



## PURCHASE TERMS AND CONDITIONS

September 2022

### 1. ACCEPTANCE.

These Purchase Terms and Conditions ("**Terms**") shall be deemed to be reproduced on and incorporated into any Purchase Order issued by Customer (as such term is further defined in this clause 1) and shall be construed as expressly accepted by the Supplier: (i) by notifying Customer of its acceptance; or (ii) when starting or beginning the performance of any provision of services ("**Services**") or supply of products ("Products") pursuant to the Purchase Order, and shall in any event involve Supplier's unconditional acceptance of these Terms, excluding Supplier's terms and conditions of sale. "**Purchase Order**" means the purchase order issued by Customer, which is subject to and governed by these Terms, and is a binding contract whereby Customer agrees to purchase and receive, and Supplier agrees to sell and deliver the Products and/or provide the Services mentioned in the Purchase Order. The term "**Supplier**" means the person or entity that supplies Products and/or provides Services. "**Customer**" means (i) Transmisiones y Equipos Mecánicos, S.A. de C.V., on its own behalf and/or acting through (ii) its Belgian branch or (iii) Tremec Corporation, as applicable, depending on which of the aforementioned entities issues a Purchase Order to purchase the Products and/or receive the Services.

### 2. CHANGES.

Customer, may, from time to time, make reasonable changes, within the scope of the Purchase Order, to the drawings, specifications, designs, materials, packaging and labels, tests, quantity, delivery dates, place of delivery, payment terms, shipping instructions, or similar requirements indicated in the Purchase Order, by notification or change order by email to the Supplier, signed by an authorized representative of the Customer. The parties agree that such notices or change orders, as well as deliveries to be made in terms thereof, shall be part of the Purchase Order and shall be governed by these Terms. Upon Supplier's request with appropriate supporting documentation, the parties shall agree in writing on an equitable adjustment to the Purchase Order prices and times for performance as a result of Customer's changes. Any claim for such changes or adjustments shall be submitted by Supplier within 30 (thirty) calendar days from the notice of change. Supplier may not refuse to deliver the Products or provide the Services while the parties negotiate modifications to the Price based on the changes. Supplier may not make changes to any Order, or to the Products or Services, or the manufacture, testing, quality process, materials, design, drawings, specifications or packaging of the Products, without the prior written approval of Customer. For this purpose, Supplier shall notify Customer in advance and in writing of any changes to the specifications, design, number of parts, identification and other changes that Supplier wishes to make, as well as of any major changes in the production process or relocation or changes in the Supplier's manufacturing facilities, in connection with the Products and Services covered by the Purchase Order. Any changes to Price or the delivery schedule will be implemented in accordance with these Terms. Any change not authorized by Customer, of any nature, shall constitute a breach of Supplier's obligations under these Terms.

### 3. QUANTITY.

If the quantities or delivery schedules are not specified in the Purchase Order, they will be reasonably determined by Customer and set forth

in Customer's firm releases issued to Supplier from time to time. Whether quantities or delivery terms are "reasonably determined" will take into consideration, without limitation: (i) any capacity limitations specified in the Purchase Order or otherwise agreed by Customer and Supplier 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 between the Customer and Supplier in writing. However, in all events, Supplier shall meet Customer's quantities and delivery schedules, provided that if Supplier is unable to meet Customer's requirements of Products, Supplier shall find alternative supplies for Customer through consultations with Customer. The acquisition of products or services from an alternative supplier is subject to Customer's final written approval. Customer may return to Supplier shipments exceeding the quantities requested by Customer, at Supplier's expense. Unless otherwise specifically set forth in the Purchase Order, the Purchase Order is not exclusive and Customer may purchase similar products and services from third parties. If Customer cancels, in whole or in part, or fails to purchase a quantity of Products pursuant to the Purchase Order, Customer shall compensate Supplier for reasonable costs related to the cancelled quantity. In calculating such costs Supplier will not receive compensation to the extent that the Products or raw materials intended for them which can be used for other deliveries to Customer or to a third party, or for another purpose. Customer's obligation to compensate for cancellations is conditional on Supplier sending specific and detailed claims in writing and no later than 6 (six) weeks after the notification of cancellation to Supplier. Measurement of the Products will be carried out at the point of delivery in accordance with the procedures and practices applicable to the Products. In the event that any subsequent inspection or check reveals a discrepancy between the quantity specified in the delivery note or quantity certificate and the actual quantity and such discrepancy is less than 0.5% (zero-point five percent), the quantity in the delivery note or the quantity certificate, the delivery quantity shall be considered for the purposes of the sale and related invoicing. In case such discrepancy is greater than 0.5% (zero-point five percent), the purchase must be invoiced and must be paid for the amount actually delivered, unless otherwise agreed.

### 4. DELIVERY.

Time is of the essence the fulfillment in time and form of the deadlines of the Purchase Order by Supplier Delivery of the Products and/or the provision of the Services must be made in the quantities and within the periods of time indicated in the Purchase Order, or as indicated in writing by Customer. Supplier will deliver Products and/or provide the Services in strict accordance with the terms of the Purchase Order. Unless otherwise stated in the Purchase Order, the Products will be delivered F.C.A (Incoterms 2010) at the Supplier's premises and title will be transferred to Customer upon receipt of the Products by the freight carrier. If the Products are not ready for on-time delivery to meet Customer's delivery schedules, Supplier shall be responsible for all damages suffered by Customer, as well as transportation costs and other additional costs required to meet the specified delivery schedule. Customer shall not be obliged to receive or make payment for the Products delivered or Services provided to the Customer in advance of the scheduled date, or that exceed the amounts specified in the Purchase Order and at its option, may return such Products to Supplier

or reject the Services, at the risk and expense of Supplier. In certain cases and depending on the type of Product, Customer may receive Products that exceed the quantities specified in the Purchase Order, provided that Customer specifies in the Purchase Order the limit or margin allowed. Customer may change the frequency of deliveries or indicate the temporary suspension of scheduled deliveries and in none of these cases shall Supplier have the right to modify the Price of the Products or Services covered by the Purchase Order. For Product Purchase Orders for which the quantities and/or delivery schedules are not specified, Supplier must deliver the Products in the quantities and on the dates indicated in writing by Customer. In the event that in order to meet the delivery date requested by Customer set forth in the Purchase Order, it is necessary for Supplier to expedite the execution of the Purchase Order, Supplier shall pay any additional costs related to such acceleration.

#### **5. PACKAGING, LABELING AND SHIPPING.**

All Products shall be delivered with such packaging as may be necessary to prevent damage to such Products in accordance with the instructions contained in the Purchase Order, or as indicated in writing by Customer. All Products shall permanently bear the part and lot number, weight, name or name code, including any barcode or QR code identification and the date of manufacture of the Products, unless Customer agrees otherwise in writing. Supplier shall deliver to Customer samples of the Products in accordance with the applicable quality standards, as required by Customer. In the absence of such instructions, Supplier shall comply with the best commercial practices in order to guarantee the delivery of the Products to their destination, without damage and at the lowest cost of transport to the address indicated for delivery. Customer may specify the method of transportation and the type and number of packaging slips and other documents to be provided with each shipment. Supplier shall pack and ship the Products in accordance with Customer's instructions, including labeling and hazardous materials instructions. If Customer has not provided packaging, labeling or shipping instructions, Supplier will pack, mark and ship the Products in accordance with commonly accepted business practices. If Supplier is required to use Customer's returnable packaging, Supplier shall be responsible for cleaning and returning the returnable packaging. If returnable packaging is not available, Supplier may use disposable packaging and Customer shall reimburse Supplier for reasonable disposable packaging costs.

#### **6. EXPEDITED SHIPMENTS.**

If due to acts or omissions attributable to Supplier, Supplier is unable to meet Customer's delivery requirements and Customer requires a more expeditious method of transportation for the Products than the transportation method originally specified by Customer, Supplier will ship the Products as expeditiously as possible, at Supplier's sole expense.

