



DWM HOLDINGS

PURCHASE ORDER TERMS AND CONDITIONS

Revision 1 - Effective November 15, 2024

These Purchase Order Terms and Conditions (“Terms”) are incorporated into each DWM Holdings Purchase Order (“Order”) issued for the purchase of goods of any kind, as are the terms listed in any DWM Holdings RFQ to the extent not updated by the terms of the Order. Capitalized terms in each Order or these Terms have the meaning set forth where those terms first appear, or as set forth expressly. All Definitions are expressly incorporated below, by reference.

The following Terms and Conditions are incorporated by reference into each Order issued to you as Seller. Throughout these Terms, the “Order” includes these incorporated Terms and the incorporated terms of an RFQ, if any.

1. CONTRACTING PARTES AND TERMS

- 1.1. The “Buyer” is DWM Holdings or its applicable affiliate or subsidiary, as identified on the face of the Order.
- 1.2. The “Seller” is the supplier shown in the Order.
- 1.3. The “Terms” or “Buyer’s Terms” are these terms and conditions, as well as any set forth in the Order, and any other terms and conditions specifically incorporated into these terms or into the Order by reference.
- 1.4. The “Products” are Seller’s products listed in the Order and all raw materials, components, tooling, equipment, supplies, and services that Seller is obligated to provide pursuant to the Order.

2. CONTRACT FORMATION

- 2.1. Buyer’s Order, including the terms of any Request for Quotation (“RFQ”), is an offer, and it is expressly limited to its terms. Any additional or conflicting terms, not included in these Terms, the Order, or an RFQ are hereby expressly and permanently rejected unless agreed-to by an express writing signed by an authorized agent of the Buyer.
- 2.2. Seller accepts the Order either: (1) when Seller acknowledges the Order; or (2) when Seller begins performance under the Order. Seller’s acceptance is limited to acceptance of Buyer’s Terms.
- 2.3. **Buyer hereby objects to and rejects any proposal by Seller for additional or different terms.**

- 2.4. Any additional or different terms proposed by Seller relating to the description, quantity, price, or delivery schedule of the Products, is a rejection of Buyer's Offer; in all other cases, Seller's proposal is a material alteration of Buyer's Terms (and a material alteration of the offer's terms) and Seller accepts Buyer's Terms without reference to Seller's proposed additional or different terms. If the Order is deemed for any reason to be an acceptance of Seller's prior offer, Buyer's acceptance is expressly conditional on Seller's assent to Buyer's Terms.
- 2.5. Buyer and Seller agree that, notwithstanding the prior or subsequent use by Seller of any order form, invoice, or other document containing printed terms or conditions, they are contracting solely on the basis of the Order, pursuant to Buyer's Terms. The Order contains the entire understanding of the parties and is intended as a final expression of their agreement and a complete statement of the terms of their agreement. The Order may not be amended, modified, or otherwise supplemented except in a writing issued by Buyer.
- 2.6. Any provision contained in any other form, invoice, or other document used by Seller (whether prior or subsequent to the date of the Order) that is inconsistent with this Section 2 will have no force or effect and will not be binding on the Buyer.
- 2.7. Notwithstanding, contract formation shall not be complete, and acceptance may not be given by Buyer until after Buyer receives an Order Acknowledgement from Seller, which specifically acknowledges receipt of the Order.
- 2.8. For the avoidance of doubt, the following is the order of precedence for the documents making up the entirety of the agreement between the parties:
 - a) The Order;
 - b) The terms of the RFQ; and
 - c) The Terms.

Any document not in these document shall have no effect except as herein described.

3. QUANTITY

3.1. Fixed-Quantity Contracts

- 3.1.1. If a specific quantity is set forth on the face of the Order, the Order is a fixed-quantity contract. Seller is obligated to supply Buyer with the specified quantity of Products, and Buyer is obligated to purchase from Seller that quantity of Products at the price indicated.

