



# Terms and Conditions of Purchase

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## 1. The Contract

### 1.1 *Offer and Acceptance*

Each Purchase Order issued by Quest Industries, Inc., a Michigan corporation (individually and collectively, Buyer”) is Buyer’s offer to purchase the products (“Products”) and/or services (“Services”) from the seller (“Seller”) identified in the Purchase Order. Seller will have accepted a Purchase Order as issued. If Seller fails to object to it in writing within five (5) business days after receipt, commences any work under the Purchase Order, or engages in any other conduct that recognizes the existence of a contract for the Products and/or services. Upon acceptance, the Purchase Order (together with these Terms and Conditions and any other documents specifically incorporated in the Purchase Order), will become a binding contract between Buyer and Seller. All references to the term “Purchase Order” shall mean these Terms and Conditions and any other documents specifically incorporated in the Purchase Order, and shall include blanket and individual purchase orders, releases, or similar documents issued by Buyer to Seller. The Purchase Order supersedes all prior agreements, quotations, proposals, and other communications regarding the Products and or Services covered the Purchase Order, except that a mutually signed prior agreement (such as an Award Letter, Statement of Work or Non-Disclosure Agreement) will continue to apply. No course of dealing, course of performance, usage of trade or other understanding that purports to amend or waive terms or conditions of the Purchase Order or these Terms and Conditions shall be binding unless made in writing and signed by Buyer and Seller.

**ALL PURCHASE ORDERS ARE EXPRESSLY CONDITIONED UPON SELLER’S ACCEPTANCE OF THE EXCLUSIVE APPLICATION OF THESE TERMS.** Buyer rejects in total, and Seller hereby waives the right to invoke Seller’s standard terms and conditions of sale under the Purchase Order. Unless otherwise specifically stated in the Purchase Order, the Purchase Order is not exclusive between the parties, and Buyer may purchase similar products and services from third parties.

### 1.2 *Changes*

By notice to Seller, Buyer may make reasonable changes within the scope of the Purchase Order, to the drawings, specifications, materials, packaging, testing, quantity, time or method of delivery or shipment, or similar requirements prescribed in the Purchase Order. Seller shall have five (5) business days to notify Buyer, with documentation, for parties to agree on equitable adjustments to price and timing. Any changes to the Purchase Order must be in writing and signed by Buyer’s authorized representative. Seller shall not make any changes to supplies, including without limitations, changes in contents, design, specifications, processing, packaging, marking, shipping without Buyer’s written instructions or Buyer’s written approval. Seller must notify Buyer in writing of a change requests; however, such changes shall not be implemented without the express written approval from Buyer. Any changes by Seller to any Purchase Order or to the Products without the prior written approval of an authorized representative of Buyer shall constitute a breach of the Purchase Order. Buyer may modify these Terms and Conditions at any time by posting a revised document on our website [www.questindustries.net](http://www.questindustries.net). Modifications will be effective on the date modified. Such revised terms and conditions shall apply to all Purchase Order revisions/amendments and New Purchase Orders issued on or after the revision date. Seller shall be responsible to review Buyer’s website periodically.



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## 2. Delivery/Quantity

### 2.1 Delivery Schedules

Quantities and delivery schedules to fulfill the Purchase Order will be as reasonably determined by Buyer and state in the Purchase Order. Seller agrees to 100% on-time delivery of the quantities and at the times specified by Buyer, as stated in the Purchase Order. Buyer shall have no liability beyond the quantities specified in the Purchase Order. Buyer may return over-shipments to Seller at Seller's expense. If Products are not delivered in time to meet Buyer's delivery schedules, and it is determined that Seller is the cause of the delay, Seller will be responsible for additional costs of any resulting expedite or other special transportation. Buyer shall be responsible for additional costs of expedited or other special transportation that Buyer may require because of changes to its Purchase Order or delivery schedules or for other reasons not caused by Seller. Time is of the essence under the Purchase Order.

### 2.2 Packaging and Shipment

Buyer may specify the method of transportation and the type and number of packaging slips and other documents to be provided with each shipment. Seller will pack and ship Products in accordance with Buyer's instructions, including labeling and hazardous materials instructions. If Buyer has not provided packaging or shipping instructions, Seller will pack and ship Products in accordance with sound commercial practices. Seller agrees to comply with all national, state, provincial, and local laws and regulations pertaining to product content and warning labels.

