed or may hereafter disclose to Buyer in connection with the Order, shall not, unless otherwise specifically agreed upon in writing by Buyer, be deemed to be confidential or proprietary information, and Buyer shall have the right to use, thereafter, or disclose such information as Buyer may deem appropriate.

## **15. INTELLECTUAL PROPERTY**

Seller agrees to defend, hold harmless and indemnify Buyer, its directors, officers, employees, representatives, successors, assigns and customers against any claims of infringement, misuse or misappropriation of any intellectual property right, including patents, trademarks, copyrights, industrial designs, trade secrets, confidential information or any other similar industrial or intellectual property right (collectively, the "Intellectual Property Rights"), and resulting damages and expenses (including attorney's and other professional fees) arising in any way in relation to the goods or services contracted, including such claims where Seller has provided only part of the goods or services. Seller expressly waives any claim against Buyer that such infringement, misuse or misappropriation arose out of compliance with Buyer's specification. Seller further agrees that Buyer or Buyer's representative or subcontractor has the right to repair, reconstruct, or rebuild the specific goods delivered or re-perform the services performed at Seller's expense, in order to render such goods or services originally delivered or performed under the Order noninfringing, misused or misappropriated, without payment of any fees or royalty to Seller. Seller may not use parts manufactured based on Buyer's Intellectual Property Rights, including drawings and/or specifications, for Seller's own use or for the sale to or use by third parties without Buyer's express written authorization. To the extent that any work performed as a result of the Order results in the creation of Intellectual Property Rights by Seller, Seller hereby assigns any and all such created Intellectual Property Rights to Buyer, and hereby waives any non-assignable rights (including moral rights).

## **16. TECHNICAL INFORMATION DISCLOSED TO BUYER**

Further to the provisions of Section 14 of this Agreement, Seller acknowledges and agrees that no technical information it discloses or may hereafter disclose to Buyer in connection with the goods or services covered by the Order shall be deemed confidential or proprietary information, unless specifically agreed to in writing by Buyer. Seller agrees that Buyer shall have the right to use and further disclose all non-confidential and nonproprietary technical information disclosed to Buyer, and the Seller agrees not to assert any claim with respect to any such non-confidential and non-proprietary technical information disclosed by Seller to Buyer.

## **17. INDEMNIFICATION**

Seller shall indemnify and hold Buyer and customers and users of products containing the goods supplied or on which the services were performed (including without limitation an original equipment manufacturer of vehicles, whether directly or indirectly through an upper tier supplier, or any other third party customer), and their respective representatives, employees, agents, customers, invitees, subsidiaries, affiliates, successors and assigns, harmless from and against all liabilities, claims, demands, losses, costs, damages and expenses of any nature or kind (including consequential and special damages, personal injury, property damages, lost profits, recall or other Customer field service action costs, costs allocated under a Customer warranty allocation program, production interruption costs, inspection, handling and reworking charges, professional and other legal fees, and other costs associated with Buyer's administrative time, labor and materials) arising from or as a result of: (i) any breach of the Seller's warranties hereunder; and (ii) any other acts, omissions or negligence of Seller or of any of its subcontractors or suppliers in connection with Seller's performance of its obligations under the Order. No limitations on Buyer's rights or remedies in any of Seller's documents shall operate to reduce or exclude such indemnification.

Seller acknowledges that Buyer may defend any claim brought by any customer or user of products containing the goods supplied or on which the services were performed that such goods or services are in breach of the Seller's warranty or indemnity obligations hereunder or are otherwise defective and do not meet the contractual

requirements of the Order. Seller agrees that Buyer's action to defend such claims is in the interest of both Buyer and Seller and is done to mitigate damages. Seller waives the right to argue that Buyer's defense of such claims in any way limits Buyer's right to seek indemnity from Seller or assert a claim against Seller that Seller has breached the Seller's warranty or indemnity obligations or has otherwise failed to meet the legal and contractual requirements of the Order.