- 3.1.2. Seller will deliver the Products to the locations and at the times set forth in the Order or in any Release issued by Buyer.
- 3.2. Requirements Contracts
 - 3.2.1. If no specific quantity is set forth on the face of the Order, or if the Order identifies the quantity as “per Release”, “per Rel”, “REQ,” “100% REQ,” “100%,” or similar, the Order is a requirements contract under Michigan law and the Uniform Commercial Code. Similarly, if the quantity set forth on the face of the Order indicates a specific percentage of Buyer’s requirements that is less than 100% (such as “70% REQ,” “70%,” or similar), the Order is a requirements contract under Michigan law and the Uniform Commercial Code.
 - 3.2.2. Buyer is not required to order exclusively from Seller all of the Products that Buyer may need during the Term of the Order (as defined below), but Seller is obligated to deliver to Buyer all of the Products so ordered, and Buyer is obligated to pay for those Products at the price indicated.
 - 3.2.3. Seller will deliver the Products in the quantities, at the times, and to the locations set forth in any Release issued by Buyer. Time is of the essence for each Order.
- 3.3. Any projected or estimated volumes provided by Buyer to Seller in connection with the Order (including forecasted volumes in any RFQ) are for planning purposes only and are not a commitment or obligation to purchase a specified quantity.

4. DELIVERY AND TITLE TRANSFER

- 4.1. Time is of the essence in the Order.
- 4.2. Buyer will indicate the date on which it requires the delivery of specific quantities of the Products either on the face of the Order or in “Releases” that it will issue from time to time. Releases may contain both firm and forecasted quantities.
- 4.3. The basic terms of transport and delivery of the Products and of the obligations of the Buyer and Seller regarding carriage, risks, and the attendant costs are governed by Incoterms 2010. The applicable Incoterm is set forth on the face of the Order. If no Incoterm is set forth on the face of the Order, the applicable Incoterm is FOB Origin. Legal title to the Products will transfer from Seller to Buyer in accordance with the risk of loss corresponding to the Incoterm applicable to each shipment of Products.

- 4.4. Seller will neither produce any Products, nor procure raw materials, nor ship any Products, except to the extent authorized by the Order or the Releases. Unless the parties agree otherwise or a different arrangement is stated on the face of the Order, the only firm quantities on a Release are those shown for the first two weeks (for finished goods) and the following six weeks (for raw materials only). All other quantities, including any quantities identified in the Order or Releases as “planning,” “forecast,” or with words of similar meaning are for Seller’s planning purposes only and are not a commitment by Buyer to purchase those quantities. If Seller delivers Products in advance of Buyer’s firm delivery schedule, Buyer may either:
 - 4.4.1. return the Products at Seller’s expense for proper delivery; or
 - 4.4.2. withhold payment for the Products until the scheduled delivery date and place such Products in storage, at Seller’s expense, until the scheduled delivery date.
- 4.5. Buyer has no obligation or liability for Seller’s production of Products, order of Raw Materials, or otherwise, beyond the quantity required by, or in advance of the time required by, Buyer’s firm delivery schedule.
- 4.6. Seller will make deliveries in the quantities and at the times specified in the Order or the Releases. If Seller’s deliveries fail to meet Buyer’s delivery schedule, Buyer, in addition to its other rights under the Order and applicable law, may:
 - 4.6.1. direct expedited routing for the entire shipment and charge Seller for any excess costs incurred as a result (e.g. air freight, expedite fees, delay charges or fees, and storage); and
 - 4.6.2. charge Seller for any costs incurred by Buyer or by Buyer’s customer for production delays caused by Seller’s failure to meet the schedules. Those costs may include inbound and outbound premium freight costs, excess scrap costs, and premium operational and overtime costs and expenses.
- 4.7. Seller represents that it is, and promises that it will remain, capable of shipping and delivering the Products 24 hours a day, seven days a week, 365 days a year. Seller promises that it will perform all developmental work and conduct all tests required to have the Products available in due time for use by Buyer as contemplated by the Order. Seller represents that it is, and promises that it will remain, able to support Buyer’s peak daily production volumes by operating its facilities not more than two shifts, eight hours each per day, five days per week.

