

PURCHASE TERMS AND CONDITIONS

February 20, 2015

1. **ACCEPTANCE.** These Purchase Terms and Conditions ("**Terms**") shall be reproduced on any Purchase Order issued by Transmisiones y Equipos Mecánicos, S.A. de C.V., and shall be expressly accepted by Seller (i) when notifying Buyer of its acceptance; or (ii) when starting or beginning performance of any provision of services ("**Services**") or supply of products ("**Products**") pursuant to the Purchase Order, and will involve the unconditional acceptance of Seller of these Terms, with the exclusion of Seller's sale terms and conditions. The term "**Purchase Order**" means the purchase order, which is subject and governed by these Terms, and is a binding contract whereby Buyer agrees to purchase and receive, and Seller to sell and deliver the Products or Services mentioned in the Purchase Order. The term "**Seller**" means the person or entity that supplies Products or provides Services. The term "**Buyer**" means Transmisiones y Equipos Mecánicos, S.A. de C.V., a corporation legally organized and existing under the laws of Mexico, who receives Services or Products under these Terms.

2. **CHANGES.** Buyer may from time to time by notice or change order via e-mail to Seller, signed by an authorized representative of Buyer, make reasonable changes, within the scope of the Purchase Order, to the drawings, specifications, designs, materials, packaging and labeling, testing, quantity, delivery dates, place of delivery, payment terms, shipping instructions, or similar requirements prescribed in the Purchase Order. The parties agree that such notices or change orders, as well as deliveries to be made in terms of same, will be part of the Purchase Order and shall be regulated by these Terms. At Seller's request with appropriate supporting documentation, the parties will agree in writing upon an equitable adjustment to the Purchase Order prices and times for performance as a result of Buyer's changes. Any claim hereunder shall be asserted within 30 (thirty) calendar days as of the notification of change by Buyer. Seller shall give Buyer advance notice in writing of all specifications, design, part numbers and other identification changes, as well as major changes in process procedure of changes in the location of the manufacturing

plant, made by Seller and applying to the Products or Services covered by the Purchase Order.

3. **QUANTITY.** If quantities or delivery schedules are not specified in the Purchase Order, they will be as reasonably determined by Buyer and stated in Buyer's firm releases issued to Seller from time to time. Whether quantities or delivery terms are "reasonably determined" shall take into account, without limitation: (i) any capacity limitations specified in the Purchase Order or otherwise agreed to by Buyer and Seller in writing; (ii) unusual volume or timing fluctuations that are inconsistent with customary lead time requirements or any lead time requirements specified in the Purchase Order or otherwise agreed to by Buyer and Seller in writing. However, in all events, Seller shall meet Buyer's quantities and delivery schedules, provided that if Seller is unable to meet Buyer's need for the Products, Seller shall find alternative supplies for Buyer in consultation with Buyer. Actual procurement from the alternative supplier is subject to Buyer's final written approval. Buyer may return over-shipments to Seller at Seller's expense. Unless otherwise specifically stated in the Purchase Order, the Purchase Order is not exclusive and Buyer may purchase similar products and services from third parties. Should Buyer cancel, wholly or partly, or fail to purchase a quantity of Products in accordance with a Purchase Order, Buyer shall compensate Seller for reasonable costs relating to such cancelled quantity. In calculating such costs Seller shall not receive compensation to the extent that the Products or raw materials intended for them can be used for other deliveries to Buyer or another party, or for another purpose. Buyer's obligation to compensate for cancellations is conditional upon Seller submitting specified claims for compensation in writing not later than 6 (six) weeks after the notification of the cancellation to Seller.

4. **DELIVERY.** Time is of the essence in Seller's performance of the Purchase Order. Seller will deliver Products and provide Services in strict accordance with the Purchase Order terms. Unless otherwise stated in the Purchase Order, Products will be delivered F.C.A. Seller's dock (Incoterms 2010) and title will transfer upon receipt of

the Products by the freight carrier. If Products are not ready for delivery in time to meet Buyer's delivery schedules, Seller will be responsible for all damages suffered by Buyer, as well as transportation costs and other additional costs required to meet the specified delivery schedule.

5. **PACKING, LABELING AND SHIPMENT.** Buyer may specify the method of transportation and the type and number of packing slips and other documents to be provided with each shipment. Seller will pack and ship Products in accordance with Buyer's instructions, including labeling and hazardous materials instructions. If Buyer has not provided packing, labeling or shipping instructions, Seller will pack, mark and ship Products in accordance with sound commercial practices. If Seller is required to use Buyer's returnable packaging, Seller will be responsible for cleaning and returning the returnable packaging. If returnable packaging is not available, Seller may use expendable packaging and Buyer will reimburse Seller for the reasonable costs of expendable packaging.

6. **PREMIUM SHIPMENTS.** If Seller's acts or omissions result in Seller's failure to meet Buyer's delivery requirements and Buyer requires a more expeditious method of transportation for the Products than the transportation method originally specified by Buyer, Seller shall ship the Products as expeditiously as possible at Seller's sole expense.