## 18. INSURANCE

Seller shall maintain insurance coverage with carriers acceptable to Buyer and in the amounts set forth in the terms on the face of the Order. Seller shall furnish to Buyer either a certificate showing compliance with these insurance requirements or certified copies of all insurance policies within 10 days of Buyer's written request. The certificate will provide that Buyer will receive 30 days' prior written notice from the insurer of any termination of coverage. Seller's furnishing of certificates of insurance or purchase of insurance shall not release Seller of its obligations or liabilities under the Order.

Seller shall maintain and carry: (i) property and general liability insurance, including public liability, property damage liability, product liability and contractual liability coverages and professional liability coverage as Buyer may require based on the goods supplied or services performed; and (ii) workers' compensation and employers' liability insurance covering all employees engaged in the performance of the Order; in each case in such amounts and with such limits and with such insurers that are reasonably acceptable to Buyer and which are licensed to provide insurance coverage in the jurisdictions in which any goods are supplied or services performed, which may include state-sponsored workers' compensation insurance. Each policy shall expressly state that it provides primary coverage to any other insurance coverage available to Buyer and shall include an endorsement under which the insurer waives any rights of subrogation it may have against Buyer.

Unless otherwise expressly stated in the Order, Seller's liability insurance policies shall have combined single limits of no less than five million U.S. dollars (U.S.\$5,000,000) per occurrence and in the aggregate. Seller's property insurance policies shall be written on a "replacement cost" basis and Seller's workers' compensation and employers' liability insurance policies shall be in compliance with applicable statutory requirements and limits.

Seller shall furnish Buyer with certificates or other satisfactory proof of insurance confirming the foregoing insurance coverages within ten days of any request by Buyer. Any such insurance and the certificates shall provide for terms and conditions satisfactory to Buyer whereby, among other things: (i) the interest of Buyer in such insurance coverage is recognized by designating Buyer as an additional insured or loss payee, as interests may appear, or as may be requested by Buyer from time to time; and (ii) each policy shall contain an endorsement that the coverage will not be cancelled without at least thirty days' prior written notice to Buyer.

Buyer shall have the right, but not the obligation, to maintain such insurance coverage at Seller's expense prior to the expiration of such notice.

## 19. SELLER'S PROPERTY

Unless otherwise agreed to by Buyer, Seller, at its expense, shall furnish, keep in good condition, and replace when necessary all machinery, equipment, tools, jigs, dies, gauges, fixtures, molds, patterns and other items (collectively, "Seller's Property") necessary for the production of the goods. The reasonable cost of changes to Seller's Property necessary to make design and specification changes authorized by Buyer shall be paid for by Buyer. Seller shall insure Seller's Property with full fire and extended coverage insurance for its replacement value. Seller grants Buyer an irrevocable option to take possession of and title to Seller's Property that is special for the production of the goods upon payment to Seller of its net book value less any amounts that Buyer has previously paid to Seller for the cost of such items, provided, however, that this option shall not apply if Seller's Property is used to produce goods that are the standard stock of Seller or if a substantial quantity of like goods are being sold by Seller to others.