5. CONTRACT PRICE

- 5.1. The price for the Products is set forth in the Order, and is fixed and firm. No price adjustments will be made for increases in Seller's costs, including increases in the costs of labor, material, shipping, packing, transportation, or overhead. In no event will Seller have the right to demand or obtain from Buyer a higher price than that set forth in the Order.
- 5.2. Either party may make proposals for the improvement of any manufacturing process, design, or any other process. If Buyer elects to implement any of these proposals, the Seller will do so as soon as possible. Beginning with the effective date of implementation, the applicable prices will be decreased by an amount equal to the agreed upon percentage of the achieved cost savings.
- 5.3. Seller will use its best efforts to reduce its costs, and will pass on any cost savings achieved to Buyer. To the extent legally permissible, Seller will also participate in cooperative buying activities with other companies to purchase material from the same sources in order to benefit from the most competitive material purchase prices.
- 5.4. Cost savings will become effective as they are achieved and will be fully reflected in reduced prices immediately. The parties will together review on a regular basis the status of cost improvements.
- 5.5. Seller agrees that the Products will remain competitive in terms of technology, design, price, and quality with similar goods and services available to Buyer. Notwithstanding Termination for Convenience terms of this Agreement, if, in the reasonable opinion of the Buyer, the Products do not remain competitive as defined in the Section on Contract Price, Buyer will advise Seller in writing of each area in which other goods or services are more competitive. If, within 30 days, Seller does not agree to immediately sell to Buyer goods or services with competitive technology, design, quality, or price, Buyer may terminate the Order and purchase the Products from another supplier without any liability to Seller.

6. TERM

Subject to the Termination for Convenience terms and Termination for Cause / Remedies for Default terms, and unless otherwise expressly provided in the Order, the term of the Order commences on the date set forth in the Order and continues through the end of the vehicle platform for which such Products are supplied, including any extensions of that platform, and including the service and replacement parts period under the Service and Replacements Products section (the "Term"). Seller agrees that it will not terminate the Order before the end of the Term.

7. QUALITY

Products purchased under an Order shall be of good quality, as determined in Buyer's sole discretion. Seller will maintain an inspection and quality system that is acceptable to Buyer and that conforms to (1) any drawings, specifications, and data that are provided by Buyer in relation to the Order, and (2) any quality program of Buyer described in materials referenced in the Order. Seller will maintain adequate authenticated inspection and test reports, affidavits, and certifications relating to the work performed under the Order, will retain those records for a period of ten years after the Term of the Order, and will make those records available to Buyer upon request. Seller acknowledges that Buyer may reduce Buyer's incoming inspection procedures in reliance upon Seller's maintenance of a quality system as required hereunder.

8. INSPECTIONS AND ACCEPTANCE OF GOODS

- 8.1. Buyer may inspect all Products at all times and places, including during the period of manufacture. An inspection may, at Buyer's option, include confirmation of Seller's compliance with all quality control procedures that Seller is subject to under the Order. Seller will permit Buyer and Buyer's designees access to Seller's facilities at all reasonable times and will provide all tools, facilities, and assistance reasonably necessary for the inspection and confirmation at no additional cost to Buyer. All Products are subject to final inspection and acceptance at any time after delivery to Buyer.
- 8.2. Notwithstanding any acts of Buyer that may be deemed under applicable law to constitute acceptance of the Products, payment for delivered Products will not constitute acceptance of the Products. Buyer may reject any Products that do not meet the specifications set forth in the Order at any time. In addition to any other remedy provided by law or equity or any other provision of the Order, Buyer may return all or any portion of the Products to Seller for reimbursement, credit, replacement, or correction at Buyer's option, or may itself correct or replace all or any portion of the Products at Seller's expense. Any Products rejected by Buyer will be at Seller's risk and expense and Seller will not tender any previously rejected Products for acceptance unless the previous rejection or requirement of correction is disclosed. Seller will reimburse Buyer for any packaging, handling, transportation, and other reasonable costs Buyer incurs with respect to rejected Products.
- 8.3. In addition to any other remedy provided by law or equity or any other provision of the Order, Buyer may revoke its acceptance of Products at any time, whether or not a substantial modification to the Products has been made, if a defect in the Products that could not have been discovered during Buyer's normal inspection procedures or that is not normally discoverable until the Products are used substantially impairs the value of the Products to Buyer.

