

# VOLKSWAGEN GROUP CANADA INC. (the “Buyer”)

## TERMS AND CONDITIONS OF PURCHASE

*Last revised October 21, 2020*

These Terms apply when referenced by Buyer’s purchase order or other documentation.

1. Offer; Acceptance; Exclusive Terms; Identity of Buyer Each purchase order or purchase order revision issued by Buyer (“Order”) is an offer to the seller identified on the Order (the “Seller”) for the purchase of goods and/or services (collectively, “Supplies”) and includes and is governed by these Terms and Conditions of Purchase, (collectively, “Terms”). When accepted, the Order supersedes all prior agreements, purchase orders, quotations, proposals and other communications regarding the Supplies covered by the Order, except that a prior agreement signed by an authorized representative of Buyer (an agreement, such as a nomination letter, Statement of Work or Non-Disclosure Agreement (but not prior purchase orders for the same parts and vehicle program) (an "Agreement")) will continue to apply. Seller accepts the Order, including these Terms, and forms a contract by doing any of the following:
  - (a) Commencing any work under the Order; (b) accepting the Order in writing; or (c) any other conduct that recognizes the existence of a contract with respect to the subject matter of the Order. **The Order is limited to and conditional upon Seller’s acceptance of these Terms exclusively.** The Order does not constitute an acceptance of any offer or proposal made by Seller. Any reference in the Order to any offer or proposal made by Seller is solely to incorporate the description or specifications of Supplies in the prior proposal, but only to the extent that the description or specifications do not conflict with the description and specifications in the Order. Any additional or different terms proposed by Seller, whether in Seller’s quotation, acknowledgement, invoice or otherwise, shall be deemed a material alteration of these Terms, and are hereby objected to and rejected by Buyer, provided, that any such proposal or attempted variance shall not operate as a rejection of this Order if Seller accepts Buyer’s offer by commencement of work, shipment of the Supplies, or by other means acceptable to Buyer, in which case this Order shall be deemed accepted by Seller without any additional or different terms or variations whatsoever. Any modification of these Terms must be expressly stated in the Order. Each Order can be modified only under Section 38. In the event of a conflict, a mutually-signed agreement shall take precedence over a Statement of Work, the Statement of Work will take precedence over the Order, and the Order shall take precedence over these Terms.
2. Time Period of Order. Subject to Buyer’s termination rights, the agreement formed by the Order is binding on the parties for the length of the applicable vehicle program production life, and both Buyer and Seller acknowledge the risk of the vehicle program production life being cancelled or extended by Buyer. If the Supplies are not utilized by Buyer for the production of automotive parts or systems, the agreement formed by the Order will be binding for one year from the date the Order is transmitted to Seller. In such case, subject to Buyer’s termination rights, the Order will automatically renew for successive one-year periods after the initial term unless Seller provides written notice at least 180 days prior to the end of the current term of its desire that the Order not be renewed. Notwithstanding the foregoing, if an expiration date is stated in the Order or an Agreement, the term of the Order will continue until that date. Unless specifically waived in writing by an authorized representative of Buyer, Seller’s obligations with respect to service and replacement parts will survive the termination or expiration of the Order as set forth below.
3. Quantity; Material Releases; Delivery. (a) Unless noted as “firm” or words of similar meaning, quantities listed in each Order are Buyer’s best estimate of the quantities of Supplies it might purchase from Seller for the contract term specified in the Order. Any estimates or forecasts of production volumes or program duration are subject to change from time to time, with or without notice to Seller, and shall not be binding upon Buyer. Unless otherwise expressly stated in the Order, Buyer makes no representation, warranty, guaranty or commitment of any kind or nature, whether express or implied, to Seller in respect of Buyer’s quantitative requirements for the Supplies or the term of supply of the Supplies. Unless expressly stated on the face of the Order, Buyer is not required to purchase Supplies exclusively from Seller, and Buyer is required to purchase no more than those quantities specified in the

Order. (b) Unless otherwise expressly stated in the Order or an Agreement, if no other quantity is stated on the face of the Order or if the quantity is blank or states the quantity as zero, “blanket,” “see release,” “as scheduled,” “as directed,” “subject to Buyer’s production releases” or similar terms, then Seller will supply Buyer’s requirements for Supplies in such quantities as identified by Buyer as firm orders in material authorization releases, manifests, broadcasts or similar releases (“Material Releases”) that are transmitted to Seller during the term of the Order, and Seller will supply all such Supplies on such dates and times, at the price and on the other terms specified in the Order. If the Order covers services, Buyer is required to purchase such services to the extent expressly stated in a Statement of Work signed by Buyer. Buyer may require Seller to participate in electronic data interchange or a similar inventory management program, at Seller’s expense, for notification of Material Releases, shipping confirmation and other information. Material Releases are part of the Order, are governed by these Terms and are not independent contracts. Seller accepts the risk associated with lead times of various raw materials and/or components if they are beyond those provided in Material Releases. (c) Time and quantities are of the essence under the Order. Seller agrees to 100% on-time delivery of the quantities and at the times specified by Buyer, as stated in the Order and related Material Releases. Buyer may change the rate of scheduled shipments or direct temporary suspension of scheduled shipments, neither of which entitles Seller to modify the price for Supplies. Buyer is not obligated to accept early deliveries, late deliveries, partial deliveries or excess deliveries. Unless otherwise agreed in writing by Buyer, the risk of loss passes from Seller to Buyer upon delivery to Buyer’s transportation carrier (or if shipment is by Seller or common carrier, then upon delivery to Buyer’s designated facility), but title passes to Buyer only upon acceptance by Buyer at Buyer’s facility where the Supplies are to be used. (d) To assure the timely delivery of Supplies, Seller will, upon written request from Buyer, manufacture Supplies in excess of Buyer’s current Orders to serve as a reserve for shipment, at such inventory reserve level as may be set by Buyer from time to time, to meet Buyer’s requirements and to meet any unforeseen delays due to any reason whatsoever. Until such reserve Supplies are purchased by Buyer from Seller, they shall remain the property of Seller, and shall be held by Seller at its sole risk and expense.

4. Invoicing and Pricing; Freight. (a) Except as expressly stated on the Order, the price of Supplies stated on the Order is complete and includes storage, handling, packaging and all other expenses and charges of Seller, and no surcharges, premiums or other additional charges of any type shall be added without Buyer’s express written consent. Unless otherwise stated in the Order, Incoterms 2000 will apply to all shipments. Except as otherwise stated in the Order or an Agreement, shipments of Supplies within the Canada-United States-Mexico Trade Agreement (“CUSMA”) region will be ex-works. Except as otherwise stated in the Order or an Agreement, shipments of Supplies outside the CUSMA region will be delivered duty paid (“DDP”) Buyer’s designated facility at Seller’s final production location, using Buyer’s transportation. Prices are not subject to increase, unless specifically stated in the Order or an Agreement, and Seller assumes the risk of any event or cause affecting prices, including without limitation, foreign exchange rates, increases in raw material costs, inflation, increases in labor and other production and supply costs, and any other event which impacts the price or availability of materials or supplies. (b) All invoices or related documents for the Supplies must reference the Order number, amendment or release number, Buyer’s part number, Seller’s part number where applicable, quantity of pieces in the shipment, number of cartons or containers in the shipment, bill of lading number, currency and other information required by Buyer. No invoice or related documents may reference any term separate from or different than these Terms or the terms that appear on the face of the Order. Buyer reserves the right to return all invoices or related documents submitted incorrectly. (c) Seller agrees to accept payment for the Supplies based on Buyer’s Evaluated Receipt Record/Self Billed Invoice. (d) For non-production Supplies, Buyer will pay proper invoices complying with all of the terms of the Order, subject to adjustments, set-offs, discrepancies and other unresolved issues. (e) The total price includes all duties and taxes except for any governmentally imposed value added tax (VAT) imposed by Canadian jurisdictions, which must be shown separately on Seller’s invoice or billing documentation for each shipment. Buyer is not responsible for any business activity taxes, payroll taxes or taxes on Seller’s income or assets. Seller will pay all premium freight costs over normal freight costs if Seller needs to use an expedited shipping method to meet agreed delivery dates due to its own acts or omissions. Seller will pay any costs incurred by Buyer as a result of Seller’s failure to comply with shipping or delivery requirements. (f) Seller represents and warrants that the prices are, and will remain, no less favorable to Buyer than any price which Seller presently, or in the future, offers to any other customer for the same or substantially similar goods and/or

