



## PURCHASE ORDER TERMS AND CONDITIONS

This Purchase Order is subject to the following terms and conditions.

1. **PURPOSE AND USE.** These Terms and Conditions (“Terms”) apply to the purchase of items by Buyer. The Products or Services, as applicable, may be more fully described in the Specification (defined below). Changes to these Terms are not part of the Contract unless Buyer expressly agrees to them in writing. Section 3 describes how the Parties may enter into a binding contract for the Products or Services.

2. **CERTAIN DEFINED TERMS.**

- “Affiliate” of an entity means any other entity that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with such entity.
- “Buyer” is the PHINIA entity identified in the Purchase Order.
- “Contract” is comprised of (a) these Terms, (b) the applicable Purchase Order, (c) the Specifications, if applicable, (d) the Framework Agreement for Supply, if applicable, (e) the Individual Supply Contract, if applicable, (f) the then current PHINIA Supplier Manual [www.phinia.com/suppliers](http://www.phinia.com/suppliers), (g) the then current PHINIA Supplier Code of Conduct [www.phinia.com/suppliers](http://www.phinia.com/suppliers), (h) Release, and (i) any other master agreement, scheduling agreement, or written document issued by or agreed to in writing by Buyer with respect to the Products or Services that reference these Terms. Seller shall access the websites above at least annually to ensure it is compliant with the current versions.
- “Control” (and with the terms “Controlled by” and “under common Control with”) means, with respect to any person or entity, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of another person or entity, whether through the ownership of voting securities, by contract, or otherwise.
- “Customer” means the parties to which Buyer sells finished products, which are typically the original equipment manufacturers.
- “Framework Agreement for Supply” is a written document Buyer and Seller may enter into setting forth certain commercial terms for the purchase of products and/or services by Buyer from Seller.

- “Highly-Sensitive Personal Information” means information provided to Seller by or at the direction of Buyer that includes an (i) individual’s government-issued identification number (including social security number, driver’s license number or state-issued number); (ii) financial account number, credit card number, debit card number, credit report information, with or without any required security code, access code, personal identification number or password, that would permit access to an individual’s financial account; or (iii) biometric or health data.
- “Individual Supply Contract” is a written document Buyer and Seller may enter into setting forth certain commercial terms for the purchase of Products and/or Services by Buyer from Seller.
- “Intellectual Property” means all legally-recognized rights, including all patents or patent applications, copyrights, trademarks, trademark registrations, trade secrets and any other item considered intellectual property under statutory or common law principles in any jurisdiction in the world that provides proprietary or other intellectual property rights; and includes, without limitation, all ideas, concepts, know-how, techniques, processes, methods, sketches, drawings, tooling prints, manuals, works of authorship, models, inventions, developments, designs, devices, tooling, prototypes, samples, gages, algorithms, controls logic, software (in both source code and object code formats), patterns, compilations, formulas, experiments, specifications, testing plans, product plans, and other technical information and materials.
- “Laws” means applicable country, federal, provincial, state, local, and foreign laws, regulations and other legal requirements, including but not limited to the U.S. Federal Occupational Safety and Health Act of 1970, the U.S. Federal Hazardous Substances Act, the U.S. Transportation Safety Act of 1974, the U.S. Hazardous Materials Transportation Act, the U.S. Clean Air Act, the U.S. Toxic Substances Control Act, the U.S. Clean Water Act, the U.S. Resource Conservation and Recovery Act, Sections 6,7, and 12 of the U.S. Fair Labor Standards Act, the U.S. Foreign Corrupt Practices Act (“FCPA”), the United Kingdom Anti-Bribery Act of 2010 (“Bribery Act”), all supply chain due diligence laws, and such amendments to such laws and regulations and policies, orders, permits, licenses and governmental approvals promulgated or issued thereunder.
- “Data Protection Laws” means applicable country, federal, provincial, state, local, and foreign laws, regulations, and other requirements, including but not limited to Section 5 of the U.S. Federal Trade Commission Act, the California Consumer Privacy Act/California Privacy Rights Act (“CCPA/CPRA”), the Virginia Consumer Data Protection Act (“VCDPA”), the Colorado Privacy Act (“CPA”), the Utah Consumer Privacy Act (“UTCPA”), and the Connecticut Data Protection Act (“CDPA”); the EU General Data Protection Regulation, the Brazil Law Concerning the Protection of Personal Information (“LGPD”), the Canada Personal Information Protection and Electronic Documents Act (“PIPEDA”), the Mexico Federal Law on the Protection of Personal Data held by Private Parties (“LPDP”); and other similar laws, regulations, and other requirements.
- “Losses” means all loss, cost, liability, damage, penalty, fine, judgment, claim, remediation costs, cybersecurity-related costs such as identity protection and ransom, or other expense (including reasonable attorneys’ fees, costs of in-house counsel, and forensic and investigation costs).
- “Nondisclosure Agreement” is a written document Buyer and Seller may enter into setting forth the terms governing the protection of certain confidential and proprietary information.

- “Party” means Buyer or Seller, as applicable.
- “Personal Information” means information provided to Seller by or at the direction of Buyer, or to which access was provided to Seller by or at the direction of Buyer, in the course of Seller’s performance under this Contract that: (i) identifies or can be used to identify an individual (including, without limitation, names, signatures, addresses, telephone numbers, e-mail addresses and other unique identifiers); or (ii) can be used to authenticate an individual (including, without limitation, employee identification numbers, government-issued identification numbers, passwords or PINs, financial account numbers, credit report information, biometric or health data, answers to security questions and other personal identifiers); in case of both subclauses (i) and (ii), including, without limitation, all Highly-Sensitive Personal Information.
- “Products” means the Products identified in any applicable Purchase Order or Individual Supply Contract.
- “Purchase Order” or “PO” is a document issued by Buyer to Seller to evidence Buyer’s purchase of Products and/or Services.
- “Purchase Price” means the price for the Products and/or Services to be paid by Buyer to Seller as set forth in the Purchase Order or Individual Supply Contract.
- “Release” is a written instruction issued by Buyer to Seller periodically that will include rolling non-binding forecasts, authorizations, manifests, broadcasts, firm orders, scheduling agreements, delivery schedules/call offs, and any other written communication whereby Buyer communicates to Seller its necessary Product quantities and delivery dates.
- “Seller” means the entity from which Buyer purchases Products or Services under a Purchase Order.
- “Seller Nomination Letter” means the award letter or letter of nomination issued by Buyer for the Products and/or Services.
- “Services” means the services identified in a Purchase Order, Specification, or Individual Supply Contract or one or more of such documents.
- “Specifications” means all Buyer-approved specifications written instructions, manuals, all drawings including the component drawings, specification sheets, statements of work, Supplier Manual, samples and such other technical details, data or proprietary information referenced in the Framework Agreement of Supply, Request for Quote, Individual Supply Contract, or Purchase Order.

### **3. OFFER, ACCEPTANCE, ORDER OF PRECEDENCE.**

3.1 Each Purchase Order is an offer to Seller by Buyer for the purchase of Products and/or Services identified in that Purchase Order. Seller accepts a Purchase Order upon the first to occur of the following: (a) if Seller fails to object to it in writing within five (5) business days after receipt, (b) Seller's commencement of any work or services that are related to or in anticipation of performance of the Purchase Order, (c) Seller's acknowledgement of the Purchase Order in writing, or (d) execution of an Individual Supply Contract or Seller Nomination Letter.

