

Terms and Conditions for Capital Equipment and Production Tooling Purchases by the North America Based Companies of the MAHLE Group

These Terms apply when referenced in Buyer's purchase order or other documentation.

1. Offer; Acceptance; Exclusive Terms; Identity of Buyer; Country Supplement

These Terms and Conditions for Capital Equipment and Production Tooling Purchases (collectively, "Terms") apply to the purchase of capital equipment, production tooling, production machines, prototype and production tools, fixtures, gauges, jigs, patterns, castings, cavity dies and molds, with all related software, and accessories (collectively, the "Equipment"). These Terms (as may be revised from time to time), Buyer's Request for Proposal/Quote, the Business Award Letter/Letter of Intent, Buyer's purchase order, Buyer's material releases or similar documents (collectively, the "Order") is an offer to Seller for the purchase of Equipment. The Order supersedes all prior agreements, orders, quotations, proposals and other communications regarding the Equipment covered by the Order, except that a signed prior agreement and Buyer's specifications, prints, drawings, statement of work issued by the Buyer, together with any other document incorporated by reference in these Terms or in the Order will continue to apply to the extent not directly in conflict with the Order. MAHLE and Seller must expressly modify these Terms with a signed written agreement. The Order does not constitute an acceptance of any offer or proposal made by Seller in whole or in part that conflicts with the Buyer's Terms. Any reference in the Order to any offer or proposal made by Seller is solely to incorporate the description or specifications of the Equipment in the prior proposal, but only to the extent that the description or specifications do not conflict with the description and specifications in the Order. Inquiries from Buyer to Seller concerning the Equipment or requests from Buyer to make an offer shall in no way be binding on Buyer. Seller unconditionally accepts these Terms and forms a contract by doing any of the following: (a) commencing any work pursuant to the Order; (b) accepting the Order in writing; (c) shipment of the Equipment; or (d) any other conduct that recognizes the existence of a contract with respect to the subject matter of the Order.

The Order is limited to and conditional upon Seller's acceptance of these Terms exclusively. Any additional or different terms proposed by Seller, whether in Seller's quotation, acknowledgement, invoice or otherwise, are unacceptable to Buyer, and will not become part of the Order. Each Order can be modified only pursuant to Section 35. "Buyer" is identified in the Order. In no event is Buyer required to purchase the Equipment exclusively from Seller.

2. Delivery; Risk of Loss

Time is of the essence pursuant to the Order. Seller agrees to on-time delivery of the Equipment at the times specified by Buyer, as stated in the Order. Seller can only receive an extension or modification in the delivery date(s) by Buyer's signed and written consent. Buyer may change the date of delivery or direct temporary suspension of delivery, neither of which entitles Seller to modify the price of the Equipment.

Buyer will take title to the Equipment upon delivery and Buyer's acceptance of the Equipment at Buyer's facility. Seller shall ship the Equipment in the manner and through the carrier as requested by Buyer

in the Order. Except in cases of Seller's breach of the terms of the Order, Seller may request payment for any work Seller completes prior to Buyer's suspension of delivery. Buyer is not obligated to accept Equipment that fails to conform to the Order. Seller shall deliver the Equipment in accordance with the schedule in the Order.

3. Invoicing and Pricing; Freight; Payment

Seller warrants that the prices Seller quoted for the material that Seller will use to manufacture the Equipment set forth in this Order are no less favorable than Seller currently offers to any other customer for the same or similar materials. If Seller reduces its prices to any other customer for the same or similar material, Seller will correspondingly reduce the prices for the materials it quoted to Buyer. Seller shall not increase the prices on the Order and there will be no extra charges of any kind including, without limitation as a result of any increase based upon changes in raw materials, component pricing or labor and/or overhead costs. Unless otherwise modified and agreed to in writing signed by the Buyer, the purchase price is the price stated in the Order ("Price"). The Price excludes federal, state, or local excise, sales, or use taxes, duties, tariffs, domestic and export packaging cost, and any shipment, delivery and installation cost, all of which Buyer shall pay. The purchase order shall state freight costs as a separate line item. Buyer is responsible for such freight costs but shall decide, in its sole discretion, whether to pay Seller such freight costs to perform all freight activities or to engage another party to perform all freight activities. Seller will invoice Buyer in writing in accordance with the schedule set forth in the purchase order.

Buyer may withhold payment pending Seller providing Buyer with proof, in the form that Buyer requests, that there are no liens, encumbrances or claims on the Equipment. Buyer will pay in United States dollars or in the currency expressly stated in the Order.

