

TMI TERMS & CONDITIONS OF PURCHASE

In consideration of being willing to purchase and supply Products (as hereinafter defined) to one another, respectively, TMI EP, LLC and Supplier (as hereinafter defined) agree as follows:

- 1. Parties and Products.** As used in these Terms and Conditions (the "Terms"), "TMI" means TMI EP, LLC, a Michigan limited liability company or each of its affiliated companies. "Supplier" means the party selling the applicable products or services to TMI. These Terms, and any written purchase order that accompanies, attaches, or incorporates them, constitute the terms of all purchase orders and/or releases (collectively, the "Order") to a provider ("Supplier") of goods or materials and/or related services (collectively, the "Products"). By selling products or services to TMI, Supplier confirms that the following terms and conditions apply to TMI's purchases.
- 2. Term.** Any Order entered into between the parties for the purchase and supply of Products will be in effect for the date set forth in the Order and will automatically terminate as of the expiration date unless renewed for a specified period in a writing signed by authorized representatives of both TMI and Supplier or unless another period is stated in any supplemental documentation incorporated therein or to these Terms and Conditions. Supplier has read and understands this Contract and agrees that Supplier's written acceptance, commencement of any work or services, or shipment of goods or materials under this Contract shall constitute Supplier's acceptance of these terms and conditions.
- 3. Contract.** Supplier agrees to sell and deliver Products as specified in all Orders in accordance with these Terms and any attachments thereto, which become a part thereof, including any and all supply terms and/or contracts under which TMI passes through to Supplier. The Order together with these Terms and any attachments hereto is the entire contract between TMI and the Supplier named therein with respect to the Products and it supersedes any prior communications or agreements between the parties about the Products. Any documents incorporated or referred to in the Order are a part of thereof, except that any references to Supplier's quotation or other form of offer for the Products (including, without limitation, Supplier's sales forms, invoices and/or documents posted on Internet web sites) are for information only and TMI hereby rejects all terms and conditions proposed by Supplier therein. The Terms herein will apply to all purchases made by TMI under the Order unless specifically modified or waived in writing by specific terms stated on the face of thereof, regardless of any course of dealing or industry practice to the contrary. Captions in these Terms are for convenience only.
- 4. Changes.** TMI may at any time make changes in the Order by written notice to Supplier. Any request or claim by Supplier for a price adjustment as a result of such changes must be asserted in writing within ten days from date of receipt by

Supplier of TMI's notification of any change. TMI will have the right to audit to verify any adjustment claim. All engineering changes, whether initiated by TMI or by Supplier, must process in accordance with TMI's product change request process.

- 5. Competitiveness, Price Warranty.** During the term of the Order, Supplier agrees to be competitive in terms of delivery, quality, technology and service and to give TMI the best prices it offers to any other customer purchasing a comparable volume and mix of Products. Supplier further agrees to sell the Products to all TMI purchasers at the lowest price offered to any TMI purchaser and to meet or beat all competitors' prices for like goods or services. Supplier agrees to reduce its prices under the Order, if necessary, at any time to maintain this warranty. Supplier warrants to TMI that it is under no contractual obligations or legal disabilities that would prevent it from undertaking this commitment. TMI may audit Supplier to verify Supplier's competitiveness. In the event that TMI determines in good faith that Supplier has failed to be competitive, TMI may terminate the Order according to Section 32(c) of these Terms.
- 6. Order Entry.** TMI will issue purchase orders and/or releases to Supplier from time to time to order Products hereunder. There will be no minimum order requirements unless otherwise expressly agreed. If purchases are to be made hereunder by means of electronic data interchange ("EDI"), the parties will set out mutually acceptable terms for conducting such transactions in the Order.
- 7. Packing and Shipment.** Supplier will pack and ship the Products in accordance with TMI's instructions, furnish all shipping documents required by TMI, and plainly mark TMI's name on all packages and documents. TMI's count or weight will be final and conclusive for all shipments.
- 8. Invoice, Chargeback, Offset and Payment Terms.**
 - a. For all purchases, unless otherwise agreed, Supplier will submit an invoice upon Shipment of the Products, in a form acceptable to TMI, for Products shipped during the prior month, and TMI will pay all undisputed amounts in accordance with its standard payment terms.
 - b. In addition to any right of setoff or recoupment provided by law, or as provided in TMI's Supplier Quality Development Manual, all amounts due to Supplier shall be considered net of indebtedness of Supplier and its affiliates/subsidiaries to TMI and TMI shall have the right to setoff against or to recoup from any amounts due to Supplier and its affiliates/subsidiaries any amount as to which a bona fide dispute exists for any order by TMI arising out of this or any other transaction between TMI and the Supplier and its affiliates/subsidiaries.
 - c. Payment by TMI will not constitute acceptance of any defective or non-conforming Products.
- 9. Prices.** During the term of the Order, the prices for the Products will be as set forth herein or on subsequent releases and shall only be adjusted pursuant to the terms