## 3. Cost and Payment

### 3.1 Cost

Prices for the Products set forth on the face of the Purchase Order are not subject to increase, including without limitation, any increase based upon changes in raw material or component pricing or labor or overhead costs. Unless otherwise stated in the Purchase Order, such prices include all packaging and transportation costs and all costs of insurance, duties, tariffs, and other fees. Seller represents that the prices charged to Buyer for the Products are at least as low as the price charged by Seller to buyers of a class like Buyer and for products like those specified in the Purchase Order. Notwithstanding anything to the contrary herein, no increase in the price is effective, without the prior written consent of Buyer.

### 3.2 Supplier Expectations

Seller must always provide world class Products or Services competitive as to price, quality, technology, and customer support. Seller's failure to meet the requirements of this subsection is a basis for termination under **Section 11.2** below.

### 3.3 Payment Terms

Buyer will pay proper invoices on the payment terms set forth in the Purchase Order. Seller will promptly submit correct and complete invoices with appropriate supporting documentation and other information reasonably required by Buyer after delivery of Products and performance of Services. Buyer may withhold payment until a correct and complete invoice or other required information is received and verified. Seller will accept payment by check or other cash equivalent, including electronic funds transfer. Buyer will pay Seller in U.S. Dollars.



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### 3.4 Insolvency of Customer

In the even that Buyer's customer files or has filed against it a petition in bankruptcy or insolvency and in the course of such proceeding and in connection with an actual or threatened termination by customer of its purchase orders with Buyer, and if Buyer permits a reduction in the price paid to Buyer for goods sold to such customer to prevent a termination of a purchase order with customer, then Buyer has the right to proportionally adjust Seller's price for Products or Services incorporated in the goods upon thirty (30) days written notice to Seller, Buyer may elect to have the provisions of this Section prevail over any conflicting term between Buyer and Seller.

## **4. Warranties**

### 4.1 Seller's Product Warranties

Seller warrants to Buyer that during the warranty period specified in **Section 4.3**, the Products will be free from defects in workmanship, materials, and design, and will conform to the specifications, drawings, samples, and performance requirements specifically incorporated in the Purchase Order, customer drawings/data or otherwise specified by Buyer. The products shall be merchantable and safe and fit for the Buyer's intended purposes. The Products will conform to all applicable laws, orders, regulations, and standards. Buyer's inspection or approval of any design, drawing, material, condition, process, or specifications will not relieve Seller of these warranties. The warranties set forth in this **Section 4.1** are cumulative and in addition to any other warranty provided by law.

### 4.2 Seller's Service Warranties

Seller warrants to Buyer that it shall perform the Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with the highest industry standards for similar services and shall devote adequate resources to meet its obligations under the Purchase Order and these Terms and Conditions.

### 4.3 Warranty Period

The warranty period shall be the longer of three years from the date Buyer accepts the Products, the warranty period provided by applicable law, or warranty period offered by Buyer or Buyer's customer to its end-users is extended, the warranty period under the Purchase Order shall be automatically extended by the same period.

## **5. Inspection/Non-Conforming Products**

### 5.1 Inspection

Buyer may, with reasonable advance notice to Seller, inspect Seller's production processes and property and conduct testing at Seller's premises for the sole purpose of verifying Seller's performance under the Purchase Order. Seller may restrict Buyer's access as necessary to protect proprietary information and may require appropriate indemnification and releases. Buyer is not required to inspect Products delivered or Services performed, and no inspection or failure to inspect will reduce or alter Seller's obligations under the Purchase Order.

### 5.2 Non-Conforming Products

Products or Services that do not conform to the warranties in **Section 4** will be handled by Buyer as follows: (1) reject the nonconforming Products or Services, (2) require Seller, at Buyer's option and Seller's expense (including applicable shipping costs), to either repair or replace the nonconforming Products or Services, and (3) if Buyer reasonable determines (through statistical sampling or other quality assessments) that a material amount of incoming Products are non-conforming or if Buyer receives subsequent defective material, Buyer will require Seller to implement at its expense



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containment, inspection, sorting, and other quality assurance procedures. Payment for nonconforming Products is not an acceptance and 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. If, after the implementation of the above, Buyer is still not satisfied with the quality of the Products or Services from Seller, then Buyer shall have the right to terminate the Purchase Order without liability.