## 20. BUYER'S PROPERTY

All supplies, materials, tools, jigs, dies, gauges, fixtures, molds, patterns, equipment and other items furnished by Buyer, either directly or indirectly, to Seller to perform the Order, or for which Seller has been reimbursed by Buyer, shall be and remain the property of Buyer and held by Seller on a bailment basis (collectively, "Buyer's Property"). Seller shall bear the risk of loss of and damage to Buyer's Property while in the possession or under the control of Seller or its representatives. Buyer's Property shall at all times be properly housed and maintained by Seller, at its expense, shall not be used by Seller for any purpose other than the performance of this order, shall be deemed to be personalty, shall be conspicuously marked by Seller as the property of Buyer, shall not be commingled with the property of Seller or with that of a third person, and shall not be moved from Seller's premises without Buyer's prior written approval. Buyer shall have the right to enter Seller's premises at all reasonable times to inspect Buyer's Property and Seller's records with respect thereto. The Seller shall, at Seller's expense, maintain the Buyer's Property in good condition and repair, and shall replace any of the Buyer's Property if, as and when necessary or reasonably required. Upon the request of Buyer, Buyer's Property shall be immediately released to Buyer or delivered to Buyer by Seller, at Seller's expense, either (i) C.I.F. (Incoterms 2010) at Seller's plant, properly packed and marked in accordance with the requirements of the carrier selected by Buyer to transport such property, or (ii) to any location designated by Buyer, in which event Seller shall pay to Buyer the reasonable costs of delivering such property to such location. When permitted by law, Seller waives any lien or other rights that Seller might otherwise have on any of Buyer's Property for work performed on such property or otherwise. Buyer reserves all rights in connection with Buyer's designs, drawings, fixtures and samples (and all Intellectual Property Rights therein) and such designs, drawings, fixtures and samples or any substantial portion or description thereof are not to be reproduced in any material form without Buyer's prior authority in writing.

## 21. SERVICE AND REPLACEMENT PARTS

Seller will sell to Buyer goods necessary for it to fulfill its current model service and replacement parts requirements at the price(s) set forth in the Order. If the goods are systems or modules, Seller will sell the components or parts that comprise the system or module at price(s) that shall not, in the aggregate, exceed the price of the system or module less assembly costs. During the 15-year period after Buyer completes current model purchases, Seller will sell goods to Buyer to fulfill Buyer's past model service and replacement parts requirements. Unless otherwise agreed to by Buyer, the price(s) during the first 3 years of such 15-year period shall be those in effect at the conclusion of current model purchases. For the remainder of such 15-year period, the price(s) for goods shall be as agreed to by the parties, but in no case shall the price be more than 5% higher than the price in effect at the conclusion of the current model purchases. When requested by Buyer, Seller shall make service literature and other materials available at no additional charge to support Buyer's service part sales activities.

## 22. REMEDIES

The rights and remedies reserved to Buyer in the Order shall be cumulative with, and additional to, all other or further remedies provided in law or equity. Without limiting the foregoing, should any goods fail to conform to the warranties set forth in Paragraph 9, Buyer shall notify Seller and Seller shall, if requested by Buyer, reimburse Buyer for any incidental and consequential damages caused by such nonconforming goods, including, but not limited to, costs, expenses and losses incurred by Buyer (a) in inspecting, sorting, repairing or replacing such nonconforming goods, (b) resulting from production interruptions, (c) conducting recall campaigns (whether mandatory or voluntary) or other corrective service actions, and (d) for claims for personal injury (including death) or property damage caused by such nonconforming goods. If requested by Buyer, Seller will enter into a separate agreement for the administration or processing of warranty chargebacks for nonconforming goods.

### **23. CUSTOMS EXPORT CONTROLS**

Credits or benefits resulting or arising from this order, including trade credits, export credits or the refund of duties, taxes or fees, shall belong to Buyer. Seller shall provide all information necessary (including written documentation and electronic transaction records) to permit Buyer to receive such benefits or credits, as well as to fulfill its customs related obligations, origin marking or labeling requirements and local content origin requirements, if any. Export licenses or authorizations necessary for the export of the goods shall be the responsibility of Seller unless otherwise indicated in this order, in which event Seller shall provide such information as may be necessary to enable Buyer to obtain such licenses or authorization(s). Seller shall undertake such arrangements as necessary for the goods to be covered by any duty deferral or free trade zone program(s) of the country of import.

### **24. SETOFF/RECOUPMENT**

In addition to any right of setoff or recoupment provided by law, all amounts due to Seller shall be considered net of indebtedness of Seller and its affiliates/subsidiaries to Buyer and its affiliates/subsidiaries and Buyer shall have the right to set off against or to recoup from any amounts due to Seller and its affiliates/subsidiaries from Buyer and its affiliates/subsidiaries.