set forth herein and specifically Sections 4 and 5. All Products will be priced and delivered "FOB" Ex-Works.

- 10. Value Analysis/Value Engineering.** Supplier agrees to participate fully with TMI, and/or TMI's customers or other suppliers, with respect to value analysis and/or value engineering or other continuous improvement programs or initiatives related to the Products or its processes. Supplier shall use all reasonable efforts to reduce costs through product standardization and rationalization. All cost reductions achieved as a result of this Section 10, shall serve to reduce the total cost for the Products to the extent mutually agreed upon in the Order. TMI has the right to audit Supplier's books and records to document any cost reductions that are achieved through efforts implemented as a result of this Section 10.
- 11. Delivery.** Time is of the essence and deliveries shall be made in quantities and at times specified by TMI. Title to and risk of loss for the Products will pass from Supplier to TMI upon delivery of the Products in accordance with Section 9 of these Terms. Supplier will bear all incremental and/or premium shipping charges for emergency or expedited deliveries unless required due to TMI's fault. TMI may specify the carrier and/or method of transportation and Supplier will process shipping documents and route shipments of the Products accordingly. Supplier will comply with all of TMI's or its third party logistics provider's transportation routing instructions. Supplier will be responsible for all excess costs incurred because of its failure to comply with TMI's or its logistics provider's transportation instructions.
- 12. Trade Credits, Country of Origin.** All trade credits, export credits, customs drawbacks, tax and fee rebates and the like relating to Products supplied under the Order will belong to TMI. Supplier will cooperate with TMI in obtaining these benefits and credits. Supplier will furnish TMI with such documentation establishing the country of origin and value of the Products as TMI may request, including, but not limited to, affidavits of manufacture and NAFTA certificate of origin.
- 13. Allocation.** If Supplier is unable, at any time, to supply the entire quantity of Products ordered by TMI, Supplier will meet all of TMI's requirements before making any allocation among its other customers under Section 2-615 of the Uniform Commercial Code or the equivalent.
- 14. Inspections.** TMI or its customers may inspect and/or test Products at any time at its own expense and Supplier will, at no charge, make its premises available for this purpose and provide any necessary assistance to make the procedures safe and convenient for TMI. No inspections and/or tests by TMI will relieve Supplier of its obligations to inspect and test the Products. Notwithstanding payment or any prior inspection, if Products are delivered that do not conform to applicable requirements, TMI may a) revoke acceptance, b) reject or require correction return such Products to Supplier (at Supplier's expense and risk of loss), c) may rework or repair them itself or through third parties, in which event Supplier will reimburse

TMI for all resulting costs, and/or d) require Supplier to engage in third party inspection activities at Supplier's expense.

15. Returns, Nonconforming Goods, Cover. If any Products are defective or not in conformity with the Order, TMI may return the Products at any time for a full refund of the purchase price, replacement of the Products, or withhold full or partial payment, at TMI's option, and the Supplier will promptly reimburse TMI's costs of return and or cover, and will be responsible for any other costs or damages attributable to any corrective action arising from the defect, nonconformity, or failure to ship including, but not limited to, warranty costs, costs to cover or replace, line shut-down fees, and expedited freight charges. Supplier will provide TMI with proper instructions and authorization for any returns.

