

FORD MOTOR COMPANY
ASTON MARTIN LAGONDA LIMITED
JAGUAR CARS LIMITED
LAND ROVER
VOLVO CAR CORPORATION
AND THEIR SUBSIDIARIES

PRODUCTION PURCHASING
GLOBAL TERMS AND CONDITIONS

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GLOBAL TERMS AND CONDITIONS
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**PRODUCTION PURCHASING
GLOBAL TERMS AND CONDITIONS**

SECTION 1. WHAT IS COVERED

1.01 Goods and Services The Global Terms and Conditions apply to the purchase by the Buyer of production goods and services from the Supplier including: (a) production and service parts, components, assemblies and accessories; (b) raw materials; (c) tooling; and (d) design, engineering or other services. Separate Global Terms and Conditions apply to the purchase of non-production goods and services. The Global Terms and Conditions can be found at the Global Terms and Conditions home page accessible via the Ford Supplier Portal (FSP) (<http://fsp.covisint.com/>) or obtained directly from the Buyer.

1.02 What's Being Purchased The Production Purchase Order, Production Tool Order, Blanket Purchase Order, Prototype Purchase Order, Prototype Tool Order, Lump Sum Purchase Order or Production Spot Buy Purchase Order describe the goods and services being purchased and specify the name and address of the **Buyer** and the **Supplier**. The goods and services purchased are referred to as the **Goods** or, in the case of a Prototype Tool Order or Production Tool Order, the **Tooling** (defined in greater detail in Section 34.01). A reference to a **Purchase Order** in a provision of the Global Terms and Conditions is a reference to all of the following: Production Purchase Order, Production Tool Order, Blanket Purchase Order, Prototype Purchase Order, Prototype Tool Order, Lump Sum Purchase Order, and Production Spot Buy Purchase Order.

SECTION 2. DOCUMENTS USED IN PRODUCTION PURCHASING

2.01 General Provisions in this Section 2 describe the most common types of documents that may apply to the purchase of the Goods. The documents are listed in the approximate timing sequence in which they may be entered into with the Supplier.

2.02 A Sourcing Agreement is an agreement that may be entered into before a Production Purchase Order is issued. It lets the Supplier know that it has been chosen to supply the Goods, subject to the terms and conditions of the Sourcing Agreement.

2.03 A Target Agreement is an agreement that may be entered into before a Production Purchase Order is issued, generally after a Sourcing Agreement. It sets targets for the Goods, like the price. It lets the Supplier know that it has been chosen to supply the Goods, subject to the terms and conditions of the Target Agreement.

2.04 A Request For Quote (RFQ) asks the Supplier to provide a quotation for the Goods. Any quotation must be based on the Global Terms and Conditions.

2.05 A Statement of Work is prepared or approved by the engineering activity of the Buyer. In most cases, it is developed before a Production Purchase Order is issued.

2.06 A Quality/Reliability Statement of Work is a Statement of Work that includes long-term durability specifications for the Goods (like 10-years or 150,000 miles, whichever comes first). It may also specify the testing methodology that will be used.

2.07 A Warranty Program Agreement is an agreement relating to a warranty reduction, recovery or chargeback program. It may be entered into at any time and may apply to some or all of the brands of the Buyer or its Related Companies (defined in Section 11.02).

2.08 A **Technology Agreement** may be entered into in special cases to address Intellectual Property Rights (defined in Section 15.01), Confidential Information (defined in Section 17.01), or other matters. In most cases, it will be entered into before a Production Purchase Order is issued.

2.09 A **Prototype Purchase Order** is used to purchase a fixed amount of prototype Goods. It describes the Goods and specifies the price, quantity and other key terms.

2.10 A **Production Purchase Order** is used to purchase most types of production goods and services. It describes the Goods and specifies the price, quantity and other key terms.

2.11 A **Blanket Purchase Order** is used to purchase certain types of goods or services, like Service Parts. It provides a framework of agreed terms, like the price, that will apply when the Buyer issues a Release.

2.12 A **Lump Sum Purchase Order** or **Production Spot Buy Purchase Order** is used on an exception basis for the purchase of a fixed amount of the Goods.

2.13 A **Prototype Tool Order** may be used to purchase Tooling required to produce prototype Goods.

2.14 A **Production Tool Order** is used to purchase Tooling used to make the Goods.

2.15 The **Global Terms and Conditions** are the primary contract terms and conditions that apply to the purchase of the Goods. They also include special provisions for the purchase of Tooling, Service Parts and Component Parts.

2.16 **Supplemental Terms and Conditions** may be issued by the Buyer to address special product or local market requirements, including legal matters specific to the country where the Buyer or the Supplier is located. The Supplemental Terms and Conditions will identify the scope of their applicability. See Section 3 for more details.

2.17 A **Release** instructs the Supplier to ship a specified quantity of the Goods to a particular location by a specified date and time.

2.18 Either party may provide a **Written Notice**. It is defined in Section 44.01.

2.19 **General Purchase Order Documents** are the Global Terms and Conditions, Web-Guides, and applicable Supplemental Terms and Conditions, as described in Section 4.01.

2.20 **Earlier Agreements** are written agreements entered into with the Supplier relating to the Goods, like a Target Agreement, Technology Agreement, Statement of Work, or Warranty Program Agreement, as described in Section 4.02.

SECTION 3. WEB-GUIDES AND SUPPLEMENTAL TERMS AND CONDITIONS

3.01 **Web-Guides** The **Web-Guides** contain specific requirements for matters like packaging, shipping, Service Parts, taxes, environmental and obsolescence. The Web-Guides are part of the Purchase Order and are binding on the Supplier and the Buyer. The Global Terms and Conditions will take precedence in the event of any conflict with a Web-Guide, except to the extent that the Web-Guide specifies otherwise.

3.02 **Supplemental Terms and Conditions** The Supplemental Terms and Conditions contain specific requirements to address special product or local market requirements, including legal matters specific to the country where the Buyer or the Supplier is located. As with the Web-Guides, the Supplemental Terms and Conditions are part of the Purchase Order and are binding on the Supplier and the Buyer.

The Supplemental Terms and Conditions will take precedence in the event of any conflict with the Global Terms and Conditions.

3.03 Where Found The Web-Guides and Supplemental Terms and Conditions can be found at the Global Terms and Conditions home page described in Section 1.01, or obtained directly from the Buyer. This home page also includes Supplier Frequently Asked Questions (FAQs). Interpretations included in the FAQs are binding on the Buyer.

SECTION 4. THE TERMS AND CONDITIONS THAT APPLY

4.01 General The contract between the Buyer and the Supplier for the purchase and sale of the Goods is the Purchase Order. The Purchase Order includes the Global Terms and Conditions, the Web-Guides, and the other applicable documents described in Section 2 that are issued by the Buyer, or signed by the Buyer and the Supplier (in the case of agreements), relating to the purchase and sale of the Goods. The Global Terms and Conditions, Web-Guides, and applicable Supplemental Terms and Conditions are referred to as the **General Purchase Order Documents**.

4.02 Earlier Agreements Written agreements entered into with the Supplier relating to the Goods, like a Target Agreement, Technology Agreement, Statement of Work, or Warranty Program Agreement, are referred to as **Earlier Agreements**. They will continue to apply after a Purchase Order has been issued, subject to Section 4.09.

4.03 Effective Date and Document Release Date The **Effective Date** is shown on the Purchase Order. It is the date on which the Purchase Order went into effect. Each General Purchase Order Document will have a **Document Release Date**, which is the date on which it went into effect. General Purchase Order Documents in effect on the Effective Date are part of the Purchase Order and apply to the purchase of the Goods, subject to Sections 4.04 through 4.07 below.

4.04 Renewal Date The General Purchase Order Documents in effect on July 1st of a Renewal Term (defined in Section 8.02) will apply to a Production Purchase Order renewed on that date. These may include requirements that are different from those in effect when the Production Purchase Order was first issued or previously renewed. For Blanket Purchase Orders, the General Purchase Order Documents in effect at the time of a Release will apply.

4.05 Annual Updates The Buyer may periodically update the General Purchase Order Documents. To the extent practicable, the Buyer will bundle these updates into one package that will be posted on the Global Terms and Conditions home page described in Section 1.01 on or about May 1st. Changes will be highlighted. These revisions will become effective on July 1st.

4.06 Other Updates The Buyer may make revisions to the General Purchase Order Documents at times other than the May 1st annual update. If it does so, the Buyer will post the revisions on the Global Terms and Conditions home page described in Section 1.01 and provide the Supplier with a Written Notice of the revisions. The Written Notice will include the date on which the revisions will become effective.

4.07 Binding Effect Revisions to the General Purchase Order Documents that are made after the Effective Date shown on the Purchase Order or after the beginning of a Renewal Term are binding on the Buyer and the Supplier and become effective as specified in Section 4.05 or Section 4.06.

4.08 Supplier Terms and Conditions No terms or conditions other than those that apply to the Purchase Order as described in this Section 4 will apply to the Purchase Order, including any contract terms that may have been submitted by the Supplier.

4.09 Exceptions to Global Terms and Conditions

(a) General Requirements Any exception, deviation, amendment, modification or waiver of any provision of the Global Terms and Conditions or any General Purchase Order Document, whether made under an Earlier Agreement or otherwise, will be binding on the Buyer only if it has been: (1) made in a Written Notice; and (2) approved by the highest ranking purchasing executive of the Buyer (which, if the Buyer is Ford U.S., is its Vice President – Global Purchasing). If the Buyer is other than Ford U.S., the Buyer is required to first obtain a favorable written recommendation from the Ford Vice President – Global Purchasing. The Supplier may obtain written evidence of the recommendation from the Buyer.

(b) Service Parts For a Purchase Order covering Goods that are supplied only as Service Parts, Component Parts, or vehicle accessories where the Supplier does not also supply any production goods or services to the Buyer or any of its Related Companies, any exception, deviation, amendment, modification or waiver of any provision of the Global Terms and Conditions or any General Purchase Order Document, whether made under an Earlier Agreement or otherwise, will be binding on the Buyer only if it has been: (1) made in a Written Notice; and (2) approved by the highest ranking executive of the Buyer's activity responsible for purchasing Service Parts and Component Parts (which, if the Buyer is Ford U.S., is its Vice President – Ford Customer Service Division). If the Buyer is other than Ford U.S., the Buyer is required to first obtain a favorable written recommendation from the Ford Vice President – Ford Customer Service Division. The Supplier may obtain written evidence of the recommendation from the Buyer.

(c) Supplemental Terms and Conditions Any Supplemental Terms and Conditions posted on the Global Terms and Conditions home page described in Section 1.01 do not require any of the approvals described in this Section 4.09.

(d) Expansion of Rights to Intellectual Property in Earlier Agreements In the event that an Earlier Agreement provides the Buyer with rights to the Supplier's Intellectual Property Rights (defined in Section 15.01) that go beyond, or are in addition to, the Buyer's rights under the Global Terms and Conditions, Sections 4.09(a) through (c) do not apply to the additional rights and no additional approvals or recommendations relating to the additional rights are required.

SECTION 5. WHEN THE CONTRACT IS FORMED

5.01 Buyer's Offer When the Buyer issues a Prototype Purchase Order, Production Purchase Order, Prototype Tool Order, Production Tool Order, Lump Sum Purchase Order or Production Spot Buy Purchase Order, it makes an offer to purchase the Goods or Tooling from the Supplier on the terms and conditions specified in Section 4.

5.02 Blanket Purchase Orders For a Blanket Purchase Order, the offer is made when the Buyer issues a Release. The offer applies for only the quantity specified in the Release.

5.03 Supplier Acceptance The contract is formed when the Supplier accepts the offer of the Buyer. This occurs upon the earlier of: (a) the Supplier beginning work or performance; or (b) the Supplier notifying the Buyer of its acceptance of the offer.