Services for substantially similar quantities. If Seller offers a lower price for the same or substantially similar goods and/or services to any other customer during the term of the Order, then Seller will immediately offer Buyer the same price as offered to Seller's other customer.

5. Packaging; Marking; Shipping; Disclosure; Special Warnings or Instructions. (a) Seller will: (i) properly pack, mark, and ship Supplies according to the requirements of Buyer, the involved carriers and the country of destination; (ii) route the shipments according to Buyer's instructions; (iii) label or tag each package according to Buyer's instructions; (iv) provide papers with each shipment showing the Order number, amendment or release number, Buyer's part number, Seller's part number (where applicable), number of pieces in the shipment, number of containers in the shipment, Seller's name and number, and the bill of lading number; and (v) promptly forward the original bill of lading or other shipment receipt for each shipment according to Buyer's instructions and carrier requirements. (b) Seller will promptly provide Buyer with the following information in the form requested by Buyer: (i) a list of all ingredients in Supplies; (ii) the amount of all ingredients, and (iii) information concerning any changes in or additions to the ingredients. Before and at the time Supplies are shipped, Seller will give Buyer sufficient warning in writing (including appropriate labels on all Supplies, containers, and packing, including without limitation disposal and recycling instructions, material safety data sheets and certificates of analysis) of any hazardous or restricted material that is an ingredient or part of the Supplies, together with any special handling instructions that are needed to advise carriers, Buyer, and their respective employees how to take appropriate measures while handling, transporting, processing, using or disposing of the Supplies, containers, and packing to best prevent bodily injury or property damage. Seller agrees to comply with all federal, provincial, and local laws and regulations pertaining to product content and warning labels, including without limitation, Canadian bi-lingual labeling requirements, and The Prohibition of Certain Toxic Substances Regulations, 2012 (SOR/2012-285), the U.S. Toxic Substances Control Act and European Union Directive 2000/53/EC. (c) Seller will reimburse Buyer for any liabilities, expenses and costs incurred as a result of improper packing, marking, routing, or shipping or any other noncompliance with the requirements of this Section. In no event will shipping documents attached to or contained in the shipment display pricing information or any of Buyer's proprietary information. If Buyer provides no packing requirements, Seller will pack the Supplies in accordance with the applicable Automotive Industry Action Group packing requirement.

6. Customs; Related Matters. Credits or benefits resulting from the Order, including trade credits, export credits or the refund of duties, taxes, or fees, belong to Buyer. Seller will provide all information and certificates (including CUSMA Certificates of Origin) necessary to permit Buyer to receive these benefits or credits. Seller agrees to fulfill any customs- or CUSMA-related obligations, origin marking or labeling requirements, and local content origin requirements. Export licenses or authorizations necessary for the export of Supplies are Seller's responsibility unless otherwise stated in the Order or an Agreement, in which case Seller will provide the information necessary to enable Buyer to obtain the licenses or authorizations. Seller will promptly notify Buyer in writing of any material or components used by Seller in filling the Order that Seller purchases in a country other than the country in which the Supplies are delivered. Seller will furnish any documentation and information necessary to establish the country of origin or to comply with the applicable country's rules of origin requirements. Seller will promptly advise Buyer of any material or components imported into the country of origin and any duty included in the Supplies' purchase price. If Supplies are manufactured in a country other than the country in which Supplies are delivered, Seller will mark Supplies "Made in [country of origin]." Seller will provide to Buyer and the appropriate governmental agency the documentation necessary to determine the admissibility and the effect of entry of Supplies into the country in which Supplies are delivered. Seller warrants that any information that is supplied to Buyer about the import or export of Supplies 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.

7. Inspection; Non-Conforming Goods/Services; Audit. Buyer may enter Seller's facility to inspect the facility, Supplies, materials, and any of Buyer's property related to the Order. Buyer's inspection of Supplies, whether during manufacture, prior to delivery, or within a reasonable time after delivery, does not constitute acceptance of any work-in-process or finished goods. Buyer's acceptance, inspection, or failure to inspect does not relieve Seller of any of its responsibilities or warranties. Nothing in the Order releases Seller from the obligation of testing, inspection and quality control. If defective Supplies are shipped to and rejected by Buyer, the quantities under the Order will be reduced unless Buyer otherwise notifies Seller. Seller will not replace reduced quantities without a new Material Release from Buyer. In addition to other remedies available to Buyer: (i) Seller agrees to accept return, at Seller's risk and expense at full invoice price, plus transportation charges, and to replace defective Supplies as Buyer deems necessary; (ii) Buyer may have corrected at any time prior to shipment from Buyer's plant Supplies that fail to meet the requirements of the Order; and/or (iii) Seller will reimburse Buyer for all reasonable expenses that result from any rejection or correction of defective Supplies, including without limitation sorting by Buyer of defective Supplies. Seller will document corrective actions within a commercially reasonable period after receipt of a defective sample and will take any measures necessary to correct the defect. Payment for nonconforming Supplies is not an acceptance, does not limit or impair Buyer's right to assert any legal or equitable remedy, and does not relieve Seller's responsibility for latent defects. Upon reasonable notice to Seller, Buyer may conduct audits at Seller's production facility for the purpose of quality, cost or delivery verification. Seller will ensure that the terms of its contracts with its subcontractors provide Buyer with all of the rights specified in this Section.

8. Payment. Buyer will pay for Supplies on the payment terms stated in the Order or an Agreement, if any. Such payment terms apply to the date Supplies are received at the facility designated by Buyer or, in the case of non-production Supplies or services, the date that Buyer receives Seller's invoice for non-production Supplies or following completion of the services. If no payment term appears on the Order or in an Agreement, Buyer will pay Seller for the Supplies on the date established by Buyer's purchase order or, in the case of services or non-production parts, Buyer's receipt of Seller's invoice following completion of the services. Invoices for tooling must be issued only as approved, as provided in the Order. Buyer may withhold payment pending receipt of evidence, in the form and detail requested by Buyer, of the absence of any liens, encumbrances, or claims on Supplies provided under the Order. Payment will be made in the currency expressly stated in the Order; if no such currency is noted, payment will be made in U.S. Dollars. Payment will be made by bank transfer or by check mailed on or before the due date unless otherwise expressly agreed by Buyer, and Seller agrees to accept payment by electronic funds transfer.