16. Scrap. All scrap recovered from raw material that is provided by TMI or on TMI's behalf or that is generated during the manufacture of the Products belongs to TMI. Accordingly, TMI may, at its discretion, advise Supplier at any time that it either wants to take possession of said scrap material or have it processed by Supplier or a third party. Upon receipt of such notice, Supplier shall cause the relevant material to be handled per TMI's direction. At no time during the manufacture of the Products shall Supplier commingle scrap generated during that process with scrap generated from other processes Supplier may be performing for other customers.

17. Product Warranty. Supplier warrants:

- a. That all Products furnished to TMI hereunder will be i) new; ii) delivered to TMI free and clear of all liens and encumbrances; iii) free from defects in design, material and workmanship; iv) merchantable; v) conforming with all specifications, drawings, engineering standards and/or samples furnished by Supplier, TMI, or TMI's customer(s), and vi) conforming with the product description on the label and/or package; vii) and will be fit and sufficient for their intended uses for a period coterminous with the warranty extended to TMI's customers by TMI; and
- b. That TMI's purchase and use of the Products will not infringe or contribute to the infringement of any U.S. or foreign patent or patent right or other third party intellectual property right. Further, if TMI furnishes the design for the Product or reimburses Supplier in whole or in part for designing the Product, then TMI will own all intellectual property rights relating to the design. For all intellectual property owned by Supplier relating to the design of the Product, Supplier hereby grants TMI a royalty-free license to use such intellectual property to rework, repair or replace any defective or non-conforming Product.

18. Indemnification and Recall or Repair Campaign.

- a. Supplier agrees to defend, indemnify, and hold TMI and its directors, employees, sub-contractors, agents, successors and assigns harmless from and against any and all liabilities, damages, fines, penalties, costs, claims, demands and expenses resulting from: Supplier's breach of, the

Order, including without limitation, any of Supplier's representations or warranties contained therein; the failure of Supplier or its directors, employees, subcontractors, agents, or assigns to comply with any law, regulation or order which applies to its obligations and performance under the Order; and/or any negligent or willful act or omission by Supplier or its directors, employees, subcontractors, agents, or assigns in the performance of the Order. This Section 18(a) will survive the expiration or termination of the Order.

- b. In the event that it is determined that any Products furnished under the Order creates or contributes to a motor vehicle repair campaign or safety recall due to a defect in the Product or the vehicle or noncompliance of the Product or the vehicle with applicable law, Supplier shall pay the cost of repair or recall and correction, including labor and administrative costs, based upon Supplier's proportionate responsibility for the defect or non-compliance. This Section 18(b) shall not limit Supplier's responsibility under any other provision of the Order.

19. Confidentiality.

- a. Supplier agrees that all information provided by TMI for the purpose of doing business with Supplier is TMI's confidential and proprietary information. Supplier agrees to restrict access to and disclosure of any information described in this Section 19 (hereinafter "Confidential Information") to those directors, officers and employees of Supplier and its affiliates/subsidiaries who have a need to know the Confidential Information for the purposes of completing the work contemplated by the Order. Supplier will not disclose the Confidential Information directly or indirectly, to any other person, firm, corporation or entity. Supplier shall be liable for any breach of these obligations by any of its directors, officers, employees or agents and those of its affiliates/subsidiaries.
- b. Supplier will not use the Confidential Information to reproduce, redesign, reverse engineer, or manufacture products, or equipment that would be the same as any products produced by TMI.
- c. To the extent permitted by law, the parties agree to keep secret and confidential the existence of the parties' discussions relating to the Order and their relationship thereunder and the terms of the Order. Supplier will not, without first obtaining the written consent of TMI's executive representative, in any manner advertise or publish the fact that Supplier has contracted to furnish TMI the Products, or use any trademarks or trade names of TMI or its affiliates in Supplier's advertising or promotional materials.
- d. Supplier will give prompt notice to TMI of any unauthorized use or disclosure of any Confidential Information. Supplier agrees to use commercially reasonable efforts to assist TMI in remedying any unauthorized use or disclosure of any Confidential Information.
- e. Supplier will use at least the same degree of care to avoid inadvertent disclosure or unauthorized use of Confidential Information which it employs

with respect to its own proprietary or confidential information that it does not wish to have disseminated, published or disclosed, but no less than a commercially reasonable degree of care.