SECTION 6. QUANTITY

6.01 Requirements The Supplier will provide the Buyer's requirements for the Goods or Tooling as shown on the Purchase Order. On a Production Purchase Order, the quantity is typically specified as a percentage of the Buyer's requirements for the Goods. The Buyer will purchase this same quantity. The Buyer will issue Releases to specify the quantities needed, delivery locations, times and dates. Time and quantity are of the essence in the purchase of the Goods.

SECTION 7. VOLUME PROJECTIONS

7.01 Projections The Buyer may provide the Supplier with estimates, forecasts or projections of its future volume or quantity requirements for the Goods. These are **Volume Projections**. They are provided for informational purposes only. The Supplier and the Buyer may agree on a timeline over which Volume Projections will be provided.

7.02 No Commitment Volume Projections are not a commitment by the Buyer to purchase the quantities specified in the Volume Projections. The Buyer's purchase obligation is only as specified in Section 6. The Supplier acknowledges that Volume Projections, like any other forward looking projections, are based on a number of economic and business factors, variables and assumptions, some or all of which may change over time, and may or may not be accurate at the time they were made or later on. The Buyer makes no representation, warranty, guaranty or commitment of any kind or nature, express or implied, regarding any Volume Projection.

SECTION 8. DURATION OF THE PRODUCTION PURCHASE ORDER

8.01 Initial Term The **Initial Term** of the contract begins on the Effective Date shown on the Production Purchase Order and expires on June 30th of the next calendar year. If, for example, a Production Purchase Order is issued on July 1, 2004, the Initial Term will end on June 30, 2005. Similarly, the Initial Term of a Production Purchase Order issued on January 1, 2004 will expire on June 30, 2005.

8.02 Renewal Term The Production Purchase Order will renew automatically on July 1st for an additional 12 months, ending on the next June 30th, unless a notice of non-renewal has been provided under Section 8.03. This is the **Renewal Term**. The Production Purchase Order will automatically be renewed each subsequent year for an additional Renewal Term of 12 months unless a notice of non-renewal has been provided under Section 8.03.

8.03 Non-renewal Either party may elect not to renew the Production Purchase Order by providing a Written Notice to the other party to that effect. The Buyer will provide its Written Notice by May 1st of the year in which the Initial Term or Renewal Term (as applicable) is scheduled to expire. The Supplier will do so sufficiently in advance of the scheduled expiration date to enable the Buyer to resource the production of the Goods in a timely and orderly manner, but in no case later than May 1st of the year in which the Initial Term or Renewal Term (as applicable) is scheduled to expire. In all cases, the Supplier will consult with the Buyer's production purchasing activity prior to giving its Written Notice to ensure that it will be timely, and the parties will confirm in writing their agreement to the Supplier's Written Notice period. If the Supplier elects not to renew, it will, if requested by the Buyer: (a) work diligently with the Buyer to identify an alternative source of supply that is acceptable to the Buyer; and (b) identify the Supplier's component-part and raw-material suppliers relating to the Goods.

8.04 Optional Extended Term

(a) The Buyer, at its option, may extend the term of the Production Purchase Order for up to 4 months beyond the scheduled June 30th expiration date of the Initial Term or Renewal Term (as applicable). This is the **Extended Term**. If the Extended Term is implemented, the Production Purchase Order will expire at the end of the Extended Term.

(b) The Buyer will provide the Supplier with Written Notice of any Extended Term on or before the June 1st before the Initial Term or Renewal Term is set to expire. The Written Notice will specify the Extended Term (up to 4 months) and include a Volume Projection of the Buyer's needs. Prices in effect at the end of the Initial Term or Renewal Term and all other terms and conditions will remain in effect during the Extended Term. If a transition period longer than the Extended Term is required, the Buyer and the Supplier will negotiate in good faith the terms and conditions of any extension.

SECTION 9. CHANGES

9.01 Changes To Buyer's Order The Buyer may make changes to its order for the Goods or Tooling at any time. These may include changes to the design, specifications, engineering level, materials, packaging, shipping date, or time or place of delivery. The Supplier will make all changes requested by the Buyer. The Supplier may not make any change on its own without first obtaining the Buyer's consent in a Written Notice. Any exceptions, deviations, amendments, or modifications to the Global Terms and Conditions must be made, if at all, under Section 4.09, not under this Section 9.01.

9.02 Notice The Buyer will provide the Supplier with notice of any change through an amendment or revision to the outstanding Purchase Order, the issuance of a new Production Purchase Order, an RFQ or a Written Notice. If the amendment is accomplished by issuing a new Production Purchase Order, the Initial Term of the original Production Purchase Order will apply. If the Initial Term has already expired, the Renewal Term in effect at the time of amendment will continue.

9.03 Impact on Cost The Supplier will promptly notify the Buyer in a Written Notice if the proposed change will affect cost or timing and provide substantiation of its claim. If the Buyer determines that an adjustment is appropriate, the Buyer and the Supplier will negotiate in good faith on an equitable price adjustment (up or down), a change in shipping or delivery terms, or other appropriate adjustment. If the Buyer determines that no adjustment is appropriate, it will so advise the Supplier in a Written Notice stating its reasons.

SECTION 10. PAYMENT TERMS AND TAXES

10.01 Payment Terms The Purchase Order will show the payment term. For Production Purchase Orders, the standard payment terms are "Net 13th, 23rd prox., 3rd, 13th subsequent." See the Payment Web-Guide for a more detailed description.

10.02 Currency In most cases, payment will be made in the local currency of the country where the Goods will be manufactured. If a different currency applies, it will be shown on the Purchase Order or other Written Notice from the Buyer.

10.03 Advanced Shipping Notices The Supplier will provide the Buyer with **Advanced Shipping Notices** and otherwise comply with the payment requirements specified in the Payment Web-Guide. Failure to do so may delay payment to the Supplier.

10.04 Total Price and Taxes The total price for the Goods will include duty, if applicable, and tax unless otherwise specified in the Tax Web-Guide. The Supplier will separately show on its invoice any duties, and any sales tax, use tax, value-added tax (VAT) or similar turnover taxes, levied on the Goods. The Supplier will provide whatever documents and information the Buyer may require to support taxes paid, tax reporting, or recovery of VAT. The Supplier will comply with the requirements of the Tax Web-Guide. The Supplier will pay duty if the delivery term specified on the Purchase Order requires the Supplier to pay it (see the Delivery Terms Web-Guide for more details).

SECTION 11. SETOFF

11.01 Supplier's Direct Accounts The Buyer will administer on a Net Settlement Basis all of the accounts of the Supplier arising from the Purchase Orders and other agreements the Supplier has with the Buyer. **Net Settlement Basis** means that, unless prohibited by law, the Buyer may set off and recoup against the Buyer's accounts payable to the Supplier any amounts for which the Buyer determines in good faith the Supplier is liable to it under any Purchase Order or other agreements with the Supplier. The Buyer may do so without notice to the Supplier.

11.02 Related Companies The Buyer or its Related Companies may also setoff and recoup against the accounts payable of the Buyer or its Related Companies to the Supplier or its Related Companies any amounts for which the Buyer or its Related Companies determines in good faith the Supplier or its Related Companies is liable under any Purchase Order or other agreements with the Supplier or its Related Companies.

A ***Related Company*** is any parent company of the Buyer or the Supplier, as appropriate, and any subsidiary or affiliate in which any of them owns or controls at least 25% of the voting stock, partnership interest or other ownership interest.

The Buyer will provide the Supplier and the affected Related Company with 21 days' Written Notice (or such shorter period as may be commercially reasonable under the circumstances) before implementing a setoff (a) of the Supplier's debt against accounts payable to a Related Company of the Supplier, or (b) of a Related Company's debt against accounts payable to the Supplier. The Written Notice will specify the basis for the setoff.

11.03 Basis of Debit The Buyer will be presumed to have acted in good faith if it has a commercially reasonable basis for believing that the Supplier or one of its Related Companies is liable for the amount of the debit. A debit may include the actual professional fees and other costs incurred by the Buyer or a Related Company.

SECTION 12. QUALITY ASSURANCE

12.01 Compliance with Buyer's Programs The Supplier will promote continuous quality improvement in the manufacture, production and distribution of the Goods. The Supplier will comply with the quality assurance processes, inspections and standards specified by the Buyer for suppliers providing goods or services similar in nature to the Goods. These standards include the Buyer's Q1 quality program, ISO/TS 16949 or QS-9000, ISO 14001 and the Buyer's Supplier Delivery Rating.

SECTION 13. SHIPPING, PACKAGING AND DELIVERY

13.01 Web-Guides The Supplier will comply with the Buyer's requirements for packing, marking, labeling and shipping. These are specified in the appropriate Web-Guides. The Supplier will ship only the quantity of the Goods specified by the Buyer in the Purchase Order or a Release.

13.02 Delivery, Title and Risk of Loss Title and risk of loss will pass at the time and place of delivery in accordance with (a) the delivery term on the Purchase Order for the Goods and (b) Section 34 in the case of Tooling. Title and risk of loss will pass at the consolidator's location if one is used.

SECTION 14. DELIVERY OF NONCONFORMING GOODS

14.01 Delivery; No Inspection The Supplier will deliver only Goods that conform in all respects to the requirements described in Sections 22.01(a) through (f). The Buyer is not required to inspect the Goods prior to their use. The Supplier waives any right to require the Buyer to conduct an inspection.

14.02 Notice If the Goods do not conform, the Buyer will inform the Supplier, orally or in writing, about the nonconformity as soon as reasonably practicable after the Buyer has discovered it. The Buyer will confirm the nonconformity in a Written Notice if requested by the Supplier to do so.

14.03 Supplier's Right to Cure The Supplier will be permitted to rework, replace or otherwise remedy a nonconformity in the Goods as long as: (a) the nonconformity has been discovered after delivery of the Goods but before the Buyer has started to use the Goods (including in any pre-assembly processing or fitment); (b) the Supplier can perform the remedial work at its location, or at the Buyer's site (subject to any restrictions in any labor agreement of the Buyer), without disruption to the Buyer's operations; (c) the remedial work will not cause any delay in the Buyer's operations,

including its production process, or cause the Buyer to incur any additional costs; and (d) the cure can be completed by the deadline established by the Buyer.

14.04 Buyer's Options If the Buyer determines in good faith, after consulting with the Supplier, that the remedial work cannot be done within the limits of Section 14.03, the Buyer is entitled to: (a) reject the nonconforming Goods, return them to the Supplier and, at the Buyer's option, request redelivery of conforming Goods; or (b) retain them and either repair them itself or request the Supplier do so, on or off-site. In any event, the Supplier will bear the risk and expense of the remedial action undertaken by the Buyer or the Supplier.

14.05 Supplier's Right To Nonconforming Goods The Supplier may request that the Buyer hold and make available to the Supplier, at the Supplier's expense, any nonconforming Goods, subject to the Buyer's options under Section 14.04.

14.06 Costs Incurred by the Buyer The Supplier is liable for all direct, incidental and consequential damages, losses, costs, and expenses incurred by the Buyer resulting from the failure of the Supplier to deliver conforming Goods or to comply with the shipping and delivery or other requirements of the Buyer, even if the Supplier has cured the failure under Section 14.03. These include costs associated with the off lining of vehicles or the Goods, interruptions or delays in production, reduced line-speeds, and plant shutdowns.

14.07 No Acceptance or Waiver of Rights The Buyer's rights under this Section 14 apply even if the nonconformity does not become apparent until after delivery of the Goods. The Supplier is not liable for damage to the Goods after delivery due to actions taken by the Buyer or third parties. Payment will not constitute acceptance of nonconforming Goods, nor will it limit or affect any of the Buyer's rights.