## 6. Recall

"Recall" means any voluntary or government-mandated offer by Buyer to remedy an alleged defect that affects safety, quality, or performance or to address an alleged failure to comply with any applicable safety standards, requirements, or guideline. Unless otherwise stated in the Purchase Order, Seller will be liable for all costs and damages resulting from a Recall if the Recall results in whole or in part from (1) a failure of the Products to conform to the warranties in **Section 4** (even if the warranty period has expired), or (2) the acts or omissions of Seller, any negligence by Seller, any defects in the Products or any failure of the Products to comply with any relevant specifications (even if any of the foregoing is not a breach of warranty). Buyer shall fully control any Recall activities, but Buyer will notify Seller as soon as practicable after Buyer learns in writing that the Recall being considered with implicates the Products, and thereafter provide Seller with all data relating to the potential Recall, and give Seller a reasonable opportunity to participate in inquiries and discussions among Buyer, its customer, and governmental agencies, and consult with Seller about the most cost-effective method of modifying or replacing the Products in order to remedy the alleged defect or non-compliance. In the event Seller is liable for the Recall as provided above, Buyer may set-off the costs of the Recall against sums due to Seller prior to the negotiations set forth.

## 7. Service Requirements

### 7.1 Service Requirements

If a Purchase Order remains in effect at the end of the production program, Seller will also make those Products available to Buyer and/or Buyer's customer for Buyer's past-model service requirements for a period of 10 years after the end of the vehicle program, or for as long as the Buyer's customer requires service parts.

### 7.2 Service Payment Terms

For the first five years past-production, service part Products will be set at the then-current production prices under the Purchase Order, plus any additional costs for the special packaging, and shipping. For the second five years, the parties will negotiate in good faith the prices, quantities, and delivery terms for past-model service Products based on the availability and cost of needed materials, supplies, packaging, shipping, and handling, related services, and other relevant factors.

## 8. Tooling/Capital Equipment

Buyer and Seller agree that all tools and equipment needed to produce Products or Services will be made to Buyer's specifications. Any exception to such specifications must be stated in writing on the Purchase Order or otherwise in a signed writing by Buyer. Seller shall give Buyer access to Seller's premises, prior and after payment, to inspect work performed and to verify charges for tooling and equipment submitted by Seller against the Purchase Order or any amendment. The price set forth in the Purchase Order will be adjusted to credit Buyer in the amount, if any, by which the price exceeds Seller's actual cost as verified. Seller agrees to retain all cost records for a period of two years after receiving final payment of the charges and Buyer shall have the right to audit such records to verify amounts.



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## 9. Property

### 9.1 Buyer's Property

Buyer shall own or have the right to possess all tooling, dies, gauges, fixtures, molds, and other equipment and property ("Property") used by Seller to manufacture, store, and transport Products or provide Services if Buyer or Buyer's customer has provided or paid for the Property. Seller will hold Buyer's Property or Buyer's customer's Property on a bailment basis and will be responsible for loss or damage to Buyer's Property while in Seller's possession or control. Seller shall fully insure all of Buyer's or Buyer's customers Property at its replacement value and name Buyer as a loss payee. To the extent permitted by law, Seller waives any lien or similar right it may have with respect to Buyer's Property. Seller will (1) at its expense maintain Buyer's Property in good condition and repair, (2) use Buyer's Property only for the manufacture, storage, and transport of Products for Buyer, unless Buyer otherwise approves in writing, (3) mark Buyer's Property as belonging to Buyer or its customer, and (4) not remove Buyer's Property (other than shipping containers and like) from Seller's premises without Buyer's prior written approval. Seller will immediately release to Buyer, upon request, Buyer's Property and Buyer's customer's Property at any time. With or without cause and without payment of any kind unless otherwise provided in the Purchase Order. Seller will release the requested Property and other property to Buyer properly packed and marked in accordance with the requirements.