7. **INSPECTION AND TESTING.** Buyer may inspect and evaluate production processes and Property and conduct testing at Seller's premises for the sole purpose of verifying Seller's performance under the Purchase Order, as well as Seller's compliance to Buyer's procedures stated on the Supplier Quality Assurance Manual (SQAM). No inspection or failure to inspect will reduce or alter Seller's obligations under these Terms. Seller shall, prior to commencement of serial production of a new Product or changed Products, manufacture and perform quality control in samples in accordance with Buyer's applicable requirements relating to testing from time to time. Once a sample has been approved, alteration of the function, appearance, characteristics, material, production method, place of manufacture or other equipment which may affect the Products, may be done only after written approval on each occasion from the responsible department at Buyer. Delivery may thereafter be made only

after renewed approval of a sample. If Buyer rejects a sample, Seller shall make rectification so that the requirements referred to in this Section are fulfilled and reimburse Buyer's costs for verification testing of the Products after such rectification. Buyer's approval of samples shall not affect Seller's liability and obligations in accordance with these Terms. In addition, Buyer shall have the right to enter Seller's facility at reasonable times to inspect the facility, products, materials and any property of Buyer covered by the Purchase Order. Buyer's inspection of the products, whether during manufacture, prior to delivery, or within a reasonable time after delivery, shall not constitute acceptance of any work-in-process or finished Products.

8. **PRICE AND PAYMENT.** The price for the Products or Services is stated in the Purchase Order and shall apply until the parties agree on a new price in writing. Unless otherwise agreed in writing, the price stated for any Products shall be a fixed price, inclusive of all duties, levies, fees, taxes, cost of shipping, packaging, labeling, storage and insurance. Payment terms are as set forth in the Purchase Order. In the event the payment term is not specified in the Purchase Order, net invoices shall be paid within 90 (ninety) calendar days after the date of delivery of the Products or performance of the Services, as the case may be. Seller will promptly submit correct and complete invoices or other agreed billing communications with appropriate supporting documentation and other information reasonably required by Buyer after delivery of Products and performance of Services, and Buyer may withhold payment until a correct and complete invoice or other required information is received and verified. Seller will accept payment by deposit or electronic funds transfer. Buyer will pay Seller in the currency specified in the Purchase Order or, if none is specified, in the currency of Seller's shipping or service location.

9. **PRICE WARRANTY.** (a) Seller warrants that the prices for the Services or Products sold to Buyer hereunder are not less favorable than those currently extended to any other customer for the same or substantially similar Products or Services in the same or substantially similar quantities. If Seller reduces its prices to others for the same or substantially similar Products or Services during the term of the Purchase Order, Seller will reduce the prices to Buyer for such Services or Products correspondingly. Seller warrants

that prices shown on the Purchase Order shall be complete, and no additional charges of any type shall be added without Buyer's express written consent. (b) If Seller sells the Products covered by the Purchase Order to a third party for incorporation into an assembly which is to be sold to Buyer, the price for such Products will be no more than the price provided in the Purchase Order, plus any additional costs actually incurred by Seller in providing the Products to such third party. Any reduction in Seller's costs resulting from a reduction in freight rates, customs duties, import taxes, excise taxes and sale taxes from those in force on the date of the Purchase Order is to be paid to Buyer by Seller in reduction of the price of the Services or Products ordered.

10. TAXES. Seller is responsible for their tax liabilities, as for the payment of their taxes and other government charges due under the Purchase Order, in accordance with the applicable laws of matter, so it shall pay all certain taxes now or in the future on the manufacture, sale, transportation, storage or use of the Products and Services. Buyer shall not be considered as jointly liable in respect of Seller regarding to those obligations of fiscal nature, unless Buyer is bound to withhold taxes pursuant to the applicable laws. Seller will separately invoice Buyer for any sales, value added, or similar turnover taxes or charges that Seller is required by law to pay or collect from Buyer.

11. WARRANTIES. Unless otherwise specified in the Purchase Order, the warranty period is the period for which the automobile manufacturer warrants the Products to end users. During the warranty period, Seller warrants to Buyer that the Products (i) shall be merchantable and free from defects in manufacture, workmanship, materials and design (to the extent Seller, its employees, agents and/or contractors are responsible for the design), (ii) shall conform to the specifications, drawings, samples, descriptions and performance requirements furnished by Buyer; (iii) shall be fit and sufficient for their particular intended use; and (iv) shall be free from any actual or claimed patent, copyright or trademark infringement. Seller also warrants to Buyer that it will transfer to Buyer ownership and good title to Products delivered and Services provided, free and clear of all liens, encumbrances, and rights of third parties (except those created by Buyer). These warranties are in addition to any other express or implied warranties made by Seller and/or

provided for by applicable law and will survive acceptance and payment by Buyer.

12. NEW MATERIALS. None of the Products to be furnished by Seller to Buyer under the Purchase Order, are, in any way, used, remanufactured, reconditioned or of such age or condition so as to impair the usefulness or safety thereof.