4. Packaging; Marking; Shipping; Disclosure; Special Warnings or Instructions

Seller will: (a) properly pack, mark, and transport the Equipment according to the requirements of Buyer, the carriers and the country of destination; (b) route the shipments according to Buyer's instructions; (c) label or tag each package according to Buyer's instructions; (d) provide papers with each shipment showing the Order number, amendment or release number, Buyer's part number, Seller's part number (where applicable), number of pieces in the shipment, number of containers in the shipment, Seller's name and number, and the bill of lading number; and (e) promptly forward the original bill of lading or other shipment receipt for each shipment according to Buyer's instructions and carrier requirements. Before and at the time that Seller transports the Equipment, Seller will give Buyer the appropriate written warning (including appropriate labels on the Equipment, containers, and packing, including without limitation disposal and recycling instructions, material safety data sheets and certificates of analysis) of any hazardous or restricted material that is a component or part of the Equipment, together with any special handling instructions for the carriers, Buyer, and their employees regarding how

to take appropriate measures while handling, transporting, processing, using or disposing of the Equipment, containers, and packing. Seller agrees to comply with all national, state, provincial, and local laws and regulations pertaining to product content and warning labels, including without limitation the U.S. Toxic Substances Control Act and European Union Directive 2002/96/EC and 2002/95/EC regarding restrictions of certain hazardous substances. Seller will reimburse Buyer for any expenses incurred as a result of improper packing, marking, or shipping.

5. Customs; Related Matters

Credits or benefits resulting from the Order, including trade credits, export credits or the refund of duties, taxes, or fees, belong to Buyer. Seller will provide all information and certificates (including NAFTA Certificates of Origin) necessary to permit Buyer (or Buyer's customers) to receive these benefits or credits. Seller agrees to fulfill any customs- or NAFTA-related obligations, origin marking or labeling requirements, and local content origin requirements. Export licenses or authorizations necessary for the export of the Equipment are Seller's responsibility unless otherwise stated in the Order, in which case Seller will provide the information necessary to enable Buyer to obtain the licenses or authorizations. Seller will promptly notify Buyer in writing of any material or components used by Seller in filling the Order that Seller purchases in a country other than the country in which the Equipment is delivered. Seller will furnish any documentation and information necessary to establish the country of origin or to comply with the applicable country's rules of origin requirements. Seller will promptly advise Buyer of any material or components imported into the country of origin and any duty included in the Equipment's purchase price. If the Seller manufactures the Equipment in a country other than the country to which the Seller delivers the Equipment, Seller will mark the Equipment "Made in [country of origin]." Seller will provide to Buyer and the appropriate governmental agency the documentation necessary to determine the admissibility and the effect of entry of the Equipment into the country in which Seller delivers the Equipment. Seller warrants that any information that it provides to Buyer about the import or export of the Equipment is true and that all materials used to manufacture the Equipment and the Equipment are sold for not less than fair value pursuant to the antidumping laws of the countries to which the Seller exports the Equipment.

6. Service and Replacement Parts

Seller shall sell to Buyer for repair and replacement parts and service tools manufactured by Seller for each component of the Equipment for ten years after Buyer accepts the Equipment, or such longer period as Buyer sets forth in the Order. The price payable by Buyer pursuant to this Section for any such part or tool shall not exceed the lowest delivered price for that part or tool offered or charged by Seller to any customer at any time during the six-month period immediately preceding the calculation of the price hereunder or as defined in Buyer's specifications. MAHLE and Seller shall determine such lowest delivered price after application of any type of price discount, credit, allowance, rebate, promotion or other financial consideration

that Seller offers.

7. Inspection; Non-Conforming Equipment; Audit

Buyer shall have no obligation to inspect the Equipment or materials during manufacture, prior to delivery or after delivery, but may do so at its sole discretion. Buyer may enter Seller's facility to inspect the facility, Equipment, materials, and any of Buyer's property related to the Order. Buyer's inspection of the Equipment whether during manufacture, prior to delivery, or within a reasonable time after delivery, does not constitute acceptance of any work-in-process or finished goods. Buyer's acceptance, inspection, or failure to inspect does not relieve Seller of any of its responsibilities or warranties. Nothing in the Order releases Seller from the obligation of testing, inspection and quality control. Notwithstanding prior inspections, the Equipment is subject to inspection, evaluation and testing at the facility designated by Buyer, and notwithstanding any payment that may be made, the Buyer has not accepted the Equipment until (a) such in-facility inspection, evaluation and testing demonstrate to Buyer's satisfaction that the Equipment conforms to all applicable terms of the Order, including through the production of a reasonable number of sample parts, and (b) Seller receives a signed writing from Buyer's authorized representative that acknowledges compliance of the Equipment with all applicable terms of the Order. If Seller ships/delivers defective Equipment and Buyer rejects Equipment, Seller shall, at Buyer's sole discretion: (i) accept return of the defective Equipment, at Seller's risk and expense at full invoice price, plus transportation charges, and replace the defective Equipment as Buyer deems necessary; (ii) repair the defective Equipment such that it meets the requirements of the Order; (iii) refund all payments by Buyer and pay any expense that Buyer incurred or (iv) pay all Buyer's expenses, and Buyer may terminate the Order. Seller will document corrective actions within a commercially reasonable period after receipt of the defective Equipment. Payment for nonconforming Equipment is not an acceptance, does not limit or impair Buyer's right to assert any legal or equitable remedy, and does not relieve Seller's responsibility for latent defects. Upon reasonable notice to Seller, either Buyer or its direct or indirect customers may conduct a routine audit at Seller's production facility for the purpose of quality, cost or delivery verification. Seller will ensure that the terms of its contracts with its subcontractors provide Buyer and its customers with all of the rights specified in this Section. Seller grants to Buyer access to all pertinent information of Seller and/or Seller's subcontractors for purposes of auditing Seller's and/or subcontractor's charges pursuant to this Order.