#### **7. INSPECTION AND TESTING.**

Customer may inspect and evaluate the Supplier's production processes, the Supplier's Property and conduct tests at Supplier's premises for the sole purpose of verifying Supplier's performance under the Purchase Order, as well as Supplier's compliance with Customer's procedures set forth in Customer's Quality Assurance Manual (SQAM). No inspection or omission of inspection by Customer shall reduce or modify Supplier's obligations under these Terms. Before the start of series production of a new Product or a modified Product, Supplier shall manufacture and perform quality control on samples in accordance with Customer's requirements. Supplier may

not make changes to any Purchase Order, or to the Products or Services, or to the manufacturing processes, tests, quality process, materials, design, drawings, specifications or packaging of the Products without the prior written authorization of Customer. Any change of any nature not authorized by the Customer shall constitute a breach of Supplier's obligations. Once a sample has been approved, the alteration of the function, appearance, characteristics, material, production method, place of manufacture or other equipment which may affect the Products, may be carried out only prior written approval on each occasion from Customer's responsible department. After this, delivery can only be made after a new approval of the sample. If Customer rejects a sample, Supplier shall make the rectification in order to comply with the requirements referred to in this clause and shall reimburse Customer for the costs of verification testing of the Products after such rectification. Customer's approval of the samples shall not affect Supplier's liability and obligations under these Terms. In addition, Customer shall have the right to enter Supplier's premises at reasonable times to inspect the premises, Products, materials and any property owned by Customer covered by the Purchase Order. Customer's inspection of the Products, whether during manufacturing, prior to delivery, or within a reasonable time after delivery, shall not constitute an acceptance of any work in process or finished Product. Supplier shall retain all necessary documentation and information relating to the Purchase Order for a period of (five) years following the conclusion of the Services or the delivery of the Products in accordance with these Terms.

#### **8. PRICE AND PAYMENT.**

The price for the Products or Services is set forth in the Purchase Order and will apply until the parties agree on a new price in writing. Except as otherwise agreed in writing in the Purchase Order, the price set for any Product shall be a fixed price, including all customs duties, duties, levies, tariffs, taxes, transportation costs, loading and unloading maneuvers, packaging, labeling, storage and insurance and may not be increased for any reason, including but not limited to, in cases relating to increases and problems with raw material (unless the parties have agreed in writing to an indexation mechanism for increases in raw material) or in cases of force majeure. The payment terms are those set forth in the Purchase Order. In the event that a payment term is not specified in the Purchase Order, net invoices will be paid within 90 (ninety) calendar days after the date of delivery of the Products or the performance of the Services, as applicable or within the period approved in writing by Customer in accordance with its policies and procedures for payment to suppliers. Supplier shall promptly submit correct and complete invoices and other agreed billing communications with the appropriate supporting documentation, as well as any other information reasonably required by Customer after delivery of the Products and performance of the Services, and Customer may withhold payment until a complete invoice or other required information is received and verified. Supplier will accept payment by deposit or electronic funds transfer. Customer shall pay Supplier in the currency specified in the Purchase Order or, if none is specified, in the legal currency at Supplier's location where the Products are delivered and/or the Services rendered. In the event that the Price is expressed in other currencies, such Price may be paid for its equivalent in legal currency at the location of shipment of Products or provision of Services and in the case of Mexico according to the exchange rate to settle obligations in foreign currency published by the Bank of Mexico (*Banco de México*) in the Official Gazette of the Federation (*Diario Oficial de la Federación*) for the day on which the payment is made. In the event that the Price is omitted in the Purchase

Order, the Price will be the lowest price in force in the market and in no case, will exceed the prices paid for similar Products or Services when compared with Purchase Orders previously concluded between the parties. In case there are amounts in dispute with respect to the amounts invoiced, the payment of such amounts in dispute will be made in the shortest possible time (in accordance with Customer's procedures and payment policies ) once the dispute is resolved and the corrected invoice is received, if applicable. If Supplier fails to invoice Customer for the Products or Services within 1 (one) year following the delivery of the Products or the conclusion of the provision of the Services, Customer shall not be obliged to make payment for such Products and/or Services Any claim by Supplier in respect of payment for Products or Services shall be made in writing to Customer within 1 (one) year following the date on which the Products are received by Customer or the date on which the provision of the Services concludes; otherwise, Supplier's right to initiate such claim shall preclude.

## **9. GUARANTEE OF PRICE, COMPETITIVENESS AND NON-EXCLUSIVITY.**

**9.1 Price Guarantee.** (a) Supplier warrants that the prices for the Services or Products sold to Customer under these Terms are no less favorable than those offered to any other customer for the same or substantially the same Products or Services in the same or substantially the same quantities. If Supplier reduces its prices to third parties for the same or substantially the same Products or Services during the term of the Purchase Order, Supplier will reduce to the same extent the prices to Customer for such Services or Products. Supplier warrants that the prices shown in the Purchase Order are total prices, and no additional charges of any kind shall be added without Customer's express written consent. (b) If Supplier sells the Products covered by the Purchase Order to a third party for incorporation into an assembly to be sold to Customer, the price for such Products shall not be greater than the price set forth in the Purchase Order, plus any costs actually incurred by Supplier in providing the Products to such third party. Any reduction in Supplier's costs as a result of a reduction in freight rates, customs duties, import taxes, excise duties and sales taxes that are in effect on the date of the Purchase Order, shall be paid to Customer by Supplier as a reduction in the price of the Services or Products ordered.

**9.2 Non-Exclusivity.** Unless expressly stated otherwise in the Purchase Order or agreed in writing between the parties, the acceptance of the Purchase Order by Supplier does not imply that there is an exclusivity in its favor in the purchase of the Products and / or in the acquisition of the Services, so Customer will be free to acquire from any third party products or services such as those that are the covered by the Purchase Order.

## **10. TAXES.**

Supplier is responsible for its tax liabilities, as well as the payment of its taxes and other government charges arising from the Purchase Order, in accordance with applicable laws, so Supplier will pay such taxes that are caused now or in the future for the manufacture, sale, transportation, storage or use of the Products or Services. Customer shall not be held jointly and severally liable with Supplier with respect to such obligations of a tax nature, unless Customer is obliged to withhold taxes in accordance with applicable law. Supplier shall separately invoice Customer for any sales, value added or similar gross receipts taxes or charges that Supplier is required by law to collect from Customer.

## **11. WARRANTIES.**

Unless otherwise specified in the Purchase Order, the warranty period of the Products or Services shall be the period for which the Customer's customer (manufacturer of vehicles or components), guarantees the Products or Services to its end users. During the warranty period, Supplier warrants to Customer that the Products (i) will be merchantable and free from defects in workmanship, quality, materials and design (to the extent that Supplier, its employees, representatives and/or contractors are responsible for the design), (ii) will conform to the specifications, drawings, samples, descriptions and performance requirements provided by Customer, (iii) will be fit and sufficient for its intended use or purpose; (iv) be free from any infringement (actual or alleged) of patent, copyright or trademark. Supplier also warrants to Customer that it will transfer to Customer full ownership of and good title to the Products delivered and the Services provided, free and clear of any and all liens, encumbrances, charges and rights of third parties (except those created by Customer). All Services provided by Supplier shall be provided competently and efficiently, and in accordance with the highest industry standards. Supplier warrants that all materials used in the manufacture of the Products will be new and of high quality. No materials will be replaced by those specified, without the prior written consent of Customer. Supplier also declares and guarantees that the Products will not incorporate trademarks, distinctive signs, trade names, or any other type of element susceptible to protection in terms of Intellectual Property Rights that has not been expressly required in Customer's specifications and even in these cases, Supplier will do so with strict adherence to the express written instructions of Customer. Supplier guarantees that the Products will be manufactured in compliance with all applicable laws, regulations, standards and legal provisions, including the provisions contained in the Purchase Order, as well as with all quality standards applicable to the industry, including but not limited to the Official Mexican Standards (*Normas Oficiales Mexicanas*). These guarantees shall apply notwithstanding the inspection, testing, delivery, acceptance, use or payment by Customer, as well as the termination, expiration or cancellation of the Purchase Order. The guarantees contained in these Terms may not be limited or waived by Supplier. The approval by Customer of the design, material, process, schemes, specifications or similar concepts of Supplier, shall not be interpreted as the release of Supplier from the guarantees indicated in these Terms or waiver by Customer, unless the latter so indicates in writing. With respect to the Services, the warranties contained in these Terms shall apply for a period of 12 (twelve) months from the date on which Customer receives the Services to its satisfaction. For the Products (unless Customer gives other warranties to its end customers or otherwise set forth in the Purchase Order), the warranties contained in these Terms shall apply for a period of 18 (eighteen) months from the date of delivery of the Products to Customer and/or Customer's end customers, or 12 (twelve) months from the operation or use of the Products, whichever comes first, unless otherwise stated in writing by Customer. These warranties are in addition to any express or implied warranties made by Supplier and/or provided for by applicable law and shall survive acceptance and payment by This provision shall survive the termination of the Purchase Order.

## **12. NEW MATERIALS.**

None of the Products to be supplied by Supplier to Customer under the Purchase Order, may be, in any way, used, remanufactured, reconditioned or of an age or condition that harms the usefulness or safety of the same.