9. PRODUCT WARRANTIES

- 9.1. Seller warrants, in addition to those available to Buyer by law, that: the Products will be fit and sufficient for the particular purpose intended by Buyer; the Products will be merchantable and free from all defects, including defects in material and workmanship and, except to the extent Seller or its subcontractors did not design the Products, defects in design; the Products will conform to all representations, descriptions, samples, drawings, plans, specifications, designs, and other data supplied by Buyer or listed in the Order, which may be updated from time to time; with respect to the Products, Seller is, and will at all time remain, competitive in terms of price, quality, delivery, technology, and service; and it will convey good title to Buyer free and clear of all liens and encumbrances.
- 9.2. Seller acknowledges that it knows of Buyer's intended use of the Products.
- 9.3. All warranties will survive Buyer's acceptance, use, and payment and will run to Buyer, Buyer's customers, and all users of the Products. The provisions of this section survive the termination or expiration of the Order.
- 9.4. Buyer's review or approval of any samples, drawings, specifications, or other data developed by Seller in connection with the Order will not limit Seller's responsibility under the warranties or alter the cost, rate of output, or delivery requirements of the Order.
- 9.5. Seller warrants that the Products will be made in compliance with the Fair Labor Standards Act of 1938, as amended. Seller further warrants that the Products will be made in compliance with the United Nation's Universal Declaration of Human Rights.
- 9.6. Seller warrants that the Products will be made in compliance with all applicable laws.
- 9.7. Buyer's specifications and requirements take precedence over industry standards. Seller will advise Buyer in writing if Buyer's specifications or requirements are not as extensive as industry standards.
- 9.8. In no event shall the warranty period applicable to Seller's warranties be shorter than the longest warranty period applicable to Buyer, whether by statute, regulation, or other law, or by Buyer's contract with its customer. If Seller is not aware of the warranty period required by Buyer's customer, Seller is obligated to learn that information.

10. PRODUCT INDEMNIFICATION AND INSURANCE

- 10.1. Seller will indemnify, defend, and hold harmless Buyer, its officers, employees, agents, successors, assigns, customers, and users of Buyer's products from and

against any and all losses, expenses, damages, claims, suits, and liabilities of any kind (including all recall, repair, and replacement expenses, incidental and consequential damages, and all court costs and attorney's fees) that are related in any way to or arise from the Products or from Seller's performance or failure to perform any obligation under this or any Order (including claims based on Seller's breach or alleged breach of warranty or of any applicable law, regulation, ordinance, government authorization, or order).

- 10.2. At Buyer's request, and at Seller's sole expense, Seller will promptly assume full responsibility for the defense of any action described in this section that may be brought or threatened by a third party against Seller or Buyer.
- 10.3. Seller's obligation to indemnify will apply regardless of whether the claim arises in tort, negligence, contract, strict liability, or otherwise.
- 10.4. Any property of Buyer used by Seller in the performance of the Order will be deemed to have been under the sole custody and control of Seller during the period of such use by Seller.
- 10.5. Seller, at its sole expense, will obtain and maintain, and will require its subcontractors to obtain and maintain, insurance coverage as follows:
 - 10.5.1. public utility and property damage insurance, including contractual liability (both general and vehicle) in amounts sufficient to cover all obligations set forth above; and
 - 10.5.2. workers' compensation and employer's liability insurance covering all employees engaged in the performance of the Order for claims arising under any applicable workers' compensation, occupational disease, or health and safety laws or regulations.
- 10.6. With respect to the required insurance coverages set forth herein, Seller will furnish to Buyer certificates of insurance demonstrating the required coverages. Those certificates must expressly provide that no expiration, termination, or modification will take place without 30 days' written notice to Buyer.
- 10.7. The provisions of this section survive the termination or expiration of the Order.

11. INFRINGEMENT INDEMNIFICATION

- 11.1. Seller will indemnify and hold harmless Buyer, its officers, employees, agents, successors, assigns, customers, and users of Buyer's products from and against any and all losses, expenses, damages, claims, suits, and liabilities of any kind (including incidental and consequential damages, court costs, and attorney's fees)

arising as a result of any claim that the manufacture, use, sale, or resale of any Products infringes any patent, utility model, industrial design, copyright, or other intellectual property right in any country.