9. Changes. (a) Buyer reserves the right at any time, by written notice to Seller, to make changes, or to require Seller to make changes, to drawings, specifications, sub-suppliers, samples or descriptions of Supplies. Buyer also reserves the right 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. Buyer may also direct the supply of raw materials from itself or from third parties. Seller will promptly make any such requested change. In order for Seller to request a reasonable difference in price or time for performance as a result of such a change, Seller must notify Buyer of its request in writing within ten days after receiving notice of the change. Buyer can request additional documentation from Seller relating to any change in specifications, price or time for performance. After receiving all requested documentation, Buyer may, in its sole discretion, equitably adjust the price or time for performance. If Seller does not provide timely notice to Buyer that a requested change may result in a difference in price or time for performance, Buyer's requested change will not affect the price or time for performance. (b) Seller will not make any change relating to Supplies, including without limitation, in the Supplies' contents, design, specifications, processing, packing, marking, shipping, price or date or place of delivery, except at Buyer's written instruction or with Buyer's written approval. Such prohibited changes include, without limitation, changing (i) any third party supplier to Seller of the services, raw materials or goods used by Seller in connection with its performance under the Order, (ii) any facility from which Seller and/or any such third party supplier operates and that relates in any way to the

Supplies, or to services, raw materials or goods used by Seller in connection with performance under the Order, (iii) the price of any Supplies covered by the Order, (iv) the nature, type or quality of any services, raw materials or goods used by Seller or its suppliers in connection with the Order, (v) the fit, form, function, appearance or performance of any Supplies covered by the Order, or (vi) the production method, or any process or software, or any production equipment used in the production or provision of, or as part of, any Supplies under the Order. Any changes by Seller to any Order or to the Supplies covered by the Order without the prior written approval of an authorized representative of Buyer shall constitute a breach of the Order.

10. Warranties. (a) Seller expressly warrants and guarantees to Buyer, to Buyer's successors and assigns, and to users of Buyer's products, that all Supplies delivered or provided to Buyer will: (i) be competitive in terms of price, quality, delivery and technology, and conform to the specifications, standards, drawings, samples, descriptions and revisions as furnished to or by Buyer; (ii) conform to all applicable laws, orders, regulations and standards in Canada, including without limitation the Motor Vehicle Safety Act and the Canadian motor vehicle safety standards and the Canada Consumer Product Safety Act and the regulations promulgated thereunder; (iii) be merchantable and free of defects in design (to the extent designed by Seller or any of its subcontractors, agents or suppliers, even if the design has been approved by Buyer), materials and workmanship; (iv) be selected, designed (to the extent designed by Seller or any of its subcontractors, agents or suppliers, even if the design has been approved by Buyer), manufactured and assembled by Seller based upon Buyer's stated use and be fit and sufficient for the purposes intended by Buyer, and (v) be free of all liens, claims and encumbrances whatsoever. Seller further expressly warrants that, unless otherwise expressly stated in the Order, the Supplies are newly manufactured entirely with new materials, none of the Supplies is, in whole or in part, governmental or commercial surplus, and the Supplies are free from latent defects or conditions that would give rise to a defect regardless of whether the defect or condition was known or discoverable during the warranty period. These warranties are intended to provide Buyer with protection from any and all warranty claims brought against Buyer by its end-users. The foregoing warranties are in addition to those available to Buyer by law. (b) The warranty period is the longest of: four years from the date Buyer accepts the Supplies; the warranty period provided by applicable law; or the warranty period offered by Buyer to its end-users for Supplies installed on or as part of vehicles beginning when the vehicle is placed in service; and provided further, that if Buyer voluntarily or pursuant to a government mandate, makes an offer to owners of vehicles (or other finished products) on which the Supplies, or any parts, components or systems incorporating the Supplies are installed, to provide remedial action or to address a defect or condition that relates to motor vehicle safety or the failure of a vehicle to comply with any applicable law, safety standard or corrective service action ("Remedial Action"), the warranty shall continue for such period of time as may be deemed necessary by Buyer or dictated by the federal, provincial, local or foreign government where the Supplies are used or provided. (c) 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. (d) Seller will immediately notify Buyer in writing when it becomes aware of any ingredient, component, design or defect in Supplies that is or may become harmful to persons or property. (e) Buyer's approval of any design, drawing, material, process or specifications will not relieve Seller of these warranties. (f) The following communications shall each constitute notice of a breach of warranty under the Order: (i) any communication specifying a defect, default, claim of defect or other problem or quality issue of the Supplies provided under the Order; (ii) any communication to Seller claiming that the Supplies are in breach of any warranty or that Seller is in default under the Order; and (iii) a termination notice from Buyer under Section 19. Any such claim by Buyer of breach may only be rescinded in writing by an authorized representative of Buyer.

11. Supplier Standards, Quality and Development; PPAP; Required Programs. (a) Seller will conform to Buyer's quality control and other standards and inspection systems, including, without limitation, Volkswagen Group Canada Inc.'s Buyer's Formula Q Concrete, Formula Q Capability, Formula Q New Parts Integral, Quality Documentation for the Pre-Series Phase, Quality Master Agreement for Commissioning Suppliers for Module and Systems Assembly, and Agreement on Objectives Regarding Quality Capability (collectively, Buyer's "Supplier Standards"). Seller will also participate in supplier quality and development programs of or as directed by Buyer. Seller agrees to meet the full requirements of industry Production Part Approval Processes (PPAP) as specified by Buyer

and agrees to present this information to Buyer upon request, at the level requested. As requested by Buyer at any time, Seller will participate in and comply with the following Buyer programs and standards: (i) Development Conditions VW 99000; (ii) Advanced Quality Planning (AQP); (iii) supplier performance evaluations; and (iv) minority business expectations. In the event of any discrepancy between any part of the above programs or standards and an express provision of these Terms, these Terms will control. (b) Supplier shall ensure that all its sub-suppliers of goods or services comply with the provisions of this Section. (c) With respect to Supplies that have been specially marked, e.g. with the letter "D" in the technical specifications pertaining to such Supplies or by separate agreement, Seller shall also maintain special records showing when, in what manner, and by whom the delivery items were tested and inspected with respect to features requiring documentation, and recording the results of the required quality testing. The testing and inspection documentation must be retained for ten years and provided to the Buyer when requested. The Seller shall ensure its sub-suppliers also comply with the foregoing provisions. For guidance on this issue, see the VDA publication *Nachweisführung- Leitfaden zur Dokumentation und Archivierung von Qualitätsforderungen/ Quality Evidence- Guidelines for the Documentation and Archiving of Quality Requirements*, Frankfurt am Main, 1998. (d) Seller must maintain adequate development, validation, launch and ongoing supervision to assure all Supplies provided to Buyer conform to all applicable warranties and other provisions of the Order.

12. Service and Replacement Parts. During the applicable vehicle program production life and for five (5) years after a vehicle design concludes production or specific part concludes production (unless a different period is agreed in writing by the parties or stated in Buyer's applicable Statement of Work or Supplier Standards), Seller will supply Buyer's written "replacement parts" and "service parts" orders for the same Supplies, component parts and materials at the price(s) set forth in the Order plus any actual cost differential for special packaging. If the Supplies are systems or modules, Seller will sell each component or part 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. For an additional fifteen (15) years, (or a different period if agreed in writing by the parties or stated in Buyer's applicable Statement of Work or the Supplier Standards), Seller will sell Supplies to Buyer in order to fulfill Buyer's past model service and replacement parts requirements, at price(s) based on the most recent price(s) under the Order, taking into account actual, documented differences in the cost of materials, packaging, and costs of production after any of Buyer's current model purchases have been completed, as mutually and reasonably agreed by the parties. At Buyer's request, Seller will make service literature and other materials available at no additional charge to support Buyer's service part sales activities. Unless otherwise expressly agreed in writing by an authorized representative of Buyer, or unless Buyer removes tooling from Seller necessary for the production of service parts, Seller's obligations under this Section 12 shall survive termination or expiration of the Order for any reason.