8. Changes

Buyer reserves the right to direct changes, or to cause Seller to make changes, to drawings, specifications, samples or descriptions of the Equipment. Buyer also reserves the right to otherwise change the scope of the work covered by the Order, including work with respect to such matters as inspection, testing or quality control. Buyer may also direct the supply of purchased components from itself or from third parties. Seller will promptly make any such requested change. In order for Seller to request a reasonable difference in price or time for performance as a result of such a change, Seller must notify Buyer of its request in writing within five (5) business days after receiving notice of the change.

Buyer can request additional documentation from Seller relating to any change in specifications, price or time for performance. Seller will not make any change in the Equipment's design, specifications, processing, packing, marking, shipping, price or date or place of delivery except at Buyer's written instruction or with Buyer's written approval.

9. Warranties

Seller expressly warrants and guarantees to Buyer, to Buyer's successors, assigns and customers, that all Equipment delivered to Buyer will: (a) conform to the specifications, standards, drawings, samples, descriptions and revisions as furnished to or by Buyer and will be safe for use in conformance with such specifications and shall be sufficiently durable to support the manufacture of all production and service requirements for the longer of (i) two years from the date the Buyer installs or accepts Equipment (ii) the warranty period stated in the Order; (b) conform to all applicable laws, orders, regulations; (c) be merchantable and free of defects in design (to the extent designed by Seller), manufacture, materials and workmanship; (d) be selected, designed (to the extent designed by Seller), manufactured and assembled by Seller based upon Buyer's stated use and be fit and sufficient for the purposes intended by Buyer; (e) perform in accordance with the highest prevailing industry standards for the type of Equipment provided; (f) be free and clear of any third-party liens or encumbrances; (g) include all applicable manuals; (h) to the extent Seller performs services, be designed, manufactured, delivered, installed and/or repaired by qualified and licensed personnel; and (i), not incorporate or consist of commercial surplus, used, remanufactured or reconditioned material or components except by Buyer's written request. Buyer's approval of any design, drawing, material, process, specifications or Equipment will not relieve Seller of these warranties. The foregoing warranties will survive delivery, inspection and payment. In the event Buyer determines that any of the Equipment is unsatisfactory, defective or inferior in quality, or does not conform to Buyer's specifications or any other requirements set forth in the Order (including, without limitation, Seller's warranties), Buyer, at its option, and in addition to any other rights and remedies to which the Order or applicable law grant Buyer, may (A) require Seller, at Seller's sole cost and expense, to promptly repair or replace the Equipment, (B) retain the Equipment at an adjusted price determined by Buyer in its sole discretion, (C) hold the Equipment at Seller's risk and expense pending Seller's specific instructions, or (D) return the Equipment to Seller at Seller's risk and expense for replacement, credit or full or partial refund, as Buyer shall direct. Buyer may also, in its discretion, refuse to accept further delivery of Equipment, in whole or in part, pursuant to the Order. Seller shall reimburse Buyer for all of its costs and expenses relating to the installation, removal, storage, handling, packing and/or transporting of any such unsatisfactory, defective, inferior or otherwise nonconforming Equipment, and Seller shall assume all risk of loss or damage in transit to the Equipment returned by Buyer. Notwithstanding the foregoing, Buyer reserves the right to repair the Equipment without voiding any of Seller's warranties or other obligations pursuant to the Order. Seller shall reimburse Buyer for all costs and expenses relating to any such repair.

10. Preventative Maintenance

Seller will provide Buyer with a complete and comprehensive preventative maintenance plan for the Equipment at a Buyer designated facility as a condition to Buyer's acceptance. The preventative maintenance plan shall include, without limitation, at least two complete sets of maintenance and operating manuals for all Equipment purchased by Buyer (including at Buyer's request one in a foreign language that Buyer specifies, r), as well as a detailed bill of material. Upon Buyer's request, Seller will provide to Buyer a complete copy of (a) the source codes for any software incorporated in the Equipment along with any additional information reasonably necessary so that a trained programmer of general proficiency may maintain and support any such software and (b) a running object code version of such software.

11. Training

Seller will provide any and all necessary training and training materials to Buyer for the Equipment at the initial stage of installation or delivery, at no additional cost to Buyer. Seller will provide such training at Buyer's request at the times and locations that Buyer specifies. Seller will provide the training materials in a computerized format in English and, at Buyer's request, one additional language. Where Seller obtains the Equipment or a portion of the Equipment from a third party for resale to Buyer, Seller shall cause such third party to provide Buyer with the training as described in this Section at no expense to Buyer and as a condition of Seller's purchase from the third party.