13. INGREDIENTS DISCLOSURE, SPECIAL WARNINGS AND INSTRUCTIONS: If requested by Buyer, Seller shall promptly furnish to Buyer, in such form and detail as Buyer may direct: (a) a list of all ingredients in the Products, (b) the amount of all ingredients in the Products, and (c) all information concerning any changes in or additions to such ingredients. Prior to and with the shipment of the Products, Seller agrees to furnish to Buyer and all carriers sufficient warning and notice in writing (including appropriate labels on the Products, containers and packing) of any hazardous material that is an ingredient or a part of any of the Products, together with such special handling instructions, safety measures and precautions, as may be necessary to comply with the applicable laws, in order to advise carriers, Buyer and their respective employees of how to exercise that measure of care and precaution that will best prevent bodily injury or property damage in the handling, transportation, processing, use or disposal of the Products, containers and packing shipped to Buyer.

14. NON-CONFORMING PRODUCTS. Notwithstanding payment or any prior inspection and except as otherwise specifically provided in the Purchase Order and subject to Sections 15, 16 and 23, Buyer's sole remedy for Products or Services that do not conform to the warranties in Section 11 will be to (1) revoke acceptance or reject the non-conforming Products or Services, (2) require Seller, at Seller's option, to either repair or replace the non-conforming Products or Services (at Seller's expense (including applicable shipping costs) and risk of loss), provided that Seller shall reimburse Buyer for any incidental and consequential damages caused for such non-conforming Products, including, but not limited to, costs, expenses and losses incurred by Buyer (i) in inspecting, sorting, repairing or replacing such non-conforming Products; (ii) resulting from production interruptions; (iii) conducting recall campaigns or other corrective actions; and (iv) claims for personal injury

(including death) or property damage caused by such non-conforming Products, (3) cancel the order Purchase Order for default under Section 22 hereof, and/or (4) require Seller to implement at its expense containment, inspection, sorting, and other quality assurance procedures if Buyer reasonably determines (through statistical sampling or other quality assessments) that a substantial quantity of incoming Products does not conform to the warranties in Section 11. To the full extent possible, Buyer will provide Seller with access to any available warranty data related to the Products and any available field-returned Products.

15. RECALLS. This Section 15 applies to any voluntary or government-mandated offer by Buyer (or the vehicle manufacturer) to vehicle purchasers to remedy an alleged defect that affects motor vehicle safety or to address an alleged failure of a vehicle to comply with an applicable motor vehicle safety standard or guideline (a "Recall"). Except as otherwise stated in the Purchase Order, Seller will be liable for costs and damages resulting from a Recall only if the Recall results in whole or in part from a failure of the Products to conform to the warranties in Section 11 during the warranty period specified in the Purchase Order. If Seller is liable for a Recall, the extent of Seller's liability will be negotiated on a case-by-case basis based on (1) a good faith allocation of responsibility for the Recall, (2) the reasonableness of the costs and damages incurred, (3) the quantity purchased and Purchase Order price of the affected Products, and (4) other relevant factors. As a condition precedent to Seller's liability under this Section 15, Buyer shall (i) notify Seller as soon as practicable after Buyer learns that a Recall being considered implicates the Products, (ii) provide Seller with available performance evaluations, accident reports, engineering investigations, and other data relating to the potential Recall, (iii) provide Seller a reasonable opportunity to participate in inquiries and discussions among Buyer, its customer, and governmental agencies regarding the need for and scope of the Recall, and (iv) consult with Seller about the most cost-effective method of modifying or replacing vehicle systems or component parts, including the Products, in order to remedy the alleged defect or non-compliance.

16. PRODUCT LIABILITY.

16.1. Indemnification. Seller will defend, indemnify and hold Buyer harmless against third-party claims or demands

for injury or death to persons, property damage, economic loss, and any resulting damages, losses, costs and expenses (including all legal fees), regardless of whether the claim or demand arises under tort, contract, strict liability, or other legal theories, if and to the extent caused by Seller's defective design (if Seller has warranted design) or manufacture of Products or provision of Services, delivery of non-conforming Products or Services, or its negligent acts or omissions in its performance under the Purchase Order. This Section 16 will not apply to the extent that the injury, loss, or damage results from (i) Buyer's specification of materials in the Products, (ii) Buyer's design of the Products, (iii) any alteration or improper repair, maintenance, handling, or installation of the Products by anyone other than Seller, or (iv) the integration or interaction of the Products with systems or components not supplied by Seller.

16.2. Procedure. Buyer will notify Seller promptly after Buyer becomes aware of the basis for a claim under this Section 16. The parties will cooperate with each other to determine the root cause of a defect in or failure of the Products (and related systems and components) and an equitable allocation of responsibility among all responsible parties. Seller will examine and test all available Products and related systems and components that are subject to a third-party claim. Buyer will endeavor to include Seller in settlement discussions where indemnity has been or will be sought from Seller, and Buyer may not settle or compromise any third-party claim that gives rise to an indemnification claim without Seller's prior written consent, which will not be unreasonably withheld or delayed.

17. COMPLIANCE WITH LAWS. Seller shall comply with all applicable federal, state and local laws, rules, regulations and ordinances of the country where the Products are manufactured or the Services are performed. Seller will defend, indemnify and hold Buyer harmless from and against any and all claims, losses, damages, costs and expenses resulting from or arising out of any failure of Seller or Seller's employees, agents and subcontractors to comply with any applicable governmental regulations and/or statutes. Seller shall provide Buyer with material safety data sheets regarding the Products and, upon Buyer's request, will provide Buyer with other information reasonably required in order to comply with the applicable laws. Seller shall package and label the Products and their containers, in

particular those which constitute a health, fire, explosion or other safety hazard, in accordance with all applicable federal, provincial, state and local packaging and labeling laws, ordinances, rules and regulations, in effect in the place to which the Products are shipped or as specified otherwise by Buyer.