- 11.2. Seller will, when requested by Buyer, defend any action or claim of infringement at its own expense.
- 11.3. If the sale or use of the Products is enjoined or, in Buyer's sole judgment, is likely to be enjoined, Seller will, at Buyer's election and Seller's sole expense, either procure for Buyer the right to continue using the Products, replace the Products with equivalent noninfringing goods, modify the Products so they no longer infringe, or remove the Products and refund the purchase price, including transportation, installation, removal, and other incidental charges.
- 11.4. Seller's obligations under this section will apply even though Buyer furnishes all or any portion of the design or specifies all or any portion of the processing for the Products.

12. CHANGES

- 12.1. Buyer reserves the right at any time to direct changes, or cause Seller to make changes, to the Products under the Order. Changes may include changes in the design, processing, shipping, and date or place of delivery of the Products covered by the Order. Changes may also include the scope of the work covered by the Order. Seller agrees to promptly make all those changes. Any such changes will not affect the time for performance or price under the Order unless: (1) Seller provides Buyer with written notice in accordance with Section on Notices of the Order of a claim for adjustment to time for performance or to cost within 10 days after Buyer's notice to Seller of the change;, and (2) after auditing Seller's claim, Buyer determines in its sole discretion that an adjustment is appropriate.
- 12.2. Any claim by Seller for adjustment to time for performance or to price under an Order must be solely and directly the result of the change directed by Buyer. Seller's notice of any claim will be effective only if accompanied by all relevant information sufficient for Buyer to verify the claim. In addition, Buyer has the right to audit all relevant records, facilities, work, or materials of Seller to verify any claim.
- 12.3. Nothing in this section excuses Seller from complying with the Order as changed.
- 12.4. No change to design, material, process, procedures, or practice may be made by Seller without prior written authorization by Buyer.

13. FORCE MAJEURE

- 13.1. If, due to forces beyond Buyer's control, Buyer determines to alter Buyer's delivery schedule to delay delivery, the provisions of this section will control. Seller will hold any delayed Products at the direction of Buyer and will deliver them when the cause affecting the delay has been removed.
- 13.2. Any delay or failure of either Buyer or Seller to perform its obligations under the Order and its incorporated Terms will be excused if, in Buyer's sole discretion, it is caused by an event or occurrence beyond the reasonable control of the party and without its fault or negligence, such as acts of God, actions by any governmental authority (whether valid or invalid), fires, floods, windstorms, explosions, riots, natural disasters, wars, sabotage, labor problems (including lockouts, strikes and slow-downs), epidemic, pandemic, inability to obtain power, material, labor, equipment, or transportation, or court injunction or order. During any period of delay or failure to perform by Seller described in this section, Seller will provide Buyer with prompt written notice of any delay (including a description of the cause of the event or circumstance, an estimate of the duration of the delay, a statement regarding the remedial steps that Seller is taking or will take to resume performance, and Seller's interim allocation plans, if any, for the supply of Products during the delay). During the period, Buyer, at its option, may purchase Products from other sources and reduce its schedules to Seller by equivalent quantities without liability to Seller, or have Seller provide the Products from other sources in the quantities and at the delivery times requested by Buyer and at the price set forth in the Order.
- 13.3. In addition, at least 10 days prior to the expiration of any labor contract of Seller, Seller at its expense will establish at least a 30- working-day supply of Products in a neutral warehouse at a location reasonably acceptable to Buyer. If requested by Buyer, Seller will, within 10 days of the request, provide adequate assurances that any delay will not exceed 30 days. If the delay lasts more than 30 days or Seller does not provide adequate assurance that the delay will cease within 30 days, Buyer may immediately terminate the Order without liability.

14. TERMINATION FOR CONVENIENCE

In addition to any other rights of Buyer to terminate the Order, Buyer may, at its option, terminate any part or all of the Order without any liability whatsoever to Seller or any other party, for any reason at any time, by giving 15 days' written notice to Seller in accordance with the Section on Notices contained herein. Buyer has this right of termination notwithstanding the existence of any excusable delay or any excusable failure to perform under the Section on Force Majeure.