### **13. INGREDIENT DISCLOSURE, SPECIAL WARNINGS AND INSTRUCTIONS.**

Upon request from Customer, Supplier shall promptly provide Customer, in such form and detail as Customer may indicate: (a) a list of the ingredients in the Products, (b) the amount of all ingredients in the Products, and (c) all information regarding changes or additions to such ingredients. Prior to and/or upon shipment of the Products, Supplier agrees to provide Customer and all carriers with sufficient warnings and written notices (including appropriate labels on the Products, containers and packaging) of any hazardous material that is an ingredient or part of any of the Products, together with special handling instructions, safety measures and precautions, as may be necessary to comply with applicable laws, in order to warn carriers, Customer and their respective employees, of the care and precautions that will prevent bodily injury or material damage in the handling, transportation, processing, use or disposal of the Products, containers and packaging sent to Customer.

### **14. NON-CONFORMING PRODUCTS OR SERVICES.**

Notwithstanding payment or any prior inspection by Customer and without prejudice to the express provisions to the contrary in the Purchase Order and subject to the provisions of clauses 15, 16 and 23 of these Terms, in the event that the Products or Services do not comply with the guarantees provided for in clause 11, Customer may: (1) revoke acceptance or reject the Products or Services that do not meet the specifications, (2) request the Supplier, at Customer's choice, either to repair or replace the Products or Services that do not meet the specifications (at the expense of Supplier, including the applicable shipping costs and the risk of loss thereof), on the understanding that Supplier shall reimburse Customer for any damage caused by the Products that do not meet the specifications, including, but not limited to, the costs, expenses and losses incurred by Customer due to (i) inspecting, detecting, repairing or replacing such nonconforming Products; (ii) production interruptions at the Customer's and/or its customer's premises; (iii) damages from recall campaigns or other corrective actions, and (iv) claims for personal injury or injury (including death) or property damage caused by such non-conforming Products, (3) cancel the Purchase Order for default pursuant to clause 22 of these Terms, and/or (4) request that Supplier implement at its own expense containment, inspection, sorting, and other quality control procedures, in the event that Customer reasonably determines (through statistical sampling and other quality assessments), that a substantial quantity of the Products do not comply with the warranties of clause 11. To the full extent possible, Customer shall provide Supplier with access to any available warranty data relating to the Products and any field-returned Products. This clause will survive the termination of the Purchase Order.

### **15. PRODUCT RECALLS.**

This clause 15 applies to any notice or advertisement addressed to buyers, consumers or users of vehicles or products made by Customer (or by the vehicle manufacturer that is Customer's end customer), whether voluntarily or imposed by government authorities, to remedy an alleged failure affecting the safety of the vehicle or product or to remedy an alleged failure of the vehicle or product to comply with the applicable vehicle safety standard or guidelines (a "**Product Recall**"). Except as otherwise provided in the Purchase Order, Supplier shall be liable for costs and damages resulting from a Product Recall only if the Recall results in whole or in part from a failure of the Products to conform with the warranties provided for in clause 11 during the

warranty period specified in the Purchase Order. If Supplier is responsible for a Recall, the scope of Supplier's liability will be negotiated on a case-by-case basis based on (1) an assignment, in good faith, of Product Recall liability, (2) the reasonableness of the costs and damages incurred, (3) the quantity of the affected Products purchased and the Purchase Order amount (price), and (4) other relevant factors. As a condition precedent to Supplier's liability under this clause 15, Customer shall (i) notify Supplier as soon as possible after Customer becomes aware that the Product Recall relates to the Products, (ii) provide Supplier with available performance evaluations, accident reports, engineering investigations, and other data related to the Product Recall, (iii) provide Supplier with a reasonable opportunity to participate in inquiries and discussions between Customer, its customer, and governmental agencies regarding the need to carry out the Product Recall and the scope thereof, and (iv) consult with Supplier on the most cost effective method to modify or replace the recalled systems, vehicles or component parts, including the Products, in order to remedy the alleged failure or non-compliance. This clause will survive the termination of the Purchase Order.

### **16. PRODUCT OR SERVICE LIABILITY.**

**16.1 Indemnification.** Supplier shall defend, indemnify and hold harmless Customer against third-party claims or for bodily injury or death, property damage, economic loss, and any resulting damages, losses, costs and expenses (including all reasonable legal fees incurred in any legal proceedings under applicable law), without regard to whether the claim or demand results from civil law claims (*tort*), contract, strict liability, or other legal theories, in the event of and to the extent that they are caused by defects in Supplier's design (in case Supplier is responsible for the design) or arising from the manufacture of Products or the provision of Services, of the delivery of Products or Services that do not meet the specifications, or of negligent acts or omissions of Supplier in the execution of the Purchase Order. This clause 16 shall not apply to the extent that the injury, loss, or damage results from (i) cases in which Customer has provided the material specifications of the Products and the failure or defect originates due to such specifications, (ii) the design of the Products is the responsibility of Customer and the failure or defect arises due to such design, (iii) any alteration or improper repair, maintenance, handling or installation of the Products by anyone other than Supplier, or (iv) the integration or interaction of the Products with systems or components not supplied by Supplier. In the case of Services that do not comply with the specifications or scopes established in the Purchase Order, Supplier undertakes to immediately re-perform the Services, at its own expense and cost, complying with the guarantees and scope established in the Purchase Order. This clause will survive the termination of the Purchase Order.

**16.2 Procedure.** Customer shall notify Supplier without delay after Customer becomes aware of a claim under this clause 16. The parties shall cooperate with each other to determine the root cause of the defect or failure of the Products (and related systems and components), as well as an equitable allocation of liability between the responsible parties. Supplier shall examine and test all available Products and related systems and components that are subject to a claim by a third party. Customer shall endeavor to include Supplier in the discussions to address claims where compensation from Supplier has been sought or will be sought, and whenever reasonably possible under the circumstances, Customer may not reach an agreement or compromise any claim by a third party giving rise to a claim for compensation without the prior written consent of Supplier, which shall not be withheld or unreasonably delayed.

**17. COMPLIANCE WITH LAWS.**

Supplier will comply with applicable federal, state, and local laws, regulations and regulations of the country where the Products are manufactured or the Services are performed. Supplier shall defend, indemnify and hold Customer harmless from and against any and all claims, losses, damages, costs and expenses resulting from or arising out of any failure of Supplier or its employees, representatives and subcontractors to comply with any applicable governmental regulations or laws. Supplier shall provide Customer with material safety sheets relating to the Products and, upon Customer's request, shall provide Customer with any other reasonable information required in order to comply with applicable legislation. Supplier shall pack and label the Products and their containers, particularly those that 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 at the place to which the Products are shipped or as otherwise specified by Customer. This clause will survive despite the termination of the Purchase Order.

**18. INTELLECTUAL PROPERTY.**

**18.1** Supplier agrees: (a) to defend, hold harmless and indemnify t Customer, its successors, assigns, customers and users of the products sold by t Customer containing the Products or Services, against any claims of infringement or invasion of intellectual property rights (including patents, trademarks, copyrights, industrial design rights, and other intellectual property rights, or the misuse or wrongful appropriation of the trade secret), as well as against any resulting damages, losses and expenses (including attorneys' fees and other professional fees) of any nature, arising in connection with the Products or Services under the Purchase Order, including such claims where Supplier has provided only part of the Products or Services, on the understanding that Supplier expressly waives any claim, defense or objection against Customer alleging that such infringement was the result of compliance with Customer's specifications; (b) that Customer or Customer's subcontractor has the right to repair or rebuild the specific Products delivered under the Purchase Order without payment of any royalties to Supplier; (c) that the Products manufactured based on Customer's drawings, designs and/or specifications may not be used by Supplier for its own use, nor to be sold to third parties without the express, prior and written authorization of Customer; (d) treat as confidential, not disclose to third parties, and use solely to comply with these Terms, any technical information that Customer has provided and/or may hereinafter provide to Supplier in connection with the Products or Services covered by the Purchase Order, as well as any technical information created or developed by Supplier specifically for Customer under the Purchase Order; and (e) to assist Customer, upon request, in disputes in which Customer may be involved due to infringements of industrial property rights and if required by Customer, assume the defense of any dispute.

Supplier agrees that all intellectual property and property rights worldwide, including patent, trademark, copyright, rights in the layout designs of integrated circuits, trade secrets or other industrial property rights ("**Intellectual Property Rights**"), in any invention, information, documents, ideas, concepts, processes, drawings, graphics, specifications, designs or other work products in any format ("**Work Products**") made, discovered, conceived, compiled or created by Supplier in connection with these Terms, or the Services provided in connection with these Terms, either individually or in conjunction with others, or made available to Supplier during the term of any Purchase

Order, they belong to Customer. Supplier hereby irrevocably assigns to Customer all of its rights, title and interest in all Intellectual Property Rights or Work Products within the scope of this paragraph ("**Customer's Intellectual Property**"). Without limiting the foregoing, to the fullest extent permitted by law, all such intellectual property of Customer shall be considered "work for hire" for the benefit of Customer.