12. Supplier Quality and Development Required Programs

Seller will conform to the quality control standards and inspection system, as well as related standards and systems (including without limitation, quality control policies, and the most current ISO 9001 and ISO/TS 16949 standards that Buyer establishes or directs. Seller will also participate in supplier quality and development programs of Buyer as directed by Buyer. As requested by Buyer at any time Seller will participate in and comply with the following Buyer programs and standards: (a) Supplier Standards Manuals (including all subsections and forms), (b) supplier performance evaluations, and (c) minority business expectations, as described and accessible on Buyer's website at <http://www.mahle.com>.

13. Remedies

The rights and remedies reserved to Buyer in the Order will be cumulative with and in addition to all other legal or equitable remedies. Buyer's damages shall include reasonable professional fees that Buyer incurs and any incidental and consequential damages that Buyer suffers.

14. Compliance with Laws; Ethics

Seller and any Equipment supplied by Seller, shall comply with all applicable laws, including, but not limited to, United States Treaties, international standards, international conventions, national, regional, provincial, and local laws, regulations, orders, conventions, ordinances and standards that relate to the manufacture, labeling, import, export, licensing, approval or certification of Equipment, including laws relating to transportation of hazardous materials, communications and registrations regarding hazardous substances (MSDS sheets), environmental matters, child labor,

forced labor, freedom of association, harassment, discrimination, health, safety, wages, benefits, hours, working conditions, subcontractor selection and motor vehicle safety. All materials that Seller uses in the Equipment or in the manufacture of the Equipment will satisfy current governmental and safety constraints on restricted, toxic and hazardous materials as well as environmental, electrical, and electromagnetic considerations that apply to the countries of manufacture, sale, transportation and destination.

15. Indemnification

To the fullest extent permitted by law, Seller will defend, indemnify and hold harmless Buyer, Buyer's customers (both direct and indirect, including manufacturers of vehicle parts that Buyer produced, manufactured or designed using the Equipment), directors, officers, employees, agents, insurers, and dealers and users of the products sold by Buyer (or the vehicles in which the products are incorporated) and all of their respective agents, successors and assigns (the "Indemnified Parties"), against all damages, losses, claims, liabilities and expenses (including reasonable attorneys' and other professional fees, settlements and judgments) arising out of or resulting from: (a) any defective Equipment, (b) any actual or alleged breach of or failure by Seller to comply with any representation, warranty, covenant or other term and condition in any Order (including any part of these Terms), (c) any negligent or wrongful act or omission of Seller or Seller's agents, employees or subcontractors or any services performed by Seller, its agents, employees or subcontractors.

If Seller performs any work on Buyer's or Buyer's customer's premises or utilizes the property of Buyer or Buyer's customer, whether on or off Buyer's or Buyer's customer's premises: (i) Seller will examine the premises to determine whether they are safe for the requested services and will advise Buyer promptly of any situation it deems to be unsafe, (ii) Seller's employees, contractors, and agents will comply with all regulations that apply to the premises and may be removed from the premises at Buyer's discretion; (iii) Seller's employees, contractors, and agents will not possess, use, sell, transfer or be under the influence of alcohol or unauthorized, illegal, or controlled drugs or substances on the premises. To the fullest extent permitted by law, Seller agrees to defend, indemnify and hold the Indemnified Parties harmless from and against any liability, loss, damages, costs and expenses (including attorneys' fees), claims, suits, and demands for any loss, property damage, bodily injury, including death, or personal injury sustained by Buyer, its employees, agents or customers or by Seller, its employees or agents, or by any other party arising out of Seller's performance pursuant to this Order. In the event that a claim is made by an employee of Seller against Buyer, Seller shall indemnify Buyer against any resulting loss or liability to the same extent as if the claim was made by a non-employee of Seller and Seller waives without reservation any defense or immunity it may have pursuant to any applicable workers compensation law or other statute, judicial decision or constitution in any jurisdiction disallowing or limiting such indemnification.

16. Insurance

Seller will maintain the insurance coverage listed below or in additional amounts as may be reasonably requested by Buyer, in each case naming Buyer and its affiliates and customers as "additional insured."