15. TERMINATION FOR CAUSE / REMEDIES FOR DEFAULT

- 15.1. Buyer may terminate the Order in whole or in part for cause in the event of a Default by Seller.
- 15.2. “Default” means:
 - 15.2.1. Seller’s failure to comply with any term or condition of the Order, including any breach of warranty;
 - 15.2.2. Seller’s failure to give Buyer, upon request, reasonable assurances of Seller’s future performance;
 - 15.2.3. the insolvency, bankruptcy, liquidation, or dissolution of Seller; or
 - 15.2.4. any other event that causes Buyer to have reasonable doubt as to Seller’s ability to render due performance under the Order.
- 15.3. In the event of Default, Buyer may, in its sole discretion, upon written notice to Seller but without any liability to Seller, waive all or any part of the Default; agree in writing to any change in or modification of the Order as Buyer may, in its judgment, deem advisable: terminate the Order in whole or in part; purchase Products in substitution for those to be supplied by Seller and charge Seller for any excess costs resulting from that purchase; and exercise any other rights or remedies Buyer may have under applicable law.
- 15.4. Regardless of whether Buyer terminates the Order, Seller’s liability for Default includes Buyer’s direct, incidental, and consequential damages and any other damages or other remedies available under law or equity.
- 15.5. Seller will reimburse Buyer for any attorney’s fees, other professional fees, and court costs incurred by Buyer in connection with any Default by Seller or any action by Buyer to enforce its rights under the Order.
- 15.6. If, after termination for Default, it is determined that Seller was not in Default, the termination shall be deemed that it was for Buyer’s convenience.

16. RESPONSIBILITIES UPON TERMINATION

- 16.1. Upon termination pursuant to these Terms, whether for convenience or otherwise, Buyer is only required to Seller the unpaid contract amount owed for Products already completed in accordance with the Order and Buyer’s written Releases and that have been delivered to Buyer under the Order. Buyer has no obligation to Seller for finished Products in amounts in excess of those required to fulfill Buyer’s written Order or Releases, nor with respect to any work-in-process or raw

materials, nor with respect to any undelivered Products.

- 16.2. Regardless of the method of termination under these Terms, Buyer is not obligated to pay for any work done after the effective date of termination, nor for any costs incurred by Seller's suppliers or subcontractors that Seller could reasonably have avoided.
- 16.3. Regardless of the method of termination under these Terms, Buyer is not liable for and is not required to make payment to Seller, directly or on account of claims by Seller's subcontractors, for loss of anticipated profit, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs or rental, unamortized depreciation costs, consequential damages, tooling costs, or general and administrative burden charges relating to termination of the Order.
- 16.4. Within 30 days from the effective date of termination, Seller will submit a comprehensive termination claim to Buyer, with sufficient supporting data to permit Buyer's audit, and will thereafter promptly furnish any supplemental and supporting information that Buyer requests. Buyer or its agents has the right to audit and examine all books, records, facilities, work, material, inventories, and other items relating to any termination claim of Seller.
- 16.5. Upon receipt of any notice of termination under these Terms, Seller will, unless otherwise directed by Buyer, (1) promptly terminate all work under the Order; (2) transfer title and deliver to Buyer the finished Products that Seller produced in accordance with the Order and Buyer's written Releases; (3) take all actions reasonably necessary to protect property in Seller's possession in which Buyer has an interest until disposal instruction from Buyer has been received; and (4) upon Buyer's request, cooperate with Buyer in the resourcing of production of the Products to a different supplier. At Seller's expense, all property of Buyer will be returned to Buyer upon termination of the Order, or at any other time, upon Buyer's demand and in accordance with Buyer's instructions.

17. PROPRIETARY INFORMATION; CONFIDENTIALITY; ADVERTISING

- 17.1. Seller will treat all information furnished by Buyer (including drawings, specifications, or other documents prepared by Seller for Buyer in connection with the Order) as confidential and will not disclose any of this information to any other person, or use any of this information itself for any purpose other than performing its obligations under the Order, without Buyer's prior written permission. Seller will not advertise or publish the fact that Buyer has contracted to purchase Products from Seller, or disclose any information relating to the Order, or use any trademarks, trade names, or service marks of Buyer in its advertising or promotional materials without Buyer's prior written permission.

- 17.2. Unless otherwise agreed to in writing by Buyer and Seller, no information disclosed in any manner or at any time by Seller to Buyer is secret or confidential, and Seller will have no claims against Buyer with respect to this information.
- 17.3. Notwithstanding anything to the contrary, the responsibilities of Seller under this section will continue after the termination of the Order.