18. INTELLECTUAL PROPERTY.

18.1 Seller agrees: (a) to defend, hold harmless and indemnify Buyer, its successors, assigns and customers, and users of Products sold by Buyer containing the Products or Services, against any claims of infringement (including patent, trademark, copyright, industrial design right, or other proprietary right, or misuse or misappropriation of trade secret) and resulting damages, losses and expenses (including attorney's and other professional fees) of any nature, arising in any way in relation to the Products or Services under the Purchase Order, including such claims where Seller has provided only part of the Products or Services, provided that Seller expressly waives any claim, defense or objection against Buyer that such infringement arose out of compliance with Buyer's specification; (b) that Buyer or Buyer's subcontractor has the right to repair, reconstruct, or rebuild the specific Products delivered under the Purchase Order without payment of any royalty to Seller; (c) that Products manufactured based on Buyer's drawings, designs and/or specifications may not be used by Seller for its own use or sold to third parties without Buyer's express written authorization; (d) to treat as confidential, not to disclose to third parties, and to use for only the fulfillment of these Terms, any and all technical information that Buyer shall have disclosed or may hereafter disclose to Seller in connection with the Products or Services covered by the Purchase Order, and technical information created or developed specifically for Buyer by Seller under the Purchase Order; (e) to assist Buyer, at Buyer's request, in disputes in which Buyer could become involved by reason of such infringement and if required by Buyer take on the conduct of any dispute; and (f) to the extent that the Purchase Order is issued for the creation of copyrightable works, the works shall be considered "works made for hire", and to the extent that the works do not qualify as "works made for hire", Seller hereby irrevocably grants to Buyer, its successors and assigns, all rights, title and interest in all copyrights and moral rights therein. For avoidance of doubt, all results of work performed or products created or supplied

hereunder by Seller, constitute "works made for hire" specially commissioned by Buyer. Seller shall not use any corporate name or trademarks belonging to or licensed to Buyer other than as instructed by Buyer in writing.

18.2 Buyer's Intellectual Property. Buyer does not transfer to Seller any patent, trade secret, trademark, service mark, copyright, mask work, or other intellectual property right ("Intellectual Property Right") of Buyer in information, documents, or property that Buyer makes available to Seller under the Purchase Order, other than the right to use Buyer's Intellectual Property Rights to produce and supply Products and Services to Buyer. Buyer acknowledges and agrees that nothing in these Terms shall be construed as granting Seller any right or license on Buyer's Intellectual Property Rights, except as otherwise expressly provided in this Section 18.2.

18.3 Seller's Intellectual Property. Except as stated in this Section 18.3, Seller hereby transfers to Buyer the right to incorporate Products purchased from Seller in vehicles and component parts and to sell those vehicles and component parts to the public. If the Purchase Order is terminated by Seller or Buyer pursuant to Section 21 (other than by Seller for Buyer's Default), Seller grants to Buyer a non-exclusive, irrevocable, worldwide, royalty-free, license with right to sublicense and right to use Seller's Intellectual Property Rights during the Purchase Order term that would have applied had it not been earlier terminated under Section 21, and subject to Section 30, to obtain from alternate sources products and services similar to the Products and Services for use in vehicles or component parts covered by the terminated Purchase Order. There will be no fee for this license if (i) Buyer terminates the Purchase Order for Seller's Default, or (ii) Seller terminates the Purchase Order other than for Buyer's Default or pursuant to Section 24. Otherwise, the parties will negotiate a reasonable fee for use of Seller's Intellectual Property Rights.

18.4 Infringement.

(a) Seller is responsible for ensuring that the Products or their use do not infringe the Intellectual Property Rights of any third party. Seller will promptly notify Buyer about any actual or suspected infringement under this Section. Seller will indemnify and defend Buyer and its customers against claims, liabilities, losses, damages, costs, and expenses, including reasonable legal fees, arising out of the actual or

alleged infringement by the Products of a third-party Intellectual Property Rights, at the time the Purchase Order is issued and accepted by Buyer. If a claim under this Section 18.4 results, or is likely to result, in an injunction or other order that would prevent Seller from supplying or Buyer from using Products for their intended purpose, Seller will, at its expense and at Buyer's option, either (i) secure a license of the Intellectual Property Right that permits Seller to continue supplying the Products to Buyer, or (ii) modify the Products so that they become non-infringing, so long as the modification does not materially alter the operation or performance of the Products, or (iii) replace the Products with non-infringing but practically equivalent Products.

19. PROPERTY.

19.1 Buyer's Property.

(a) Buyer will own the tooling, jigs, dies, gauges, fixtures, molds, patterns, supplies, materials, and other equipment and property used by Seller to manufacture, store, and transport Products or provide Services ("Property") if (i) the Property is so designated in the Purchase Order, or (ii) Buyer or its customer has provided or paid for the Property ("Buyer's Property"). 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 its customer's ownership of Buyer's Property except those that result from the acts or omissions of Buyer or its customer. Seller will hold Buyer's Property on a bailment basis and will be responsible for loss or damage to Buyer's Property while in its possession or control. To the extent permitted by law, Seller waives any lien or similar right it may have with respect to Buyer's Property.