SECTION 15. USING THE BUYER'S INTELLECTUAL PROPERTY AND TOOLING

15.01 Buyer's Intellectual Property Rights The Buyer and its Related Companies may have valuable Intellectual Property Rights in Tooling, documents and information provided to the Supplier. ***Intellectual Property Rights*** include trademarks, trade dress, patents, copyrights, trade secrets and industrial design rights. The Supplier may use the Intellectual Property Rights of the Buyer and its Related Companies only in the production and supply of the Goods to the Buyer and its Related Companies.

15.02 Parts Branding Directive The Supplier will comply with the Buyer's Vehicle Parts Branding Directive. This Directive requires the inclusion of the Buyer's brands on the Goods. It also limits the inclusion of the Supplier's brands on the Goods to the extent permitted by Government Requirements. See the Vehicle Parts Branding Web-Guide for details, including the process for requesting exceptions.

15.03 Other Use of Buyer's Intellectual Property Rights The Supplier will first obtain the Buyer's written approval before it manufactures, sells or otherwise disposes to third parties any goods made by the Supplier, its Related Companies or one of their subcontractors using any Tooling, equipment or Intellectual Property Rights of the Buyer or its Related Companies.

SECTION 16. USING THE SUPPLIER'S TECHNICAL INFORMATION

16.01 Technical Information The Supplier will provide the Buyer and its Related Companies with Technical Information required by the Buyer to install, assemble and otherwise use the Goods. **Technical Information** includes engineering, package and installation drawings, specifications, testing protocols and results, documents, data and other information relating to the Goods and Tooling. Technical Information must comply with the computer-aided-design and drafting standards of the Buyer and its Related Companies. Technical Information will be provided as specified in Sections 16.02 and 16.03 and categorized into either Level One Materials or Level Two Materials as provided in Section 16.04.

16.02 Use of Level One Materials The Supplier will provide the Buyer and its Related Companies with Level One Materials to use without restriction. **Level One Materials** define in general terms the geometric and functional attributes of the Goods as they interface with the Buyer's products, demonstrate that they meet the Buyer's specifications, and describe how they interact with other vehicle systems or environments. At a minimum, Level One Materials are those the Buyer or its Related Companies require to support their engineering release systems (including the Ford Worldwide Engineering Release System (WERS)), and package and installation drawings with functional requirements. At the Buyer's request, Level One Materials must also be provided for Component Parts (as defined in Section 33.01). The Buyer may use or disclose Level One Materials without restriction, subject only to any patent or trademark rights of the Supplier. Any Supplier legend, like "Confidential" or "Proprietary," will not affect the Buyer's right to use Level One Materials.

16.03 Use of Level Two Materials **Level Two Materials** include more detailed design and manufacturing information such as Failure Mode and Effects Analyses (FMEA, including Design Failure Mode and Effects Analysis and Process Failure Mode and Effects Analysis), Design Verification Plans and Reports (DVP&R, including test specifications, test reports and test data), P-Diagrams and Control Plans. The Supplier will provide the Buyer and its Related Companies with reasonable access, including delivery of reference copies, to Level Two Materials as well as the right to use Level Two Materials internally, including to integrate the Goods into the vehicle. Any additional rights (such as licenses or ownership, or the right to disclose the materials to third parties to which disclosure is not permitted under this Section 16 or Section 17) to these or other materials (such as detailed drawings and math data, CAE Models, electrical schematics, or software algorithm and code) will be negotiated in good faith by the Buyer and the Supplier and formalized in a Statement of Work or other written document. The Buyer's obligations to treat Level Two Materials as confidential are described in Section 17.

16.04 Categorization The Supplier and the Buyer will work in good faith to categorize the Supplier's Technical Information as Level One Materials or Level Two Materials and, if appropriate, itemize them in a Statement of Work or other written document. In the event that the Supplier and the Buyer are unable to agree on the appropriate categorization, there will be a presumption that the Supplier's Technical Information is Level One Materials.

16.05 Market Testing The Buyer may share Level One Materials with third parties without restriction. The Buyer may not share Level Two Materials that are Supplier Confidential Information, or any other Supplier Confidential Information, except as provided in Section 17.

16.06 Effective Date of Buyer's Obligations The Buyer's obligations under this Section 16 relating to Level Two Materials apply to Level Two Materials disclosed to the Buyer on or after January 1, 2004.

SECTION 17. CONFIDENTIALITY

17.01 Confidential Information *Confidential Information* is information that meets the requirements specified below for Supplier Confidential Information or Buyer Confidential Information. Information that does not meet these requirements is not Confidential Information, regardless of any legend or marking to the contrary. A reference in this Section 17 to *Confidential Information of the Other Party* is a reference to Supplier Confidential Information when the reference relates to an obligation of the Buyer, and to Buyer Confidential Information when the reference relates to an obligation of the Supplier.

(a) **Supplier Confidential Information** is any information disclosed under the Purchase Order that meets all of the following requirements:

(1) The information is non-public information that is proprietary to: (A) the Supplier; (B) any of its Related Companies; or (C) any third party to which any of them has an obligation of confidentiality relating to the information.

(2) The information is disclosed to the Buyer: (A) in tangible form and identified as confidential in the tangible form; or (B) orally, and is identified as confidential at the time of disclosure, and is described in a written statement (which must also identify it as confidential) within a reasonable time after disclosure.

(3) The information is: (A) Level Two Materials, as described in Section 16.03; (B) provided under a Team Value Management initiative, as described in Section 18.01; (C) Embedded Software, as defined in Section 20.01; (D) provided under Section 24; (E) provided to the Buyer's Purchasing Controller's Office under Section 32.03; or (F) provided under Section 38.02.

(b) **Buyer Confidential Information** is any information that meets all of the following requirements, regardless of whether it has been disclosed under the Purchase Order:

(1) The information is non-public information that is proprietary to: (A) the Buyer; (B) any of its Related Companies; or (C) any third party to which any of them has an obligation of confidentiality relating to the information.

(2) The information is:

(A) a Volume Projection, as defined in Section 7.01, or is provided under a Team Value Management initiative, as described in Section 18.01;

(B) the Buyer's or any of its Related Companies' future product plans or any details of those plans; or

(C) any other information identified by the Buyer or any of its Related Companies (orally or in writing) as confidential.

17.02 Obligations and Standard of Care

(a) The Buyer and the Supplier will each use Reasonable Care to protect the confidentiality of Confidential Information of the Other Party. **Reasonable Care** is the standard of care that the party holding the information would use in protecting the confidentiality of its own confidential information. The Supplier may consult the Global Terms and Conditions home page described in Section 1.01 for information on the practices that apply to the Buyer's employees for the handling of confidential information.

(b) Some of the Buyer's and its Related Companies' electronic systems (for example, WERS) are designed for collaboration and the sharing of information among multiple parties, including other suppliers. The Supplier should not input Supplier Confidential Information into any electronic system of the Buyer or any of its Related Companies unless the Buyer or any of its Related Companies has advised the Supplier in a Written Notice that the system is suitable for receipt of Supplier Confidential Information.

(c) The obligations under Section 17.02(a) do not apply to any information that: (1) is or becomes publicly available through no breach of any agreement between the Buyer and the Supplier; (2) is approved for release by the disclosing party in a Written Notice; (3) is lawfully obtained from a third party without a duty of confidentiality; (4) was already known to the receiving party prior to its disclosure; (5) is required to be disclosed by a valid court order; or (6) is input by the Supplier into an electronic system for which the Supplier has not received the Written Notice described in Section 17.02(b). The exception in clause (5) will apply only if the receiving party has: (A) provided the disclosing party with a Written Notice of the court order; and (B) fully cooperated with the disclosing party in seeking confidential treatment for the disclosures. The Buyer's confidentiality obligations under Section 17.02(a) also do not apply to Embedded Software, to the extent required to exercise License rights for the Embedded Software granted under Section 20.01.

17.03 Sharing with Related Companies and Consultants The Buyer and the Supplier may share Confidential Information of the Other Party with their: (a) Related Companies; and (b) consultants, contractors, experts and agents; provided, that the person or entity with whom or which the information is being shared has agreed in writing to be bound by confidentiality provisions comparable to those specified in this Section 17. The Supplier will first obtain the written consent of the Buyer if the Supplier or any of its Related Companies wants to share Buyer Confidential Information with any party (including any of its Related Companies) that is a motor vehicle manufacturer or distributor.

17.04 Sharing with Other Third Parties Neither the Buyer nor the Supplier will share any Confidential Information of the Other Party with any third party, including any competitor of the other party, without the prior written agreement of the other party, except as may otherwise be permitted under the Purchase Order, a Technology Agreement, or other written agreement between the parties.

17.05 No Other Obligations The Buyer, the Supplier, and their Related Companies have no other obligation for confidential information supplied to them from whatever source, unless otherwise agreed to in writing.

17.06 Effective Date of Buyer's Obligations The Buyer's obligations under this Section 17 apply to Supplier Confidential Information disclosed to the Buyer on or after January 1, 2004.

SECTION 18. TVM AND WARRANTY REDUCTION PROGRAMS

18.01 Supplier Participation The Buyer may initiate various programs designed to improve quality, increase customer satisfaction or reduce costs. Current initiatives include **Team Value Management (TVM)** and the **Warranty Reduction Program**. All suppliers are required to participate in these initiatives to the extent requested by the Buyer. The Supplier can learn more about them by visiting the Ford Supplier Portal (<http://fsp.covisint.com/>) or contacting the Buyer directly.

18.02 Confidential Information The Buyer's and Supplier's obligations to treat information received under the Team Value Management initiative as confidential are described in Section 17.

SECTION 19. LICENSES TO SUPPLIER TECHNOLOGY

19.01 Supplier Grants The Supplier will grant Licenses on the bases specified below unless an Earlier Agreement (as defined in Section 4.02) states otherwise. A **License** is a license granted in all cases to the Buyer and its Related Companies on a nonexclusive, worldwide basis, to make, have

made, use, have used, sell and import manufactures, compositions, machines and processes covered by the Intellectual Property Rights of the Supplier.

19.02 Off-the-Shelf Goods Purchase of the Goods does not include any License from the Supplier if they are Off-the-Shelf Goods. *Off-the-Shelf Goods* do not include any functionally or structurally significant features developed specifically for the Buyer.

19.03 Buyer Specific Development Work If the Purchase Order (including an Earlier Agreement) includes development services, such as the design of a unique part or modification of an Off-the-Shelf part for a specific vehicle program, the Supplier grants to the Buyer:

(a) A permanent, paid-up License, with a right to sublicense others, for any and all inventions or other results of the Supplier's development work which the Supplier conceives, develops or acquires in the course of performing work under the Purchase Order or other written agreement with the Buyer or a Related Company; and

(b) A background License, on Commercially Reasonable terms and conditions, under any Intellectual Property Rights that are owned or controlled by the Supplier (now or acquired in the future) that cover any invention embodied in the Goods delivered under the Purchase Order.

19.04 Commercially Reasonable When negotiating *Commercially Reasonable* terms and conditions, the parties will take into account the relative technical and other contributions to the development of the technology, the level of business being offered to the Supplier, and the Buyer's needs for subsequent migration of the developed technology to other projects or vehicle applications.

19.05 License to Rebuild The Supplier grants to the Buyer a permanent, paid-up License under any Intellectual Property Rights that are owned or controlled by the Supplier or its Related Companies (now or in the future) necessary to rebuild and have rebuilt, but not to have newly manufactured by another, the Goods and Tooling.

SECTION 20. EMBEDDED SOFTWARE AND OTHER WORKS OF AUTHORSHIP

20.01 Embedded Software The Supplier grants to the Buyer a permanent, paid-up License under each copyright it owns or controls or has a right to license. This License is limited to the use, repair, modification or sale of any Embedded Software that is part of the Goods in conjunction with the use or sale of the Goods. *Embedded Software* is software that is embedded in the Goods and performs operating or other functions. Embedded Software includes, for example, the embedded software in engine control modules used to perform, monitor or diagnose various engine or vehicle functions and includes related documentation.