### 9.2 Seller's Property

Seller will own all property that is not Buyer's Property or its customer's Property. Seller shall, at its expense, furnish, maintain in good condition, and replace when necessary Seller's Property needed to perform to the Purchase Order. Seller grants Buyer an irrevocable option to purchase Seller's property necessary to produce the Products at the federal taxation unamortized acquisition cost, less any amounts Buyer has previously paid to Seller for the cost of such Seller's property. Buyer shall have the right to audit Seller's financial records to verify amounts due hereunder.

## 10. Intellectual Property Rights

### 10.1 Buyer's Intellectual Property

Buyer does not transfer Seller any patent, trademark, copyright, or other intellectual property right of Buyer ("Buyer's IP") through information, documents or property made available to Seller other than the right to use Buyer's IP to produce and supply Products and Services to Buyer.

### 10.2 Intellectual Property Under the Purchase Order

All intellectual property, including without limitation, processes, information, patents, trademarks, copyrights, or other intellectual property developed in the performance of the Purchase Order ("Products IP") are owned by the Buyer and not by Seller. Seller agrees that all copyrightable works shall be considered "works made for hire". To the extent that, by operation of law, Seller owns any of the Products IP, Seller hereby assigns to Buyer all its right, title, and interest, including all patent and copyright rights in the Products IP. Seller agrees to cooperate with Buyer as Buyer may direct in effecting any such assignment, including, without limitation, executing and filing such instruments and other documents as Buyer may request cost to Buyer.

### 10.3 Infringement

Seller expressly warrants that all Products manufactured for Buyer under the Purchase Order will not and do not infringe on any patent, trademark, copyright, or other intellectual property right of any third party. Seller will indemnify and defend Buyer and its customers, their subsidiaries, and affiliates and their respective officers, directors, managers, members, shareholders, employees, and



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agents and representatives, and their respective successors and assigns, against claims, liabilities, losses, damages, costs, and expenses, including reasonable legal fees, arising out of the actual or alleged infringement of the Products of a third-party intellectual property right in any jurisdiction. If a claim under this **Section 10.3** results in, or is likely to result in an injunction or other order that would prevent Seller from supplying Buyer with Products, or from using Products for their intended purpose, Seller will, at Buyer's election and Seller's sole expense, either (1) secure a license of the intellectual property that permits Seller to continue supplying the Products to Buyer, or (2) modify the Products so that they become non-infringing, so long as the modification does not alter the operation of performance of the Products, or (3) replace the Products with non-infringing but equivalent Products.

## **11. Confidential Information**

All non-public, confidential, or proprietary information of Buyer, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists or information, pricing, discounts, or rebates, disclosure by Buyer to Seller, whether or not marked, designated or otherwise identified as "confidential" in connection with the Purchase Order and any other documents specifically incorporated in the Purchase Order shall be deemed confidential ) collectively, the "Confidential Information"). Seller may not disclose Confidential Information or use Confidential Information for any purpose other than as specified under the Purchase Order without in each case securing the written consent of the Buyer. Seller will use the same degree of care to safeguard Confidential Information that it used to protect its own confidential information from unauthorized access or disclosure, but in any case, at least a reasonably diligent degree of care. In addition, all communications from Seller with respect to any Purchase Order shall be directed only to Buyer, and Seller shall have no such communications with any of Buyer's customers. Upon Buyer's request, Seller shall promptly return or destroy all documents and other materials received from Buyer. Buyer shall be entitled to injunctive relief for any violation of this **Section 11**.

## **12. Assignment; Subcontracting**

Seller may not assign or subcontract its duties or responsibilities under the Purchase Order without Buyer's prior written consent, which consent Buyer may grant or withhold for any reason or no reason in its sole discretion. For purpose of the Purchase Order, "assign" shall be construed broadly and shall include, but not be limited to, any transfer and any changes in control of Seller occurring as the result of any merger, consolidation, operation of law, change of more than 50% of the direct or indirect ownership of Seller or change of the controlling managers, directors, or partners of Seller. An approved assignment does not relieve Seller of its duties or obligations under the Purchase Order or its responsibility for non-performance or Default by its assignee or subcontractor.