- f. There will be no restrictions on Supplier for any portion of the Confidential Information that Supplier can demonstrate by clear and convincing documentation (1) was lawfully known to or in the possession of Supplier at the time of its disclosure by TMI; (2) was or becomes publicly available or publicly known through no fault, wrongful act or omission by Supplier or any affiliate/subsidiary of Supplier; (3) was received by Supplier from a third party, such third party having a *bona fide* right to disclose the Confidential Information and such third party not having any confidential relationship or obligation to TMI and without breach of the restrictions contained in these Terms; (4) was independently developed by Supplier without access to and/or use of the Confidential Information or a breach of these Terms; or (5) was approved for release in writing by TMI.
- g. If Confidential Information is required by law, court order or governmental agency order to be produced or disclosed, then Supplier shall immediately notify TMI that production or disclosure has been ordered and, to the extent permitted by law, shall take all reasonable steps and cooperate with TMI to limit disclosure of the Confidential Information.

20. Special Tooling. All dies, jigs, fixtures, drawings, molds, patterns, templates, gauges, and the like that TMI and/or its customers provide to Supplier or pay Supplier (either directly or through amortization of costs in the Product price) to make or buy for use in performing the Order (collectively "Tooling") are the sole personal property of TMI or TMI's customers, as the case may be. TMI will not be obligated to pay for such Tooling, if applicable, until Supplier has provided TMI with an itemized list and adequate cost records for the same (or that of any of Supplier's sub-suppliers) and TMI has approved the tooling through an approved "Parts Submission Warrant" or other TMI process. If Supplier fails to provide adequate cost records, TMI will not be obligated to pay more than fair market value of the Tooling, regardless of the charges levied with respect to or on it. Supplier will label the Tooling in accordance with TMI's instructions to permit accurate identification and will segregate it from other tooling in Supplier's possession to the extent practicable. At its own expense, Supplier will repair and maintain the Tooling, keep it in good working condition, and replace it when necessary for any reason, including normal wear and tear. Supplier will use the Tooling exclusively to produce Products for TMI under the Order and for no other purpose. Upon expiration, cancellation, or termination of the Order, Supplier will hold the Tooling and any operation sheets, process data, or other information necessary to show its use, at no charge, pending receipt of TMI's instructions about its removal or disposition, which will be at TMI's expense. Supplier hereby grants TMI or TMI's customers, as applicable, a security interest in the Tooling and all accessories and attachments thereto, substitutes and replacements therefore and proceeds there from, and authorizes TMI or TMI's customers, as applicable, and their agents, on Supplier's behalf and as its attorneys-in-fact, to prepare, sign

and file such Uniform Commercial Code financing statements and amendments thereto and similar documents as they deem necessary to protect their security interests. Supplier also expressly authorizes TMI or its agents to retrieve said Tooling from Supplier's premises at TMI's option, upon written notice to Supplier, at any time and for any reason or no reason at all, and in this regard, Supplier expressly waives the benefit of any law or regulation which would otherwise entitle it to assert a lien over such Tooling.

21. Legal Compliance and Business Conduct. Supplier warrants that it will comply with and show evidence of compliance with all applicable laws, regulations and orders when doing business with TMI under the Order.

22. TMI Government and/or Third-party Supply Contracts. If the Products are to be supplied in connection with a U.S. government contract or subcontract or a third-party supply contract, then Supplier agrees to be bound by TMI's "Supplemental Terms and Conditions for U.S. Government Contracts" or the TMI supply contract which are in that event a part of the Order.

23. Minority Sourcing. Not Applicable outside the U.S.A.

24. Quality. Supplier will comply with the "ISO-9000 Quality System Requirements" and/or TS 16949 and any other quality standards and procedures.