(b) Seller will (i) at its expense maintain Buyer's Property in good condition and repair, normal wear and tear excepted, throughout the useful life of Buyer's Property, (ii) use Buyer's Property only for the manufacture, storage, and transport of Products for Buyer unless Buyer otherwise approves in writing, (iii) at Buyer's request and expense, mark Buyer's Property as belonging to Buyer or its customer, and (iv) 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, unless they can be removed without damaging Buyer's Property.

(c) Buyer will pay for Buyer's Property that it is required to purchase at the amount specified in the Purchase Order or, if no amount is specified in the Purchase Order, at (i) Seller's actual cost of the Buyer's Property, if manufactured by a third party, or (ii) Seller's actual cost of purchased materials, components, and services plus Seller's actual cost of labor and overhead allocable to the Buyer's Property, if manufactured by Seller.

(d) Subject to Section 19.1(e), Seller will immediately release to Buyer upon request, and Buyer may retake immediate possession of, Buyer's Property and other property of Buyer or its customers at any time, with or without cause and without payment of any kind unless otherwise provided in the Purchase Order. Seller will release the requested Property and other property to Buyer F.C.A. Seller's plant (Incoterms 2010), 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 a Product, the release or recovery will be deemed a termination of the Purchase Order with respect to that Product pursuant to Section 21 or 22, as applicable.

(e) Seller's obligation to release and allow Buyer possession of Buyer's Property under Section 19.1(d) shall be conditioned on payment by Buyer of all amounts owed for Buyer's Property under Section 19.1(c), except that if Buyer and Seller dispute the amount owed under Section 19.1(c), Seller shall release and allow Buyer possession upon payment by Buyer of the undisputed portion of the amount claimed by Seller to be owed. Seller's relinquishment of possession shall not prejudice any claim or right to payment of Seller for the disputed amounts.

19.2 Seller's Property. Seller will own all 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 Purchase Order. While a Purchase Order for Products remains in effect, Buyer may purchase Seller's Property used exclusively to produce those Products and not needed by Seller to produce Products or products for other customers, for a purchase price equal to the greater of fair market value or Seller's unamortized acquisition cost.

20. REPLACEMENT PARTS. Seller will sell to Buyer Products necessary for it to fulfill its current-model service and replacement parts requirements at the prices set forth in

the Purchase Order, to the extent that Buyer can offer its customers such Products and replacement parts. Additionally, Seller will also make those Products available to Buyer for Buyer's past-model service requirements for a period of 15 (fifteen) years after the end of the vehicle production program. If the Products are systems or modules, Seller will sell the Products, components or parts that comprise the system or module at prices that shall not, in the aggregate, exceed the price of the system or module less assembly costs. During the 15 (fifteen) years period after Buyer completes current model purchases, Seller will sell Products to Buyer to fulfill Buyer's past model service and replacement parts requirements. Unless otherwise agreed to by Buyer, the prices during the first 5 (five) years of this period shall be those in effect at the conclusion of current model purchases. The parties will negotiate in good faith the prices, quantities, and delivery terms for past-model service Products based on the availability and cost of needed materials, supplies, and skilled workers, the additional costs for equipment setup, packaging, shipping and handling, related services, and other relevant factors.

21. **TERMINATION.** In addition to any other rights of Buyer to terminate the Purchase Order, Buyer may immediately terminate the Purchase Order, in whole or in part, at any time and for any reason, upon written notice to Seller with at least 10 (ten) calendar days in advance to the effective date of termination. Upon such termination, Buyer shall pay to Seller the following amounts without duplication: (i) the price of the delivered Products or Services concluded in accordance with the Purchase Order and that have not been previously paid for; and (ii) the actual costs of work-in-process and raw materials incurred by Seller in furnishing the Products or Services under the Purchase Order to the extent such costs are reasonable in amount and are properly allocable or apportionable under generally accepted accounting principles to the terminated portion of the Purchase Order, provided that Seller shall make delivery of such Products to Buyer; less, however, the sum of (i) the price at which Seller is able to sell such Products or materials, and (ii) the cost of any damaged or destroyed products or material. Buyer shall make no payments for finished Products, work-in-process or raw materials fabricated or procured by Seller in amounts in excess of those authorized by the Purchase Order nor for any undelivered Products that are in Seller's standard stock or that are readily marketable. Payments made under this Section, shall not exceed the total price payable by Buyer for finished Products or Services that would be manufactured or