3.2 Seller's acceptance of the Purchase Order is limited to the specific terms of the Purchase Order. Any additions, modifications, or different terms proposed by Seller, including any standard terms or forms that Seller may use or submit to Buyer, are considered to be material and are hereby expressly rejected and are not part of the Contract unless specifically agreed to in a writing signed by an authorized representative of Buyer. Any reference on the face of the Purchase Order to Seller's quotation or other prior communication does not imply acceptance of any term, condition, or instruction in the quotation, but is solely to incorporate the description or specifications of the Products or Services to be supplied to Buyer, and only then to the extent that such description or specifications are not in conflict with the Specifications.

3.3 In the event of any conflict between any of the documents that comprise the Contract, the following priority shall be applied: (a) any written amendment or modification properly entered into by the Parties in accordance with these Terms, including any amended or modified Purchase Order; (b) the Release (excluding references to the Terms); (c) the Individual Supply Contract, if applicable; (d) the Framework Supply Agreement, if applicable; (e) the Purchase Order; (f) the Terms; (g) the Specifications, if applicable; (h) the PHINIA Supplier Manual; (i) the PHINIA Supplier Code of Conduct; and (j) any other written agreement concerning the Products or Services signed by both Parties.

### **4. PRICE.**

4.1 Buyer will issue Purchase Orders for the purchase of Products and/or Services. The Purchase Price specified in the Purchase Order is firm unless otherwise stated in the Contract. The Purchase Price includes all subcontracting costs associated with the Products and/or Services. Buyer will have no responsibility for any increased costs incurred by Seller in connection with any raw materials or subcontractors unless such additional costs have been negotiated and agreed to in advance and in writing by Buyer. Seller may not refuse to sell Products and/or Services to Buyer to force any modifications to the Purchase Price.

4.2 Seller warrants that the Purchase Price is no less favorable than prices given by Seller to any other customer for like Products or Services (after consideration of all discounts, rebates and allowances).

4.3 The Purchase Price includes all country, federal, state, local taxes, and VAT that Seller is required by law to collect from Buyer and from which Seller cannot obtain an exemption after Seller has made all reasonable efforts to mitigate. Such taxes shall be separately stated on Seller's invoices and shall be paid by Buyer unless an exemption is available regardless of whether Seller has obtained the exemption or not.

4.4 Unless otherwise stated in the Contract, no additional charges for packing, cartage, storage, drayage, and transportation will be included in the Purchase Price.

**5. SHIPPING AND PACKING.** Seller will pack, mark and ship Products as instructed by Buyer or the carriers and in accordance with any applicable Laws. All shipments of Products must be accompanied by a packing slip, which describes the articles, states the Purchase Order number, and shows the shipment's destination. Seller shall promptly forward the original bill of lading or other shipping receipt for each shipment in accordance with Buyer's instructions. Products (including any equipment) shipped under this Purchase Order must be shipped without oil or any other fluids. Seller shall bear all liability if the shipment does not comply with the requirements of this Section.

**6. QUANTITY.**

6.1 This Purchase Order is a requirements contract under which Buyer will purchase and Seller will sell all or a specific percentage or percentage range of Buyer's quantity requirements for the Products and/or Services as specified on the face of the Purchase Order. If a percentage or range of Buyer's requirements is not specified on the Purchase Order, or if the Purchase Order specifies the quantity as zero, one, "blanket order(s)," "as released," "see release," "as scheduled," "as directed," or in a similar fashion, then Buyer hereby agrees to buy and Seller hereby agrees to sell 100% of Buyer's requirements for the Products, and those quantity requirements will be reflected in the quantities set forth in Buyer's Releases. If a percentage or a percentage range of Buyer's requirements are specified on the Purchase Order or elsewhere in the Contract, this language controls over any other quantity term, such "blanket order(s)," "as released", "as scheduled", etc. Seller acknowledges that Buyer's quantity requirements are dependent upon the quantity requirements of Customers and may not be within the control of Buyer. To the extent this is a 100% requirements contract, Buyer may nonetheless purchase and use Products from other suppliers for the purposes of: (a) trial production testing or similar purposes; (b) protecting against actual or potential shortages or disruptions in supply from Seller; and/or (c) in the event Seller fails to be competitive in terms of quality or Purchase Price of the Products and/or Services, or otherwise breaches the Contract. To the extent this is a requirements contract for less than 100% of Buyer's requirements then, unless otherwise specifically stated in the Contract, the Contract is not exclusive and Buyer may purchase similar products or services from third parties.

6.2 Unless otherwise agreed in writing and signed by the Parties, the first two weeks of Buyer's quantity requirements as stated in its Releases are considered firm orders. Beyond the two-week firm order period in a Release, any estimates of annual volume or other estimates, forecasts or projections of future anticipated volume or quantity requirements provided by Buyer in the Contract, Supplier Nomination Letter, or in the remainder of a given Release are provided for informational purposes only, shall not be binding upon Buyer, and may change from time to time, with or without notice to Seller, during the term of this Contract. Buyer makes no representation, warranty, guaranty or commitment of any kind or nature, express or implied, regarding any forecasts provided to Seller, including with respect to their accuracy or completeness.

**7. DELIVERY - RISK OF LOSS.**

7.1 Deliveries must be made in quantities and at times specified on the face of this Purchase Order or a Release and time is of the essence. Each Release is an integral part of the Contract, is governed by these Terms, and is not an independent contract. Buyer will not be required to pay for Products delivered to Buyer that are in excess of

firm quantities contained in a Release. Buyer may reject any deliveries made more than two weeks after or before the specified delivery date.

7.2 Unless expressly stated otherwise in the Purchase Order or authorized in writing by Buyer, Seller shall not make any commitment for raw materials or other inventory or manufacture any Products in advance of the time necessary to permit shipments on the delivery dates specified in Releases. Buyer may change the rate of scheduled shipments or direct temporary suspension of scheduled shipments, neither of which shall entitle Seller to a modification of the Purchase Price of the Products or Services covered by the Purchase Order.

7.3 If Seller fails to have Products ready for shipment in time to meet Buyer's delivery schedules, Seller will be responsible for any additional costs of premium or expeditious transportation of Products and all Losses arising from the delay including but not limited to costs incurred by or charged to Buyer for production stoppages. Buyer will have the right to either arrange for expeditious shipment of the Products or require Seller to ship the Products, and Seller will pay or reimburse Buyer for the entire cost of such expeditious shipment.

7.4 Unless provided otherwise in this Contract, all Products are sold Ex Works (Incoterms 2020) origin.

## **8. INVOICING.**

8.1 After delivery of Products or performance of Services, Seller shall promptly render correct and complete invoices to Buyer and shall accept payment by check or, at Buyer's discretion, other cash equivalent (including purchase cards or electronic transfer of funds).

8.2 Seller will comply with the requirements of the electronic payment system that Buyer may direct Seller to use to receive payment. Seller will be responsible for any breach of such electronic payment system caused by Seller's access to the electronic payment system and, if payment is made or received via payment card, shall at all times remain in compliance with the Payment Card Industry Data Security Standard requirements. Seller should inform the Buyer of any breach of Personal Information.