20.02 Confidentiality The Buyer's obligations to treat Embedded Software as confidential are described in Section 17.

20.03 Other Works The Supplier grants to the Buyer a permanent, paid-up License under each copyright it owns or controls or has the right to license in any work of authorship (other than Embedded Software and Level Two Materials) fixed in any tangible medium of expression delivered by the Supplier under the Purchase Order to use such work, reproduce such work, prepare derivative works, distribute copies of such work to the public, and to perform and display such work publicly.

20.04 Subcontractors In each subcontract of the Supplier's work performed pursuant to the Purchase Order, the Supplier will use its best efforts to obtain for the Buyer all of the rights and Licenses granted to the Buyer under Section 16, Section 19 and Section 20.

SECTION 21. CLAIMS OF INFRINGEMENT

21.01 Supplier Obligations The Supplier will, at its sole cost and expense, indemnify and hold the Buyer and its Related Companies harmless against any and all claims for any alleged infringement of Intellectual Property Rights that may be brought against the Buyer, its Related Companies or third parties that may use the Goods.

This obligation includes a claim involving any present or future Intellectual Property Right or other proprietary right based on the Supplier's activity under the Purchase Order or the manufacture, sale or use of the Goods (a) alone, (b) in combination by reason of their content, design or structure, or (c) in combination with the Supplier's recommendations. The Buyer and the Supplier may agree in a Technology Agreement to limit the Supplier's obligations under this Section 21.01 by geographic region.

21.02 Assistance to the Buyer The Supplier will investigate, defend and otherwise handle any such claim. At the Buyer's request, the Supplier will assist the Buyer in its investigation, defense or handling of any such claim. The Supplier will pay all costs, expenses, damages and settlement amounts that the Buyer, its Related Companies and others selling or using the Buyer's products incorporating the Goods may sustain by reason of an indemnified claim.

21.03 Buyer Design Input The Supplier's indemnification obligations will apply even if the Buyer furnishes all or a portion of the design and specifies all or a portion of the processing used by the Supplier unless a Technology Agreement provides otherwise.

21.04 Adjustment of Supplier's Financial Responsibility The Buyer will determine the Supplier's financial responsibility under this Section 21 after taking into account the relative involvement of the Buyer and the Supplier in the design, whether the Supplier made the Buyer aware of the potential for the claim, the extent to which the Goods gave rise to the claim, the duration and nature of the relationship with the Supplier and such other factors as the Buyer may deem relevant.

SECTION 22. WARRANTY

22.01 Supplier Warranty The Supplier warrants that during the applicable **Warranty Period** (as defined in Section 22.02, 22.04 or 22.05) the Goods will:

(a) Conform in all respects to the drawings, specifications, Statements of Work, samples and other descriptions and requirements relating to the Goods that have been furnished, specified or approved by the Buyer;

(b) Comply with all Government Requirements (as defined in Section 36.01) of the countries in which the Goods or the vehicles into which the Goods are to be installed are to be sold;

(c) Be merchantable;

(d) Be free from defects in design to the extent furnished by the Supplier, its Related Companies or their subcontractors, even if the design has been approved by the Buyer;

(e) Be free from defects in materials and workmanship; and

(f) Be suitable for their intended use by the Buyer, including the specified performance in the component, system, subsystem and vehicle location specified by the Buyer and the environment in which the Goods are or reasonably may be expected to perform.

22.02 Warranty Period for Production Vehicles For Goods installed or used in a Production Vehicle, the Warranty Period begins on the date the Goods are delivered to the Buyer (or a Related Company or third party designated by the Buyer) and expires on the date that is the later of:

(a) The date on which the period of the applicable New Vehicle Warranty (as defined in Section 22.03) covering the Goods ends; or

(b) The date on which any longer or broader Government Requirement covering the Goods ends.

A **Production Vehicle** is a vehicle currently being produced by the Buyer or any of its Related Companies. Goods that are dealer-installed accessories on new vehicles are also covered under Section 22.02.

22.03 New Vehicle Warranty The **New Vehicle Warranty** consists of the basic warranties provided by the Buyer or any of its Related Companies to the end customer that cover the specific vehicle, its components and parts. The New Vehicle Warranty includes extended warranty coverage provided at no additional charge to the end customer, but does not include any optional extended warranty that may be separately purchased by the end customer.

22.04 Warranty Period for Service and Replacement Parts For Goods installed, used or sold as service or replacement parts, the Warranty Period begins on the date the Goods are delivered to the Buyer (or a Related Company or third party designated by the Buyer) and expires on the date that is the later of:

(a) The date on which the period of the warranty provided by the Buyer (or one of its Related Companies) for the Goods ends;

(b) The date on which the period remaining under the applicable New Vehicle Warranty covering the Goods ends; or

(c) The date on which any longer or broader Government Requirement covering the Goods ends.

22.05 Warranty Period for Used Vehicle Accessories For Goods installed, used or sold as accessories for used vehicles, the Warranty Period begins on the date the Goods are delivered to the Buyer (or a Related Company or third party designated by the Buyer) and expires on the date that is the later of:

(a) The date on which the period of the warranty provided by the Buyer (or one of its Related Companies) for the Goods ends; or

(b) The date on which any longer or broader Government Requirement covering the Goods ends.

22.06 Change in Warranty The Buyer (or a Related Company) may change the New Vehicle Warranty or any warranty offered by it covering the Goods. If the change is made after the Production Purchase Order has been issued, the Buyer will promptly notify the Supplier of the change in a Written Notice. See Section 9.03.

22.07 Long Term Durability Requirement If the Production Purchase Order includes a Quality/Reliability Statement of Work, the specifications and requirements in it are in addition to the obligations of the Supplier specified in this Section 22 and Section 23.

22.08 Warranty Programs If the Supplier and the Buyer (or any of its Related Companies) have entered into a Warranty Program Agreement covering the Goods, it will specify the extent to which its terms take precedence over the relevant provisions in the Global Terms and Conditions. A Warranty Program Agreement will not affect the Supplier's obligations under the provisions of Section 23, unless the Warranty Program Agreement expressly provides otherwise.

22.09 Claim for Breach of Warranty The Supplier's Warranty and any rights of the Buyer to make a claim under it will be effective even if the Buyer has accepted all or a portion of the Goods.

SECTION 23. RECALLS AND OTHER FIELD SERVICE ACTIONS

23.01 Early Notification The Buyer or the Supplier, as appropriate, will inform the other about any nonconformity of the Goods as soon as reasonably practicable after it has been discovered and confirm the nonconformity in a Written Notice if requested by the other. The Buyer and the Supplier will cooperate fully with each other to identify the cause of the nonconformity and to develop a plan for the prompt remediation of it.

23.02 Types of Field Service Actions A **Field Service Action** is a recall or other service action performed by the Buyer, its dealers or other authorized repair facilities. The Buyer may initiate a Field Service Action required by a Government (either mandated or voluntarily agreed upon by the Buyer) or on its own for customer satisfaction or other reasons independent of any Government action.

23.03 Field Service Actions If the Buyer determines a Field Service Action is necessary to remedy the nonconformity, it will promptly notify the Supplier. The Buyer will provide this notice prior to the launch of a Field Service Action if it is reasonably practicable for it to do so. The Buyer will provide its rationale for conducting a Field Service Action and review information presented by the Supplier. The Buyer reserves the right to determine all aspects of a Field Service Action, including when to conduct one and its implementation.

23.04 Supplier Liability for Costs The Supplier is liable for all costs and expenses of a Field Service Action to remedy the nonconformity in the Goods. If the Buyer has agreed, as part of a Field Service Action negotiated with a Government, to provide an extended warranty, customer incentives to increase the Field Service Action completion rate, or to take other actions, the Supplier's liability will also include the costs and expenses of these actions.

23.05 Adjustment of Supplier Responsibility Once the Field Service Action has been initiated, the Buyer and the Supplier will negotiate diligently and in good faith on the extent to which the Supplier's financial responsibility under Section 23.04 for the Field Service Action may be adjusted, if at all, taking into account the relative degree of fault of the parties.

23.06 Interim Field Service Action Cost Recovery Debit At its option, the Buyer may debit the Supplier for up to 50% of the Actual Recall Costs relating to a specific Field Service Action if:

(a) The Buyer has made a good faith determination that the Supplier is likely to be liable for some portion of the total costs of the Field Service Action, taking into account all of the relevant data available at the time, including the assessments of the Buyer and the Supplier concerning their relative fault; and

(b) No agreement has been reached on the allocation of costs within 90 days after the commencement of negotiations.

For purposes of this Section 23.06 and Section 23.07 only, the term **Actual Recall Costs** will be limited to the cost of parts and labor actually incurred by the Buyer. These costs will be calculated in accordance with the Buyer's Field Service Action Cost Recovery Web-Guide. Debits will be made no more often than once a quarter.

23.07 Maximum Interim Field Service Action Cost Recovery Debit The maximum cumulative debits for Actual Recall Costs for any one Field Service Action under Section 23.06 will not exceed three times the aggregate price paid under the Production Purchase Orders for the Goods for the model years that are the subject of the Field Service Action.

For example, if the Actual Recall Costs involving part X installed on three model years of vehicles was \$100 million, the maximum cumulative debits under Section 23.06 would be \$50 million (50% x \$100 million). If, however, the aggregate price paid under all of the Production Purchase Orders covering the Goods installed in the recalled vehicles is \$10 million, then Section 23.07 would cap the cumulative amount of the debits at \$30 million (3 times \$10 million).

23.08 Account Adjustment Once the Supplier's share of the Field Service Action cost has been determined under this Section 23, the Buyer will credit or debit the account of the Supplier, as may be appropriate.

23.09 No Admission of Liability Neither the Buyer nor the Supplier will be deemed to have admitted that the amount of any Interim Field Service Action Cost Recovery Debit under Section 23.06, or the maximum under Section 23.07, is the amount for which the Supplier may ultimately be liable under Section 23.04. The Buyer's rights under Section 23.06 are in addition to any other rights that it may have to recover from the Supplier for any nonconformity of the Goods. Neither party will be deemed to have waived any right it might have against the other party relating to any nonconformity in the Goods.

SECTION 24. INFORMATION PROVIDED TO A GOVERNMENT; SUBSTANCE AND MATERIALS REPORTING AND COMPLIANCE

24.01 Government Submissions Involving the Goods The Supplier will promptly notify the Buyer via e-mail directed to 1TREAD@ford.com if it has provided information to a Government regarding the Goods, including information provided to the U.S. Government in accordance with the following reporting requirements of U.S. law: 49 CFR Part 573 (Defect and Noncompliance Reporting) and 49 CFR Part 579 (Reporting of Information and Communications About Potential Defects).

This e-mail notification will include the following information: the date the notification was provided to a Government, the affected Goods (or components of the Goods, as applicable), and the report type (e.g., for reporting to the U.S. Government, an Early Warning Report or Noncompliance Report).

Upon the request of the Buyer, the Supplier will provide the Buyer (and any Related Company specified by it) with access to and copies of any data, materials or information provided to a Government relating to the Goods, any component or part of the Goods, or any materials or substances used in the Goods or in connection with their production, including any test, manufacturing, field performance or warranty data. The Supplier will provide the information within 10 business days after receipt of the Buyer's request.

24.02 Government Submissions Involving Derivative Products The Supplier will promptly notify the Buyer, via the method described in Section 24.01, if it has provided information to a Government regarding goods of a comparable or derivative nature to the Goods that the Supplier has supplied to the Buyer or a Related Company, including information provided to the U.S. Government of the type or kind described in Section 24.01. Upon the request of the Buyer, the Supplier will provide the Buyer (and any Related Company specified by the Buyer) with access to and copies of all materials in accordance with Section 24.01.