produced by Seller under delivery schedules arising from the Purchase Order, effective on the termination date. Except as provided in this Section, Buyer shall not be liable for and shall not be required to make payments to Seller, directly or on account of claims by Seller's subcontractors, for loss of profits, damages, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs or rental, unamortized costs or rental, unamortized depreciation costs, or general and administrative burden charges relating to the termination of the Purchase Order. Within 30 (thirty) calendar days from the effective date of termination, Seller shall submit a comprehensive termination claim to Buyer, with sufficient supporting data to permit Buyer's audit, and shall thereafter immediately furnish such supplemental and supporting information as Buyer may reasonable request. Buyer or its agents shall have the right to audit and examine all books, records, facilities, work, materials, inventories and other items relation to any termination claim of Seller. The parties expressly agree that any claim not filed by Seller within the time abovementioned will prescribe. Upon termination of a Purchase Order, Seller will assist Buyer in locating an alternative source for the Products and Services and in moving production to the alternate source selected by Buyer. Buyer may terminate the Purchase Order upon giving at least 15 (fifteen) calendar days' notice to Seller, without liability to Seller, if Seller, (i) sells, or offers to sell, a material portion of its assets, or (ii) sells or exchanges, or offers to sell or exchange, or causes to be sold or exchanges, a sufficient amount of its stock that effects a change in the control of Seller.

22. **DEFAULT.** Time is of the essence and, subject to Section 24, Seller will be in "**Default**" under the Purchase Order if it (i) fails to deliver Products or perform Services at the time specified in the Purchase Order, (ii) fails to perform any obligation under these Terms and, if the non-performance can be cured, fails to cure the non-performance within 10 (ten) calendar days after notice from Buyer specifying the non-performance, (iii) admits in writing its inability to pay its debts as they become due, commences a bankruptcy, insolvency, receivership, or similar proceeding, or makes a general assignment for the benefit of creditors, (iv) becomes a debtor in a bankruptcy, insolvency, receivership, or similar proceeding commenced by a third party that is not dismissed within 30 (thirty) calendar days

after commencement, (v) is merged into another company and/or is expropriated or nationalized, or (vi) fails to provide adequate assurance of performance under these Terms within 3 (three) business days after written demand by Buyer.

23. REMEDIES.

(a) Subject to Sections 11 and 16 (which provide the exclusive remedies for breach of warranty, Recalls, and products liability) and to the limitations in this Section, Buyer may exercise the remedies provided in this Section, which are cumulative and are in addition to all other rights and remedies available elsewhere in these Terms or by law or at equity.

(b) Buyer may recover from Seller actual out-of-pocket damages or costs directly caused by Seller's breach of these Terms, including but not limited, all attorney and other professional fees and expenses, regardless of whether the breach subsequently becomes a Default with the passage of time or giving of notice or both. All damages under this Section will be reasonably determined based on the nature, type, price, and profitability of the Products or Services, industry practices, and the overall volume, scope, and profitability of other business relationships between Seller and Buyer.

(c) Upon the occurrence of a Default and while that Default is continuing, Buyer may immediately terminate the Purchase Order by notice to Seller, without any liability to Buyer or obligation to purchase raw materials, work-in-process or finished Products from Seller. If Seller is in Default, Buyer's damages will include the reasonable costs actually incurred to relocate the work to an alternate source, and Buyer may purchase completed Products at the Purchase Order price and work-in-process and raw materials at Seller's actual cost.

(d) If Seller does not release or deliver Buyer's Property or other property of Buyer or its customers in accordance with Section 19.1(d), Buyer may at Seller's cost (i) obtain an immediate court order for possession, and (ii) enter Seller's premises, with or without legal process, and take immediate possession of Buyer's Property and the other property. To the extent permitted by law, Seller waives any right to object to Buyer's repossession of Buyer's Property and the other property in a bankruptcy or other proceeding.

(e) **EXCEPT AS OTHERWISE EXPRESSLY AUTHORIZED IN THESE TERMS, ALL INDIRECT, SPECIAL, CONSEQUENTIAL (INCLUDING LOST PROF-**

ITS OR MARKET SHARE OR DAMAGE TO BRAND VALUE), INCIDENTAL, PUNITIVE, AND EXEMPLARY DAMAGES, WHETHER OR NOT FORESEEABLE, ARE EXCLUDED FOR BUYER UNDER THESE PURCHASE TERMS AND CONDITIONS TO THE EXTENT PERMITTED BY APPLICABLE LAW.

24. FORCE MAJEURE / EXCUSABLE NON-

PERFORMANCE. A delay or failure by either party to perform its obligations under these Terms will be excused, and will not constitute a Default, only if (i) caused by an event or occurrence beyond the reasonable control of that party and without its fault or negligence, including but not limited, acts of God, earthquakes, fires, hurricanes, floods, natural disasters, war, epidemics, sabotage, civil disturbances, quarantine restrictions and any other event which cannot be foreseen, prevented or controlled, provided that financial difficulties, strikes, lock-outs or other industrial action or disputes solely related to Seller and/or its subcontractors or agents shall not be deemed as events of force majeure; and (ii) the party unable to perform gives notice of the non-performance (including its anticipated duration) to the other party promptly after becoming aware that it has occurred or is reasonably likely to occur, followed by prompt notices of any material changes in the facts relative to its ability to perform and/or the anticipated duration of the non-performance. Seller and Buyer shall share information, confer, seek agreement and otherwise act cooperatively to avoid or mitigate the effects of the potential or actual excused non-performance. If Seller is unable to perform for any reason, Buyer may purchase Products and Services from other sources and reduce its purchases from Seller accordingly without liability to Seller. Within 3 (three) business days after written request by the other party, the non-performing party will provide adequate assurances that the non-performance will not exceed 30 (thirty) calendar days. If the non-performing party does not provide those assurances, or if the non-performance exceeds 30 (thirty) calendar days, the other party may terminate the Purchase Order by notice given to the non-performing party before performance resumes.