8.3 Payment terms are as set forth in the Contract. If the Contract does not specify the payment terms, payment terms are net 90 from the date Buyer receives the conforming Products or Services, except where Supplier is European based and supplying to Buyer's European locations. In such case the payment terms are net 60 from the date Buyer receives the conforming Products or Services. In case of applicable law requiring shorter payment terms than those set forth in the Contract, the payment terms required by law shall apply. Buyer may withhold payment pending receipt of evidence, in such form and detail as Buyer may direct, of the absence of any liens, encumbrances, and claims on the Products or Services.

8.4 All amounts due Seller shall be considered net of indebtedness or obligations of Seller to Buyer. Buyer may set off against or recoup from any amounts due or to become due to Seller, any amounts due or to become due from Buyer. If Seller's obligation to Buyer is disputed, contingent or unliquidated, Buyer may defer payment of all or a portion of the amount due to Seller until such obligation is resolved. If Buyer reasonably feels itself insecure or at risk, Buyer may withhold and recoup a corresponding amount due Seller to protect against such risk.

## 9. WARRANTIES OF SELLER.

9.1 Seller expressly warrants that all Products and Services (a) conform to the Purchase Order, Specifications, drawings, samples, and descriptions furnished to, specified by, or approved by the Buyer, (b) are merchantable, made of good material, and are free from defect in material, workmanship and design (to the extent the design is provided by Seller, its subcontractors, Sellers, or agents, even if the design is approved by Buyer), (c) conform to all applicable Laws, (d) are fit for the particular purpose for which Buyer intends to use the Products and Services, and (e) are free of all liens, claims, defects in title, and encumbrances, including claims of Intellectual Property infringement. In carrying out any Services, Seller will ensure that the best technical practices, skills, procedures, care, and judgment will be employed. For purposes of clause (d) above, Seller acknowledges that Seller knows the particular purpose for which Buyer intends to use the Products and Services.

9.2 Buyer is relying upon the expertise of Seller in the selection, manufacture and integration of the Products or Services. If Seller is aware that the Products or Services are not appropriate for the use intended by Buyer or that the Specifications will result in less than optimal performance of the Products or Services, Seller shall immediately notify Buyer. Seller shall also notify Buyer if the location or environment of the Products or Services within the vehicle or product will affect their performance or if anything (different than that called out in the Specifications) is necessary for the Products to perform for the intended use.

9.3 All Products and Services are subject to Buyer's inspection. Payment for, inspection of, or receipt of, Products or Services will not constitute acceptance of the Products or Services or a waiver of any breach of warranty. All warranties contained in this Contract run, and all remedies shall be available to, Buyer, its Affiliates, and their customers and all such warranties will survive any delivery, inspection, acceptance, or payment by Buyer. Seller hereby waives the objection of delayed of notification of defects.

9.4 If Products have the ability to connect to the internet or other network, the following additional terms apply to the Products. Seller warrants that the Products are equipped with security features that meet or exceed industry standards and are designed to protect the Products against unauthorized access to or modification of the Product hardware or software, as well as any information collected, contained or transmitted by the Product ("Data"), including:

(a) Pre-programmed unique passwords or requiring end users to change the default username and set a new password before the Product is activated;

(b) Secure storage of any credentials using industry standard trusted storage mechanisms;

(c) Ensuring Products are securely updateable by Buyer or its Customers, in a manner that does not impact the Product functionality, such as through remote means;

(d) Ensuring that the Products have the ability to enable Buyer to comply with the Data Protection Laws, as applicable, including limiting the manner in which the Products allow Personal Information to be accessed, collected, used, stored, processed, or disposed of;

(e) Ensuring that the Products employ administrative, physical, and technical safeguards to protect individual Personal Information that are no less rigorous than accepted industry standards;

(f) All necessary security updates and patches to the Product on an ongoing basis; and

(g) Otherwise ensuring Products comply with all applicable laws, rules, regulations and industry best practices related to the Product or any Data. Seller further warrants that, following delivery to Buyer, Seller will not have the ability to access any Personal Information or Highly-Sensitive Personal Information from any Product. If such access should become possible, Seller shall be deemed to be a sub-processor of Buyer, and Seller and Buyer will enter into a Data Protection Addendum as applicable. In the event of any unauthorized access to or loss of Personal Information or Highly-Sensitive Personal Information from any Product or if there are indications that upon reasonable assessment should justify Seller's suspicion of such incident, Seller will (1) immediately implement corrective actions, and (2) inform Buyer within 24 hours of discovery.

9.5 Except as provided in Section 10.2 and unless otherwise stated in the Contract, these warranties will be effective for the longer of: (i) the period provided by applicable Law where the Products are used; or (ii) the warranty period Buyer provides to its Customer.

9.6 Buyer will have the right to fully defend any claims from a Customer that any Products supplied by Seller are in breach of warranty, or otherwise did not meet applicable legal or contractual requirements, and all statements by Buyer to the Customer regarding the Products are without prejudice to any rights Buyer may have against Seller with respect to the Products. Seller will not assert that a position taken by Buyer with a Customer in response to the Customer's claims limits Buyer's right to assert a claim against Seller for breach of warranty, contribution, indemnification, or any other claim that may arise from or be related to the subject matter of any of the foregoing. Seller may request in writing to participate in any negotiations with a Customer regarding any Products supplied by Seller under this Contract or any related claim or litigation regarding such Products Seller's participation in any negotiations with a Customer is solely at Buyer's discretion and nothing in this Contract grants Seller the right to participate in such negotiations.

## **10. REJECTION OF PRODUCTS & RECALL.**

10.1 In addition to any other rights specifically provided elsewhere in the Contract, and subject to Section 10.2, if any of the Products or Services do not conform to Seller's warranties or the Contract, Buyer may: (a) reject the nonconforming or defective Products or Services, (b) require Seller, at Seller's risk and expense (including applicable shipping, labor, and materials costs), to either repair or replace the nonconforming Products or Services, and/or (c) require Seller to implement, at Seller's expense, containment, inspection, sorting, and other quality assurance procedures. If, after reasonable notice, Seller fails to promptly repair or replace nonconforming or defective Products or Services, then without limiting or affecting Buyer's other rights or remedies available hereunder or at law, Buyer may cancel the Contract in whole or in part, and/or may repair or replace the nonconforming or defective Products or Services and charge all related costs to Seller without voiding the warranties in this Contract and without Buyer waiving any other rights or remedies. Any payment made by Buyer for nonconforming or defective Products or Services shall be refunded by Seller, except to the extent that Seller promptly replaces or corrects the same at Seller's expense.



10.2 Notwithstanding the expiration of the warranty period set forth in Section 9, Buyer, its Customer, and/or the manufacturer of the vehicles (or other finished product) on which the Products are installed may voluntarily or pursuant to a government mandate make an offer to owners of such vehicle to remediate a defect whether or not said defect relates to motor vehicle safety or the failure of the vehicle to comply with any applicable Law, safety standard or guideline (“Recall”). Seller will be liable for Losses associated with the Recall to the extent the Recall is based upon a reasonable determination that the Products fail to conform to the warranties set forth in this Contract.