At the request of Customer, Supplier shall take all requested measures and execute all documents requested to register, protect or enforce any Intellectual Property of the Customer, or otherwise transfer the ownership of the Intellectual Property of Customer to the Customer in accordance with these Terms. Supplier shall not register any Intellectual Property of Customer except at the request of Customer and nothing in these Terms shall be construed as granting Supplier any license or other right to use Customer's Intellectual Property. Nothing in these Terms shall be construed as expressly granting Supplier, by implication, estoppel, or otherwise, any license or right of use with respect to: (a) any Customer's proprietary information, except the limited right to use such information within Supplier's organization for the purposes specifically provided for in these Terms; or (b) any patent, trademark or copyright now or hereto owned or controlled by Customer.

Unless otherwise agreed in writing between Supplier and Customer, in the event that a technological development or any type of intellectual property is developed, created or improved between Supplier and Customer, all rights resulting from such development or Industrial Property Right, shall be the exclusive property of Customer and shall be considered as work made for hire. Therefore, nothing in these Terms shall be construed as granting Supplier a license or any collaboration between the parties, whether by implication, estoppel, or otherwise. In addition, the developer for hire will not register any of the intellectual property rights developed and agrees to execute all the necessary assignments so that Customer can register all the rights of such intellectual property. To the extent that under applicable law, the works are not qualified as "works made for hire", Supplier irrevocably grants to Customer, its successors and assigns, all rights, title and interest in and to all Intellectual Property Rights and moral rights therein. Supplier shall not use any corporate name or trademarks owned or licensed to Customer, unless indicated in writing by the Customer.

**18.2 Customer's Intellectual Property.** Customer shall not transfer to Supplier any Intellectual Property Rights of Customer contained in information, documents, or property that Customer makes available to Supplier under the Purchase Order, except for the right to use Customer's Intellectual Property Rights to produce for and supply Products and/or provide Services to Customer. Supplier acknowledges and agrees that nothing in these Terms shall be construed as granting Supplier any right or license to Customer's Intellectual Property Rights, except as expressly provided otherwise in this clause 18.2.

**18.3 Supplier's Intellectual Property.** Except as set forth in this clause 18.3, Supplier conveys to Customer the right to incorporate Products purchased from Supplier into vehicles and components and to sell such vehicles and components to the public and/or to third parties. If the Purchase Order is terminated by Supplier or Customer in accordance with clause 21 (except in the case of termination by Supplier due to Customer's Default), Supplier shall grant Customer a non-exclusive, irrevocable, worldwide, royalty-free license, with the right to sublicense and the right to use Supplier's Intellectual Property Rights during the term of the Purchase Order that would have applied if it had not been terminated earlier under clause 21, and subject to the

provisions of clause 30, for the period necessary to obtain from alternative sources, products and services similar to the Products and Services for use in vehicles or components covered by the Purchase Order that was terminated. There will be no payment of royalties for this license in the event that (i) Customer terminates the Purchase Order due to a breach attributable to Supplier, or (ii) Supplier terminates the Purchase Order for a reason other than a breach attributable to Customer as provided for in clause 24. Otherwise, the parties will negotiate a reasonable royalty for the use of Supplier's Intellectual Property Rights.

#### **18.4 Infringement**

(a) Supplier shall be responsible for ensuring that the Products or their use do not infringe the Intellectual Property Rights of any third party. Supplier shall promptly notify Customer of any actual or suspected infringement under this clause. Supplier shall indemnify and defend Customer and its customers against claims, liabilities, losses, damages, costs, and expenses, including reasonable legal fees, arising out of the actual or alleged infringement of a third party's Intellectual Property Rights in connection with the Products, at the time the Purchase Order is issued and accepted by Customer. If a claim under this clause 18.4 results or is likely to result in an injunction or other order preventing Supplier from supplying the Products, or preventing Customer from using the Products for its use or purpose, Supplier at its own expense and at Customer's option, shall (i) obtain an Intellectual Property Right license that allows Supplier to continue supplying the Products to Customer, or (ii) modify the Products in such a way as to cease to infringe such rights, provided that the modification does not materially alter the operation or performance of the Products, or (iii) replace the Products with non-infringing products, but which are equivalent in practice to the Products. This clause 18 shall survive the termination of the Purchase Order.

### **19. PROPERTY.**

#### **19.1 Customer Property.**

(a) Customer shall have ownership of the tooling, molds, jigs, dies, gauges, accessories, patterns, supplies, materials, and any other equipment and property used by Supplier to manufacture, store, and transport Products or provide Services ("**Property**") if (i) the Property is indicated as such in the Purchase Order, or (ii) Customer or its customer has provided or paid for the Property ("**Customer's Property**"). Supplier will assign to Customer any contractual rights, rights or claims held by Supplier in connection with the Customer's Property and shall provide invoices, financial statements, or other documents reasonably requested by Customer to prove its ownership or Customer's ownership of the Customer's Property. Supplier shall indemnify and defend Customer against claims or encumbrances on the ownership of Customer's Property and/or the Property of Customer's client or customer, except in the event that the claims or encumbrances are the result of acts or omissions of Customer or its customer. Supplier shall have possession of the Customer's Property on a bailment basis and shall be liable for loss and damage to the Customer's Property while in its possession or control. To the extent permitted by law, Supplier waives any encumbrances or similar rights it may have in connection with the Customer's Property.

(b) Supplier shall (i) keep at its own expense the Customer's Property in good condition and repair such goods, except for the expected natural wear and tear thereof, during the useful life of Customer's Property, (ii) use Customer's Property solely to manufacture, store and transport the Products for Customer unless otherwise approved by Customer in writing, (iii) at Customer's request and expense, mark the Customer's Property as belonging to

Customer or its customer, and (iv) shall not remove the Customer's Property (with the exception of shipping containers and the like) from Supplier's premises without Customer's written approval. All spare parts, additions, improvements, and accessories to the Customer's Property will become part of Customer's Property, unless they can be removed without damaging Customer's Property.

(c) Customer shall pay for Customer's Property that is required for the fulfillment of the Purchase Order, the amount specified in the Purchase Order or, if no amount is specified in the Purchase Order, the (i) cost actually paid by Supplier for Customer's Property, if manufactured by a third party, or (ii) the cost actually incurred by Supplier for the materials, components, and services purchased plus the actual cost of labor and overhead assigned to the Customer's Property, if manufactured by Supplier.

(d) Subject to clause 19.1(e), upon Customer's request, Supplier shall immediately make the Customer's Property available and Customer may immediately retake possession of Customer's Property and other property of Customer or its customers at any time, with or without cause and without payment of any kind, except as expressly provided otherwise in the Purchase Order. Supplier shall deliver to Customer the Customer's Property and other property requested by Customer, at Supplier's plant F.C.A (Incoterms 2010), properly packed and marked in accordance with the requirements of Customer's carrier. If the delivery or recovery of Customer's Property and other property of Customer causes Supplier to be unable to produce a Product, the delivery or recovery of such property shall be deemed to be a termination of the Purchase Order in connection with such Product in accordance with the provisions of clauses 21 or 22, as applicable.

(e) Supplier's obligation to deliver and allow Customer to take possession of Customer's Property under clause 19.1(d), shall be conditioned on Customer's payment of all amounts due for Customer's Property under clause 19.1(c), unless there is a dispute between Customer and Supplier over the amount due under such clause 19.1(c), in which case the Supplier shall deliver and allow the Customer to take possession of such goods by payment by Customer of the part of the amount claimed over which there is no dispute. The delivery by Supplier of possession of Customer's Property shall not be deemed to prejudice any claim or right of Supplier with respect of the disputed amounts.

**19.2 Supplier's Property.** Supplier shall own all Property that is not Customer's Property ("**Supplier's Property**"). Supplier at its own expense will provide, maintain in good condition, and replace when necessary the Supplier's Property necessary to comply with the Purchase Order. As long as a Purchase Order remains in effect, Customer may purchase Supplier's Property used exclusively to produce such Products and which are not necessary for Supplier to produce Products or products for other customers, by paying a purchase price equal to or greater than the market value of Supplier's un amortized acquisition cost.

### **20. SPARE PARTS.**

Supplier will sell to Customer the Products (spare parts) necessary for Customer to fulfill the service of the current models and spare parts requirements, at the prices established in the Purchase Order, to the extent that Customer can offer its customers such Products and spare parts. In addition, Supplier shall also make the Products available to Customer for spare parts of Customer'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, Supplier shall 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 minus the assembly costs. During the period of 15 (fifteen) years after the date on which Customer completes current model purchases, Supplier will sell its Products to Customer to meet Customer's requirements for the service of past model service and spare parts requirements. Except as otherwise agreed by Customer, the prices during the first 5 (five) years of this period will be those in force at the end of the acquisition 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 materials, supplies, and skilled workers, required additional costs for equipment configuration, packaging, shipping and handling, related services, and other relevant factors.