Such policies shall be written by an insurance company reasonably satisfactory to Buyer and with an A.M. Best company rating of A- or above. Such policies shall be written as primary policies not contributing with or in excess of coverage that Buyer may carry. Seller will furnish to Buyer a certificate showing compliance with this requirement or certified copies of all insurance policies within 10 days of Buyer's written request. Seller will provide Buyer (and, if applicable, Buyer's customers) 30 days prior written notice of any termination or reduction in the amount or scope of coverage. The existence of insurance does not release Seller of its obligations or liabilities pursuant to the Order. Minimum coverage shall be as follows:

COVERAGE	LIMITS OF LIABILITY
Workers compensation	Statutory
Employer's liability	US \$100,000 / each accident, disease/policy limit, disease each employee
Comprehensive general liability insurance, including Contractual liability coverage	US \$2,000,000 / each occurrence general aggregate, products and completed operations aggregate (including an endorsement for coverage for recall costs)
Umbrella or Excess Liability insurance, which shall include Commercial General Liability	US \$5,000,000 /each occurrence and annual aggregate
Comprehensive automobile liability insurance	US \$1,000,000 /each occurrence, combined single limit

17. Insolvency

Seller grants Buyer a security interest in the Equipment and Seller agrees to sign any UCC-1 forms or other documents reasonably required by Buyer to perfect Buyer's rights. Seller grants to Buyer a limited and irrevocable power of attorney, coupled with an interest, to execute and record on Seller's behalf any notice financing statements with respect to the Equipment that Buyer determines are reasonably necessary to reflect Buyer's interest in the Equipment. Buyer, at its option, may take immediate possession of the Equipment or immediately terminate the Order, without liability to Seller, if any of the following or comparable events occur, and Seller will reimburse Buyer for all costs incurred by Buyer in connection with any of the following, including, without limitation, attorneys' and other professional fees: (a) Seller becomes insolvent; (b) Seller files a voluntary petition in bankruptcy; (c) an involuntary petition in bankruptcy is filed against Seller; (d) a bankruptcy court appoints a receiver or trustee for Seller; (e) Seller needs accommodations from Buyer, financial or otherwise, in order to meet its obligations pursuant to the Order; or (f) Seller executes an assignment for the benefit of creditors. Buyer, or a third party designated by Buyer, may at any time review the financial health of the Seller and its affiliates to determine if Seller is paying its lower tier suppliers. Seller will fully cooperate with such review and will promptly provide copies of or access to the requested documents including, without limitation, financial records, forecasts, business plans, banking contacts and loan documents. Buyer will use the financial information provided pursuant to this Section to determine Seller's ability to perform pursuant to the Order.

18. Termination for Breach or Nonperformance

Without limiting any other provision of the Order or Buyer's rights pursuant to applicable law, Buyer may, at Buyer's option, immediately take title to the Equipment or terminate all or any part of the Order, without liability to Seller, if Seller: (a) repudiates or breaches any of the terms of the Order; (b) fails or threatens not to deliver the Equipment or perform services in connection with the Order; or (c) enters or offers to enter into a transaction that includes a sale of a substantial portion of its assets used for the production of the Equipment for Buyer or a merger, sale or exchange of stock or other equity interests that would result in a change in control of Seller within the meaning of Section 409A of the Internal Revenue Code and regulations issued thereunder. Seller will notify Buyer within ten days after entering into any negotiations (or the first period in which such negotiations can be made public consistent with applicable law) that could lead to the situation specified in subsection (c) above, provided that upon Seller's request, Buyer will enter into an appropriate nondisclosure agreement related to information disclosed to Buyer in relation to such transaction.

19. Termination

In addition to any other rights of Buyer to cancel or terminate the Order, Buyer may, at its option, immediately terminate all or any part of the Order at any time and for any reason by giving written notice to Seller. Buyer may also terminate the Order, without notice, upon the institution by or against either party of insolvency, receivership, or bankruptcy proceedings or any other proceedings for the settlement of either party's debts, or upon either party's dissolution or ceasing to do business. Upon receipt of notice of termination, and unless otherwise directed by Buyer, Seller will: (a) promptly terminate all work pursuant to the Order; (b) transfer title to, and deliver to Buyer, the finished Equipment, the work in process, and the parts and materials that Seller reasonably produced or acquired according to quantities ordered by Buyer; (c) verify and settle any claims by subcontractors for actual costs incurred directly as a result of the termination and ensure the recovery of materials in subcontractors' possession; (d) take actions reasonably necessary to protect property in Seller's possession in which Buyer has an interest until Seller receives disposal instruction from Buyer; and (e) upon Buyer's reasonable request, cooperate with Buyer in transferring the production of Equipment to a different supplier. Upon termination by Buyer pursuant to this Section, Buyer will be obligated to pay only the following: (i) the Order price for all finished Equipment that conforms to the Order; (ii) Seller's reasonable actual cost of work-in-process and the parts and materials transferred to Buyer pursuant to part (b) above; (iii) Seller's reasonable actual costs of settling claims regarding its obligations to its subcontractors to the extent directly caused by the termination; and (iv) Seller's reasonable actual cost of carrying out its obligation under subsection (d). Notwithstanding any other provision, Buyer will have no obligation for and will not be required to pay Seller, directly or on account of claims by Seller's subcontractors, for loss of anticipated profit, unabsorbed overhead, interest on claims, product development and engineering costs, tooling, facilities and equipment rearrangement costs or rental, unamortized capital or depreciation costs, finished goods, work-in-process or

raw materials that Seller fabricates or procures, or general administrative burden charges from termination of the Order, except as otherwise expressly agreed in a separate Order issued by Buyer. Buyer's obligation upon termination pursuant to this Section will not exceed the obligation Buyer would have had to Seller in the absence of termination. Seller will furnish to Buyer, within one month after the date of termination (or such shorter period as may be required by Buyer's customer), its termination claim, which will consist exclusively of the items of Buyer's obligation to Seller that are expressly permitted by this Section. Buyer may audit Seller's records before or after payment to verify amounts requested in Seller's termination claim. Buyer will have no obligation for payment to Seller under this Section if Buyer terminates the Order or portion thereof because of a default or breach by Seller.