13. Remedies. The rights and remedies reserved to Buyer in each Order will be cumulative with and in addition to all other or legal or equitable remedies. Seller will reimburse Buyer for any incidental, consequential or other damages (including lost profits) caused or required by Seller's breach or by nonconforming Supplies, including without limitation costs, expenses and losses incurred directly or indirectly by Buyer: (i) in inspecting, sorting, storing, reworking, repairing or replacing the nonconforming Supplies; (ii) resulting from production interruptions; (iii) conducting recall campaigns, customer field service actions or other corrective service actions; or (iv) resulting from personal injury (including death) or property damage caused by the nonconforming Supplies. Buyer's damages include reasonable attorneys' fees and other professional fees, settlements and judgments incurred by Buyer and other costs associated with Buyer's administrative time, labor and materials. If requested by Buyer, Seller will enter into a separate agreement for the administration or processing of warranty charge-backs for nonconforming Supplies, and will participate in and comply with warranty reduction or related programs of Buyer that relate to the Supplies. 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, Seller acknowledges and agrees that monetary damages are not a sufficient remedy for any actual, anticipatory or threatened breach of the Order and that, in addition to all other

rights and remedies that Buyer may have, Buyer shall be entitled to specific performance and injunctive equitable relief as a remedy for any such breach, plus Buyer's reasonable attorneys' fees.

14. Compliance with Laws; Ethics. (a) Seller, and any Supplies supplied by Seller, will comply with all applicable laws, including rules, regulations, orders, conventions, ordinances and standards, including without limitation (i) in relation to the manufacture, labeling, transport, import, export, licensing, approval or certification of the Supplies, and (ii) laws relating to environmental matters, hiring, wages, hours and conditions of employment, international prohibitions on child labor, subcontractor selection, discrimination, occupational health or safety, and motor vehicle safety. The Order incorporates by reference all clauses required by these laws. (b) All materials used by Seller in the Supplies or in their manufacture will satisfy current governmental and safety constraints on restricted, toxic and hazardous materials as well as environmental, electrical and electromagnetic considerations that apply to the country of manufacture, sale or destination. (c) Seller and its employees and contractors will abide by the highest ethical standards. Neither Seller nor any of its subcontractors will utilize slave, child, prisoner or any other form of forced, involuntary or illegal labor, or engage in abusive worker treatment or corrupt business practices in the sale of Supplies or provision of Services under these Terms. At Buyer's request, Seller shall certify Seller's and its subcontractors' compliance with the foregoing.

15. Indemnification. (a) To the fullest extent permitted by law, (i) Seller hereby assumes the entire, sole responsibility for any injury to person, including death, or damage to property of any kind or nature caused by, resulting from or in connection with the furnishing of Supplies by Seller, its subcontractors, officers, agents or employees; (ii) Buyer shall not be responsible for any injury to person (including death) or damage to property resulting from Seller's possession, use, misuse or failure of any Buyer's Property or other property furnished to Seller by Buyer, and the use of any such property by Seller shall constitute acceptance by Seller of all responsibility for any claims for such injury or damage, and (iii) Seller will defend, indemnify and hold harmless Buyer, its dealers and users of the products sold by Buyer (or the vehicles in which they are incorporated) and all of their respective agents, customers, invitees, subsidiaries, affiliates, successors and assigns, against all damages, losses, claims, liabilities and expenses (including reasonable attorneys' and other professional fees, settlements and judgments) arising out of or resulting from any defective Supplies, or from any negligent or wrongful act or omission of Seller or Seller's agents, employees or subcontractors, or any breach or failure by Seller to comply with any of Seller's representations or other terms and conditions of an Order (including any part of these Terms) including without limitation the cost of recall campaigns, Buyer field service actions or other corrective service actions that, in Buyer's reasonable judgment, are required because of nonconformities in some or all of the Supplies provided by Seller hereunder, and including without limitation interim set-offs or charges (such as interim field service action cost recovery debits) attributable to Supplies but subject to adjustment based on final determination of whether and to what extent the damages, losses, claims, liabilities and expenses were attributable to defects or other failures of Supplies or Seller to comply with its obligations under one or more Orders. Seller's obligation to defend and indemnify under this Section will apply regardless of whether the claim arises in tort, negligence, contract, warranty, strict liability or otherwise except for claims that arise as a result of the sole negligence of Buyer. Buyer has the right to be represented by and actively participate through its own counsel in the defense and resolution of any indemnification matters, at Seller's expense. The indemnification obligations of Seller set forth in this Agreement, including this Section, are independent of and in addition to any insurance and warranty obligations of Seller. (b) If Seller performs any work on Buyer's premises or utilizes the property of Buyer, whether on or off Buyer's or premises: (i) Seller will examine the premises to determine whether they are safe for the requested work and will advise Buyer promptly of any situation it deems to be unsafe; (ii) Seller's employees, contractors, and agents will comply with all laws and regulations that apply to the premises and may be removed from Buyer's premises at Buyer's discretion; (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; and (iv) to the fullest extent permitted by law, Seller will indemnify and hold Buyer and its agents, successors and assigns, harmless from and against any liability, claims, demands or expenses (including reasonable attorneys' and other professional fees, settlements and judgments) for damages to the property of or personal injuries (including death) to Buyer, its employees

or 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 property, except for any liability, claim or demand arising out of the sole negligence of Buyer.

16. Insurance. Seller will obtain and maintain, with insurance companies acceptable to Buyer, the insurance coverage listed below or in additional amounts and coverages as may be requested by Buyer, in each case naming Buyer and its affiliates (as applicable) as loss payee(s) and “additional insured(s)”. Such coverages shall include, without limitation, providing full fire and extended coverage insurance for the replacement value of (i) all Seller’s Property, and (ii) any bailed Buyer’s Property, both for their full replacement value. Seller will furnish to Buyer a certificate showing compliance with this requirement 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 or reduction in the amount or scope of coverage. The existence of insurance does not release Seller of its obligations or liabilities under the Order. Minimum required coverage is as follows:

<u>COVERAGE</u>	<u>LIMITS OF LIABILITY</u>
Workers compensation	Statutory
Employer’s liability	US\$500,000 / each accident, disease policy limit, disease each employee
Comprehensive general liability insurance, including contractual liability coverage	US\$5,000,000 / each occurrence, general aggregate, products & completed operations aggregate
Comprehensive automobile liability insurance	US\$5,000,000 / each occurrence, combined single limit
Business interruption insurance	As specified by Buyer