24.03 Contract Restrictions If the Supplier is restricted by contract, court order or otherwise from disclosing the information to the Buyer, the Supplier will promptly notify the Buyer in a Written Notice.

The Buyer and the Supplier will agree on the steps to be taken by the Supplier to obtain the requested information.

24.04 Substance and Materials Reporting and Compliance

(a) Upon the request of the Buyer or a Related Company of the Buyer, the Supplier will provide it with access to and copies of any data, materials or other information, including any formulas or analyses, that:

(1) Relates to the Goods, their composition, any component or part of the Goods, or any materials or substances used in the Goods or in connection with their production; and

(2) Is needed, as determined by the requestor, to enable compliance with any requirement of a Government (either mandated or voluntarily agreed upon by the Buyer or any of its Related Companies) relating to the hazardous, toxic or other content or nature of the Goods, or the ability to recycle the Goods or any component, part or materials in the Goods.

(b) The Supplier will comply with the Buyer's requirements relating to the use (or prohibition on use) of certain materials and substances in the Goods (such as Ford's Restricted Substance Management Standard (RSMS)), and utilize and comply with the Buyer's reporting processes and requirements relating to any data, materials or other information described in Section 24.04(a) (such as the International Material Data System (IMDS)). See the Environmental Web-Guide.

24.05 Confidentiality The Buyer's obligations to treat information provided by the Supplier under this Section 24 as confidential are described in Section 17; however, the Buyer's obligations will not apply to the extent required in order for it or any of its Related Companies to comply with any reporting, certification, or similar requirement of a Government (either mandated or voluntarily agreed upon by the Buyer or any of its Related Companies).

SECTION 25. INDEMNIFICATION OBLIGATIONS OF THE SUPPLIER

25.01 Definitions For purposes of this Section 25, *Indemnified Person* includes the Buyer, its Related Companies, and their directors, officers, and employees. *Litigation Costs* includes all costs, damages, losses, claims and expenses (including actual fees for attorneys, experts and consultants, settlement costs and judgments) incurred in defending against a claim under Section 25.02.

25.02 Supplier's Obligations The Supplier will indemnify and hold an Indemnified Person harmless against all Litigation Costs occasioned by, resulting from, or arising out of any claim by a third party for death, personal injury, or property damage which results from: (a) any defect or alleged defect in the Goods supplied by the Supplier; (b) any noncompliance or alleged noncompliance by the Supplier with any of its representations, warranties or obligations under a Purchase Order; or (c) any negligence or fault or alleged negligence or fault of the Supplier in connection with the design or manufacture of the Goods.

25.03 Apportionment of Litigation Costs Upon the filing of any third-party claim against an Indemnified Person that is subject to Section 25.02, the Supplier and the Buyer will, in good faith, attempt to reach agreement concerning whether, notwithstanding the provisions of Section 25.02, it is appropriate under the circumstances of the particular case to apportion Litigation Costs between the Supplier and the Buyer.

25.04 Factors to be Considered in Apportionment In determining whether and to what extent Litigation Costs should be apportioned between the Supplier and the Buyer under Section 25.03, all relevant factors should be considered, including the relative strength of the claim, whether the claimant alleges solely that the Indemnified Person is vicariously liable for the Supplier's fault (or a defect in the Goods for which the Supplier is primarily responsible), and whether any independent

fault alleged on the part of an Indemnified Person consists of a mere failure to discover or guard against the Supplier's negligence or an alleged defect in the Goods. Absent an agreement on apportioning Litigation Costs, the terms of Section 25.02 will apply.

25.05 Work Performed on Premises If the Supplier performs any work on an Indemnified Person's premises or utilizes the property of an Indemnified Person, whether on or off the Indemnified Person's premises, the Supplier will indemnify and hold the Indemnified Persons harmless from and against any liability, claims, demands or expenses (including actual fees of attorneys and other professionals) for damages to the property of or injuries (including death) to Indemnified Persons, their employees or any other person arising from or in connection with the Supplier's performance of work or use of the Indemnified Person's property, except for such liability, claim, or demand arising out of the sole negligence of an Indemnified Person.

SECTION 26. TERMINATION FOR CAUSE

26.01 Supplier Breach The Buyer may terminate a Purchase Order, in whole or in part, upon Written Notice to the Supplier if the Supplier fails to comply with any of the requirements of the Purchase Order. If the noncompliance relates to an obligation of the Supplier that is, in the opinion of the Buyer, capable of cure as described in Section 26.02, the Buyer may terminate under this Section 26.01 only if the Supplier has failed to either: (a) timely cure the noncompliance (as described in Section 26.02); or (b) provide the Buyer with adequate assurances of performance acceptable to the Buyer.

26.02 Cure Periods If the Supplier delivers Goods that fail to comply with the requirements of Section 14.01, the cure provisions of Section 14.03 will apply. For all other failures by the Supplier to comply with the requirements of the Purchase Order, the Supplier will have 10 days (or less if commercially reasonable under the circumstances) after the effective date (as described in Section 44.02) of the Buyer's Written Notice to the Supplier specifying the failure by the Supplier within which to: (a) cure the nonperformance; or (b) provide adequate assurances of performance acceptable to the Buyer.

26.03 Change of Control The Buyer may terminate a Purchase Order, in whole or in part, upon Written Notice to the Supplier, if control of the Supplier changes. A change of control includes: (a) the sale, lease or exchange of a substantial portion of the Supplier's assets used for the production of the Goods; (b) the sale or exchange of a controlling interest in the shares of the Supplier; or (c) the execution of a voting or other agreement of control. The Supplier will provide the Buyer with Written Notice of a change of control within 10 days after the change of control has become effective. The Buyer will have 60 days from the date the Written Notice from the Supplier is effective (as described in Section 44.02) within which to notify the Supplier of its decision to terminate the Purchase Order and the effective date of the termination, which will be no sooner than 30 days after the date the Written Notice of termination is effective (as described in Section 44.02).

26.04 Insolvency The Buyer may terminate a Purchase Order, in whole or in part, upon Written Notice to the Supplier, if the Supplier: (a) becomes insolvent; (b) files a voluntary petition in bankruptcy; (c) has an involuntary petition in bankruptcy filed against it; (d) has a receiver, administrator, custodian or trustee appointed over the Supplier or its assets; or (e) executes an assignment for the benefit of its creditors. In each case, the Supplier is liable for all actual costs incurred by the Buyer, including those for attorneys, experts, consultants and other professionals.

26.05 Excusable Delay The Buyer may terminate a Purchase Order, in whole or in part, upon written Notice to the Supplier, as described in Section 40.05.

26.06 Effective Date of Termination Termination under Section 26.01, 26.04, or 26.05 will be effective on the date the Buyer's Written Notice of termination is effective (as described in Section

44.02), unless the Written Notice specifies another date. Termination under Section 26.03 will be effective on the date specified in the Written Notice of termination.

26.07 Amounts Payable by Buyer upon Termination under Section 26.01 In the event of a termination under Section 26.01, the Buyer will pay the Supplier, subject to Section 11, for:

(a) Any unpaid Goods previously delivered and accepted that fully conform to the requirements of the Purchase Order; and

(b) Any outstanding balance owed to the Supplier for Buyer-Owned Tooling that fully conforms to the requirements of the Production Tool Order.

26.08 Amounts Payable by Buyer upon Termination under Sections 26.03, 26.04, or 26.05 In the event of a termination under Sections 26.03, 26.04, or 26.05, the Buyer will pay the Supplier, subject to Section 11, for:

(a) Any unpaid Goods previously delivered and accepted that fully conform to the requirements of the Purchase Order;

(b) Any outstanding balance owed to the Supplier for Buyer-Owned Tooling that fully conforms to the requirements of the Production Tool Order;

(c) Undelivered finished Goods that: (1) fully conform to the requirements of the Purchase Order; (2) were produced in accordance with delivery or Release schedules approved by the Buyer and outstanding as of the date the termination was effective (as described in Section 26.06); and (3) are transferred to the Buyer in accordance with Section 31.01(c);

(d) Actual costs incurred by the Supplier in protecting the Buyer's property pending delivery or return to the Buyer; and

(e) Any other costs or allowances that the Buyer, in its sole discretion, may elect to pay.

26.09 Amounts Payable by the Supplier upon Termination under Section 26 The Supplier will be liable for all direct, incidental and consequential losses, costs, and expenses incurred by the Buyer resulting from any failure by the Supplier to comply with any of the requirements of the Purchase Order (even if the Supplier has cured the noncompliance under Section 26.02), or from termination by the Buyer under this Section 26, and termination under this Section 26 does not relieve the Supplier from this liability.

26.10 Repeated Failures to Comply If the Buyer has determined, in accordance with Section 26.11, that the Supplier has repeatedly failed to comply with the requirements of Section 15.03, Section 34.17, Section 35.03, Section 36, or Section 37.01 or 37.02, the Buyer may, to the extent not prohibited by law, debit the Supplier for an amount not to exceed 15% of the aggregate price paid under all of the outstanding Purchase Orders with the Supplier that gave rise to the repeated failures.

26.11 Good Faith Determination The Buyer will act in good faith in making its determination under Section 26.10 and will take into account relevant information provided by the Supplier. Any debit made under Section 26.10 is in addition to any other remedy the Buyer may have for any failure by the Supplier to comply with any of its obligations under the Purchase Order.

SECTION 27. TERMINATION AT BUYER'S OPTION

27.01 Termination The Buyer may terminate the Purchase Order, in whole or in part, at any time and for any or no reason, upon Written Notice to the Supplier. The Supplier may not terminate at its option.

27.02 Effective Date of Termination Termination under this Section 27 will be effective on the date the Buyer's Written Notice of termination is effective (as described in Section 44.02), unless the Written Notice specifies another date.

27.03 Amounts Payable to the Supplier In the event of a termination under this Section 27, the Buyer will pay the Supplier, subject to Section 11, for:

(a) Unpaid Goods previously delivered and accepted which fully conform to the requirements of the Purchase Order;

(b) Any outstanding balance owed to the Supplier for Buyer-Owned Tooling that fully conforms to the requirements of the Production Tool Order;

(c) Undelivered finished Goods that: (1) fully conform to the requirements of the Purchase Order; (2) were produced in accordance with delivery or Release schedules approved by the Buyer and outstanding as of the date the termination was effective (as described in Section 27.02); and (3) are transferred to the Buyer in accordance with Section 31.01(c);

(d) Actual costs, subject to the limitation in Section 27.04, incurred for work-in-process and raw materials that: (1) are not damaged or destroyed; (2) were not purchased by a third party with the Buyer's prior authorization in a Written Notice; (3) cannot be used by the Supplier to produce goods for itself or other customers; and (4) are transferred to the Buyer in accordance with Section 31.01(c);

(e) Actual costs incurred by the Supplier in protecting the Buyer's property pending delivery or return to the Buyer; and

(f) Any other costs or allowances that the Buyer, in its sole discretion, may elect to pay.

27.04 Limitation on Costs The Buyer will be liable for costs under Section 27.03(d) only to the extent any work-in-process and raw materials were acquired to complete quantities to be delivered in accordance with delivery or Release schedules approved by the Buyer and outstanding as of the date the termination was effective (as described in Section 27.02).

SECTION 28. CLAIMS

28.01 Process for Submitting Claims Any claim seeking a payment from the Buyer as the result of termination under Section 26 or Section 27, non-renewal under Section 8.03, or program cancellation under Section 29 must be submitted within 60 days after the effective date of termination, non-renewal, or program cancellation. The claim must include sufficient supporting data to permit the Buyer's auditors to verify and substantiate the claim. The Buyer (and its designated agents) have the right to examine and audit all pertinent items related to the claim, including books, records, facilities, work-in-process, raw materials and inventory. If necessary, the Supplier may request an extension of the submission deadline, provided that it does so within the 60-day submission period.