#### **20 BIS. RISKS AND DAMAGES:**

Supplier is responsible for all damages that the Products may suffer until the moment in which they are received by Customer to its full satisfaction and will be responsible until that moment for the damages caused by the Products to Customer, as well as for the losses and shortages of the Products. Likewise, Supplier is responsible for all damages that may be caused to the goods or personnel of Customer or of any third party, including but not limited to general means of communications and natural resources, arising from failures in quality, quantity, packaging, transport and / or improper maneuvers carried out by Supplier in the provision of the Services or delivery of the Products, so it undertakes to hold safe and harmless and indemnify Customer, its subsidiaries, affiliates, shareholders, directors, officers and / or employees, from any claim and / or demand of any kind that any third party may exercise against it for this cause.

#### **21. TERMINATION.**

In addition to any other rights of Customer to terminate the Purchase Order, Customer may immediately terminate the Purchase Order, in whole or in part, at any time and for any reason, by giving written notice to Supplier at least 10 (ten) calendar days prior to the effective date of termination. Upon such termination, Customer shall pay Supplier the following amounts, without duplication: (i) the price of the Products or Services delivered or completed pursuant to the Purchase Order that have not been previously paid for; and (ii) the costs actually incurred by Supplier for the work in process and raw materials to provide the Products or Services under the Purchase Order, to the extent that such costs are reasonable and proportionate to the completed portion of the Purchase Order, in accordance with generally accepted accounting principles, on the terminated portion of the Purchase Order, provided that Supplier shall deliver such Products to Customer; such amount shall be subtracted from the sum of (i) price at which Supplier is able to sell such Products or materials to third parties, and (ii) the cost of any damaged or destroyed product or material. Customer shall not be obliged to make payments for finished Products, work in process or raw materials for amounts exceeding those authorized by the Purchase Order, nor for any Products not delivered to Customer that are part of Supplier's standard inventory or that are readily marketable to third parties. Payments made under this clause shall not exceed the total price payable by Customer for finished Products or Services that would have been manufactured or produced by Supplier under delivery schedules or programs under the Purchase Order that is in effect on the date of termination. Except as provided in this clause, Customer shall not be liable for and shall not be obligated to make payments to Supplier, directly or on account of claims by Supplier's subcontractors, for loss of profits, damages, unabsorbed overhead, interest on claims, product development and

engineering costs, facilities and costs of rearrangement of equipment or rent, unamortized rental costs, unamortized depreciation costs, or general or administrative burden charges related to the termination of the Purchase Order. Within 30 (thirty) calendar days following the effective date of termination, Supplier shall send a comprehensive termination claim to Customer, with sufficient support data to allow for Customer's analysis and review, and shall immediately provide such supplementary and supporting information as Customer may reasonably request. Customer or its representatives shall have the right to audit and examine all books, records, facilities, works, materials, inventories and other items relating to any claim of termination by Supplier. The parties expressly agree that any right of claim of Supplier will expire in the event that it is not presented by Supplier within the aforementioned time. Upon termination of the Purchase Order, Supplier shall support Customer in locating alternative sources for the Products and Services and in moving production to the alternative sources selected by Customer. Customer may terminate the Purchase Order with 15 (fifteen) calendar days' notice to Supplier, without liability of Supplier, if Supplier, (i) sells, or offers to sell, a material part of its assets, or (ii) sells or exchanges, or offers to sell or exchange, or causes to be sold or exchanged, a sufficient amount of its equity to cause a change in Supplier's control. Termination of any Purchase Order shall be without prejudice to the survival of the provisions of these Terms that are intended to survive such termination, as expressly set forth in these Terms.

#### **22. DEFAULT.**

Compliance with the deadlines is of the essence and, subject to clause 24, Supplier will be in default under the Purchase Order ("**Default**"), if (i) fails to deliver the Products or to carry out the Services within the time specified in the Purchase Order, (ii) breaches any obligation under these Terms and, and in the event that the breach can be remedied, fails to remedy such breach within 10 (ten) calendar days following Customer's notification specifying the breach, (iii) admits in writing its inability to pay its debts as they become due, initiates a bankruptcy, insolvency, receivership or similar proceeding, or makes a general assignment for the benefit of creditors, (iv) is a party as a debtor, in a bankruptcy, insolvency, receivership, or similar proceedings initiated by a third party that is not dismissed within 30 (thirty) calendar days of its commencement, (v) merges with 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 of Customer's written request. Customer may choose between demanding specific performance of the Purchase Order, or the termination of such Purchase Order, being entitled to demand damages in either case. Termination or termination of any Purchase Order shall be without prejudice to the survival of the provisions of these Terms that are intended to survive such termination, as expressly set forth in these Terms.

#### **23. REMEDIES.**

(a) Subject to clauses 11 and 16 (which set forth exclusive remedies in the event of breach of warranty, Product Recall, and product liability) and the limitations in this clause, Customer may exercise the remedies set forth in this clause, which are cumulative and in addition to all other rights and remedies otherwise available in these Terms or by law or at equity.

(b) Customer may recover from Supplier any damages or costs actually incurred by Customer due to Supplier's failure to comply with these Terms, including but not limited to all attorney and other professional fees and expenses, regardless of whether the breach

becomes a Default by the mere passage of time or by virtue of a notice or both. All damages under this clause shall be reasonably determined based on the nature, type, price, and profitability of the Products or Services, industry practices, and the volume, scope, and overall profitability of other business relationships between Supplier and Customer.

(c) If a Default occurs and as long as the Default continues, Customer may immediately terminate the Purchase Order by notifying Supplier, without any liability of Customer and without having the obligation to purchase raw materials, work-in-process or finished Products from Supplier. If Supplier is in Default, Customer's damages shall include the reasonable costs actually incurred by Customer to relocate the Products or Services to an alternative supplier, and Customer shall have the option to purchase the Products completed by Supplier at the price of the Purchase Order and the work-in-process and raw materials, at the price actually incurred by Supplier.

(d) If Supplier fails to release or deliver the Customer's Property or other property of Customer or its customers in accordance with clause 19.1(d), Customer may, at Supplier's expense (i) obtain a court order to get immediate possession of such property, and (ii) enter Supplier's premises, with or without legal process, and take immediate possession of the Customer's Property and other property of Customer. To the extent permitted by law, Supplier waives any right to object to Customer's recovery in respect of Customer's Property and any other property of the Customer, in bankruptcy or other similar proceedings.

**(e) EXCEPT AS OTHERWISE EXPRESSLY AUTHORIZED IN THESE TERMS, NO CLAIM SHALL BE MADE AGAINST CUSTOMER FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS OR MARKET SHARE OR DAMAGE TO THE VALUE OF THE BRAND), INCIDENTAL, PUNITIVE, AND EXEMPLARY DAMAGES, WHETHER FORESEEABLE OR NOT, SO SUCH DAMAGES ARE EXPRESSLY EXCLUDED FROM THE SCOPE OF CUSTOMER'S LIABILITY UNDER THESE TERMS AND CONDITIONS OF PURCHASE, TO THE FULLEST 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 shall be excusable, and shall not constitute a Default, only if (i) it is caused by an event or fact beyond the reasonable control of the party and without its fault or negligence, including, but not limited, acts of God, earthquakes, fires, hurricanes, floods, natural disasters, war, epidemics, sabotage, social unrest, quarantine restrictions and other event that is not foreseeable, preventable or controllable, on the understanding that financial difficulties, strikes, stoppages or other industrial actions or disputes solely related to Supplier and/or its subcontractors or representatives shall not be considered as a case of force majeure; and (ii) the party that is unable to perform shall provide the other party with notice of such circumstance (including its estimated duration), as soon as it becomes aware that it occurred or is reasonably likely to occur, followed by notifications without delay of any material changes in the facts affecting its ability to perform and/or the anticipated duration of its inability to perform. Supplier and Customer will exchange information, seek an agreement and actively cooperate to prevent or mitigate the effects of the potential or actual excused non-performance. If Supplier is unable to perform for any reason, Customer may purchase the Products and Services from other sources and reduce to the same extent of its purchase obligation to Supplier, without incurring in any liability. Within 3 (three) business days of the other party's written request, the 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 giving notice to the non-performing party, provided that the impossibility of performance persists.

#### **25. EMPLOYMENT CONTRACTS/ DISPUTES AND NON-SOLICITATION.**

**25.1** Supplier shall immediately notify Customer of any actual or potential labor dispute that delays or threatens the timely performance of the Purchase Order and shall include all relevant information pertaining to Customer. Supplier shall notify Customer in writing at least 6 (six) months in advance of the expiration of the current employment contract (collective bargaining agreement). In such cases, Customer may order Supplier in writing to manufacture up to 30 (thirty) business days of additional inventory of Products, at its own expense, specifying the quantities of the Products required and the packaging and storage requirements. Supplier shall comply with Customer's written instructions before the expiry of the current labor contract and until the current labor contract has been extended or a new contract has been concluded. By authorizing the additional inventory, Customer undertakes to purchase the full quantity of the Products ordered and produced. Supplier is responsible for the costs of maintaining such inventory and any additional manufacturing costs.