25. LABOR CONTRACTS / DISPUTES. Seller will notify Buyer immediately of any actual or potential labor dispute that delaying or threatening to delay timely performance of the Purchase Order, and will include all relevant information to

Buyer. Seller will notify Buyer in writing at least 6 (six) months in advance of the expiration of any current labor contract. Buyer may thereafter direct Seller in writing to manufacture up to 30 (thirty) business days of additional inventory of Products, at its expense, specifying the quantities of Products required and any packaging and storage requirements. Seller shall comply with Buyer's written directions prior to expiration of the current labor contract and until the current labor contract has been extended or a new contract completed. By authorizing the additional inventory, Buyer commits to buy the entire quantity of conforming Products requested and produced. Seller is responsible for carrying costs and any additional costs of manufacture.

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

27. CUSTOMS TRADE PARTNERSHIP AGAINST TERRORISM. To the extent any Products covered by the Purchased Order are to be imported into the United States of America, Seller shall comply with all applicable recommendations or requirements of the Bureau of Customs and Border Protection's Customs-Trade Partnership Against Terrorism ("C-TPAT") initiative. Upon request, Seller shall certify in writing its compliance with the C-TPAT initiative.

28. INSURANCE. Prior to commencing work on Buyer's premises, if applicable, or utilizing Buyer's property (including Buyer's Property), Seller will maintain and upon request furnish to Buyer a certificate evidencing (i) general liability

insurance with coverage limits reasonably acceptable to Buyer and naming Buyer as an additional insured, (ii) all risk property perils insurance covering the full replacement value of Buyer's Property while in Seller's care, custody, or control and naming Buyer as loss payee, and (iii) worker's compensation insurance as required by applicable law. Additionally, Seller shall maintain insurance with carriers acceptable to Buyer and in the amounts set forth in the Purchase Order, Seller shall furnish to Buyer either a certificate showing compliance with these insurance requirements or certified copies of all insurance policies within 10 (ten) calendar days' prior written notice from the insurer of any termination or reduction in the amount or scope of coverage. Seller's furnishing of certificates of insurance or purchase of insurance shall not release Seller of its obligations or liabilities under these Terms.

29. INFORMATION. Seller shall annually provide Buyer with its latest annual report as soon as it is available. Seller shall furthermore on a regular basis provide Buyer with such further information that may be of importance for Buyer in order to evaluate the relationship with Seller and/or such information that Buyer reasonably may request, included but not limited to any information that may be needed to provide authorities with for the import or export of the Products.

30. CONFIDENTIAL INFORMATION. Trade secrets, specifications, drawings, notes, instructions, engineering data and analyses, compositions of matter, financial data, and other technical and business data which are supplied or disclosed by Buyer or Seller in connection with these Terms, in each case that are marked or otherwise identified as confidential or where their confidential nature is apparent at the time of disclosure ("Confidential Information"), will be deemed confidential and proprietary to, and remain the sole property of, the disclosing party. The receiving party may not disclose Confidential Information or use Confidential Information for any purpose other than as contemplated under these Terms without the written consent of the disclosing party in each case. Confidential Information will not include information that (i) is or becomes generally available to the public other than as a result of a violation of this Section by the receiving party, (ii) was obtained by the receiving party on a non-confidential basis from a third party who had the apparent right to disclose it, or (iii) is legally required to be disclosed. Buyer and Seller will each use the

same degree of care to safeguard Confidential Information that it uses to protect its own confidential information from unauthorized access or disclosure (but not less than a reasonable degree of care). Information which a party is required to disclose by reason of law or order of a court of a competent jurisdiction may however be disclosed for such purpose. The party requested to disclose such information shall beforehand notify the other party of any such requirement and consult with the other party regarding the manner and extent of such disclosure. The party disclosing information pursuant to this Section shall, as far as is legally possible, require the receiver of the information to treat it confidential. Seller may not make public the business relationship of the parties through advertising or in any other way without prior written consent from Buyer. Upon request by the disclosing party, the receiving party will promptly return or destroy the original and all copies of Confidential Information received.

31. **SET-OFF.** Buyer may set-off or deduct from all sums owed to Seller under the Purchase Order those sums owed by Seller and its affiliates / subsidiaries to Buyer and agreed to between the parties or upon final determination by dispute resolution. Remittance of payment shall not imply any acceptance of the delivery or of the invoiced amount.

32. **CODE OF CONDUCT.** Seller shall deliver the Products and perform the Services in accordance with these Terms, with the highest standards of ethics, in compliance with policies, regulations, manuals and codes of conduct and other standards of Buyer, applicable to Seller. Seller agrees to comply with the Code of Conduct of Buyer, which is available on the following page: http://www.kuo.com.mx/anexos/codigodetica_kuo_eng.pdf

33. **CORRUPTION PRACTICES.** Seller agrees not to engage in corrupt practices, including any kind of bribe or kickback. In addition, Seller shall comply with all anti-corruption laws, and that neither it nor any of its employees and subcontractors will directly or indirectly provide or offer to provide, anything of value to or for the benefit, or to influence any act or decision of that person in his/her official capacity. At buyer's request, Seller shall certify in writing its compliance with the foregoing. Seller shall indemnify and hold Buyer harmless from and against any liability claims, demands or expenses (including attorney's or other

professional fees) arising from or relating to Seller's noncompliance.