**11. CHANGES.** Buyer may, upon written notice to Seller, make changes in the drawings, designs and Specifications of the Products or otherwise change the scope of the work covered by this Contract, including work with respect to such matters as drawings, designs, Specifications, inspection, testing or quality control, the method of packing and shipping, the place of delivery, shipping instructions, and quantity or delivery schedules. Seller shall promptly make such changes. If such changes affect the cost or time required for performance, Seller may make a written claim for adjustment with appropriate supporting documentation within 14 days of receipt of notification of change, and Buyer may make an equitable adjustment to the Purchase Price. Otherwise, such claim for equitable adjustment is waived and the Purchase Order will be deemed to be modified as notified by Buyer. Seller shall diligently continue performance of the modified Purchase Order pending agreement on the amount of an equitable adjustment. Nothing in this Section 11 excuses Seller from proceeding without delay in performing the modified Purchase Order. Seller must not make any change in the Specifications, Products or Services, design, processing, packing, shipping, quantity, Purchase Price, or place of delivery without Buyer's written approval.

## **12. INTELLECTUAL PROPERTY.**

12.1 The Parties understand and agree that each Party or their respective Affiliate(s) has developed, owns, or has the rights to use certain Intellectual Property prior to the execution of this Contract (collectively, “Background Rights”). Background Rights are and shall remain the sole property of each respective Party (or, where applicable, the third party from whom its right to use the Background Rights has derived). Buyer does not transfer to Seller any of Buyer's or Buyer's Affiliates' Background Rights, including in information, documents, or property that Buyer or its Affiliates makes available to Seller. Buyer grants Seller a limited, non-exclusive, non-transferable, royalty free license for the limited purpose of producing and supplying the Products and Services to Buyer under this Contract; Buyer's license to Seller is sublicensable by Seller only to the extent necessary for Seller to produce and supply the Products and Services under this Contract. Buyer's license to Seller, and any applicable sublicenses, terminates with the expiration or termination of this Contract. If Seller's Background Rights are incorporated into the Products or Services or required to use, make, have made, repair, have repaired or reconstruct the Products or Services, Seller shall grant and hereby grants Buyer and its Affiliates a perpetual, global, fully paid, transferable, sublicensable, non-exclusive license to Seller's Background Rights, which shall include without limitation the use by Buyer for series production as well as by third parties on behalf of Buyer.

12.2 If the Contract requires that Seller develop works of original authorship, ideas, inventions, know-how, processes, compilations of information, or other Intellectual Property (collectively, “Proprietary Materials”) and such development is paid for by Buyer, then all Intellectual Property in such Proprietary Materials is owned by Buyer and/or Buyer's Affiliates (“Developed Intellectual Property”). To the extent that the preceding sentence does not convey all right, title, and interest in and to the Developed Intellectual Property to Buyer and/or its Affiliates, Seller shall assign and does hereby assign to Buyer and/or its Affiliates, Seller's entire right, title, and interest in and to all Developed Intellectual Property. If applicable Law prohibits the assignment of Developed Intellectual Property to Buyer or Buyer's Affiliates, Seller shall grant and hereby grants Buyer and its Affiliates a perpetual, global, fully paid, transferable, sublicensable, exclusive license to the Developed Intellectual Property. Seller shall promptly notify Buyer of any Developed Intellectual

Property, providing such detail and information as is reasonably necessary. Seller shall take all action and execute all documents necessary to perfect Buyer and/or Buyer's Affiliates' ownership of all Developed Intellectual Property, as Buyer may request from time to time. Buyer and its Affiliates shall retain all rights to current and future modifications made by either Party to the Developed Intellectual Property. Upon expiration or termination of this Contract or upon request by Buyer at any time, Seller shall deliver to Buyer and/or its Affiliates all tangible Developed Intellectual Property and any copies then in Seller's possession or under Seller's control.

12.3 Seller grants to Buyer and Buyer's Affiliates a perpetual, global, fully paid, transferable, sublicensable license to use, repair, modify and sell any operating software incorporated in the Products in conjunction with the use or sale of the Products. In addition, all works of authorship, including software, computer programs, and databases (including object code, micro code, source code and data structures), and all enhancements, modifications, and updates and all other written work product or materials that are created in the course of performing this Contract, separately or as part of any Products and components, are "works made for hire" and the sole property of Buyer and its Affiliates. To the extent that such works of authorship do not qualify under applicable Law as works made for hire, Seller assigns to Buyer and its Affiliates all right, title, and interest in any Intellectual Property rights in such works of authorship. If such assignment is not possible under any applicable law, Seller grants an exclusive, perpetual, global, royalty-free, transferable, sublicensable license to Buyer and its Affiliates with respect to such works of authorship.

12.4 Seller represents, warrants, and agrees that the Products and Services Seller furnishes to Buyer under the Contract will not infringe any third-party Intellectual Property by reason of their manufacture, use, offer for sale, sale, or import, and will not misuse or misappropriate any trade secret. Buyer has the right to require that Seller indemnify, defend, and/or hold harmless Buyer, its Affiliates, Customers, and each of their respective employees, agents, officers, shareholders, and directors and users of its and their products, and their respective successors, assigns ("Indemnitees") from and against Losses arising out of the actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign Intellectual Property by reason of the manufacture, use, offer for sale, sale, or import of the Products or Services under the Contract, or for actual or alleged misuse or misappropriation of a trade secret resulting directly or indirectly from Seller's actions. At Buyer's sole discretion, if the Products or Services are found to infringe or their use is enjoined, Seller will at its expense: (i) modify the Products or Services to be non-infringing; (ii) obtain for Buyer and/or its Affiliates a right or license to continue using the Products or Services; or (iii) procure and deliver to Buyer alternate Products or Services that meet the requirements of the Contract so that Buyer has the right to use and to sell products with alternate Products or Services. Seller will further reimburse Buyer for any qualification, validation, and recertification costs for replaced, modified, or substitute Products or Services.

### **13. PATTERNS, TOOLS, AND EQUIPMENT.**

13.1 Buyer will have title to and the right of immediate possession of any tooling, jigs, dies, gauges, fixtures, molds, patterns, supplies, materials, and other equipment and property that Buyer or Customer has ordered and/or paid for, in full or in part, separately or by piece price for the Products (collectively, "Buyer Property"). Seller will acquire Buyer Property on behalf of Buyer and Buyer will pay to or reimburse Seller the lower of: (a) the amount specified in a Purchase Order issued by Buyer for such Buyer Property, or (b) Seller's actual out-of-pocket cost to acquire the Buyer Property from an unrelated third party or, if the Buyer Property is constructed or fabricated by Seller or any Affiliate of Seller, the actual direct costs for materials, labor, and overhead associated with such construction and fabrication. Seller will assign to Buyer contract rights or claims in which Seller has an interest with respect to Buyer's Property and execute bills of sale, financing statements, or other documents reasonably requested by Buyer to evidence its or its Customer's ownership of Buyer's Property. Seller will indemnify and defend Buyer against claims or liens adverse to Buyer's or Customer's

ownership of Buyer's Property except those that result from the acts or omissions of Buyer or Customer. Seller will hold Buyer's Property in bailment. 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 or financing statements with respect to Buyer's Property that Buyer determines are reasonably necessary to reflect Buyer's interest in Buyer's Property. To the fullest extent permitted by Law, Seller waives any lien or similar right (whether mechanics, mold-builder, molder, special tool builder, UCC or otherwise) it may have with respect to Buyer's Property. Buyer will be responsible for personal property taxes assessed against Buyer's Property.