17. Financial Review; Insolvency. (a) Buyer or a third party designated by Buyer may at any time review the financial condition of Seller and its affiliates, and Seller will fully cooperate in such review and will promptly provide copies of or access to requested documents, including without limitation financial records and statements, forecasts, business plans, banking contacts and loan documents, and will make its financial managers available for discussions during reasonable business hours. Buyer and any designated third party will keep confidential any nonpublic information about Seller obtained in a financial review and use such information only for purposes of the review, except as needed to enforce the Order. (b) The Order may be terminated immediately by Buyer without liability to Seller if any of the following or comparable events occur, and Seller will reimburse Buyer for all costs incurred by Buyer in connection with any of the following, including without limitation attorneys’ and other professional fees: (i) Seller becomes insolvent; (ii) Seller files a voluntary petition in bankruptcy; (iii) an involuntary petition in bankruptcy is filed against Seller; (iv) a receiver or trustee is appointed for Seller; (v) Seller needs accommodations from Buyer, financial or otherwise, in order to meet its obligations under the Order; (vi) Seller executes an assignment for the benefit of creditors; or (vii) Seller is unable promptly to provide Buyer with adequate reasonable assurance of Seller’s financial capability to perform any of Seller’s obligations under the Order on a timely basis. In the event that this Order is not terminated in accordance with the immediately preceding sentence, upon the occurrence of an event described in the immediately preceding sentence, Buyer may make equitable adjustments in the price, payment terms, and/or delivery requirements under this Order as Buyer deems appropriate to address the change in Seller’s circumstances, including Seller’s continuing ability to perform its obligations regarding warranty, nonconforming Supplies or other requirements under this Order. (c) Seller agrees that if Seller experiences any delivery or operational problems, Buyer may, but is not required to, designate one or more representatives to be present in Seller’s applicable facility to observe Seller’s operations. Seller agrees that if Buyer provides to Seller any accommodations (financial or other) that are necessary for Seller to fulfill its obligations under this Order, Seller will reimburse Buyer for all costs, including attorneys’ and other professionals’ fees, incurred by Buyer in connection with such accommodation and will grant access to Buyer to use Seller’s premises and machinery, equipment, and other property necessary for the production of the Supplies covered by this Order.

18. Termination for Breach or Nonperformance. (a) Buyer may terminate all or any part of the Order, without liability to Seller, if Seller: (i) repudiates, breaches or threatens to breach any of the terms of the Order (including without limitation Seller's warranties and quality supplier provisions); (ii) fails or threatens not to deliver Supplies or perform services in connection with the Order; (iii) fails to make progress or to meet reasonable quality requirements so as to endanger timely and proper completion or delivery of Supplies and does not correct the 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 the failure or breach; (iv) enters or offers to enter into a transaction that includes a sale of a substantial portion of its assets used for the production of Supplies for Buyer or a merger, sale or exchange of stock or other equity interests that would result in a change in control of Seller without the prior written consent of Buyer, or (v) fails to remain competitive with respect to quality, technology, delivery, service or pricing of the Supplies. Seller will notify Buyer within ten days after entering into any negotiations that could lead to the situation specified in subsection (iv) above, provided that upon Seller's request, Buyer will enter into an appropriate nondisclosure agreement related to information disclosed to Buyer in relation to such transaction. Seller may not suspend performance of the Order or terminate the Order for any reason.

19. Termination for Convenience. In addition to any other rights of Buyer to cancel or terminate the Order, Buyer may, at its option and in its sole discretion, immediately terminate all or any part of the Order (other than the minimum quantities specified in Section 3) at any time and for any reason upon written notice to Seller. Upon receipt of notice of termination, and unless otherwise directed by Buyer, Seller will: (a) promptly terminate all work under the Order on the effective date of termination; (b) transfer title and deliver to Buyer the finished Supplies, the work in process, and the parts and materials that Seller reasonably produced or acquired according to quantities ordered by Buyer and that Seller cannot use in producing goods for itself or for others; (c) verify and settle any claims by subcontractors for actual costs incurred directly as a result of the termination; (d) 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; and (e) upon Buyer's request, cooperate with Buyer in transferring the production of Supplies to a different supplier, including as described in Section 20. Upon termination by Buyer under this Section, Buyer will be obligated to pay only the following without duplication: (i) the Order price for all finished Supplies in the quantities ordered by Buyer that conform to the Order for which Seller has not been paid; (ii) Seller's reasonable actual cost of merchantable and useable work-in-process and the parts and materials transferred to Buyer under part (b) above; (iii) Seller's reasonable actual costs of settling claims regarding its obligations to its subcontractors required under the Order, to the extent directly caused by the termination, but limited to the amount of the firm quantities of Supplies and raw materials/components specified in Material Releases issued by Buyer and then currently outstanding; (iv) Seller's reasonable actual cost of carrying out its obligation under subsection (d), and (v) If applicable, amounts due in connection with Transition Support under Section 20(b). Notwithstanding any other provision, 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, unabsorbed overhead, interest on claims, product development and engineering costs, tooling, facilities and equipment rearrangement costs or rental, unamortized capital or depreciation costs, finished goods, work-in-process or raw materials that Seller fabricates or procures in amounts exceeding those authorized in the Material Releases, or general administrative burden charges from termination of the Order, except as otherwise expressly agreed in a separate Order issued by Buyer. Buyer's obligation upon termination under this Section will not exceed the obligation Buyer would have had to Seller in the absence of termination. Seller will furnish to Buyer, within thirty (30) days after the date of termination, its 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. Buyer will have no obligation for payment to Seller under this Section if Buyer terminates the Order or portion thereof because of a default or breach by Seller, and any termination shall be without prejudice to any claims which Buyer may have against Seller.

20. Transition of Supply. (a) In connection with the expiration or termination of the Order by either party, in whole or in part, for any or no cause, or Buyer's decision to change to an alternate source of Supplies (including but not limited to a Buyer-owned or -operated facility) ("alternative supplier"), Seller will cooperate in the transition of supply, including the following: (i) 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) including, at Buyer's request, providing a sufficient bank of Supplies covered by the Order, such that Seller's action or inaction causes no interruption in Buyer's ability to obtain Supplies as needed; (ii) at no cost to Buyer, Seller (A) 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, (B) will provide all notices necessary or desirable for Buyer to resource the Order to an alternative supplier, (C) when requested by Buyer, will return to Buyer all Buyer's Property in as good condition as when received by Seller (reasonable wear and tear excepted); and (D) will comply with Seller's obligations relating to Seller's Property in Section 25 and in relation to subcontracts; and (iii) subject to Seller's reasonable 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 (collectively, "Transition Support") as expressly requested by Buyer in writing. (b) If the transition occurs for reasons other than Seller's termination or breach, Buyer will, at the end of the transition period, pay the reasonable, actual cost of Transition Support as requested and incurred, 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 and pay the disputed portion into third-party escrow for disbursement by arbitration. (c) The provisions of Section 20(b) notwithstanding, in the event that Supplier is located in the Supplier industrial park immediately adjacent to Buyer's (or its affiliates') facility in Chattanooga, Tennessee (the "VW Park"), then in connection with the expiration or termination of the Order by either party, in whole or in part, for any or no cause, or Buyer's decision to change to an alternative supplier, Buyer shall have the right to purchase, at its sole option, and Seller hereby agrees to sell and assign to Buyer upon request, all of Seller's assets located in the VW Park, including without limitation Seller's real and personal property, equipment, fixtures, work in process, inventory, contract rights, and intellectual property rights, at Seller's then book value for such assets.