20. Excusable Delay

Any delay or failure of either party to perform its obligations will be excused if and to the extent that the party is unable to perform due to an event or occurrence beyond its reasonable control and without its fault or negligence, such as: acts of God; restrictions, prohibitions, priorities or allocations imposed, court injunctions or orders, or other government causes; embargoes; fires; floods; earthquakes; explosions; tornados, twisters, windstorms, extreme natural events, unusual or severe weather or other natural disasters; riots or civil disorder; wars; acts of terrorism; sabotage; or epidemics; (collectively "Excusable Delay"). However, in no event will the Seller's performance be excused by: (i) the change in cost or availability of materials, components or services based on market conditions, Seller's failure or inability to perform (unless the failure or inability is caused by an event or occurrence that would itself be an Excusable Delay); (ii) contract disputes; (iii) a Seller's financial distress; (iv) any labor strike or other labor disruption applicable to Seller or to any of its subcontractors or suppliers; or (v) Seller's failure to comply with applicable law or to take actions reasonably necessary to schedule performance in anticipation of any customs, export-import and/or Government requirement for which there is public notice.

Seller shall immediately give written notice to Buyer of any event or occurrence that threatens to delay or actually delays Seller's performance pursuant to this Order. Such notice shall include all relevant information with respect to such threat, including the possible duration and impact of a delay.

Seller, at its expense, shall use its best efforts to mitigate any adverse effects or costs to Buyer due to any actual or potential delay. During any Excusable Delay or failure to perform by Seller, Buyer may at its option and at Seller's expense: (i) purchase the Equipment from another source without liability to Seller; (ii) require Seller to deliver to Buyer, at Buyer's expense, all Equipment in its current condition in order for an alternative Equipment maker to complete the manufacturer of the Equipment. (iii) have Seller subcontract in order provide Equipment from another source; and/or (iv) if requested by Buyer in writing, Seller will, within five (5) days of Buyer's request, provide adequate assurances that the delay in Seller's performance resulting from any Excusable Delay will not exceed 30 days. If Seller fails to provide Buyer with adequate assurance within five (5) days of Buyer's request or the Excusable Delay

results in a failure or delay to perform that has lasted for more than thirty (30) days, terminate the Order, in whole or in part, in accordance with Section 18.

Seller shall timely notify Buyer of any actual or potential labor dispute.

21. Proprietary Rights

Seller agrees: (a) to defend, hold harmless and indemnify Buyer, its successors and customers against claims of direct or contributory infringement or inducement to infringe any proprietary right (including any patent, trademark, copyright, moral, industrial design right or misuse or misappropriation of trade secret) and against any resulting damages or expenses, including attorneys' and other professional fees, settlements and judgments, arising in any way in relation to Equipment procured or provided by Seller (including, without limitation, their manufacture, purchase, use and/or sale), and Seller expressly waives any claim against Buyer that such infringement arose out of compliance with Buyer's specification, except to the extent such infringement is actually embodied in designs created by Buyer and provided in writing to Seller, (b) to waive any claim against Buyer, including any hold-harmless or similar claim, in any way related to a third-party claim asserted against Seller or Buyer for infringement of any proprietary right (including any patent, trademark, copyright, moral, industrial design right or misuse or misappropriation of trade secret), (c) that Buyer and its subcontractors and direct or indirect customers have the worldwide, irrevocable right to repair, reconstruct or rebuild, and to have repaired, reconstructed or rebuilt, Equipment delivered under the Order without payment of any royalty or other compensation to Seller; (d) that manufactured Equipment based on Buyer's designs, drawings or specifications may not be used for Seller's own use or sold to third parties without Buyer's express written consent, (e) to assign to Buyer each invention, discovery or improvement (whether or not patentable) that is conceived or first reduced to practice by Seller, or by any person employed by or working under the direction of Seller, in the performance of the Order, (f) to promptly disclose in an acceptable form to Buyer all such inventions, discoveries or improvements and to cause its employees to sign any papers necessary to enable Buyer to obtain title to and to file applications for patents throughout the world; and (g) to the extent that the Order is issued for the creation of copyrightable works, that the works will be considered "works made for hire," and to the extent that the works do not qualify as such, to assign to Buyer upon delivery thereof all right, title and interest in all copyrights and moral rights therein (including any source code). Except as expressly agreed by Buyer in a signed writing, all Equipment or other deliverables provided under the Order (including without limitation computer programs, technical specifications, documentation and manuals) will be original to Seller and will not incorporate any intellectual property rights (including copyright, patent, trade secret or trademark rights) of any third party. Except as expressly agreed by Buyer in a signed writing, all Equipment or other deliverables provided under the Order, and all related intellectual property rights, are owned solely by Buyer. Seller will ensure that the terms of its contracts with its subcontractors and employees are consistent with the content of this Section. At no additional cost, Seller will grant Buyer a license to use any intellectual property owned by Seller that is necessary or