13.2 Seller will (a) maintain, at its expense, Buyer's Property in good condition and repair, normal wear and tear excepted, throughout the useful life of Buyer's Property, (b) use Buyer's Property only for the manufacture, storage, and transport of Products for Buyer unless Buyer otherwise approves in writing, (c) mark Buyer's Property as belonging to Buyer or at Buyer's request, Customer, maintain such markings and provide evidence of such markings to Buyer upon Buyer's request, and (d) not remove Buyer's Property (other than shipping containers and the like) from Seller's premises without Buyer's written approval. All replacement parts, additions, improvements, and accessories to Buyer's Property will become part of Buyer's Property.

13.3 Buyer may upon reasonable advance notice enter Seller's premises to inspect Buyer's Property and Seller's records regarding Buyer's Property. No person or entity other than Buyer (or its Affiliates or Customers if applicable), has any right, title or interest in Buyer's Property except, subject to Buyer's sole discretion, Seller's rights to utilize Buyer's Property in the manufacture of Products under the Contract. Seller will immediately release to Buyer upon request, and Buyer may retake immediate possession of, Buyer's or its Customers' Property, at Seller's expense. Seller shall cooperate with Buyer if Buyer elects to take possession of Buyer's Property. Seller will release the requested Buyer's Property and other property to Buyer F.C.A. Seller's plant (Incoterms 2020), properly packed and marked in accordance with the requirements of Buyer's carrier. If the release or recovery of Buyer's Property or other property renders Seller unable to produce the Products, the release or recovery will be deemed a termination of the Contract with respect to that Product pursuant to Section 14.

13.4 Seller's unauthorized possession of Buyer's Property would cause irreparable harm to Buyer, Customers, and other third parties. Buyer may obtain immediate relief in the nature of a replevin or claim and delivery action. As long as Seller receives at least 24 hours' notice of any request for hearings in connection with proceedings instituted by Buyer, Seller waives, to the fullest extent possible under applicable law, the right to any notice in excess of twenty-four (24) hours in connection with any judicial proceedings instituted by Buyer. Seller hereby waives any requirement for Buyer to post a bond in a replevin action. Seller shall pay all costs Buyer incurs, including, but not limited to, reasonable attorney fees, the cost of the bond and sheriff and other court officers' fees in connection with the recovery of Buyer's Property through legal process.

13.5 Seller may own or possess other tooling, jigs, dies, gauges, fixtures, molds, patterns, supplies, materials, and other equipment and property that is not Buyer's Property ("Seller's Property"). Seller will, at its expense, furnish, maintain in good condition, and replace when necessary Seller's Property needed to perform the Contract. While a Contract remains in effect, Buyer may purchase Seller's Property specially designed or outfitted for the production of the Products and not needed by Seller to produce standard stock of Seller or other Products for other customers. To the extent that Buyer elects to take title to any Seller's Property, Buyer will, within 45 days following delivery of such Seller's Property to Buyer, pay to Seller the lower of: (a) the net book value of such Seller's Property (i.e., actual cost less amortization), or (b) then current fair market value of such Seller's Property, in each case less any amounts that Buyer has previously paid to Seller on account of such Seller's Property. If Buyer and Seller do not agree on the amount to be paid to Seller for any Seller's Property under this Section, Buyer and Seller will work to resolve the

disagreement in good faith; Buyer will nonetheless have the right to take immediate possession of such Seller's Property upon payment of the undisputed amount (net of any amounts due to Buyer) to Seller, with any additional amounts owed to Seller to be paid promptly upon resolution of the disagreement.

13.6 If Seller fails to perform any of its obligations under this Contract and Buyer believes such failure may disrupt Buyer's or its Customers' operations, Buyer and its agents may, without limiting Buyer's other rights and remedies available hereunder or at law, perform such obligations, without releasing Seller from such obligations. This includes seeking additional Product from alternate sellers to cover so that Buyer may ensure continuity of supply. Buyer and its agents may also, in their sole discretion, enter Seller's premises to perform or to remove all Buyer Property and Seller Property and materials necessary to perform such obligations.

## **14. TERMINATION.**

14.1 If the Products or Services are associated with a specific Customer program then the term of the Contract will run for the length of the production life of the program including extensions.

14.2 Buyer may terminate all or any part of this Contract, without liability to Seller if Seller: (a) repudiates or breaches any of the terms of this Contract, including Seller's warranties; or (b) fails to perform Services or deliver Products in accordance with the requirements of the Contract. Seller will be liable to Buyer for all Losses (including costs and reasonable attorneys' fees) caused by or resulting from its default under the Contract.

Buyer may immediately terminate this Contract without liability upon the happening of any of the following or any other comparable event: (a) insolvency of the Seller; (b) filing of a voluntary or involuntary petition in bankruptcy by or against Seller; (c) appointment of a receiver or trustee for Seller; or (d) execution of an assignment for the benefit of creditors by Seller, provided that such petition, appointment, or assignment is not vacated or nullified within 15 days after such event. Seller shall reimburse Buyer for all Losses Buyer incurs in connection with any of the foregoing whether or not this Purchase Order is terminated.

14.3 In addition to any other rights of Buyer to terminate the Contract, Buyer may terminate all or any part of this Purchase Order at any time and for any reason by giving written notice to Seller. Termination will be effective on the date specified in Buyer's written notice ("Termination Date"). Upon receipt of such notice, Seller will immediately stop work on this Purchase Order or the terminated portion thereof and notify any subcontractors to stop work.

In the event of termination under this Section 14.3, in addition to the Purchase Price for the Products/Services delivered or performed by Seller in accordance with the Purchase Order and Releases and accepted by Buyer prior to the Termination Date, Buyer shall pay the following amounts to Seller without duplication, subject to Sections 14.4 and 14.5:

(a) The Purchase Price specified in the Purchase Order for fully finished and conforming Products manufactured or provided in accordance with the terms of the Purchase Order and Releases, but not previously paid for; and

(b) The actual costs of work-in-process, Products, and raw material incurred by Seller in performing its obligations under the Purchase Order and Releases, to the extent such costs are reasonable in amount and are properly allocated or apportioned under generally accepted accounting principles to the terminated portion of the Purchase Order and that are transferred to Buyer.

14.4 Buyer will be liable for costs under Section 14.3(b) only to the extent any work-in-process and raw materials were acquired to complete Product quantities to be manufactured and delivered in accordance with firm delivery or firm Release schedules approved by Buyer and outstanding as of the Termination Date. Buyer shall not be obligated to make any payment for (i) Products, Services, work-in-process or Products or raw materials inventory that are manufactured, provided or procured by Seller in amounts in excess of those authorized as firm in any Release or Purchase Order, that are damaged or destroyed, or that are not merchantable or usable; (ii) undelivered Products that are in Seller's standard stock or that are readily marketable; or (iii) work-in-process or parts or raw materials that can be returned to Seller's suppliers or subcontractors for credit. Payments made in connection with termination under Section 14.3 shall not exceed the aggregate price for the Products or Services that would be manufactured or provided by Seller under any Release outstanding as of the Termination Date.