28.02 Payment Not a Waiver Any amount paid by the Buyer for the Goods will not be deemed to be a waiver of any breach by the Supplier or any amount otherwise due to the Buyer under the Purchase Order. Waiver by the Buyer of any breach by the Supplier on one occasion will not preclude the Buyer from terminating the Purchase Order for, or constitute a waiver of, any similar breach at another time.

28.03 No Other Liability The Buyer has no liability to the Supplier or any Related Company of the Supplier for lost profits, unabsorbed overhead, capital investment, interest expense, product development and engineering costs, facilities and equipment rental or purchase or rearrangement costs, unamortized depreciation costs, penalties, or general or administrative charges, whether

incurred directly or indirectly by the Supplier, any of its Related Companies, or their suppliers, except to the extent provided in Section 26 or Section 27.

SECTION 29. PROGRAM CANCELLATION

29.01 Program Cancellation The Buyer reserves the right to cancel a vehicle, or vehicle-related (e.g., powertrain), program for which the Supplier has been issued a Purchase Order to supply the Goods. The Buyer's right to do so is in addition to any other termination rights it may have under the Global Terms and Conditions.

29.02 Process for Submitting Claims If, as the result of a cancellation under Section 29.01, the Supplier believes it is entitled to reimbursement of any of its costs, it may submit a claim to the Buyer in accordance with the process specified in Section 28.01. Costs for which the Buyer may consider reimbursement are those specified in Section 27.03.

SECTION 30. POTENTIAL ADJUSTMENT OF SUPPLIER FINANCIAL RESPONSIBILITY

30.01 No Obligation The Buyer has no obligation to compromise a claim or an amount owed to the Buyer arising from a breach by the Supplier.

30.02 Factors Considered The Buyer may elect to reduce the amount for which the Supplier may otherwise be financially responsible. If the Buyer elects to do so, it will take into account one or more of the following factors:

- (a) The extent and timeliness of the cooperation of the Supplier, including the early identification and resolution of any potential or actual nonconformity of the Goods;
- (b) The volume of business, tenor, value and length of the relationship with the Supplier;
- (c) The extent of the Supplier's participation in Team Value Management (TVM) initiatives, the Warranty Reduction Program, and other programs of the Buyer;
- (d) The financial health of the Supplier; and
- (e) Any other factor the Buyer believes to be relevant.

SECTION 31. SUPPLIER'S OBLIGATIONS ON EXPIRATION OR TERMINATION

31.01 Actions by Supplier Upon the expiration or termination of the Purchase Order, the Supplier will:

- (a) Take all actions necessary to protect any of the Buyer's property in the possession of the Supplier or its suppliers and subcontractors;
- (b) Cooperate with the Buyer to help avoid production disruptions while the production of the Goods is being resourced to another supplier;
- (c) Transfer title and possession of the Goods, Supplier-Owned Tooling, work-in-process and raw materials that the Buyer has agreed to acquire from the Supplier and return Tooling and other property of the Buyer;
- (d) Terminate all orders and subcontracts related to work to be performed after the effective date of any expiration or termination; and
- (e) Cease all work under the Purchase Order unless directed otherwise by the Buyer.

SECTION 32. AUDIT RIGHTS AND FINANCIAL INFORMATION

32.01 Supplier Records and Facilities If requested by the Buyer, the Supplier will permit the Buyer (which, for purposes of this Section 32.01, includes its authorized representatives) to:

(a) Examine all pertinent documents, data and other information relating to the Goods, Tooling, the Supplier's obligations under the Purchase Order, any payment made to the Supplier or any claim made by the Supplier;

(b) View any facility or process relating to the Goods or the Purchase Order, including those relating to production quality; and

(c) Audit any facility or process to determine compliance with the requirements of the Purchase Order, including those under Section 12, Section 36, and Section 37.

Any examination under this Section 32.01 will be conducted during normal business hours and upon advance Written Notice to the Supplier.

32.02 Subcontractor Records and Facilities If requested by the Buyer, the Supplier will use its best efforts to permit the Buyer to obtain from the subcontractors of, and vendors, to the Supplier the information and permission to conduct the reviews specified in Section 32.01, regardless of any other right the Buyer may have to that information or facilities.

32.03 Supplier Financial Reports If requested by the Buyer, the Supplier will provide to the Buyer's Purchasing Controller's Office the most current Financial Reports: (a) for the Supplier; and, (b) for any Related Company of the Supplier involved in producing, supplying, or financing the Goods or any component part of the Goods. **Financial Reports** include income statements, balance sheets, cash flow statements and supporting data. The Buyer's Purchasing Controller's Office may use Financial Reports provided under this Section 32.03 only to assess the Supplier's ongoing ability to perform its obligations under the Purchase Order and for no other purpose, unless the Supplier agrees otherwise in writing.

32.04 Time of Disclosure If the Supplier is a publicly traded company, the Supplier will provide Financial Reports to the Buyer under Section 32.03 at the time it is permitted to do so under applicable law and the rules of the appropriate stock exchanges.

32.05 Confidentiality The Buyer's obligations to treat information provided to its Purchasing Controller's Office under Section 32.03 as confidential are described in Section 17.

32.06 Records Retention The Supplier will keep all relevant documents, data and other written information for at least 2 years following: (a) in the case of the Goods, the later of the last delivery of the Goods or the date of the final payment to the Supplier under the Purchase Order; and (b) in the case of Tooling, the later of the date of completion of the Production Part Approval Process (PPAP), the date of submission of the Part Submission Warrant (PSW), or the date of final payment. The Buyer may make copies of these materials.

SECTION 33. SERVICE PARTS

33.01 Supply Obligation If requested by the Buyer, the Supplier will supply Service Parts and Component Parts to the Buyer and its Related Companies to meet their current model year and past model year Service Parts and Component Parts needs. The term **Service Parts** refers to the Goods that the Buyer or its Related Companies may offer for resale to its dealers and others as service or replacement parts or as accessories. The Buyer or its Related Companies may also offer for resale

individual component parts of the Goods. These are referred to as **Component Parts**.

33.02 Price for Current Model Year Service Parts The price for current model year Service Parts will be no greater than the price specified in the Production Purchase Order for the Goods used in production plus the actual net cost differential for required unique packaging, shipping and handling.

33.03 Price for Current Model Year Component Parts The price for current model year Component Parts will be no greater than the Supplier's actual production or acquisition cost for the Component Parts plus (a) the actual net cost differential for required unique packaging, shipping and handling, and (b) an appropriate fee for services to be negotiated in good faith by the Buyer and the Supplier. In no case, however, will the total price of all Component Parts of the Goods, less the total costs for those Component Parts specified in (a) and (b), exceed the Production Purchase Order price for the Goods less actual assembly costs.

33.04 Price for Past Model Year Service Parts The price for past model year Service Parts will be no greater than the price specified in the Production Purchase Order for the Goods used in production plus the actual net cost differential for required unique packaging, shipping and handling.

33.05 Price for Past Model Year Component Parts The price for past model year Component Parts will be a price no greater than the Supplier's actual production or acquisition cost for the Component Parts plus (a) the actual net cost differential for required unique packaging, shipping and handling, and (b) an appropriate fee for services to be negotiated in good faith by the Buyer and the Supplier.

33.06 Price Changes If the Supplier or the Buyer believes a change in pricing (up or down) is warranted for past model year Service Parts or Component Parts due to significant and ongoing changes in volume, component or raw material costs, or manufacturing costs, it may file a price change request with the Buyer or the Supplier as appropriate.

33.07 Supporting Documentation The party requesting the price change will provide volume data, actual invoices, published price changes, price change requests from suppliers, and other information reasonably requested by the other party to substantiate the requested price change. The parties will promptly negotiate in good faith the terms of any price change.

33.08 Prices for Buyer's Related Companies The prices of Service Parts and Components Parts supplied to the Buyer will also apply to Service Parts and Component Parts supplied to the Buyer's Related Companies, except that the prices will be adjusted (either up or down) to account for any actual net cost differential for the presence or absence of any unique packaging, shipping and handling required for supply to the Related Company (as compared to that required for supply to the Buyer).

33.09 15 Year Past Model Year Supply Obligation If requested by the Buyer, the Supplier will supply past model year Service Parts and Component Parts for up to 15 years following the end of production of the current model year for the Goods. If the Buyer or any of its Related Companies has a legal obligation to make the Service Parts or Component Parts available for a longer period, the Buyer will so advise the Supplier. The Supplier will supply the Service Parts or Component Parts for this longer time period.

33.10 Discontinuance of Supply If requested by the Buyer, the Buyer and the Supplier will negotiate, in good faith, for the supply of the Service Parts and Component Parts beyond the applicable time period specified in Section 33.09. If, despite good faith negotiations, the parties are unable to agree on supply beyond that time period and the Supplier elects to discontinue supply beyond that time period, it will provide the Buyer with Written Notice to that effect sufficiently in advance of the expiration of the required supply period to enable the Buyer and its Related Companies to resource supply in a timely and orderly manner. In no case will the Supplier's Written Notice be provided less than 3 months prior to the expiration of the required supply period. In all

cases, the Supplier will consult with the Buyer's activity responsible for purchasing service parts and component parts prior to giving its Written Notice to ensure that it will be timely, and the parties will confirm in writing their agreement to the Supplier's Written Notice period.

33.11 Alternative Sourcing If the Supplier elects to discontinue supply under Section 33.10, it will, if requested by the Buyer: (a) work diligently with the Buyer to identify an alternative source of supply that is acceptable to the Buyer; and (b) identify the Supplier's component-part and raw-material suppliers relating to the Goods. In addition, the Supplier will supply the Buyer and its Related Companies during the transition period to the new supply source for up to 6 months after the expiration of the required supply period specified in Section 33.09. If a transition period longer than 6 months is required, the Buyer and the Supplier will negotiate in good faith on the terms and conditions of any longer transition period.

33.12 Separate Purchase Order If a separate Purchase Order is issued by the Buyer or any of its Related Companies to the Supplier for Service Parts or Component Parts (such as, for example, where the Buyer's activity responsible for purchasing service parts issues a separate Purchase Order to the Supplier for the Service Parts or Component Parts), the Global Terms and Conditions will apply to the separate Purchase Order. The requirements of this Section 33 under the original Production Purchase Order will, however, continue to apply unless the parties specifically agree otherwise in writing.

SECTION 34. TOOLING AND OTHER PROPERTY OF THE BUYER

34.01 General Application This Section 34 governs Tooling, Returnable Containers and Other Property owned by the Buyer (defined for the purposes of this Section 34 to include its Related Companies). The term **Tooling** means all prototype and production tools, dies, fixtures, jigs, gauges, molds, patterns and related software purchased by the Buyer under Production Tool Orders (defined for the purposes of this Section 34 to include Prototype Tool Orders). Tooling includes all accessions, appurtenances, modifications, repairs, refurbishments, and replacements to the Tooling and any related drawings. **Returnable Containers** consist of returnable racks, bins, and other containers that are owned by the Buyer. **Other Bailed Property** consists of equipment, materials or other items owned by the Buyer that are placed in the possession or control of the Supplier for its use in connection with the Goods. The provisions in this Section 34 that apply to Tooling will apply equally to Returnable Containers and Other Bailed Property.

34.02 Production Tool Order If the Buyer issues a Production Tool Order in connection with the Production Purchase Order, the Supplier will design and fabricate, rework, or acquire, and in all cases install Tooling that fully conforms to the specifications and other requirements of the Production Tool Order. The Tooling may not contain or be marked in any manner with the name of any person or entity other than the Buyer.

34.03 Tooling Capacity The Tooling must be capable of producing the Volume Projections for the Goods during the life of the part as well as satisfying the requirements for Service Parts under Section 33.