**25.2 Non-Solicitation.** For a period of 1 (one) year from the acceptance of the Purchase Order, Supplier may not, either directly or indirectly, without the prior written authorization of Customer, hire, attempt to hire, recruit or offer employment to any of Customer's employees.

#### **26. CUSTOM DUTIES.**

Transferable credits or benefits related to the Products purchased, including trade credits, export credits, or duties on the refund of customs duties, taxes, or duties, belong to Customer unless otherwise prohibited by applicable law. Supplier shall provide Customer with all information and records relating to the Products necessary for Customer to (i) receive those benefits, credits, and duties, (ii) comply with any customs obligations, origin marking or labeling requirements, (iii) ensure preferential treatment of customs duties under trade preference regimes, and (iv) participate in any deferral of customs duties or free trade zone programs of the country of import. Supplier shall obtain all export licenses and authorizations and pay all export taxes, customs duties, and duties except as otherwise provided in these Terms, in which case Supplier shall provide all information and records necessary to enable Customer to obtain such export licenses and authorizations.

#### **27. CUSTOMS, TRADE PARTNERSHIP AGAINST TERRORISM.**

To the extent that the Products covered by the Purchase Order are imported into the United States of America, Supplier will comply with all applicable recommendations or requirements of the United States Customs and Border Protection (Customs-Trade Partnership Against Terrorism "**C-TPAT**"). Upon request, Supplier must certify in writing its compliance with the C-TPAT initiative.

#### **28. INSURANCE.**

Prior to commencing work at Customer's premises, as applicable, or of using Customer's property (including Customer's Property), Supplier shall maintain and at Customer's request, provide Customer with a



certificate proving (i) the validity of general liability insurance with coverage limits reasonably acceptable to Customer, naming Customer as an additional insured; (ii) insurance against all property risks covering the full replacement value of the Customer's Property while under the care, custody, or control of Supplier, naming Customer as the preferred beneficiary for loss, and (iii) insurance against accidents at work and occupational diseases as required by applicable law. In addition, Supplier shall maintain insurance with carriers acceptable to Customer for the amounts set forth in the Purchase Order, and shall provide Customer with either a certificate showing compliance with such insurance requirements or certified copies of all policies, expressly stipulating that the insurer shall be required to issue notice to Customer at least 10 (ten) calendar days of any termination or reduction in the amount or scope of coverage. The fact that Supplier provides certificates of insurance or acquires insurance(s), will not release or limit Supplier from its obligations or responsibilities under these Terms.

#### **29. INFORMATION.**

Supplier shall provide annually with the most recent annual report as soon as it is available. Furthermore, Supplier will provide Customer on a regular basis with additional information that may be of importance to Customer for the purpose of assessing the relationship with Supplier and/or such information as Customer reasonably requests, including but not limited to any information that may be required by the authorities for imports or exports of the Products.

#### **29 BIS. TECHNICAL SHEET, PRODUCT SAFETY DATA SHEET AND ENVIRONMENTAL MANAGEMENT SYSTEM.**

Supplier shall provide Customer with the Technical Sheets of the Products, the Technical Manuals of their designs, as well as the Safety Data Sheets (HDS) of the Products, in terms of the laws and regulations applicable at the time they are delivered to Customer, documents that must include, but are not limited to, the specifications, properties, compatibility and characteristics of the Products that Customer must know for their disposal, handling, transportation, storage and proper use. Likewise, Supplier must inform Customer, in terms of the applicable regulations, of the characteristics necessary for the mobilization, entry and transportation of the Products. Supplier must comply with the legal provisions and regulations applicable to the labelling of the Products. Similarly, Supplier must deliver, when requested by Customer, certificate(s) that prove that it has an environmental management system for total quality and / or that have an indication that the Products comply at all times with all applicable provisions on safety, health and environmental protection in the place where they are marketed.

#### **30. CONFIDENTIAL INFORMATION.**

Trade secrets, specifications, drawings, notes, instructions, engineering data and compositions of matter, financial data, and other technical and commercial data that are provided or disclosed by Customer or Supplier in connection with these Terms, and that are marked or identified as confidential or where their confidential nature is evident at the time of their disclosure ("**Confidential Information**"), shall be deemed confidential and exclusive, and shall remain the exclusive property of the party disclosing the information. The receiving party may not disclose the Confidential Information or use the Confidential Information for any purpose other than that contemplated under these Terms without the written consent of the party disclosing the information 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 Clause by the receiving party of the provisions of this clause, (ii) has been obtained by the receiving party on a non-confidential basis from a third party with the obvious right to disclose it, or (iii) disclosure is required by law. Each Customer and Supplier shall employ the same level of care as they use to protect their own confidential information (which shall be at a minimum, a reasonable level of care), to safeguard Confidential Information against unauthorized access or disclosure under this clause. Confidential Information that by reason of law is required to be disclosed or due to a court order of a competent jurisdiction may, however, be disclosed for such purposes. The party required to disclose such information shall give advance notice to the other party regarding the manner and scope of such disclosure. The party disclosing the Confidential Information pursuant to this clause shall, to the extent permitted by law, request that the recipient of the information treat it as confidential. Supplier may not publish the business relationship of the parties through advertising or in any other way without the prior written consent of Customer. At the request of the disclosing party, the receiving party will return or destroy the original and all copies of the Confidential Information received immediately. This clause will survive the termination of the Purchase Order.

#### **31. SET OFF.**

In addition to any right of setoff or recoupment provided by law, Customer may at its discretion set off, deduct, or recoup against its accounts payable to Supplier or its affiliates any amounts then owed by Supplier or its affiliates to Customer under any order or agreement with Supplier. The fact that Customer makes any payment will not imply an acceptance of the Products or Services delivered, nor conformity with the amounts invoiced.

#### **32. CODE OF CONDUCT AND SUSTAINABILITY.**

Supplier will ship the Products and carry out 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 Customer applicable to Supplier. Supplier agrees to comply with Customer's Code of Conduct, which is available on the following page: <https://desc.com.mx/codigo-de-conducta>, or at any link that replaces it, on Customer's website.

By accepting the Purchase Order, Supplier represents and warrants to Customer that the manufacture of the Products and/or the provision of the Services will be carried out in compliance with applicable legislation (including labor, sustainability and environmental matters) applicable to its activities and to the best labor, environmental and sustainability (ESG) practices in relation to its personnel and operations.

#### **33. ANTI-CORRUPT PRACTICES.**

Supplier agrees not to engage in corrupt practices, including any kind of bribery or kickback. In addition, Supplier shall comply with all anti-corruption laws, and that neither Supplier nor its employees and subcontractors, directly or indirectly, shall provide or offer to provide, anything of value or for benefit, or to influence any act or decision of any person acting in his or her exercise of his or her office. At Customer's request, Supplier shall certify in writing its compliance with the above. Supplier shall indemnify and hold Customer harmless against any claims, demands or expenses (including legal fees or other professional fees) resulting from or relating to Supplier's breach.

### **34. DISPUTE RESOLUTION**

**34.1 Arbitration.** Both parties will submit any controversy or claim arising out of or relating to these Terms to binding arbitration under the Rules of Arbitration of the International Chamber of Commerce ("Arbitration Rules"). The arbitration will be administered by one or three arbitrators appointed in accordance with the Arbitration Rules. The seat of arbitration will be (i) Detroit, Michigan, United States of America in the event these Terms are governed by the laws of the state of Michigan; (ii) Mexico City, Mexico in the event these Terms are governed by the laws of Mexico City, Mexico, or (iii) Brussels, in the event these Terms are governed by the laws of Belgium, as applicable pursuant to section 35.13. The language for arbitration will be Spanish in the event these Terms are governed by the laws of Mexico City and it will be English in the event these Terms are governed by the laws of Michigan or Belgium. Each party will bear all of its own expenses and pay one-half of the fees and expenses of the arbitrator(s). The arbitrator(s) will not have the right to award punitive damages to either party in any arbitration hearing, and both parties each expressly waive their rights to punitive damages. The prevailing party will be entitled to recover its legal fees and costs. The arbitration award will be final, binding, and non-appealable absent fraud, and judgment on the arbitrator's award may be enforced 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.

**34.2 Litigation.** The parties have selected binding arbitration as the sole means to resolve a dispute between them. 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.