14.5 Except as provided herein, Buyer shall not be liable for and shall not be required to make payments to Seller, directly or indirectly, for any loss arising from or attributable to failure to realize anticipated revenue, savings or profit, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment costs, unamortized depreciation costs.

14.6 Buyer depends on Seller's performance under this Contract to meet its obligations to Customers. Seller may not suspend its performance under this Contract or terminate all or any part of this Contract without the written consent of Buyer. In the event of any dispute between Seller and Buyer in connection with this Contract, Buyer and Seller will work to resolve the dispute in good faith, and Seller will continue to provide Buyer with an uninterrupted supply of Products in accordance with the terms of this Contract. In the event of any uncertainty relating to Seller's performance or actual or potential delay in the performance of Seller's obligations under this Contract, Buyer may require Seller to manufacture and deliver Products in excess of Buyer's current requirements in amounts Buyer determines in good faith, so long as those requirements do not exceed the capacity constraints that Seller has previously communicated to Buyer in writing. Further, in any action brought by Buyer to enforce Seller's obligations in connection with the production or delivery of Products, Seller acknowledges and agrees that monetary damages are not a sufficient remedy for any actual, anticipatory or threatened breach and that, in addition to all other rights and remedies that Buyer may have, Buyer shall be entitled to specific performance and injunctive equitable relief, without necessity of posting bond or proof of actual injury or damage, as well as Buyer's Losses, including costs and reasonable attorneys' fees.

14.7 In connection with the expiration or termination of this Purchase Order in whole or in part, Seller will cooperate in the transition of supply. Seller will continue production and delivery of all Products and Services as ordered by Buyer, at the prices and in compliance with the terms of the Purchase Order, without premium or other condition, during the entire period Buyer reasonably needs to complete the transition to alternate Seller(s). Subject to Seller's reasonable capacity constraints, Seller will provide special overtime production, storage and/or management of extra inventory of the Products or Services, extraordinary packaging and transportation and other special services (collectively, "Transition Support") as requested by Buyer in writing. If transition of supply occurs for reasons other than Seller's termination or breach, Buyer will, at the end of the transition period, pay the reasonable, documented cost of Transition Support as requested and incurred, provided that Seller has advised Buyer prior to incurring such amounts of its estimate of such costs. If the Parties disagree on the cost of Transition Support, Buyer

will pay the agreed portion to Seller and pay the disputed portion into third-party escrow for disbursement after the dispute has been resolved.

**15. EXCUSABLE DELAYS.** Any delay or failure by a Party to fulfill its obligations under this Contract will not be deemed a breach to the extent that Excusable Delay causes the failure or delay. “Excusable Delay” means acts of God, unavailability of electric power or other utilities, fire, flood, earthquake, tornado, explosions, riot, war, acts of terrorism, embargoes, government actions issued in an emergency, including those that prevent a Party from exercising control over its facility, and any similar circumstance beyond the reasonable control of a Party and without such Party’s fault or negligence. Raw material shortages, labor shortages, or system failures are not Excusable Delays, unless directly caused by an event that constitutes Excusable Delay. The Party impacted by an Excusable Delay must make all reasonable efforts and incur all reasonable costs to mitigate the effect of the Excusable Delay. In no event, however, will Seller’s inability to perform as a result of any of the following constitute Excusable Delay: (a) Seller’s insolvency or financial condition; (b) change in cost or availability of raw materials or components based on market conditions; (c) change in cost or availability of a method of transportation; (d) changes in, or implementation of new government regulations, taxes or incentives; (e) failure to obtain permits, licenses or other government approvals; (f) failure to use available substitute services, alternate sources, work-around plans or other means by which the requirements of a buyer of products or services substantively similar to the Products or Services would be satisfied; or (g) labor disruptions, strikes, lockouts and slowdowns affecting a Seller’s facility or a Seller’s sub-Seller’s facility. If the non-performing party cannot provide adequate assurances that the Excusable Delay will last less than 30 calendar days, or if the non-performance exceeds 30 calendar days, the other Party may terminate the Contract by notice given to non-performing Party before performance resumes without liability.

**16. LABOR DISPUTES.** Seller shall provide at least 120 days’ written notice to Buyer prior to the scheduled expiration of any current labor contract. If requested by Buyer, Seller shall establish, at Seller’s expense, a 30-day inventory of finished Products, at a site mutually agreed upon with Buyer, before the expiration of any such labor contract and/or any foreseeable or anticipated labor disruption. Seller shall notify Buyer immediately of any actual or potential labor dispute delaying or threatening to delay the timely performance of any Purchase Order.

**17. NONDISCLOSURE OF INFORMATION.** If Buyer and Seller have executed a Nondisclosure Agreement, the Nondisclosure Agreement will control in the event of any conflict with this Section. “Buyer Information” means all information that Seller receives from Buyer or observes or obtains at a Buyer facility, including, but not limited to, information relating to: the Products or Services, facilities, products, machinery, capabilities, Intellectual Property, developments, and plans of Buyer, its Affiliates, and Customers. Seller will not disclose to any third party or use for any purpose other than performing this Contract any Buyer Information, without Buyer’s written permission (except as required by law). Seller will hold all Buyer Information in trust for Buyer’s sole use and benefit. Seller will maintain the appropriate security safeguards reasonably necessary to prevent unauthorized persons from accessing, using, disclosing, or otherwise committing any act that could breach or compromise the privacy, availability, integrity, or content of the Data.

In addition, Seller will maintain an appropriate risk-based cybersecurity program that meets or exceeds industry standards. Such program shall include security safeguards reasonably necessary to prevent unauthorized persons from accessing, using, disclosing, or otherwise committing any act that could breach or compromise the privacy, availability, integrity, or content of Seller’s own data systems related to the design, production, testing, or information for the Products. In the event of any unauthorized access to or loss of Buyer Information or if there are indications that upon reasonable assessment should justify Seller’s suspicion of such incident, Seller will (1) immediately implement corrective actions, and (2) inform Buyer within 24 hours of discovery. Buyer Information does not include any information that is

publicly known other than through disclosure by or through Seller. Supplier must, at its expense, demonstrate compliance with this section through a third-party audit or other method, at Buyer's discretion.

## **18. INDEMNIFICATION AND INSURANCE.**

18.1 In addition to the specific indemnities described in Sections 12.4 and 13.1, Seller will indemnify, defend, and hold harmless the Indemnitees against any and all Losses that are alleged to relate to or arise from: (a) personal injury, death, or damage to any property in any way connected with Seller's performance of this Contract or the Products and/or Services, (b) failure of the Products or Services to comply with the representations and warranties contained in this Contract, (c) Seller's failure to perform its obligations under the Contract, (d) the performance of any service or work by Seller or its employees, agents, representatives and subcontractors on Buyer's or Customer's premises or the use of Buyer's or Customers' property, except to the extent such liability arises out of the gross negligence or willful misconduct of Buyer or Customer, or (e) failure of the Products or Services to comply with applicable Laws. At Buyer's request, Seller shall defend such claims or suits at Seller's expense by reputable counsel satisfactory to Buyer. Buyer will have the right to control the defense of any claim made against Buyer. This indemnity will survive acceptance of the Products or completion of the Services, the expiration of the warranty covering the Products or Services, and any expiration or termination of the Contract.