25. Force Majeure and labor Disputes. Neither party will be liable to the other for any delay in delivery or failure to perform caused by an event beyond its control (a "force majeure event"), including, but not limited to, natural disasters, wars, acts of God, or interruption of utilities. A force majeure event does not include acts of sub-suppliers (including the inability of Supplier to obtain necessary manufacturing inputs from its normal or customary sources) or failure to comply with applicable law or to take actions reasonably necessary to schedule performance in anticipation of any customs, export-import, or other government requirement of which public notice has been given. In such event, the affected party will promptly notify the other party of the nature and anticipated duration of the delay or failure and TMI will be entitled to terminate any orders placed by TMI if the event of force majeure persists or, in TMI's reasonable opinion, is likely to persist long enough to jeopardize TMI's production. Supplier will notify TMI of any actual or potential labor dispute delaying or threatening to delay timely performance of the Order. At TMI's request, Supplier will establish a bank of Products sufficient, in TMI's opinion, to assure TMI's on-going production.

26. Contingency and Capacity Planning. Supplier shall prepare contingency plans to satisfy customer requirements in the event of an emergency such as utility interruptions, labor shortages, and key equipment failure and field returns.

27. Insurance. Supplier will maintain, at its own expense, the following minimum insurance coverage's with insurers satisfactory to TMI: (i) statutory workers' compensation; (ii) employer's liability in the amount of U.S. \$1 million; (iii)

commercial general liability (including products/completed operations and contractual liability coverage) in the amount of U.S. \$5 million bodily injury or property damage per occurrence; and (iv) automotive liability (covering owned, non-owned, and hired vehicles) in the amount of U.S. \$5 million bodily injury or property damage per accident. Such coverage's can be provided under primary and/or excess policies. In addition, where applicable, Supplier will maintain all risk property coverage (including transit) and theft coverage for Products, whether or not owned by TMI, which have been ordered under the Order and which are in the care, custody, or control of Supplier, its agents, or contractors, and any other insurance coverage that TMI deems appropriate. On the commencement of the Order and each subsequent renewal of its insurance coverage's, Supplier will furnish TMI with certificates of insurance evidencing such coverage's, naming TMI as an additional insured where deemed appropriate by TMI, and requiring written notice to TMI at least 15 days prior to the cancellation, reduction or non-renewal of coverage. Compliance with this Section 27 will not relieve Supplier of its defense and indemnity obligations under any of these terms and conditions. These obligations will survive the expiration or cancellation of the Order to the extent necessary to cover acts or events arising in connection with the performance of the same or the consequences of such acts or events.

28. Materials. Supplier will properly classify, describe, package, mark, label (including, without limitation, California Proposition 65 materials), and provide any necessary Material Safety Data Sheets for the Products and will pack and ship them in compliance with all applicable hazardous materials laws, regulations, ordinances and orders, including, without limitation, where applicable, California Proposition 65, and the European Union End-of-Vehicle Life Directive 2000/53/EC.

29. Flammable Liquids. Supplier will insure that all liquid materials are delivered in DOT approved containers. Any liquid delivered by Supplier to any TMI facility having a measurable "fire point" as measured using the ASTM D92-02b Standard Test Method for Flash and Fire Points by Cleveland Open Cup Tester (a "flammable liquid") , and delivered in bulk containers, shall be in appropriate metal containers only. If such liquids are delivered in bulk to be off loaded into any other container at TMI's facility, such liquids will be off loaded only into appropriate metal containers. An appropriate metal container may be any closed metal container having a pressure relief valve with a flame arrester designed for the container. If such container has a liquid level indicator, the indicator must be constructed of glass or other non-combustible material. Any flammable liquid that is delivered in other than appropriate containers, as defined above, is subject to return at Supplier's risk and expense.

30. Status of Parties.

- a. Supplier is an independent contractor and not an employee, agent, partner of or a joint venturer with TMI.
- b. Supplier will furnish all personnel, materials and equipment necessary to perform its obligations under the Order. All personnel performing services there under will be Supplier's employees and under Supplier's exclusive

direction and control at all times, and Supplier will be solely responsible for their compensation and benefits, social security and income tax withholding, unemployment and workers' compensation, and similar matters. Supplier will assure that its employees observe TMI's security and safety rules at all times when they are on or about TMI's premises and will defend, indemnify and hold harmless TMI and its directors, employees, agents, successors and assigns from any and all actual and alleged claims of whatsoever nature made against them by Supplier's employees.