## **13. Termination**

### ***13.1 Term of the Purchase Order***

Unless a Purchase Order expressly references this **Section 13.1** and states on its face that such Purchase Order is for a more limited period of time or for a specific or limited quantity, the Purchase Order will remain in effect for the length of the applicable Original Equipment Manufacturer ("OEM") program production life (including model refreshes as determined by the OEM customer), regardless of whether (1) the Purchase Order specifies a quantity, (2) the Purchase Order is reissued annually or otherwise, (3) the parties agree to change price or other terms, (4) the Purchase Order numbers change, or (5) the Purchase Order has a date range. Both Buyer and Seller acknowledge the



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risk of the program production life being cancelled or extended by the OEM, or until cancellation pursuant to the terms of this **Section 13**. Seller may not terminate or cancel the Purchase Order or suspend performance of the Purchase Order for any reason except for breach of payment by Buyer as outlined in **Section 13.2**.

## ***13.2 Termination for Breach or Convenience***

Buyer may terminate all or part of the Purchase Order, without liability to Seller, if Seller, (1) breaches or threatens to breach any terms of the Purchase Order, (2) fails to fix a nonconformance within five (5) business days of written notice, (3) admits in writing its inability to pay its debts as they become due. Begins a bankruptcy, insolvency, receivership, or similar proceeding. Or makes a general assignment for the benefit of creditors, (4) becomes a debtor in a bankruptcy, insolvency, receivership, or similar proceeding commenced by a third party that is not dismissed within thirty (30) days, (5) fails to provide adequate assurance of performance under the Purchase Order within five business days after written demand by Buyer, (6) dissolves, or (7) assigns or subcontracts the Purchase Order in violation of Section 12. In addition to any other right of Buyer to terminate or cancel the Purchase Order, Buyer may, as its sole discretion terminate all or any part of the Purchase Order at any time and for any reason upon ten (10) days prior notice to the Seller. Upon notice of termination, Seller shall, unless otherwise directed by Buyer and subject to Seller's obligations under **Section 13.4**. (1) terminate all or the specified portion of the work under the Purchase Order; (2) transfer title to and deliver to Buyer the useable and merchantable Products, work in process and raw materials that Seller has produced and/or purchased; (3) settle all claims by subcontractor's approval by Buyer for reasonable direct and actual costs that are rendered unrecoverable by the termination and (4) upon request, cooperate with transition to an alternate supplier specified by Buyer. Seller may terminate the Purchase Order only for non-payment of the purchase price for the Products which are sixty (60) days past due and material in amount. And then only if (a) Seller first provides Buyer with written notice specifying the amounts past due and Seller's intent to terminate the Purchase Order if the past due amount is not paid, and (b) Buyer, within sixty (60) days of such notice does not either pay the past due amounts or notify Seller that the amounts claimed to be unpaid are disputed by Buyer.

## ***13.3 Buyer's Obligations under Termination***

Upon termination under **Section 13.2**, Buyer shall pay to Seller (a) the Purchase Order price for completed and delivered Products and Services, and (b) the actual cost of any work-in-process and raw materials in Seller's possession. Buyer shall not be obligated to pay Seller for loss of anticipated or direct or indirect profits, liquidated or consequential damages, unabsorbed overhead, product development or engineering costs, unamortized depreciation, or general and administration burden resulting from termination of the Purchase Order. Seller's termination claim must be submitted to Buyer within thirty (30) days after the effective date of the termination. Buyer shall have the right to audit records of Seller to verify the amount sought by Seller.

## ***13.4 Transition of Supply***

In connection with termination of the Purchase Order by either party (including Buyer's decision to change to an alternate Supplier), Seller will cooperate in the transition of supply, including the following: (1) Seller will continue production and delivery of all Products as ordered by Buyer, at the prices and other terms stated in the Purchase Order, without premium or other conditions, during the entire period reasonably needed by Buyer to complete the transition to the alternate supplier, such that Seller's action or inaction causes no interruption in Buyer's ability to obtain Products as needed; (2) Seller will promptly provide all information and documentation reasonably requested by Buyer regarding Seller's manufacturing process for the Products including on-site inspections, bill of material data, tooling, process detail and samples of components; and (3) If the transition



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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 estimates of such costs. Buyer shall have the right to audit the records of Seller to verify transition support expenses.