21. Force Majeure. 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 (whether valid or invalid); embargoes; fires; floods, earthquakes, explosions; natural disasters; riots; wars; sabotage; inability to obtain power; or court injunction or order. Seller's inability to perform as a result, or delays caused by, Seller's insolvency or lack of financial resources is deemed to be within Seller's control. The change in cost or availability of materials or components based on market conditions, supplier actions, or contract disputes or any labor strike or other labor disruption applicable to Seller or any of its subcontractors or suppliers, will not excuse Seller's performance (under theories of force majeure, commercial impracticability or otherwise), and Seller assumes these risks. As soon as possible (but no more than one full business day) after the occurrence, Seller will provide written notice describing such delay and assuring Buyer of the anticipated duration of the delay and the time that the delay will be cured. During the delay or failure to perform by Seller, Buyer may at its option: (a) purchase Supplies from other sources and reduce its schedules to Seller by such quantities, without liability to Seller; (b) require Seller to deliver to Buyer at Buyer's expense all finished goods, work in process and parts and materials produced or acquired for work under the Order; or (c) have Seller provide Supplies from other sources in quantities and at a time requested by Buyer and at the price set forth in the Order. In addition, Seller at its expense will take all necessary actions to ensure the supply of Supplies to Buyer for a period of at least thirty (30) days during any anticipated labor disruption or resulting from the expiration of Seller's labor contracts. If upon request of Buyer, Seller fails to provide within ten (10) days (or such shorter period as Buyer requires) adequate assurance that any delay will not exceed thirty (30) days, or if any delay lasts longer than thirty (30) days, Buyer may terminate the Order without liability and Seller shall reimburse Buyer for costs associated with the termination.

22. Technology. (a) All Supplies, tooling (including fixtures, gauges, jigs, patterns, castings, cavity dies and molds, with all related appurtenances, accessions, and accessories), and all other deliverables, data, inventions (whether or not patentable), industrial designs, technical information, know-how, processes of manufacture and other intellectual property and information created, developed, conceived or first reduced to practice by or on behalf of Seller (including without limitation by any person or entity employed by or working under the direction of Seller) or acquired by Seller under this Order, and for which Buyer has agreed to reimburse Seller, along with all intellectual property rights relating thereto, are the sole and exclusive property of Buyer. Seller will promptly disclose in an acceptable form and assign to Buyer all such deliverables, data, inventions (whether or not patentable), industrial designs, technical information, know-how, processes of manufacture and other intellectual property and information. Seller will cause its employees to sign any papers necessary to enable Buyer to file applications for patents throughout the world and to record rights in and to such intellectual property. To the extent that such intellectual property includes any works of authorship (including, without limitation, software) created by or on behalf of Seller, such works shall be considered "works made for hire", and to the extent that such works do not qualify as "works made for hire," Seller hereby assigns to Buyer all right, title, and interest in all copyrights and moral rights therein.

(b) Seller acknowledges and agrees that Buyer and Buyer's subcontractor(s) (including their affiliates and subcontractors) have a worldwide, irrevocable right to repair, reconstruct or rebuild, and to have repaired, reconstructed or rebuilt, Supplies delivered under this Order without payment of any royalty or other compensation to Seller.

(c) Seller hereby grants to Buyer, its subsidiaries and affiliates, and their respective successors and assigns, and Buyer hereby accepts, a non-exclusive, irrevocable, worldwide, license, including the right to sublicense others in connection with providing the Supplies to Buyer under: (i) patents, industrial designs, technical information, know-how, processes of manufacture and other intellectual property, owned or controlled by Seller or its affiliates, and relating to the Supplies, to make, have made, repair, reconstruct, rebuild, relocate, use, sell, offer to sell and import the Supplies, and (ii) any works of authorship fixed in any tangible medium of expression (including without limitation drawings, prints, manuals and specifications) furnished by Seller in the course of Seller's activity under an Order, to reproduce, distribute, and display such works, and to prepare derivative works based thereon, subject to the other provisions of this Order (all items in clauses (c)(i) and (ii) above, collectively, "Seller's Intellectual Property", and such license in respect thereof, the "License"). Seller acknowledges and agrees that this License shall be effective from the first date of delivery of the Supplies under this Order (or such earlier date as specified below) and extend until the expiration of Seller's services parts obligation hereunder. Except as provided for below, Buyer agrees to pay to Seller a reasonable royalty for the License, and Seller acknowledges that: (A) for a period of two Model Years from Seller's first delivery of Supplies under an Order for Supplies to be incorporated into a vehicle ("Model Years" being full or partial model years as established by Buyer) (or if the Supplies are for some other purpose, for a period of two years from the first delivery of Supplies under an Order) such reasonable royalty shall be deemed to be included in the prices paid by Buyer for such Supplies, and thereafter the License shall be deemed to be royalty free and fully paid-up; and (B) in the event that prior to the completion of the applicable time period set forth in subsection (c) (A) above (that is, two Model Years, or two calendar years, from the first delivery of Supplies under an Order by Seller, as applicable), Buyer wishes to source the Supplies from someone other than Seller, Buyer shall pay an additional amount for such reasonable royalty during the period remaining under subsection (c)(A) above, and thereafter, Buyer's license shall be fully paid up and royalty-free. Buyer and Seller shall negotiate in good faith the amount of such additional amount for the reasonable royalty. Buyer and Seller acknowledge and agree that the License granted and accepted under this subsection 22(c) shall take immediate effect (if not already in effect) and be royalty-free and fully paid-up to Buyer in the event that: (A) an Order for Supplies is terminated by Buyer under Sections 18 or 19, and/or (B) in the event that Seller for any reason is unable to satisfy the quality, quantity, delivery or related requirements of Buyer for Supplies under an Order and/or additional orders.

(d) Rights under this Section 22 are intended to be subject to Section 65.11 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as an executory agreement, including the License under which Buyer has license rights to Seller's Intellectual Property, and are supplementary to any other rights of Buyer under existing Orders and any other agreements with Seller.

(e) All Supplies or other deliverables provided under this Order (including, for example, computer programs, technical specifications, documentation and manuals), shall be original to Seller and shall not incorporate, or infringe upon, any intellectual property rights (including, without limitation, copyright, patent, trade secret, mask work or trademark rights) of any third party, unless otherwise expressly agreed to in writing on behalf of Buyer by an authorized representative of Buyer.

(f) Seller agrees: (i) to defend, hold harmless and indemnify Buyer, its successors and assigns against any suit, claim or action for actual or alleged direct or contributory infringement of or inducement to infringe any proprietary right (including any patent, trademark, copyright, moral, industrial design right or other proprietary right or misuse or misappropriation of trade secret) and against any resulting damages or expenses (including attorney's and other professional fees, settlements and judgments) arising in any way in relation to Supplies covered by this Order (including without limitation their manufacture, purchase, use and/or sale), including such claims where Seller has provided only part of Supplies, and Seller expressly waives any claim against Buyer that such infringement arose out of compliance with Buyer's specifications, (ii) to waive any claim against Buyer, including any hold-harmless or similar claim, in any way related to a third-party claim asserted against Buyer for infringement of any proprietary right (including any patent, trademark, copyright, moral, industrial design right or other proprietary right or misuse or misappropriation of trade secret), including claims arising out of specifications furnished by Buyer, and (iii) that if the sale or use of the Supplies is enjoined or, in Buyer's sole judgment, is likely to be enjoined, Seller will, at Buyer's election and Seller's sole expense, procure for Buyer to right to continue using the Supplies, replace the same with equivalent non-infringing goods or modify such Supplies so they become non-infringing.