### **25. NO ADVERTISING**

Seller shall not, without first obtaining the written consent of Buyer, in any manner advertise or publish the fact that Seller has been contracted to furnish Buyer the goods or services herein ordered, or use any trademarks, trade names or other reference to Buyer in Seller's advertising or promotional materials.

### **26. COMPLIANCE WITH LAWS, FORCED LABOR**

Seller, and any goods or services supplied by Seller, shall comply with all applicable laws, rules, regulations, orders, conventions, ordinances or standards of the country(ies) of destination or which relate to the manufacture, labeling, transportation, importation, exportation, licensing, approval or certification of the goods or services, including but not limited to those relating to environmental matters, data protection and privacy, wages, hours and conditions of employment, subcontractor selection, discrimination, occupational health/safety and motor vehicle safety. Seller further represents that neither it nor any of its subcontractors 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 order. At Buyer's request Seller shall certify in writing its compliance with the foregoing. Seller shall indemnify and hold Buyer harmless from and against any liability claims, demands or expenses (including attorney's or other professional fees) arising from or relating to Seller's noncompliance.

### **27. NO IMPLIED WAIVER**

The failure of either party at any time to require performance by the other party of any provision of this order shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver of either party of a breach of any provision of this order constitute a waiver or any succeeding breach of the same or any other provision.

### **28. NON-ASSIGNMENT**

Seller may not assign or delegate its obligations under this order without Buyer's prior written consent.

### **29. RELATIONSHIP OF PARTIES**

Seller and Buyer are independent contracting parties and nothing in the Order or these general terms and conditions shall make either party the agent or legal representative of the other for any purpose whatsoever,



nor does it grant either party any authority to assume or to create any obligation on behalf or in the name of the other.

### **30. GOVERNING LAW; JURISDICTION**

This order is to be construed according to the laws of the country (and state/province, if applicable) from which the Order is issued as shown by the address of Buyer in the Order, excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods and any domestic laws enabling such convention and any conflict of laws provisions that would require application of another choice of law. Any action or proceedings by Buyer against Seller may be brought by Buyer in any court(s) having jurisdiction over Seller or, at Buyer's option, in the court(s) having jurisdiction over Buyer's locations, in which event Seller consents to jurisdiction and service of process in accordance with applicable procedures. Any actions or proceedings by Seller against Buyer may be brought by Seller only in the court(s) having jurisdiction over the location of Buyer from which this order is issued.

### **31. SEVERABILITY**

If any term(s) of this order is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law such term(s) shall 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 the order shall remain in full force and effect.

### **32. LANGUAGE - ENGLISH**

All communications with manufacturing, engineering, sales or receiving/user location must be in English unless otherwise directed. Examples of documents which must be submitted in English include, but are not limited to, PPAP documentation, supplier warrants, shipping labels and capability studies and data.

### **33. RIGHT TO AUDIT**

Seller grants to Buyer access to all pertinent information, including, but not limited to, books, records, payroll data, receipts, correspondence and other documents for the purpose of auditing seller's charges under this order. Seller will preserve these documents for a period of 1 year after the final payment under the Order. In addition, all work, materials, inventories and other items provided under this order must be accessible to Buyer, including, but not limited to, parts, tools, fixtures, gages, and models. Seller will segregate its records and otherwise cooperate with Buyer so as to facilitate the audit.

### **34. ENTIRE AGREEMENT**

The Order, together with these general terms and conditions and all attachments, exhibits or supplements appended to or incorporated by reference to the Order, and any other terms of Buyer specified in accordance with these general terms and conditions, constitute the entire agreement between Seller and Buyer with respect to the matters contained herein and supersedes all prior oral or written representations and agreements. Neither the Order nor these general terms and conditions may be modified by Seller or Buyer except by a purchase order amendment issued by Buyer.