**34.3 WAIVER OF JURY TRIAL. TO THE EXTENT APPLICABLE, CUSTOMER AND SUPPLIER ACKNOWLEDGE THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH OF CUSTOMER AND SUPPLIER, AFTER CONSULTING (OR HAVING THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING TO ANY CONTRACT OR OTHER DOCUMENT PERTAINING TO ANY CONTRACT.**

### **35. MISCELLANEOUS**

**35.1 Advertising.** During and after the term of the Purchase Order, Supplier shall not announce or otherwise disclose its relationship with Customer or Customer's customers without Customer's prior written consent, except as required to comply with the Purchase Order or as required by law.

**35.2 Audit Rights.** Supplier shall keep records as necessary to support the amounts charged to Customer under the Purchase Order in accordance with Supplier's document retention policies. Customer and its representatives may audit Supplier's records relating to transactions with Customer carried out within 1 (one) year prior to the audit date, to the extent necessary to verify the quantities shipped and that the prices charged are equal to the Purchase Order prices. Any audit shall be conducted at Supplier's expense, in reasonable times, and Supplier's usual place of business.

**35.3 Electronic Communication.** Supplier shall comply with the method of electronic communication specified by Customer in the request for quotation and confirmed in the Purchase Order, including the requirements for the transfer of electronic funds, the transmission

of purchase orders, electronic signature, and communication. Supplier shall also use commercially reasonable efforts to comply with any modification to Customer's specified method of electronic communication after the date of the Purchase Order, subject to the provisions of clause 2.

**35.4 Relationship between the Parties.** Customer and Supplier are independent contractors, and nothing in these Terms makes either party an agent or legal representative of the other party, for any purpose or purpose. Neither party has the authority to incur or create any obligation on behalf of the other party.

**35.5 Waiver.** The failure or delay of either party to exercise any right or remedy set forth in these Terms or by law on any particular event, shall neither be considered a waiver of such right or remedy, nor as a waiver of any other right or remedy on a subsequent event.

**35.6 Entire Agreement.** These Terms constitute the entire agreement between the parties with respect to their subject matter and supersede any prior oral or written statements or agreements between the parties relating to the subject matter of the Purchase Order. The specific terms and conditions in the Purchase Order shall prevail over any provision in these Terms that is inconsistent with them. Except as expressly permitted in clause 2, no subsequent term, condition, agreement, or agreement shall be valid or binding to modify these Terms, unless they are in writing and signed by both parties. Any proposal for additional or different terms or any attempt by Supplier to amend to any extent any of these Terms, is expressly objected to and rejected in these Terms, unless in writing and signed by the duly authorized representatives of both parties.

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

**35.8 Severability.** In the event that any provision of these Terms is declared void or invalid or unenforceable in any jurisdiction, the validity and enforceability of any other provision of these Terms, or the validity or enforceability of such provision in any other jurisdiction, shall not be affected.

**35.9 Interpretation.** When the word "including" is used in these Terms, it shall have the meaning of "including but not limited to" and the terms defined in the singular form include the plural and vice versa.

**35.10 Headings.** The headings or headings used at the beginning of these Terms shall be used solely for the purpose of facilitating their reference and shall not in any way affect their interpretation.

**35.11 Notifications.** Any notice or other communication required or permitted under these Terms shall be in writing and shall be effective on the date of receipt, if the date of receipt is one business day, or the next business day, if the date of 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 shall not be unreasonably withheld or delayed. Customer may, however, transfer or assign such rights or obligations to any of its subsidiaries or affiliates without the consent of Supplier. Except as otherwise provided in the document stating consent to any assignment or subcontracting, any assignment or subcontracting made by either party (whether with or without the required consent), shall not release such party from the rights or obligations under these Terms, nor from its liability in the event of a 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 (i) the state of Michigan, in the event the Products are processed at or Services are rendered at Tremec Corporation's facilities; (ii) Mexico

City, Mexico, in the event the Products are processed at or Services are rendered at Transmisiones y Equipos Mecánicos, S.A. de C.V.'s facilities, or (iii) Belgium, in the event the Products are processed at or Services are rendered at Transmisiones y Equipos Mecánicos, S.A. de C.V. acting through its Belgium branch's facility, regardless of the place of business of Customer. 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 will continue to comply with their obligations assumed in accordance with these Terms, while any dispute, claim or lawsuit is pending of being resolved.

### **36. PERSONAL DATA.**

Supplier and Customer acknowledge and accept that in the event that any personal data is processed for the performance of the Purchase Order, both parties will treat and process such personal data in accordance with the regulations and laws applicable to the matter, as well as in accordance with the privacy policies of each of them. Customer's privacy notice for customers and suppliers can be consulted in <https://kuo.com.mx/avisos-privacidad> or in any link that replaces it, at Customer's website.

### **37. TAX CLAUSE.**

Supplier shall deliver to Customer all the documentation and information that in accordance with article 69-B of the Fiscal Code of the Federation (*Código Fiscal de la Federación "CFF"*), documents the due provision of the Services, and/or the delivery of Products and the due performance of the Purchase Order, as well as that documentation that the tax authority deems appropriate to verify the legal operation of the Supplier and that the latter has the assets, personnel, infrastructure or material capacity, directly or indirectly, required to provide the Services or to produce, market or deliver the Products covered by the tax receipts issued in connection with the Purchase Order.

Likewise, Supplier acknowledges and accepts that in the event that the tax authority presumes the non-existence of the operations covered by any of the tax receipts issued by Supplier and Supplier has been notified by the tax authority of such situation, Customer is entitled to withhold any outstanding payment to Supplier, without this implying the breach of any of Customer's obligations under these Terms, or any Purchase Order and without Customer incurring in any liability nor the payment of liquidated damages, or late payment interests.

Supplier undertakes to hold Customer safe and harmless and, where appropriate, to indemnify Customer in the event that tax credits or sanctions are imposed to Customer by the Mexican tax authority in connection with Supplier's failure to prove and document its legal existence and its operations in terms of article 69- B of the CFF.

### **38. LABOR AND SOCIAL SECURITY MATTERS.**

**(This clause shall only be applicable if the Services covered by the Purchase Order are specialized services (*servicios especializados*) under Mexican laws and Supplier is subject to the jurisdiction of Mexican governmental authorities in labor, tax and social security matters).**

**38.1 Suppliers representations.** Supplier represents and warrants that: (a) it has the means and elements to respond for each and every one of the obligations that the Federal Labor Law (*Ley Federal del Trabajo "LFT"*) imposes on it as employer, in accordance with the provisions of articles 13, 14, and 15 of such law and that it is current and in full compliance with each and every one of its labor obligations under the LFT as employer including, but not limited to, the

payment of its social security contributions (*cuotas obrero-patronales*); (b) it is registered before the Ministry of Labor and Social Welfare (*Secretaría del Trabajo y Previsión Social "STPS"*) in the Public Registry of Contractors of Specialized Services and Specialized Works (*Padrón Público de Contratistas de Servicios Especializados y Obras Especializadas "REPSE Registry"*) provided for in Article 15 of the LFT under the registry folio and number that Supplier shall provide to Customer and that the Services and/or Products that are covered under the Purchase Order are and will continue to be covered under such registry; (c) it is up to date and in full compliance with each and all of its tax obligations related to the Income Tax Law (*Ley del Impuesto Sobre la Renta*) and the Value Added Tax Law (*Ley del Impuesto al Valor Agregado*); and (d) it complies with the applicable safety, health, and environment provisions in the workplace regarding its employees.

**38.2 Exclusion of Labor Liability.** Supplier acknowledges and agrees that there is no element of subordination between Customer and the personnel that Supplier has hired or hires in the future for the performance of the Purchase Order and therefore, Customer will not have any employment relationship with Supplier or with Supplier's personnel and consequently, Supplier shall indemnify and hold Customer safe and harmless from any claim that may arise due to labor conflicts or responsibilities of any other nature, immediately compensating the Customer for any amount that may be paid for such matters, including expenses and attorneys' fees. Therefore, Supplier is and will always be responsible for the employment contracts, employment relationships, or relationship of any other nature that it maintains with the employees or personnel under its charge, in the understanding that Supplier will be the only one to direct, supervise and train its personnel, and the one (Supplier) being obliged to make the payment of salaries and other legal and contractual benefits that it assigns to its own personnel; to affiliate them to the Mexican Social Security Institute (*Instituto Mexicano del Seguro Social "IMSS"*), as well as to the Institute of the National Housing Fund for Workers (*Instituto del Fondo Nacional de la Vivienda para los Trabajadores "INFONAVIT"*) and the Retirement Savings System (*Sistema de Ahorro para el Retiro "SAR"*), in accordance with the laws that govern such governmental institutions; to pay the corresponding fees and contributions and to withhold all taxes and contributions caused under applicable law from its employees as their sole and exclusive employer, paying any such withhold amounts to the corresponding governmental institutions. Supplier acknowledges and agrees that it is solely responsible for fulfilling all the obligations arising from its character of employer under the LFT, Social Security Law (*Ley del Seguro Social*), INFONAVIT law, and any other applicable federal, state, or municipal provision concerning the personnel that it hires for the provision of the Services. The parties agree that Customer will not be responsible for the accident or injury claims involving Supplier and/or Supplier's employees or personnel. Supplier shall indemnify and hold Customer safe and harmless from any claim derived or arisen from this matter. Supplier acknowledges and agrees that it is aware of the health and safety policies issued by Customer; Supplier shall comply with such policies in their entirety, while Supplier's personnel, employees or contractors are within the Customer's facilities. Supplier shall indemnify and hold Customer safe and harmless from any claim derived or arisen from this matter.