23. Buyer's Property. (a) All information and materials, including without limitation, tooling (such as fixtures, gauges, jigs, patterns, castings, cavity dies, molds, with all related appurtenances, accessions, and accessories), packaging, documents, standards, specifications, samples, trade secrets, manufacturing processes, marketing and pricing data, proprietary information and other materials and items (including whether or not such materials are in any way modified, altered or processed) furnished by Buyer either directly or indirectly to Seller to perform the Order, along with any and all Supplies, tooling, deliverables, data, and intellectual property rights under Section 22(a), for which Buyer has agreed to reimburse Seller, shall be and remain the sole and exclusive property of Buyer (collectively, "Buyer's Property"). Any and all goods manufactured by Seller using Buyer's Property may not be used for Seller's own use or manufactured or provided to third parties without Buyer's express written authorization. (b) Buyer does not guarantee the accuracy of, or the availability or suitability of, Buyer's Property supplied by Buyer. Seller shall assume all risk of death or injury to persons or damage to property arising from the use of Buyer's Property. TO THE EXTENT PERMITTED BY LAW, BUYER SHALL HAVE NO LIABILITY TO SELLER OR ANYONE CLAIMING BY OR THROUGH SELLER FOR ANY INCIDENTAL OR CONSEQUENTIAL OR OTHER DAMAGES OF ANY KIND WHATSOEVER RELATING TO BUYER'S PROPERTY SUPPLIED BY BUYER. BUYER DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO SUCH BUYER'S PROPERTY, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND SELLER WAIVES, FOR ITSELF AND ITS SUCCESSORS AND ASSIGNS, ALL CLAIMS OF NEGLIGENCE AND STRICT LIABILITY. (c) 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 is solely responsible for inspecting, testing and approving all Buyer's Property prior to any use, and Seller assumes all risk of injury to persons or property arising from Buyer's Property. Buyer's Property will be housed, maintained, repaired and replaced by Seller at Seller's expense in good working condition capable of producing Supplies meeting all applicable specifications, will not be used by Seller for any purpose other than the performance of the Order, will be deemed to be personalty, will be conspicuously marked by Seller as the property of Buyer, will not be commingled with the property of Seller or with that of a third person, and will not be moved from Seller's premises without Buyer's approval. Seller will insure Buyer's Property with full fire and

extended coverage insurance for its replacement value. Any replacement of Buyer's Property will become Buyer's property. Seller may not release or dispose Buyer's Property to any third party without the express written permission of Buyer. Buyer will have the right to enter Seller's premises to inspect Buyer's Property and Seller's records regarding Buyer's Property. Only Buyer has any right, title or interest in Buyer's Property, except for Seller's limited right, subject to Buyer's sole discretion, to use Buyer's Property in the manufacture of Supplies. Effective immediately upon written notice to Seller, without further notice or legal action, Buyer has the right to enter the premises of Seller and take possession of all of Buyer's Property without payment of any kind. Seller expressly waives any right to additional notice or process and agrees to provide Buyer or its nominee(s) with immediate access to Buyer's Property. 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. At Buyer's request, Buyer's Property will be immediately released to Buyer or delivered by Seller to Buyer either (i) FCA (loaded) transport equipment at Seller's plant, properly packed and marked in accordance with the requirements of Buyer's selected carrier, or (ii) to any location designated by Buyer, in which case Buyer will pay Seller the reasonable costs of delivery. Seller waives, to the extent permitted by law, 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, or any liens or other rights that Seller might otherwise have on Buyer's Property for work performed on such property, for the purchase price of Supplies, or otherwise.

24. Confidentiality. Seller acknowledges that Buyer's Property includes proprietary and confidential information ("Confidential Information"), regardless of whether such information is marked or identified as confidential, and is delivered to Seller on a confidential and nonpublic basis for the purpose of performing the Order only. All terms of the Order are deemed proprietary and confidential information of Buyer. Seller agrees to keep all Confidential Information in strictest confidence, and further agrees not to disclose or permit disclosure to others, or use for other than the purpose of the Order, any such Confidential Information. Seller shall (i) disclose Buyer's Confidential Information within Seller's organization only to those employees who have a need to know in order to fulfill Seller's obligations hereunder and who have agreed to keep the Buyer's Confidential Information confidential, and (ii) prevent any of Buyer's Confidential Information from being divulged to third persons not employed by Seller without the prior written consent of Buyer, including having recipients acknowledge the confidential status of such Buyer's Confidential Information and agree to similar restrictions. This obligation of confidence shall survive termination of this Agreement and will continue for the longer of

(i) a period of five years from the date of disclosure of Confidential Information covered by this Section, or (ii) a period ending three years after termination or expiration of any related Order, or (iii) as long as Buyer's Confidential Information remains a trade secret, whichever is longer, and unless a longer period is specified in writing by Buyer. The restrictions and obligations of this Section 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; (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 Confidential Information, or (d) is disclosed pursuant to law, regulation or lawful order or process. In such event, Seller shall promptly notify Buyer of the disclosure requirement to permit Buyer to oppose or limit such disclosure. Notwithstanding anything to the contrary in this Order, any confidentiality or non-disclosure agreement between the parties that predates this Order will remain in effect except as expressly modified by this Order, and to the extent of a conflict between the express terms of such an agreement relating to Buyer's Confidential Information and this Section 24, the terms of that agreement will control with respect to Buyer's Confidential Information.

25. Seller's Property Seller, at its expense, will furnish, keep in good working condition capable of producing Supplies meeting all applicable specifications, and replace when necessary, all materials, machinery, equipment, tools, jigs, dies, gauges, fixtures, molds, patterns, blueprints, designs, specifications, drawings, photographic negatives and positives, art work copy layout and other items that are not Buyer's Property and that are necessary for the production of Supplies under any Order ("Seller's Property"). Seller will insure Seller's Property with full fire and extended coverage insurance

for its replacement value. If Seller uses Seller's Property to produce goods or services similar to Supplies for other customers, including aftermarket customers, such goods or services will not incorporate any of Buyer's Property, logos, trademarks, tradenames or part numbers. Seller will not disclose or imply in its marketing efforts that such goods or services are equivalent to those purchased by, or configured for, Buyer. Seller grants to Buyer an irrevocable option to take possession of and title to Seller's Property that is special for production of Supplies under an Order (including, by way of example, and without limitation, Seller's Property specially designed or configured for the manufacture or assembly or other processing of Supplies), 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, or (if applicable) any such other amount as may be required by applicable law. This option does 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. Buyer's option rights under this Section with respect to Seller's Property are intended to be subject to Buyer's rights and elections under Section 65.11 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as and to the extent that such Seller's Property represents embodiments of intellectual property, including intellectual property licensed by Seller to Buyer under Section 22(c) above.