34.04 Completion and Payment The Supplier, at its own expense, will manufacture the requisite number of sample Goods using the Tooling in order to successfully complete the Buyer's Production Part Approval Process (PPAP) and submit the Part Submission Warrant (PSW). The Tooling will be completed when the necessary samples have been submitted and approved by the Buyer. The Supplier has no claim for payment until the Tooling is completed and the Part Submission Warrant and any other necessary documentation have been submitted.

34.05 Status Reports The Buyer, at any time, may ask the Supplier to provide status reports on the construction or acquisition of the Tooling. Each status report will identify the Tooling, identify any

subcontractors working on the Tooling, state the percentage of completion of the Tooling, and state the percentage of sunk costs already expended.

34.06 Notice of Potential Delay in Completion If, at any time, the Supplier believes that the Tooling might not be completed by the completion date specified on the Production Tool Order, the Supplier will notify the Buyer by Written Notice as soon as practicable. Sending this notice will not relieve the Supplier of either its obligation to complete the Tooling on the completion date or its liability for any additional costs incurred by the Supplier or the Buyer as a result of any delay, unless the Buyer agrees otherwise in a Written Notice.

34.07 Supplier Warranty. The Supplier warranty for Tooling is the same as for the Goods under Section 22.01.

34.08 Ownership of Tooling The Buyer becomes the sole owner of all Tooling as soon as it is fabricated or acquired by the Supplier. The Buyer takes title to the Tooling even if the Supplier has not yet been paid for the Tooling. Ownership by the Buyer will not relieve the Buyer of its obligation to pay for the Tooling nor affect any claim of the Supplier for payment under a Production Tool Order.

34.09 Possession and Control Tooling is in the possession or control of the Supplier as a bailment from the Buyer. The Supplier acknowledges that it is a bailee-at-will of the Tooling.

34.10 Toolmakers If all or part of the fabrication, modification, repair or refurbishment of the Tooling will be subcontracted to a third-party toolmaker, the Supplier will: (a) inform the Buyer in advance in a Written Notice of the identity of the toolmaker and the location of the Tooling; (b) inform the toolmaker in writing that it is a bailee-at-will, through the Supplier, of Tooling owned by the Buyer; and (c) be solely responsible for payments to the toolmaker.

34.11 Subcontractors If the Supplier intends to subcontract all or part of the manufacture of the Goods to a third-party subcontractor and to locate Tooling on the subcontractor's premises, the Supplier will: (a) inform the Buyer in advance in a Written Notice of the identity of the subcontractor and the location of the Tooling; (b) obtain the written permission of the Buyer in advance of the Supplier's doing so; (c) inform the subcontractor in writing that it is a bailee-at-will, through the Supplier, of Tooling owned by the Buyer; and (d) be solely responsible for payments to the subcontractor.

34.12 No Rights or Liens The Supplier has no property or other rights in the Tooling. The Supplier has no power to transfer any rights or grant a security interest in the Tooling to a third party. The Supplier waives: (a) any lien that it might have or otherwise be able to assert against the Tooling for work done on the Tooling or otherwise, and (b) any objection to the Buyer's repossession and removal of the Tooling for any or no reason, including bankruptcy or insolvency proceedings.

34.13 Third-Party Claims The Supplier will defend and indemnify the Buyer for all costs incurred (including actual fees for attorneys, consultants and experts) in connection with any Adverse Claim. An **Adverse Claim** is one that challenges the Buyer's sole right, title and interest in the Tooling, or right to possession of the Tooling, brought by any third party, including toolmakers, subcontractors, and lending institutions.

34.14 Presumption of Buyer Ownership In any dispute involving ownership of the Tooling, there is a rebuttable presumption that the Buyer is the sole owner of the Tooling. As a precaution against any Adverse Claim, the Supplier grants the Buyer a security interest in any alleged right, title, or interest to the Tooling to secure the Supplier's obligations under the Production Tool Order. The Supplier authorizes the Buyer (at the Buyer's sole option) to file financing statements showing the Supplier as the Debtor/Bailee and the Buyer as the Secured Party/Bailor. If requested by the Buyer, the Supplier will assign to the Buyer any present or future claim the Supplier may have against any third party (including toolmakers) concerning the Tooling.

34.15 Tool Order Purchase Price Unless a Production Tool Order is issued on a fixed-price basis, the price of the Tooling will not exceed the lower of: (a) the maximum amount reimbursable specified on the Production Tool Order; (b) the Supplier's actual costs of acquiring the Tooling from a toolmaker without markup; or (c) the Supplier's actual costs of fabrication of the Tooling in accordance with the Buyer's guidelines provided to the Supplier.

34.16 Payments for Tooling Held in Trust Payments made by the Buyer for the Tooling are expressly intended by the Buyer to be held in express trust for the benefit of any toolmaker used by the Supplier to produce the Tooling. The Supplier will hold these payments as trustee in express trust for the toolmaker. The Supplier acknowledges that the toolmaker is an intended third-party beneficiary of the terms of this Section 34.16 and that it has the right to enforce these terms directly against the Supplier. The Buyer has no obligation to the Supplier or toolmaker under this Section 34.16 other than payment to the Supplier under the Production Tool Order. If a toolmaker brings an action against the Supplier for payment of the Tooling, the Supplier will not join the Buyer in the action, and the Supplier will indemnify the Buyer under Section 34.13.

34.17 Restrictions on the Use of Tooling The Supplier has the obligation to use the Tooling solely in the production of the Goods. The Supplier will not use the Tooling for any purpose other than as provided under the Global Terms and Conditions, including the production, manufacture, sale or design of after-market parts, unless specifically authorized in a Written Notice by the Buyer or as may be required to comply with a Government Requirement.

34.18 Supplier Obligations The Supplier will at its expense:

(a) Maintain the Tooling, including its repair or replacement, in the condition necessary to produce the Goods in accordance with the terms of the Production Purchase Order and be responsible for all wear and tear, excluding normal wear and tear for Returnable Containers and Other Bailed Property;

(b) Properly house the Tooling, Returnable Containers and Other Bailed Property and insure them against loss or damage, even if it occurs despite Supplier's exercise of due care;

(c) Comply with the Tooling Web-Guide, including prominently marking the Tooling as the property of the Buyer and with the part number; and

(d) Refrain from commingling the Tooling, Returnable Containers, and Other Bailed Property with property owned by the Supplier or a third party.

34.19 Relocation of Tooling The Supplier must obtain the Buyer's prior consent in a Written Notice before moving the Tooling to another location of the Supplier or a third party. Prior consent will not, however, be required in the following situations: (a) the Supplier, its toolmakers and subcontractors may relocate the Tooling in an emergency, and the Supplier will promptly notify the Buyer in a Written Notice of the new location, and (b) the Supplier, its toolmakers and subcontractors may also relocate the Tooling without prior notice for not more than 2 business days for the sole purpose of cleaning and performing routine maintenance unless the Buyer has previously notified the Supplier it may not do so.

34.20 Return of Tooling If the Buyer requests, the Supplier will return the Tooling, Returnable Containers, or Other Bailed Property to the Buyer at the Supplier's plant or other location specified by the Buyer. The Supplier is responsible for labor and other costs of dismounting, dismantling, and staging the Tooling for removal. The Supplier will cooperate with the Buyer in removing the Tooling from the location of the Supplier or subcontractor.

34.21 Disposition of Tooling The Supplier may send a Written Notice requesting the Buyer to either accept the return of the Tooling or permit its disposal by the Supplier in accordance with terms to be negotiated in good faith in the following circumstances:

(a) The Supplier continues to provide Service Parts or Component Parts after the period required in Section 33.09, but there have not been any Releases for the Service Parts or Component Parts for at least two years; or

(b) The Supplier elects to discontinue the supply of Service Parts or Component Parts under Section 33.10, and the Buyer fails to instruct the Supplier about the disposition of the Tooling.

34.22 Technical Information Relating to Tooling In the event the Supplier fails to comply with any of the requirements of the Purchase Order, and the Buyer determines that it is necessary to either take possession of the Tooling or have it relocated, the Supplier will provide the Buyer or its Related Companies with any Technical Information for the Tooling requested by the Buyer or any of its Related Companies that is required for the relocation, installation, assembly, maintenance, or use of the Tooling. Any such Technical Information that is also Supplier Confidential Information will be handled in accordance with Section 17.

SECTION 35. SUPPLIER-OWNED TOOLING

35.01 Cost in Piece Price In the case of **Supplier-Owned Tooling**, the Supplier acknowledges that the Production Purchase Order price has already taken into account the capitalization of Supplier-Owned Tooling. The Buyer will provide the first set of Perishable Tooling. **Perishable Tooling** is Tooling with an expected life of less than 12 months. This will belong to the Supplier. The cost of replacement sets of Perishable Tooling is Supplier overhead and has already been taken into account in the piece price of the Goods.

35.02 Maintenance Obligation The Supplier will, at its expense, properly maintain the Supplier-Owned Tooling in a condition that ensures continued production and delivery of the Goods in accordance with the terms of the Production Purchase Order.

35.03 Use of the Buyer's Trademarks The Supplier will not incorporate any of the Buyer's logos, trademarks, trade names or unique part numbers on any other products manufactured or distributed by the Supplier, including aftermarket parts, except as may be provided under the Production Purchase Order or other written document or as may be required to comply with a Government Requirement.

35.04 Marketing Claims The Supplier will not disclose or imply in its marketing efforts that any of the Supplier's other products are equivalent to the Goods purchased by the Buyer unless proven and agreed in advance by the Buyer in a Written Notice.

35.05 Option to Purchase Tooling The Supplier grants the Buyer an exclusive, irrevocable option to purchase the Supplier-Owned Tooling at the present value of the Supplier's actual cost of the Supplier-Owned Tooling that the Supplier has not yet recovered in the piece price of the Goods by the time the Buyer exercises the option. The Supplier will provide the Buyer with substantiation acceptable to the Buyer of the actual cost of the Supplier-Owned Tooling.

35.06 When Exercisable The Buyer may exercise its option to purchase under Section 35.05 at any time, but only if the Supplier-Owned Tooling is not being used by the Supplier to manufacture products for a customer other than the Buyer or any of its Related Companies. If the Supplier has financed any portion of the Supplier-Owned Tooling, the Supplier will obtain from its financing source for the Buyer any waiver, release or approval necessary for it to exercise the rights granted under Section 35.05.

SECTION 36. COMPLIANCE WITH LAWS

36.01 General Obligations The Supplier will comply with all Government Requirements that may apply to the design, production, sale, or distribution of the Goods. A **Government Requirement** includes any law or requirement of a Government, including those that apply to new motor vehicles in general or specific components installed in them. These requirements include emissions control, safety, hazardous materials, recycling, and end-of-life disposal. A Government Requirement may include specific warranty periods or terms of coverage, or a period of time during which the Buyer may be required to conduct a Field Service Action as defined in Section 23.02. The term **Government** refers to an entity that claims a right to investigate or regulate the Goods, the vehicles into which the Goods may be installed, the Buyer, the Supplier, or any of their Related Companies. The term Government includes the United States Environmental Protection Agency, the United States National Highway Traffic Safety Administration, and the Commission of the European Union.

36.02 Government Contractors The Supplier will comply with all applicable Government Requirements for Government subcontractors, including, if the Buyer is a U.S. company, the following requirements of U.S. law:

(a) Title 48, Code of Federal Regulations: Section 52-219-8, Utilization of Small Business Concerns; Section 52.225-11, Restrictions on Certain Foreign Purchases; Section 52.222-21, Prohibition of Segregated Facilities; Section 52.222-26, Equal Opportunity; Section 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era and Other Eligible Veterans; Section 52.222-36, Affirmative Action for Workers With Disabilities; Section 52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans; and Section 52.222-41, Service Contract Act.

(b) Executive Order 13201, Notification of Employee Rights Concerning Payment of Union Dues or Fees, at such time as it may come into effect.