## **14. Remedies**

### **14.1 Remedies – Seller's Default**

The rights and remedies reserved to Buyer under the Purchase Order are cumulative with and in addition to all other legal or equitable remedies allowed by law. In addition to any direct damages sustained by Buyer on account of Seller's breach of the Purchase Order or by delivering nonconforming products, Seller will also be liable for Buyer's direct and indirect, incidental, and consequential damages including, without limitation, reasonable professional fees. In the event Buyer must commence legal action for the production or delivery of the Products, Seller acknowledges that Buyer has no adequate remedy at law and Buyer shall be entitled to immediate order of specific performance of Seller's obligations under the Purchase Order an injunctive equitable relief of remedy for any such breach.

### **14.2 Remedies-Buyer's Property**

If Seller does not release or deliver Buyer's Property or its customer's Property in accordance with **Section 7.1**, Buyer may at Seller's cost (1) obtain an immediate court order for possession without notice and without posting a bond, and (2) enter Seller's premises, with or without legal process, and take immediate possession of Buyer's Property and its customer's Property. To the extent permitted by law, Seller waives any right to object to Buyer's repossession of Buyer's Property and its customer's Property in a bankruptcy or other proceeding.

### **14.3 Limitations of Damages**

In no event will Buyer be liable to Seller for its indirect, special consequential (including lost profits, interest, lost market share or damage to brand value), incidental, punitive, and exemplary damages, whether foreseeable or not, irrespective of whether Buyer has or has not been advised of the possibility of such damages. This limitation of liability applies notwithstanding the type of Purchase Order or the nature of the Seller's claim in contract, tort, or equitable proceeding.

### **14.4 Indemnification**

Seller agrees to indemnify and hold harmless Buyer, its subsidiaries and affiliates and their respective officers, directors, managers, shareholders, members, employees, and agents and representatives, and their respective successors and assigns, from all claims, liabilities, damages of any kind or nature, reasonable costs or reasonable expenses incurred in connection with any claims (including lawsuits, administrative claims, regulatory actions and other proceedings to recover for personal injury or death, property damage or economic loss) that are related in any manner to or arise in any way (a) from the Products or any defect therein, or (b) from the negligence of, acts or omissions, or breach of the Purchase Order, by Seller or its officers, directors, managers, shareholders, members, employees, and agents and representatives. Seller's indemnification obligation will apply regardless of whether the claim arises in tort, contract, or otherwise, except to the extent of any liability arising solely out of the gross negligence of Buyer even if Buyer furnishes all or a portion of the design and specifies all or a portion of the processing used by Seller, and even if the warranty period provided under the Purchase Order has expired.

## 15. Force Majeure

A delay or failure by either Buyer or Seller to perform its obligations under the Purchase Order will be excused, and will not constitute a default, only if (1) caused by an event or occurrence beyond the reasonable control of that party and without its fault or negligence such as: acts of God, embargoes, fires, natural disasters or riots, and (2) the party unable to perform gives notice of the non-performance (including its anticipated duration) to the other party promptly after becoming aware that it has occurred or will occur. If Seller is unable to perform for any reason, Buyer may purchase Products and Services from other sources and reduce its purchases from Seller accordingly without liability to Seller. Within three (3) business days after written request by the other party, the non-performing party will provide adequate assurances that the non-performance will not exceed thirty (30) days. If the non-performance exceeds thirty (30) days, the other party may cancel the Purchase Order. The change in cost or availability of raw materials, components or services based upon market conditions, supplier actions or contract disputes shall not be considered Force Majeure and will not excuse Seller's performance.

## 16. Customs

Transferable credits or benefits associated with Products purchased, including trade credits, export credits, or rights to the refund of duties, taxes, or fees, belong to Buyer unless otherwise prohibited by applicable law. Seller will provide Buyer with all information and records relating to the Products necessary for Buyer to (1) received these benefits, credits, and rights, (2) fulfill any customs obligations, origin marking or labeling requirements, and certification or local content reporting requirements, (3) claim preferential duty treatment under applicable trade preference regimes, and (4) participate in any duty deferral or free trade zone programs of the country of import. Seller will obtain all export licenses and authorizations and pay all export taxes, duties, and fees unless otherwise stated in the Purchase Order, in which case Seller will provide all information and records necessary to enable Buyer to obtain those export licenses or authorizations.