**38.3 Compliance with Labor Obligations.** Supplier shall demonstrate on a monthly basis, full and timely compliance with its obligations as employer before the IMSS, INFONAVIT, and SAR, as well as having a current registration in the REPSE Registry that covers services such as the Services covered by the Purchase Order, as an

essential requirement for the payment of the Price, in the understanding that Supplier acknowledges and accepts that, upon detection by the Customer of any failure or delay by Supplier in the fulfillment of its labor obligations, including but not limited to, the payment of its employee-employer contributions and/or the refusal, revocation or non-renewal of its registration in the REPSE Registry, Customer shall have the right to withhold and not pay any amount owed and/or pending payment to Supplier, without prior notice to Supplier and without the Customer incurring in any liability, until Supplier demonstrates that it has regularized its situation. Without prejudice of the provisions of the following paragraph, Customer shall have the right to terminate the Purchase Order in advance by means of written notice to Supplier, without Customer incurring in any liability whatsoever, in the event that Supplier continues in default or delay on the compliance of its labor and/or social security obligations for more than 30 (thirty) days after Supplier delivers to the corresponding governmental authority the information required by such authority or, alternatively, if such governmental authority finally determines that Supplier is in default of its labor and/or social security obligations, without prejudice to Customer's right to recover loss and damages suffered by Customer.

If Supplier demonstrates to Customer's entire satisfaction that it has obtained a favorable and final resolution from the labor governmental authority that definitively resolves that Supplier is not in default, Customer undertakes to make the payment of the Price for the Services effectively rendered during the payment retention period, within a term no longer than 21 (twenty-one) calendar days, in accordance with Customer's payment schedule to suppliers. In the event Supplier receives any requirement from the IMSS or any other competent governmental entity, Supplier will immediately notify Customer, attend such requirement immediately and cancel it through the corresponding legal proceeding, including the payment of the corresponding credit. If for any reason Supplier fails to comply with the provisions of this clause, and there is a requirement directed to Customer by the IMSS or any other competent governmental entity, Customer shall have the right to cover the amount of the credit in question and deduct it from the following payment(s) to which Supplier is entitled to in connection with the performance of the Services and Supplier hereby authorizes Customer to effect such set-off.

**38.4 Information.** Supplier undertakes to provide Customer, on a monthly basis and in writing, a report of all the activities carried out in connection with the provision of the Services, whether such activities were administrative or those that could have an economic impact generated during the immediately preceding month. Likewise, Supplier shall provide all the information requested by Customer to verify the Services rendered. Supplier agrees that Customer (when Customer may deem it convenient), will have the right to review its records and documents of affiliation and payment, including the payrolls paid to its employees, and access the IMSS system to verify that it is up to date in the payment of its employee-employer contributions. Supplier shall not disclose to any person, including any governmental authority, any information regarding the execution and effects of this Purchase Order unless there is a court order and in this case, with prior written notice and prior authorization by Customer. The information Supplier is obligated to provide to the STPS and/or the IMSS under the terms and for the purposes of the provisions of articles 15 of the LFT; 15-A of the Social Security Law (IMSS), and 29 Bis of the National Workers' Housing Fund Institute Law (INFONAVIT) is exempt from the foregoing.

**38.5 Documentation.** As an essential requirement for Customer being able to make the payment of the Price for the Services rendered

during each month, Supplier shall comply with the following requirements:

1. To have a valid registration in the REPSE Registry during the entire term of the Agreement.
2. Provide Customer with copies of the following documents:
  - a. The tax receipts of wage payment for the employees involved in the rendering of the Services;
  - b. The payment receipt issued by the banking institution for the full declaration of tax withholdings to such employees;
  - c. The receipt of payment for IMSS worker-employer contributions, as well as payment for INFONAVIT contributions;
  - d. Copy of the Value Added Tax declaration, with acknowledgment of receipt;
  - e. Copy of the information reported to SAT regarding the payment of such Value Added Tax (DIOT); and
  - f. The number of employees involved in the provision of the Services.

Supplier undertakes to provide Customer with the periodicity indicated in each case (if such periodicity is not indicated, it shall be on a monthly basis), the following documentation:

1. Statement of four-monthly debt issued by the IMSS.
2. Bimonthly settlement paid before the IMSS.
3. Registration of Supplier's employees.
4. Monthly and Bimonthly Advanced Emissions (EMAS and EBA).
5. Annual Risk Premium Statement (filed in February of each year).
6. Copy of the acknowledgment of receipt issued by the IMSS and the STPS of the information that Supplier must submit every four months to such governmental entities in terms of the provisions of articles 15 of the LFT; 15-A of the Social Security Law (IMSS) and 29 Bis of the Law of the National Workers' Housing Fund Institute (INFONAVIT).
7. Copy of the Tax Situation Certificate.
8. Notice of compliance with tax obligations with monthly "Positive Opinion" ("*Opinion Positiva*").

If Supplier does not provide Customer with the documentation mentioned in this clause, in addition to the right of Customer to withhold payment of the Price, Customer may terminate this Agreement without incurring any liability whatsoever.

### **39. TAXES AND CONTRIBUTIONS.**

**(This clause shall only be applicable if Supplier is subject to the jurisdiction of Mexican governmental authorities in tax matters).**

The parties agree that each party will be responsible for fulfilling their respective fiscal obligations, as well as the total amount of the taxes and other contributions caused by virtue of this Purchase Order in terms of the applicable laws. Therefore, except in cases where a current and valid legal provision expressly providing otherwise, neither party will be considered joint or several obligor with respect to the other party regarding such fiscal obligations. Supplier shall deliver to Customer all the documentation and information that, in accordance with article 69-B of the Federal Tax Code (*Código Fiscal de la Federación "CFF"*), demonstrate the effective rendering of the Services and the due fulfillment of the Purchase Order, as well as that documentation that the tax authority deems convenient to verify the legal operation of Supplier and that the latter has the assets, personnel, infrastructure or material capacity, directly or indirectly, to provide the Services or produce, market or deliver the Products that cover the tax receipts issued by Supplier arising from the execution of this Purchase Order.

Likewise, Supplier acknowledges and accepts that if the tax authority presumes the non-existence of the operations that cover any of the tax receipts that Supplier has issued and has been notified by the tax authority of such situation, Customer shall be entitled to withhold any pending payment to Supplier, without this implying breach of Customer to any of its obligations under this Purchase Order and without Customer incurring in any liability or payment of any penalty or late interests under this Purchase Order, in any case. Supplier shall continue to provide the Services notwithstanding the situation provided for in this clause unless it receives a notice from Customer indicating otherwise. In case Supplier unilaterally interrupts the rendering of the Services or fails to comply in due time with the terms of the Purchase Order, Customer shall be entitled to terminate the Purchase Order by notifying Supplier without incurring in any liability, without prejudice to the provisions of the last paragraph of this clause and without prejudice to the right of Customer to claim for losses and damages suffered by Customer due to Supplier's tax situation Supplier's failure to comply. Supplier shall indemnify and hold Customer safe and harmless in the event tax credits are issued to the Customer by resolution of the tax authority, due to the lack of verification of the legal existence and operations of Supplier under the terms of the article 69-B of the CFF. Customer shall have the right to terminate the Purchase Order in advance by means of written notice to Supplier without Customer incurring any liability whatsoever, in the event Supplier continues to be in the situation described in the second paragraph of this clause for more than 50 (fifty) days after Supplier delivers to the tax authority the information required by such authority, or if the tax authority finally determines that Supplier is considered as an entity that invoices simulated operations (*Empresa que Factura Operaciones Simuladas* "EFOS"), without prejudice to the provisions of the following paragraph, and without prejudice to the right of Customer to claim damages, without prejudice of the provisions of the following paragraph and without prejudice to Customer's right to recover loss and damages suffered by Customer due to the tax situation of Supplier.

If Supplier demonstrates to Customer's entire satisfaction that it has obtained a favorable and final resolution by the tax authority that definitively resolves that Supplier is not considered as an EFOS, Customer undertakes to pay for the Services or Products effectively rendered and/or delivered (as the case may be), during the payment retention period, within a period of no more than 21 calendar days, according to Customer's payment schedule to suppliers.