18.2 Seller shall, at its expense, maintain insurance at the following minimum levels: (1) general liability insurance with coverage limits of at least \$2,000,000 for bodily injury or property damage, (2) all risk property perils insurance of at least \$2,000,000 covering property while in Seller's care, custody, or control and naming Buyer as loss payee, and (3) worker's compensation insurance as required by applicable law. Seller will maintain an umbrella policy coverage with a limit of at least \$10,000,000. Seller shall also at all times, at its expense, be covered by a blanket fidelity bond in the amount of at least \$1,000,000. All insurance will be primary and non-contributory to any insurance coverage purchased by Buyer. Seller releases Buyer, Buyer's agents and employees, on behalf of Seller and its insurers, from any claims (or rights of subrogation for such claims) to the extent such claims are insured against whether or not such insurance is required by Buyer. All liability and umbrella insurance will name Buyer as an additional insured. Upon Buyer's request, Seller shall furnish Buyer with certificates setting forth the amounts of coverage, policy number(s) and expiration date(s).

## **19. TECHNICAL INFORMATION.**

19.1 Seller will create, maintain, update, and provide to Buyer, in compliance with Buyer's drafting and math data standards, all technical information about the Products and their manufacture that is reasonably necessary or requested by Buyer in connection with its use of the Products, including drawings, engineering validation, and qualification of the Products for automotive production and other applications and compliance with Laws. Such technical information will not be subject to any use or disclosure restrictions.

19.2 Seller agrees not to assert any claim against Buyer, Customers, or their respective sellers with respect to any information, including technical information, that Seller uses or discloses in connection with the Products covered by this Contract (other than a claim for patent infringement with respect to Intellectual Property that is not licensed to Buyer under Section 12).

19.3 Seller authorizes Buyer, its Affiliates, agents, subcontractors, and Customers and their subcontractors to repair, reconstruct, or rebuild the Products delivered under this Contract without payment of any royalty or other compensation to Seller.

19.4 Seller will maintain and implement commercially reasonable and industry standard disaster recovery, cybersecurity, and business continuity procedures to ensure that the supply of Products and Services are not interrupted.

## 20. COMPLIANCE.

20.1 Seller will comply with applicable Laws in connection with the supply of the Products or Services to Buyer. Upon request by Buyer, Seller shall certify in writing, from time to time, its compliance with applicable Laws.

20.2 Seller represents that it complies with applicable Laws relating to contracting with small and disadvantaged business concerns and to equal employment opportunity and affirmative action in the employment of minorities, women, individuals with disabilities, and certain veterans. Consistent with applicable law, Seller agrees not to discriminate against any employee or applicant for employment because of age, race, color, religion, sex, national origin, veterans' status, or any other protected category.

20.3 Seller shall, at Buyer's request, provide information necessary for Buyer to comply with all applicable Laws and/or Buyer's customer requirements, including, without limitation, related legal reporting obligations, in the country(ies) of destination. Seller shall provide all documentation and/or electronic transaction records to allow Buyer to meet customs related obligations, any local content and origin requirements, and to obtain all tariff and trade program duty avoidance(s) and/or refund benefits. Seller shall indemnify Buyer against all Losses arising from Seller's failure to comply with these requirements. The rights to and benefits of any (1) duty drawback, including rights developed by substitution and rights that may be acquired from Seller's suppliers and (2) export credits, to the extent transferable to Buyer, are the property of Buyer. Seller will inform Buyer of such rights and Seller will provide all documentation and information and take any necessary steps to obtain refunds or drawback of any duty, taxes or fees paid, and to receive export credits from, the government of the country of origin or export country. Seller will provide Buyer with all documentation and information required by applicable Laws necessary to determine admissibility, timely release, customs clearance, and entry of the Products into the destination country. Seller will advise Buyer if the importation or exportation of the Products requires an import or export license and will assist Buyer in obtaining any such license but will not be required to incur any costs without reimbursement by Buyer. Seller warrants that the information regarding the import or export of the Products is true and correct, and that all sales covered by the Purchase Order will be made at no less than fair value under the anti-dumping laws of the countries to which the Products are exported.

20.4 Seller shall use commercially reasonable efforts to ensure that all Products and the processes used to make them minimize life-cycle environmental impact, including minimizing waste generation, the use of energy and nonrenewable resources, and the emission of greenhouse gases. Seller shall maximize the use of recycled, recyclable, biodegradable and nontoxic materials.

20.5 Seller must periodically submit to reasonable sustainability assessments by Buyer and/or, at Buyer's request, by an independent third party, or Customer, to verify compliance with Buyer's sustainability requirements.



20.6 Seller represents that it does not, and shall not, utilize slave, prisoner, child, or any other form of forced or involuntary labor, as defined by applicable Law, in connection with the supply of Products or Services to Buyer under the terms of this Contract.

20.7 Seller shall certify in writing that it is either a participating member of the Customs-Trade Partnership Against Terrorism (“C-TPAT”) Program as promulgated by the U.S. Customs and Border Protection Bureau or that it is in compliance with all applicable supply chain security recommendations or requirements of the C-TPAT program initiative (for more information go to [http://cbp.gov/xp/cgov/import/commercial\\_enforcement/ctpat/](http://cbp.gov/xp/cgov/import/commercial_enforcement/ctpat/)). Seller shall indemnify and hold Buyer harmless from and against any Losses arising from or relating to Seller's noncompliance with this section.

20.8 Seller will, and will ensure that its subcontractors will, not take any action that could be reasonably expected to render Buyer liable for a violation of the FCPA, the Bribery Act, and any other similar Law that prohibits the offering, giving or promising to offer or give, directly or indirectly, money or anything of value to any official of a government, governmental entity or agency, political party or instrumentality to assist Seller or Buyer in obtaining or retaining business or to gain an unfair business advantage.

20.9 Customer may ask or require Buyer to disclose the country of origin of the raw materials or components of Buyer's product or assembly including, without limitation, the location of the mines from which the minerals were extracted that were used to form such raw materials. At Buyer's request, Seller shall provide all relevant information and reporting as may be requested (including, without limitation, information related to Seller's sellers) to enable Buyer to completely and accurately make its disclosures, and will take any other actions reasonably required by Buyer to comply with this Section, including, but not limited to, purchasing or otherwise acquiring access to (and requiring Seller's Sellers to purchase or otherwise acquire access to) any raw material “tracking” software or other products or activities required by Buyer. By way of example, the requirements of this Section would include the disclosure to Buyer of information necessary to enable Customers (or original equipment manufacturers) to comply with the Conflict Minerals disclosure mandate under section 1502 of the U.S. Dodd Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203) and regulations promulgated thereunder, potential legislation or regulations enacted by other countries or states pertaining to conflict minerals, as well as for social policies that Buyer, Customer or the original equipment manufacturer wish to pursue. If further guidance on compliance with section 1502 is provided by governmental or regulatory sources from and after the date hereof, Seller acknowledges and agrees that this section will be automatically and without any action required by Buyer modified to require compliance with such additional guidance.

## **21. RIGHT TO AUDIT.**

21.1 Buyer may, at any reasonable time, send its authorized representatives to examine the Seller's documents and materials relating to Seller's obligations under this Contract or relating to Seller's charges to Buyer. At Buyer's request, Seller will provide the Buyer with past, present and pro forma financial reports including, but not limited to, income statements, balance sheets, cash flow statements and supporting data for the Seller and any Affiliate of Seller involved in producing, supplying, or financing the Products, Services, or any component part of the Products or Services.