## 17. Insurance

Seller shall maintain and upon request furnish to Buyer a certificate evidencing (1) general liability insurance with coverage limits reasonably acceptable to Buyer and naming Buyer's Property as an additional insured; (2) all risk property perils insurance covering the full replacement value of Buyer's Property while in Seller's care, custody, or control and naming Buyer as loss payee; and (3) worker's compensation insurance as required by applicable law. Seller shall provide Buyer with at least 30 days of prior written notice of any cancellation, non-renewal, or material change in the insurance policies required under this **Section 15**.

## 18. Insolvency

Buyer, or a third party designated by Buyer may, at any time, review the financial health of the Seller. Seller will fully cooperate with such review and provide all requested financial documentation after mutually agreed to procedures have been established. Subject to **Section 11**, Buyer will use the financial information provided under this **Section 18** only to determine Seller's ability to perform under the Purchase Order. If Buyer in its sole discretion determines the Seller may be unable to perform under the Purchase Order, Buyer may require the Seller to post a performance bond, to grant Buyer a security interest in the assets of the Seller, or to provide other adequate assurance of ability to perform as Buyer may deem appropriate or required, on such terms and conditions as Buyer may in its sole discretion determine. In the event the Seller is unable to provide



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such adequate assurance, then Buyer may then terminate the Purchase Order, without penalty or premium.

## **19. Miscellaneous**

### **19.1 Advertising**

During and after the term of the Purchase Order, Seller will not advertise or otherwise disclose its relationship with Buyer or Buyer's customers without Buyer's prior written consent, except as may be required to perform the Purchase Order or as required by law.

### **19.2 Taxes**

Unless otherwise stated in the Purchase Order, the Purchase Order price includes all applicable federal, state, provincial, and local taxes other than sales, value added, or similar turnover taxes or charges.

### **19.3 Compliance with Laws**

Seller follows and will comply with applicable laws, rules, and regulations, including those of the country where the Products are manufactured, or the Services are performed and including all reporting requirements. Seller has and shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under the Purchase Order or those Terms and Conditions. Seller will provide Buyer with material safety data sheets regarding the Products and, upon Buyer's request, will provide Buyer with other information reasonably required to comply with applicable laws.

### **19.4 Relationship of the Parties**

Buyer and Seller are independent contractors, and nothing in the Purchase Order makes either party the agent or legal representative of the other party for any purpose. Neither party has authority to assume or to create any obligation on behalf of the other party.

### **19.5 Waiver**

The failure of either party to enforce any right or remedy provided in the Purchase Order or by law on a particular occasion will not be deemed a waiver of that right or remedy on a subsequent occasion or waiver of any other right of remedy.

### **19.6 Severability**

A finding that any provision of the Purchase Order is invalid or unenforceable in any jurisdiction will not affect the validity or enforceability of any other provision of the Purchase Order or the validity or enforceability of that provision in any other jurisdiction.

### **19.7 Notices**

Any legal notice or other communication required or permitted under the Purchase Order must be in writing and will become effective on the date of actual receipt if the date of actual receipt is a business day or on the next business day.

### **19.8 Governing Law: Venue**

Unless otherwise agreed in writing, the Purchase Order will be governed by and interpreted according to the internal laws of the state of Michigan. The exclusive venue for any legal suit, action or proceeding arising out of or relating to the Purchase Agreement, these Terms and Conditions and any other documents specifically incorporated in the Purchase Order shall be the Federal District Court for the Eastern District of Michigan or the Circuit Court of Lapeer County, Michigan, and each



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party irrevocably submits to the personal jurisdiction of such courts in any such suit, action or proceeding, and irrevocably waives any objections either may have based on improper venue or forum non conveniens to the conducting of any proceeding in any such court.

## **19.9 *Electronic Signatures***

Unless agreed otherwise, the parties shall conduct all legal transactions between them (including deliver of notice, document delivery, offer and acceptance, changes, etc.) electronically. The parties agree that any document which bears a signature which is sent by the sender and received by the recipient via email attachment in “.pdf” format shall constitute a legally valid document under the Michigan Uniform Electronic Transaction Act (MCLA 450.831 ET SEQ.).