incident to the reasonably intended use or application of the Equipment. If Buyer's use of any of the Equipment or any of the intellectual property or proprietary rights granted to Buyer under the Order (the "granted rights"), is enjoined in connection with any claim, action or suit alleging that the Equipment or granted rights infringe or contribute to the infringement of any patent, copyright, trademark, service mark, trade secret or other proprietary right in the United States or elsewhere, then Seller shall, at its sole cost and expense, either: (i) procure for Buyer the perpetual right to continue using the affected Equipment and granted rights without restriction and without any obligation on the part of Buyer to make any royalty or other payments, (ii) replace the affected Equipment and granted rights with non-infringing Equipment and rights that do not adversely affect Buyer's right to use the Equipment or granted rights as contemplated by Buyer on the date of the Order (including without limitation any adverse effect relating to the functionality of the Equipment or granted rights or the cost of using or maintaining the Equipment or granted rights), or (iii) modify the affected Equipment and granted rights in a manner that does not adversely affect Buyer's right to use the Equipment or granted rights as contemplated on the date of the Order (including without limitation any adverse effect relating to the functionality of the Equipment or granted rights or the cost of using or maintaining the Equipment or granted rights) so that the affected Equipment and granted rights become non-infringing. Seller's obligations under this Section shall be in addition to, and shall not limit, restrict or otherwise affect in any way the other obligations of Seller under the Order, applicable law or otherwise. Seller owns Seller's proprietary rights which include Seller's names, logos, trademarks, patents, service marks, copyrights, trade secrets Seller grants to Buyer and its affiliates, both direct and indirect, an irrevocable, perpetual, worldwide, non-exclusive, royalty-free license to use, and to authorize third parties to use, all inventions, discoveries, improvements, processes, designs, ideas, software and other intellectual property owned or acquired by Seller that is necessary or incident to the reasonably intended use or application of the Equipment. Nothing in the Order grants or otherwise provides Seller or any of its affiliates with any rights relating to any patent, copyright, trademark, service mark, trade secret or other proprietary right of Buyer or any of its affiliates.

22. Buyer's Property

To the extent Buyer furnishes to Seller, either directly or indirectly, any tooling (including but not limited to fixtures, gauges, jigs, patterns, castings, cavity dies and molds, with all related appurtenances, accessories, and accessories), packaging and all documents, standards or specifications, trade secrets, proprietary information and other materials and items to perform the Order or for which Buyer has agreed to reimburse Seller (collectively, "Buyer's Property"), will become Buyer's property (including passage of title) as it is fabricated or acquired, and will remain Buyer's property regardless of payment. Buyer's Property will be held by Seller as a bailee-at-will.

23. Set-Off; Recoupment

In addition to any right of setoff or recoupment provided by law, all amounts due Seller will be considered net of indebtedness of Seller and its affiliates or subsidiaries to Buyer and its affiliates or subsidiaries. Buyer will have the right to

set off against or to recoup from any payment or other obligation owed to Seller, in whole or in part, including any disputed, contingent or unliquidated claims, any amounts due or to become due to Buyer or its affiliates or subsidiaries from Seller or its affiliates or subsidiaries. Buyer will provide Seller with a statement describing any offset or recoupment taken by Buyer.

24. Confidentiality

Seller acknowledges that Buyer will provide it with or Buyer will develop proprietary and confidential information for Buyer under the Order, regardless of whether such information is marked or identified as confidential. Seller agrees to keep all proprietary or confidential information of Buyer in strictest confidence, and further agrees not to disclose or permit disclosure to others, or use for other than the purpose of the Order, any proprietary and confidential information of Buyer. Following the expiration or termination of the Order, upon Buyer's request, Seller will promptly deliver to Buyer any and all documents and other media, including all copies thereof and in whatever form that contain or relate to Buyer's confidential or proprietary information. Seller's obligations under this Section will continue for a period of five years from the date of disclosure of information covered by this Section, unless a longer period is specified in writing by Buyer. The restrictions and obligations of this Section will not apply to information that: (a) is already publicly known at the time of disclosure by Buyer; (b) after disclosure by Buyer becomes publicly known through no fault of Seller; or (c) Seller can establish by written documentation was properly in its possession prior to disclosure by Buyer or was independently developed by Seller without use of or reference to Buyer's information. Notwithstanding anything to the contrary in these Terms, any confidentiality or non-disclosure agreement between the parties that predates the Order will remain in effect except as expressly modified by the Order, and to the extent of a conflict between the express terms of such an agreement and this Section, the Terms will control.