26. Tooling. This Section applies to orders for tooling required to manufacture the Supplies ("Tooling"). (a) 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. For any Tooling or parts thereof that Seller obtains from any third party, Seller will provide Buyer with such access and documentation to the ultimate production source. Seller will have ninety (90) days from the date Buyer notifies Seller of Buyer's intention to audit Seller to provide the requested access and copies of requested documentation for Buyer's exclusive use and records. Any information submitted following such ninety (90) day period need not be considered by Buyer. The price 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. If Seller's primary business is to fabricate Tooling, Seller will be permitted a reasonable profit percentage as indicated by the Order. In the absence of a mutually-accepted profit percentage, Buyer will determine a reasonable profit percentage following the completion of its audit. Seller will invoice Buyer for (and Buyer will only be obligated to pay) the lower of Seller's actual cost plus such profit percentage or the amount set forth in the Order. Seller will not disclose to any third party, except for its attorneys and professional advisors who are required to maintain confidentiality, the results of such Tooling audits or any adjustments made by Buyer to the prices and amounts payable to Seller as a result of such audit. Seller will retain (and cause its Tooling sub-suppliers to retain) all cost records for a period of three years after receiving final payment of the charges. All Tooling is to be made to Buyer's specifications. Any exception to such specifications must be stated in writing on the Order or otherwise in a signed writing by an authorized representative of Buyer. To the extent the Order expressly states that it is for "tooling" and unless otherwise stated in the Order, freight terms are DDP Buyer's facility – Freight Collect, and Seller should not prepay or add freight charges. (b) To the extent permitted by applicable law, any payments made by Buyer for Buyer-owned Tooling are expressly intended by Buyer to be held in trust for the benefit of any subcontractor(s) used by Seller to produce the Buyer-owned Tooling that are covered by such payments and Seller agrees to hold such payments as trustee in trust for such subcontractor(s) until Seller has paid the subcontractor(s) in full for the Buyer-owned Tooling. Seller acknowledges and agrees that such subcontractor is an intended third party beneficiary of the terms of this Section 26(c) relating to the trust and as such, such Tooling subcontractor shall have the right to enforce these terms of this Section 26(c) directly against Seller in subcontractor's own name. Seller agrees that Buyer has no obligation to Seller or Seller's Tooling subcontractor under this Section other than making the payment to Seller in accordance with a Tooling Purchase Order. In the event Seller's Tooling subcontractor brings an action against Seller under this section, Seller agrees that it will not join Buyer in any such action.

27. Set-Off; Recoupment. In addition to any right of setoff or recoupment provided by law, all amounts due to Seller will be considered net of indebtedness of Seller and its affiliates or subsidiaries to Buyer and its affiliates or subsidiaries. Buyer will have the right to set off against or to recoup from any payment or other obligation owed to Seller, in whole or in part, any amounts due to Buyer or its affiliates or subsidiaries from Seller or its affiliates or subsidiaries. Buyer will provide Seller with a statement describing any offset or recoupment taken by Buyer.

28. Information Disclosed to Buyer. Seller agrees not to assert any claim against Buyer or its suppliers with respect to any technical information that Seller has disclosed or may disclose to Buyer in connection with the Supplies covered by the Order, except to the extent expressly covered by a separate written confidentiality and/or license agreement signed by Buyer or by a valid patent expressly disclosed to Buyer prior to or at the time of the Order.

29. 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.

30. 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.

31. Conflict of Interest. Seller represents and warrants that its performance of the Order will not in any way conflict with any continuing interests or obligations of Seller or its employees or contractors. Seller further warrants that while the Order is in effect, Seller and those of its employees and contractors participating in the performance of the Order will refrain from any activities which could reasonably be expected to present a conflict of interest with respect to Seller's relationship with Buyer or its performance of the Order.

32. Assignment. (a) Seller may not, without Buyer's prior written consent (on the face of an Order or in a signed writing by an authorized representative of Buyer), (i) assign or delegate (including without limitation by subcontract) its obligations under the Order, or (ii) enter or offer to enter into a transaction that includes a sale of a substantial portion of its assets used for the production of the Supplies for Buyer or a merger, sale or exchange of stock or other equity interests that would result in a change of control of Seller. In the event of any approved assignment (including without limitation subcontract), sale or delegation authorized by Buyer, Seller retains all responsibility for Supplies, including all related warranties and claims, unless otherwise expressly agreed in writing by Buyer. (b) With Buyer's prior written consent, Seller may make an assignment of receivables due or to become due to a single financial institution; provided, however, that any such assignment shall be subject to set-off (see Section 27 above) or other proper method of enforcing any claims that Buyer may have under the Order. (c) Buyer will have the right to assign any benefit or duty under an Order to any third party upon notice to Seller with our without consent.

33. Sales Tax Exemption. The Supplies purchased under the Order are identified as industrial processing and may be exempt from sales taxes. In such case, the tax identification number and/or other exemption information are stated in the Order or are otherwise provided by Buyer.

34. Governing Law; Arbitration; Jurisdiction. The Order will be governed by the laws of the Province of Ontario. If any dispute arises between the Parties relating to the application, interpretation, implementation or validity of this agreement, the Parties agree to resolve the dispute by arbitration using

the ADR Chambers Expedited Arbitration Rules. The parties agree that the ADR Chambers Expedited Arbitration Rules give the parties a fair opportunity to present their case and respond to the case of the other side. The arbitration shall be held in Toronto and shall proceed in accordance with the *International Commercial Arbitration Act*, SO 2017, c-2, Sched. 5. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The provisions of the United Nations Convention on Contracts for the International Sale of Goods, and any conflict-of-law's provisions that would require application of another choice of law, are excluded.

35. Severability; No Implied Waiver. If any term of the Order is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, the term will be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with applicable law. The remaining provisions of the Order will remain in full force and effect. The failure of either party at any time to require performance by the other party of any provision of the Order will not affect the right to require performance at any later time, nor will the waiver of either party of a breach of any provision of the Order constitute a waiver of any later breach of the same or other provision of the Order.

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

37. Entire Agreement; Modifications; Buyer's Website. (a) Except as described in Section 1, the Order, together with the attachments, exhibits, supplements or other terms of Buyer specifically referenced therein, constitutes the entire agreement between Seller and Buyer with respect to the matters contained in the Order. The Order may only be modified (1) by a written amendment executed by authorized representatives of each party or, (2) for changes within the scope of Section 9, by a purchase order amendment issued by Buyer. (b) Buyer may modify purchase order terms and conditions from time to time by providing revised purchase order terms and conditions to Seller or posting revised purchase order terms and conditions to Buyer's internet website (or such other website as may be directed through links available on such website) as specified on the face of this Order ("Buyer's Website") at [www.vwgroupsupply.com](http://www.vwgroupsupply.com) prior to the date when any modified terms and conditions become effective. Such revised purchase order terms and conditions shall apply to all purchase order revisions/amendments and new Orders issued on or after the effective date thereof. Seller shall be responsible to review Buyer's Website periodically. (c) Buyer's Website may also contain specific additional requirements for certain items covered by this Order, including labeling, packaging, shipping, delivery and quality specifications, procedures, directions and/or instructions. Any such requirements shall be deemed to form part of the Terms and the Order. Buyer may periodically update such requirements by posting revisions thereto on Buyer's Website. In the event of any inconsistency between the Order and Buyer's Website, the terms of the Order shall prevail, unless the requirements specified on Buyer's Website expressly provide otherwise.

38. Claims by Seller. Any legal action or arbitration proceeding by Seller under any Order must be commenced no later than one (1) year after the breach or other event giving rise to Seller's claim occurs, or Seller becomes aware of the existence (or facts and circumstances giving rise to the existence) of such claim, whichever occurs first.

39. Battle of the Forms Not Applicable. The parties have agreed and it is their intent that the battle of the forms described in Section 2-207 of the U.S. Uniform Commercial Code shall not apply to these Terms or to any invoice or acceptance form of Seller relating to these Terms. It is the parties' intent that these Terms shall exclusively control the relationship of the parties, and in the event of any inconsistency between any invoice or acceptance form sent by Seller to Buyer and these Terms, these Terms shall control.