31. Assignment. Supplier will not subcontract or assign, in whole or in part, any of its obligations or rights under the Order without TMI's prior written consent and any attempted assignment without such consent will be void and unenforceable. TMI may assign its rights and obligations under the Order upon written notice to Supplier.

32. Cancellation.

- a. Convenience. In addition to any other rights of TMI to terminate the Order, TMI may, at its option, immediately terminate all or any part of the Order, at any time and for any reason or for no reason by giving written notice to Supplier. In such event, Supplier will be responsible for shipping and/or delivering Products ordered by TMI before the cancellation date and TMI, as its sole obligation, will be responsible for paying the undisputed invoice amounts for all Products received hereunder. Upon cancellation of the Order, accrued unpaid cost savings and rebates for the partial year affected will be due immediately and will become part of Supplier's final settlement with TMI.
- b. Insolvency. TMI may immediately terminate the Order without liability to Supplier in any of the following or any other comparable events: (a) insolvency of Supplier; (b) filing of a voluntary petition in bankruptcy by Supplier; (c) filing of any involuntary petition in bankruptcy against Supplier; (d) appointment of a receiver or trustee for Supplier; or (e) execution of an assignment for the benefit of creditors by Supplier, provided that such petition appointment or assignment is not vacated or nullified within 15 days of such event. Supplier shall reimburse TMI for all costs incurred by TMI in connection with any of the foregoing, including, but not limited to, all attorney or other professional fees.
- c. Breach. TMI reserves the right to terminate all or any part of the Order, without liability to Supplier, if Supplier: (a) repudiates or breaches any of the terms thereof including without limitation Supplier's warranties in these Terms; (b) fails to deliver Products as specified by TMI; (c) fails to make progress so as to ensure timely and proper delivery of Products; and does not correct such failure or breach within 10 days (or such shorter period of time if commercially reasonable under the circumstances) after receipt of written notice from TMI specifying such failure or breach.

33. Waiver, Severability. The failure of either party at any time to exercise any of its rights hereunder will not be deemed to be a waiver of those rights or any other

rights hereunder. If any portion of the Order is or becomes invalid under any applicable law or regulation, such portion will be deemed stricken and the rest of the Order will remain in full force and effect.

34. Governing Law.

- a. Any Order to be performed in whole or part in the United States will be governed, construed and enforced in accordance with the laws of the State of Michigan, without recourse to the conflict of law provisions thereof. The parties irrevocably agree that any action to interpret or enforce any such Order will be brought exclusively in a state or federal court with jurisdiction located in Detroit, Michigan, USA.
- b. In no event will the provisions of the U. N. Convention on the International Sale of Goods apply to the Order or to any transaction there under.
- c. The parties' remedies in the Order are cumulative and are in addition to any other remedies available to them at law or equity.
- d. The parties agree that the usual rules of contract construction construing ambiguities against the drafter will not apply as the parties are of equal sophistication and bargaining power. Thus, all terms will be given their fair meaning.

35. Dispute Resolution. Prior to pursuing any legal remedy against TMI under the Order, Supplier will notify TMI in writing of the dispute and will promptly pursue negotiations in good faith through dialogue between the business persons designated in the Order as responsible for administering the same. In the event that such negotiations fail, Supplier will use its best efforts to resolve the dispute with TMI through Alternative Dispute Resolution (ADR) procedures, as defined by the American Arbitration Association prior to resorting to litigation.

36. Binding Effect. The Order will be binding on TMI and Supplier and their respective successors and any duly authorized assigns. Supplier warrants to TMI that it is under no contractual or other legal obligations, constraints or disabilities that would prevent it from performing its obligations hereunder or limit its performance hereunder.

37. Entire Agreement. This Contract, together with the attachments, exhibits, supplements or other terms of TMI specifically attached hereto, referenced herein, or attached to or referenced in any Order, constitutes the entire agreement between Supplier and TMI with respect to the matters contained in this Contract and supersedes all prior oral or written representations and agreements. This Contract may only be modified by a contract amendment issued by TMI.