SECTION 37. BASIC WORKING CONDITIONS AND EMPLOYMENT STATUS

37.01 Basic Working Conditions When the Supplier performs work on the Goods or their component parts, the Supplier will not: (a) use forced labor, regardless of its form; (b) employ any person below the age of 15, unless it is part of a Government approved job training, apprenticeship or other program that would be clearly beneficial to its participants; or (c) engage in physically abusive disciplinary practices.

37.02 Subcontractors If the Supplier retains subcontractors to perform work on the Goods or their component parts, the Supplier will use only subcontractors that will adhere to the requirements of Section 37.01. The Supplier will monitor the subcontractor's compliance.

37.03 Adoption of Code The Buyer has adopted a **Code of Basic Working Conditions** that includes the requirements of Section 37.01 and other work-place practices. The Code applies to all of the Buyer's operations. The Code can be found via the Social Responsibility Web-Guide or by contacting the Buyer directly. The Supplier is encouraged to adopt and enforce a similar code of practice and to have its subcontractors do so.

37.04 Certification of Compliance The Supplier represents when it delivers the Goods that it has complied with the requirements of Section 36, Section 37.01 and Section 37.02. The Buyer may retain an independent third party, or request the Supplier to retain one reasonably acceptable to the Buyer, to: (a) audit the Supplier's compliance with the requirements of Section 37; and (b) provide the Supplier and the Buyer with written certification of the Supplier's compliance, including areas for potential improvement.

37.05 Cost of Audit The Supplier will bear the cost of any third-party audit and certification under Section 37.04, regardless of which party retained the auditor. The Buyer, at its option, may accept an audit or certification by the Supplier in lieu of a third-party certification.

37.06 Temporary Assignment of Employees The temporary assignment of employees of one party to the facilities operated by the other party will not affect the status or change the employment relationship of the assigned employees.

SECTION 38. PROTECTION OF SUPPLY

38.01 Notice to the Buyer The Supplier will provide the Buyer with Written Notice (a) at least 30 days in advance of the expiration of any labor contract or (b) concerning any potential labor dispute involving the Supplier that could affect the Buyer's operations or the supply of the Goods under the Production Purchase Order.

38.02 Plan to Avoid Disruption Upon the Buyer's request, the Supplier will provide the Buyer with its plan to avoid adversely affecting the Buyer's operations or to ensure that the Buyer's requirements for the Goods will be met without disruption for at least a 30-day period after the expiration of the labor contract or the commencement of a labor dispute affecting the Supplier. The Supplier will keep the Buyer informed of any changes to the plan, its implementation and the Supplier's efforts to resolve the labor dispute. The Buyer's obligations to treat information provided by the Supplier under this Section 38.02 as confidential are described in Section 17.

SECTION 39. RESOLVING DISPUTES

39.01 Negotiation In the event of a dispute between the parties relating to the Purchase Order, the one raising the matter in dispute will notify the other in a Written Notice describing in sufficient detail the nature of the dispute. Each party will then appoint one or more representatives to resolve the dispute. These representatives will promptly meet and negotiate in good faith to reach a fair and equitable settlement. At the end of 60 days, if no settlement has been reached, either party may end discussions and declare an impasse.

39.02 Mediation If an impasse is declared under Section 39.01, the parties will participate in non-binding mediation by a third-party mediator in good faith. The parties will promptly agree on the mediator and the cost of the mediator will be shared equally. The mediator has 90 days from the date of appointment to help resolve the dispute.

39.03 Arbitration A party may request the other to participate in binding arbitration following the declaration of an impasse under Section 39.01 or the conclusion of mediation under Section 39.02. The request will be made in a Written Notice provided within 30 days following the end of the applicable resolution time period, and the other party must respond within 30 days after receipt of the request. Neither party is required to participate in any arbitration proceeding under this Section 39.03. If both agree to do so, they will participate in good faith and in accordance with applicable requirements of the Dispute Resolution Web-Guide.

39.04 Litigation If the dispute has not been resolved within 60 days after the end of the mediation period specified in Section 39.02, litigation may be initiated, unless the parties agree to arbitration under Section 39.03. In any litigation, the parties agree that the litigation will be filed only in the courts of the country in which the Buyer has its principal place of business, regardless of where the Supplier may be located or the Goods may have been designed, manufactured, sold or delivered, unless the applicable provisions of the Dispute Resolution Web-Guide provide otherwise.

39.05 Principal Place of Business in the U.S. If the principal place of business of the Buyer is in the United States, each party will, in any litigation brought under Section 39.04:

(a) Irrevocably submit to the exclusive jurisdiction of: (1) the United States District Court for the Eastern District of Michigan, Southern Division in Detroit, as to any claim or proceeding over which it may have jurisdiction; or, (2) the Circuit Court for the County of Oakland, Michigan (6th Circuit – Pontiac) as to all other claims or proceedings;

(b) Expressly waive any objection to venue or jurisdiction, including an objection based on the inconvenience of the forum; and

(c) Not seek or accept any award of punitive, exemplary or multiple damages other than a right to recover them under the indemnification provisions in Section 25.

39.06 Principal Place of Business Outside the U.S. If the principal place of business of the Buyer is outside of the United States, the applicable provisions of the Dispute Resolution Web-Guide may require binding arbitration in place of litigation, and will describe the jurisdiction and venue for any litigation. See the Dispute Resolution Web-Guide.

39.07 Governing Law The Purchase Order will be governed by the laws of the Buyer's principal place of business without regard to any conflict of laws provisions that might otherwise apply. If the Buyer is located in the United States, its principal place of business will be deemed to be the state of Michigan. The United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.

39.08 Effect on Buyer's Rights The dispute resolution processes specified in Sections 39.01 through 39.04 are not preconditions to the exercise by the Buyer of any of its rights or remedies under the Purchase Order or applicable law, including its rights under Section 11 or Section 23. The Buyer's exercise of its rights will not, however, affect either party's obligations to comply with the requirements of this Section 39.

SECTION 40. EXCUSABLE DELAY

40.01 Excusable Events Neither the Buyer nor the Supplier will be liable for a delay or failure to perform directly due to an Excusable Event. An **Excusable Event** is a cause or event beyond the reasonable control of a party that is not attributable to its fault or negligence. Excusable Events include fire, flood, earthquake, and other extreme natural events, acts of God, riots, civil disorders, labor problems (including strikes, lockouts, and slowdowns regardless of their lawfulness), and war or acts of terrorism whether or not declared as such by a Government. In every case, other than those relating to labor problems, the failure to perform must be beyond the reasonable control, and not attributable to the fault or negligence, of the party claiming the Excusable Event. Excusable Events also include delays or nonperformance of a subcontractor, agent or supplier of a party only if and only to the extent that the cause or event would be an Excusable Event as defined in this Section 40.01. Excusable Events do not include the 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.

40.02 Notice of Excusable Event The party claiming an Excusable Event will provide the other party with Written Notice of its occurrence and its termination as soon as practicable.

40.03 Work-in-Process In the event of an Excusable Event, the Buyer, at its option, may acquire possession of all finished Goods, work-in-process, and raw materials produced or acquired for the work under the Purchase Order.

40.04 Right to Substitute and Reduce Quantity The Buyer reserves the right to acquire the Goods elsewhere for the duration of the Excusable Event and for a reasonable time afterwards to minimize production disruptions until the Supplier's facilities are producing the Goods in the quantities required

by the Purchase Order or Releases and to reduce accordingly any quantity of Goods ordered under an outstanding Release.

40.05 Right to Terminate The Buyer may terminate a Purchase Order, in whole or in part, upon written Notice to the Supplier if an Excusable Event has occurred resulting in a failure or delay to perform that has lasted for more than 3 consecutive months after the date the Written Notice from the party claiming an Excusable Event is effective (as described in Section 44.02).

SECTION 41. WAIVER OF NONPERFORMANCE

41.01 Waiver of Nonperformance A waiver of nonperformance under the Purchase Order must be in a Written Notice and will apply only to the specific instance addressed in the waiver and to no other past or future nonperformance.

SECTION 42. ASSIGNMENTS

42.01 Assignment of Payment by the Supplier The Supplier may assign its right to receive payment from the Buyer. The Supplier will provide the Buyer with reasonable advance Written Notice of any such assignment. The Buyer will use reasonable efforts to effect payment in accordance with the Supplier's assignment. The Buyer will have no liability to the Supplier or the party to which the payment has been assigned if the Buyer sends payment to an incorrect party following an assignment.

42.02 Indemnification The Supplier will defend, indemnify and hold the Buyer harmless against any claim of non-payment by the assignee in the event the Buyer made payment to the Supplier after receipt of an assignment notice. Any assignment will not affect the validity or enforceability by the Buyer of any of its rights against the Supplier.

42.03 Assignment by the Buyer The Buyer may assign any benefit or duty under the Purchase Order upon Written Notice to the Supplier.

42.04 Assignment by the Supplier The Supplier may not assign or delegate any of its obligations without obtaining the Buyer's prior written consent. The Supplier will continue to be liable to the Buyer for the performance of all of its obligations following any assignment or delegation, including one for which the Supplier has not obtained the consent of the Buyer as required by this Section 42.04. Any consent to an assignment does not include consent to any further assignment by the party to which the Supplier has made the assignment.

SECTION 43. CONTINUING OBLIGATIONS; SEVERABILITY

43.01 Continuing Obligations The obligations of the Buyer and the Supplier under the following Sections will survive the expiration, non-renewal or termination of the Purchase Order: 11, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 31, 32, 33, 34 and 39.

43.02 Severability Any term or condition that is declared unlawful or unenforceable by a court of competent jurisdiction will not apply. The unenforceability of any such term or condition will not affect the enforceability of any other term or condition.

SECTION 44. WRITTEN NOTICES

44.01 Use of Written Notice A **Written Notice** is used by the Buyer to provide a required notice or instructions to the Supplier, or to authorize an exception, deviation or waiver of a pre-existing obligation or requirement under the Purchase Order. A Written Notice is also used by the Supplier to provide any notice to the Buyer that is required to be in writing. In the case of the Buyer, any Written

Notice is valid only if signed by a representative of the Buyer's purchasing activity. A Written Notice may be signed manually or electronically.

44.02 How Provided A Written Notice may be provided by: (a) first class mail; (b) courier service; (c) fax; (d) standard e-mail; or (e) the Buyer's electronic system for communications with its suppliers. A Written Notice using method (a) or (b) is effective as of the date of delivery, and using method (c), (d), or (e) is effective as of the date of transmission.

SECTION 45. NO THIRD-PARTY RIGHTS

45.01 No Third-Party Rights Except as expressly provided in the Global Terms and Conditions, no term, condition or right in or arising under any of the documents or Web-Guides relating to the purchase of the Goods gives or creates any third-party beneficiary rights or any other rights whether in law or equity to any person or entity other than the Buyer, the Supplier and their Related Companies.

SECTION 46. ADVERTISING, PUBLICITY AND NEWS RELEASES

46.01 Advertising All advertising and promotional materials related to the Buyer or the Goods the Supplier sells to the Buyer must be approved in advance in accordance with the Supplier Advertising Web-Guide.

46.02 News Releases All news releases and other forms of publicity related to the Buyer or the Goods the Supplier sells to the Buyer must be approved in advance in accordance with the Supplier News Release & Publicity Web-Guide.

SECTION 47. MISCELLANEOUS MATTERS

47.01 Convenience Only The Table of Contents, Index of Defined or Referenced Terms, headings and captions are provided for convenience only and do not create or affect any substantive rights. Examples are provided for illustrative purposes only.

47.02 Construction No provision may be construed against the Buyer as the drafting party. The term "including" means "including without limitation." The term "days" means calendar days. The term "document" means a document in paper or electronic form.

47.03 Controlling Language The English version of the Global Terms and Conditions will apply in the event of any disagreement over any translation.

END OF DOCUMENT