25. No Publicity

Seller will not advertise, publish or disclose to third parties (other than to Seller's professional advisors on a need-to-know basis) in any manner the fact that Seller has contracted to furnish Buyer the Equipment covered by the Order or the terms of the Order, or use any trademarks or trade names of Buyer in any press release, advertising or promotional materials, without first obtaining Buyer's written consent.

26. Relationship of Parties

Seller and Buyer are independent contracting parties and nothing in the Order will make either party the employee, agent or legal representative of the other for any purpose. The Order does not grant either party any authority to assume or to create any obligation on behalf of or in the name of the other. Seller will be solely responsible for all employment and income taxes, insurance premiums, charges and other expenses it incurs in connection with its performance of the Order, except as expressly provided in a written agreement signed by Buyer. All employees and agents of Seller or its respective contractors are employees or agents solely of Seller or such contractors, and not of Buyer, and are not entitled to employee benefits or other rights accorded to Buyer's employees. Buyer is not responsible for any obligation

with respect to employees or agents of Seller or its contractors.

27. Conflict of Interest

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

28. Non-Assignment

Seller may not assign or delegate its obligations pursuant to the Order without Buyer's prior written consent that Buyer may withhold for any or no reason. In the event of any approved assignment or delegation authorized by Buyer, Seller retains all responsibility for the Equipment in the event of an assignment or delegation, including all related warranties and claims, unless otherwise expressly agreed in writing by Buyer.

29. Sales Tax Exemption

The Equipment purchased pursuant to the Order may be exempt from sales taxes. In such case, Buyer will state the tax identification number and/or other exemption information in the Order or provide otherwise to Seller.

30. Governing law; jurisdiction; venue

This Order is to be construed according to the law of the State of Michigan, without regard to its conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods will not apply. Seller agrees that the forum and venue for any legal action or proceeding concerning this Order will be brought in the United States District court for the Eastern District of Michigan or any Michigan State court sitting in Oakland County, Michigan, so long as one of such courts will have subject matter jurisdiction over such suit, action or proceeding, and Seller irrevocably consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

31. Arbitration

At Buyer's option, exercised by written notice any time before or within thirty (30) days following the service of process in a legal action, any dispute regarding the Equipment, the Order, the validity of the Order or any of these contents, or any other matter between the parties (other than requests for injunctive or declaratory relief) will be resolved by binding arbitration, conducted in the English language using a single arbitrator selected by the parties. The arbitration will be conducted under the commercial arbitration rules of the American Arbitration Association (AAA) and under Rules 26 through 37 of the U.S. Federal Rules of Civil Procedure, in Farmington Hills, Michigan unless the parties agree otherwise. If the parties cannot agree on an arbitrator within thirty (30) days of the selection of the arbitration location, each

party will select a person from the AAA-approved commercial arbitrator list and those two people will jointly select a third person from such list who will conduct the arbitration as the sole arbitrator. The arbitrator will issue written findings of fact and conclusions of law, and may award reasonable attorneys' fees and costs to the substantially prevailing party. In no event will the arbitrator award punitive or exemplary damages. The award of the arbitrator will be enforceable in any court of competent jurisdiction, provided that either party may appeal to any United States District Court or Michigan district court sitting in Oakland County, Michigan, for correction of any clear error of fact or law by the arbitrator (provided that the appealing party must first post an appropriate bond and that the prevailing party in any such action will be entitled to its attorneys' fees and costs). The United States Federal Arbitration Act shall govern the arbitration provisions of this Section.

32. Language; Severability; No Implied Waiver

The parties acknowledge that these Terms and all documents relating thereto be in the English language only and only the English language version of these Terms shall govern. Any translation of the English language version of these Terms shall have no force or effect. If any term of the Order is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, the term will be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with applicable law. The remaining provisions of the Order will remain in full force and effect. The failure of either party at any time to require performance by the other party of any provision of the Order will not affect the right to require performance at any later time, nor will the waiver of either party of a breach of any provision of the Order constitute a waiver of any later breach of the same or other provision of the Order.

33. Survival

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

34. Headings

The headings in these Terms are for convenience only and shall not affect their interpretation.

35. Entire Agreement Modifications

Except as described in Section 1, the Order, together with the attachments, exhibits, supplements or other requirements of Buyer specifically referenced therein, constitutes the entire agreement between Seller and Buyer with respect to the matters contained in the Order. The Order may only be modified by a written amendment executed by authorized representatives of each party or, for changes within the scope of Section 8 of these Terms, by a purchase order amendment issued by Buyer. Buyer may modify these Terms with respect to future Orders at any time by posting revised Terms to its web site at <http://www.mahle.com> and such revised Terms will apply to all Orders issued thereafter.