34. **DISPUTE RESOLUTION.**

34.1 **Negotiation and Mediation.** Buyer and Seller will first endeavor to resolve through good faith negotiations any dispute arising under these Terms. If a dispute cannot be resolved through good faith negotiations within 15 (fifteen) calendar days after the dispute arose, or any such longer period as may be agreed in writing between the parties, then either party may request non-binding mediation administered by the International Centre for Dispute Resolution under its Mediation Rules.

34.2 **Arbitration.** If mediation fails to resolve the dispute within 30 (thirty) calendar days after service of a written demand for mediation, either party may submit any unresolved controversy or claim arising out of or relating to these Terms to binding arbitration, in accordance with the International Arbitration Rules of the International Centre for Dispute Resolution. The seat of arbitration will be Detroit, Michigan. The number of arbitrators will be 1 (one). The language for arbitration will be English. The arbitrator will issue a written opinion setting forth the basis for the arbitrator's decision, which may include an award of legal fees and costs. The arbitrator's award will be final and non-appealable absent fraud, and judgment on the arbitrator's award may be entered in any court having jurisdiction. While arbitration proceedings are pending, the parties will continue to perform their obligations under these Terms without setoff for any matters being contested in the arbitration proceedings.

34.3 **Litigation.** The parties have selected binding arbitration as the sole means to resolve a dispute between them that cannot be resolved through mediation. Either party may pursue through litigation claims that also involve third parties who have not consented to arbitration, claims in litigation commenced by third parties, and claims for injunctive or other non-monetary relief.

35. **MISCELLANEOUS.**

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

required to perform the Purchase Order or as required by law.

35.2 Audit Rights. Seller will maintain records as necessary to support amounts charged to Buyer under the Purchase Order in accordance with Seller's document retention policies. Buyer and its representatives may audit Seller's records of transactions completed within 1 (one) year prior to the audit date, to the extent needed to verify the quantities shipped and that the prices charged match the Purchase Order prices. Any audit will be conducted at Seller's expense, at reasonable times, and at Seller's usual place of business.

35.3 Electronic Communication. Seller will comply with the method of electronic communication specified by Buyer in Buyer's request for quotation and confirmed in the Purchase Order, including requirements for electronic funds transfer, purchase order transmission, electronic signature, and communication. Seller will also make commercially reasonable efforts to comply with any modification to Buyer's specified method of electronic communication after the date of the Purchase Order, subject to Section 2.

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

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

35.6 Entire Agreement. These Terms constitute the entire agreement between the parties with respect to its subject matter, and supersedes all prior oral or written representations or agreements by the parties with respect to the subject matter of the Purchase Order. Specific terms and conditions on the Purchase Order will prevail over any inconsistent provision in these Terms. Except as authorized in Section 2, no subsequent terms, conditions, understandings, or agreements purporting to modify the terms of this document will be binding unless in writing and

signed by both parties. Any proposal for additional or different terms or any attempt by Seller to vary in any degree any of these Terms is hereby objected to and rejected, unless made in writing and signed by the parties' authorized representatives.

35.7 Amendments. Any amendment to these Terms shall be made in writing and signed by authorized representatives of both parties.

35.8 Severability. A finding that any provision of these Terms is invalid or unenforceable in any jurisdiction will not affect the validity or enforceability of any other provision of these Terms or the validity or enforceability of that provision in any other jurisdiction.

35.9 Interpretation. When used in these Terms, "including" means "including without limitation" and terms defined in the singular include the plural and vice versa.

35.10 Headings. The heading or titles used at the beginning of these Terms, shall be used solely for the purpose of ease of reference and shall not affect in any way its interpretation.

35.11 Notices. Any notice or other communication required or permitted in these Terms shall be in writing and will become effective on the date of actual receipt, if the date of actual receipt is a business day, or on the next business day, if the date of actual receipt is not a business day.

35.12 Transfer, Assignment and Subcontracting. Neither party may transfer, assign or subcontract its rights or obligations under these Terms without the prior written consent of the other party, which will not be unreasonably withheld or delayed. Buyer may, however, transfer or assign such rights or obligations to any of its subsidiaries or affiliates without consent of Seller. Unless otherwise stated in the consent, any assignment or subcontracting by either party, with or without the required consent, will not relieve that party of its rights or obligations under these Terms or its responsibility for non-performance or Default by its assignee or subcontractor.

35.13 Governing Law. Unless otherwise agreed in writing, these Terms will be governed by and construed in

accordance with the laws of Mexico City, Federal District. The *United Nations Convention on Contracts for the International Sale of Goods* and any conflict of law provisions that would require application of another choice of law will not apply to these Terms. The parties shall continue to comply with their obligations assumed in accordance with these Terms, while any dispute, claim or lawsuit is pending of being resolved.