21.2 The Buyer may use financial reports provided under this Section 21 only to assess the Seller's ongoing ability to perform its obligations under the Contract and for no other purpose, unless the Seller agrees in writing. Seller shall maintain all pertinent books and records relating to this Contract for a period of four (4) years after completion of delivery of products pursuant to this Contract.

**22. ETHICAL CONDUCT.** Seller's employees shall comply with the PHINIA Supplier Code of Conduct and PHINIA Supplier Manual. Compliance with these standards is a mandatory component of Buyer's purchase contracts worldwide and applies to Seller's subcontractors.

**23. SERVICE AND REPLACEMENT PARTS.**

23.1 During the term of this Contract, Seller will fulfill Buyer's and Customer's service and replacement parts requirements at the then current production price(s) under this Contract. If the Products are systems or modules, Seller will sell the components or parts that comprise the system or module at price(s) that will not, in the aggregate, exceed the price of the system or module less assembly costs.

23.2 Seller will also fulfill Buyer's and its customers' service and replacement parts requirements during the fifteen (15) year period following the end of the production program for the vehicle into which the Products are incorporated ("Post-Production Period") unless this Contract expires or is terminated by Buyer, for reasons other than Seller's breach, prior to the commencement of the Post-Production Period.

23.3 During the initial five (5) years of the Post-Production Period, the price(s) for such Products will be the production price(s) that were in effect at the commencement of the Post-Production Period. After the initial five years following the end of serial production, Seller may request a revised MOQ (Minimum Order Quantity) not to exceed three months demand.

23.4 In the event of any disagreement regarding pricing during the remainder of the Post-Production Period, Buyer and Seller will resolve the disagreement in good faith. Seller will continue to fulfill Buyer's and Customer's service and replacement parts requirements at the price in effect at the expiration of the most recent Buyer purchase order for the Products while Buyer and Seller resolve any disagreement regarding future pricing.

23.5 At Buyer's request, Seller will also make service literature and other materials available at no additional charge to support Buyer's service activities.

**24. GOVERNING LAW AND VENUE**

24.1 This Contract and any related claims shall be governed by the laws of the country and state where the PHINIA company that is issuing the respective purchase order, release, or call-off has its seat, without regard to its conflict of Laws provisions, except if the location of the PHINIA entity ordering the Products is in the United States of America or Mexico, then the Parties' Contract and any dispute arising from or relating to the same shall be interpreted and enforced in accordance with the laws of the State of Michigan, without regard to its conflicts of laws provisions.

The United Nations Convention on Contracts for the International Sale of Products will not apply. In the event of any such dispute, the Parties irrevocably consent to the exclusive personal jurisdiction of Michigan, and further consent to venue in the courts of Oakland County, Michigan, or the United States District Court for the Eastern District of Michigan. To the extent Chinese law applies, the Parties agree to arbitration in accordance with the then applicable rules of the China International Economic and Trade Arbitration Commission in Shanghai; to the extent Indian law applies, the Parties agree that any dispute related hereto that arises in India will be subject to arbitration in accordance with the rules contained in the Arbitration and Conciliation Act, 1996 and amendments thereto.

24.2 Any dispute arising from or relating to the Parties' Contract may also be brought by Buyer in any court having jurisdiction over Seller or, at Buyer's option, in any court having jurisdiction over Buyer's location(s) specified in the Contract, in which event, Seller consents to jurisdiction and service of process in accordance with applicable procedures. Any claim or proceeding by Seller against Buyer may be brought by Seller only in the court having jurisdiction over the location of Buyer from which the subject Purchase Order was issued. Seller irrevocably waives and agrees not to raise any objection it might now or hereafter have to any such claim or proceeding in any such court, including any objection that the place where such court is located is an inconvenient forum or that there is any other claim or proceeding in any other place relating in whole or in part to the same subject matter.

## **25. MISCELLANEOUS.**

25.1 This Contract constitutes the entire agreement between Seller and Buyer with respect to the matter it contains and supersedes all prior oral or written representations and agreements.

25.2 Seller may not assign its rights or delegate its obligations, in whole or in part, under this Contract without Buyer's prior written consent. The sale of a controlling interest in Seller's outstanding voting securities, or a merger or combination involving Seller that changes the voting control of Seller or in which Seller is not the surviving corporation, shall be deemed an assignment of the Contract requiring Buyer's consent.

**25.3 IN NO EVENT SHALL BUYER BE LIABLE TO SELLER FOR ANTICIPATED OR LOST PROFITS, INTEREST, PENALTIES OR INCIDENTAL, CONSEQUENTIAL, PUNITIVE, MULTIPLE, OR EXEMPLARY DAMAGES OR LIABILITIES IN CONNECTION WITH THIS CONTRACT, WHETHER FOR BREACH OF CONTRACT, TORT LIABILITY, LATE PAYMENT, PROPERTY DAMAGE, PERSONAL INJURY, ILLNESS, OR DEATH OR OTHERWISE.**

25.4 The failure of either Party to enforce any right or remedy provided in the Contract or by Law will not be deemed a waiver of that right or remedy on a subsequent occasion or a waiver of any other right or remedy. No extension of time for performance of any obligation or act by either Party will be deemed an extension of time for the performance of any other obligation or act.

25.5 Seller and Buyer are independent contracting parties and nothing in this Purchase Order will make either Party the agent or legal representative of the other for any purpose, nor does it grant either Party any authority to assume or to create any obligation on behalf of or in the name of the other Party.

25.6 No modification of the Contract, including any waiver of or addition to any of the Terms shall be binding upon Buyer, unless made in writing and signed by Buyer's authorized representative.

25.7 If any term of this Contract is invalid or unenforceable under any Law, that term will be deemed modified or deleted as reasonably determined by Buyer, but only to the extent necessary to comply with such Law, and the remaining provisions of this Contract will remain fully in effect. If this Purchase Order covers Products or Services to be exported into or imported from a country other than the United States whose Laws affect the composition or quality of the Products or services, or any other material term hereof, Seller shall so inform Buyer and Buyer may, at its option, attach to this Purchase Order a supplement reasonably addressing such Laws, or may direct Seller to those terms and conditions of sale that govern Buyer's purchases in such other country and, upon such direction by Buyer, such alternate terms and conditions shall then govern the Purchase Order.

25.8 The rights and remedies reserved to Buyer in the Contract will be cumulative and additional to all other remedies available to Buyer in law or equity.

25.9 Seller's covenants, representations and warranties under the Contract will survive any delivery, inspection, payment or acceptance and any completion or termination of the Contract.

25.10 If this Purchase Order covers Products or services for Buyer's use in the performance of any contract, sub-contract, or purchase order in which the United States Government, or any agency or department thereof, is the principal contractor, then the additional terms and conditions set forth in a Supplement to this Purchase Order will apply.

25.11 Seller shall ensure that all its liabilities and obligations under these Terms flow down to its suppliers and subcontractors. Seller shall ensure compliance by its suppliers and subcontractors with such liabilities and obligations as required by Buyer and its Customers.

Revised July 2024