18. LICENSE TO REPAIR; INTELLECTUAL PROPERTY

- 18.1. Seller hereby grants to Buyer a nonexclusive, royalty-free, irrevocable, worldwide license to repair, rebuild, reconstruct, relocate, make, and have made the Products. Seller warrants that all Products covered by each Order will not and do not infringe on any patent, trademark, copyright, or other intellectual property of any third party.
- 18.2. Seller warrants that all copyrightable works of original authorship, ideas, inventions, trademarks, know-how, processes, compilations of information, and other intellectual property (collectively "Intellectual Property") will be original to Seller and will not incorporate any intellectual property of any third party.
- 18.3. All Intellectual Property that are created in the course of performing the Order, and all intellectual property rights in Intellectual Property, are owned by Buyer and not by Seller. Seller agrees that all works of original authorship created by Seller in connection with each Order are "works made for hire" as that term is used in connection with the U.S. Copyright Act.
- 18.4. To the extent that, by operation of law, Seller owns any intellectual property rights in the Intellectual Property, Seller hereby assigns to Buyer all rights, including copyrights and patent rights, in such Intellectual Property.
- 18.5. Seller grants to Buyer an irrevocable, paid-up, non-exclusive, worldwide license, with the right to grant sublicenses to affiliates, to use any technical information, know-how, copyrights, and patents owned or controlled by Seller or Seller's affiliates to make, have made, use, and sell any Products provided by Seller under the Order. Seller will ensure that its subcontractors will have contracts with Seller in writing consistent with the terms of this section to ensure that the protections received by Buyer from Seller are also received from subcontractors for the benefit of Buyer and Seller.

19. BUYER'S PROPERTY

- 19.1. "Buyer's Property" means all supplies, materials, tools, jigs, dies, gauges, fixtures, molds, patterns, equipment, and other items that are either: (1) furnished by Buyer, either directly or indirectly, to Seller to perform the Order; or (2) for which Seller has been reimbursed by Buyer; or (3) for which Buyer has agreed in writing to reimburse Seller, including by issuing a purchase order.

Buyer's Property includes 3D models and other data used to produce Buyer's Property. Buyer's Property includes the property of any of Buyer's customers. Buyer's Property is and will remain the property of Buyer or its customer, as applicable.

- 19.2. Buyer's Property is held by Seller on a bailment basis, and Seller will mark or tag each piece of Buyer's Property accordingly. Seller bears all risk of loss of and damage to Buyer's Property. Seller will not use Buyer's Property for any purpose other than the performance of the Order or its incorporated Terms, will not commingle Buyer's Property with the property of Seller or with that of any third person, and will not remove Buyer's Property from Seller's premises or alter Buyer's Property without Buyer's prior written consent. Seller will keep adequate records of Buyer's Property, which will be made available to Buyer upon request. Seller will store, protect, preserve, repair, and maintain Buyer's Property in accordance with sound industrial practice, all at Seller's expense. Seller will pay all license fees, assessments, and taxes, including personal property taxes, for Buyer's Property, and will provide annual written proof of these payments.
- 19.3. Each tool, jig, die, gauge, fixture, mold, pattern, or other equipment that is Buyer's Property ("Tooling") is to be clearly and permanently marked with a tool number, the part number of the part that the Tooling is intended to produce, and the identity of the owner of the Tooling (either Buyer or Buyer's customer). Permanent marking methods include asset tags, etching, stamping, and embossing. Any marking method that is not permanent, including stenciling, painting, inking, and labels, is not acceptable. The following statement must appear on every invoice for Tooling submitted by Seller: "Tools included in this invoice are completed and have produced parts accepted by Buyer; are clearly and permanently marked with a tool number and part number, and are clearly identifiable as property of Buyer or Buyer's customer."
- 19.4. Seller will, at its own expense, keep Buyer's Property insured, naming Buyer as the loss payee and additional insured. Any Buyer's Property repaired, rebuilt, modified, or replaced by Seller will remain or become Buyer's Property, regardless of whether Buyer has reimbursed Seller for the repair, rebuild, modification, or replacement. Buyer has the right to enter Seller's premises at reasonable times to inspect Buyer's Property.
- 19.5. Seller agrees that Buyer has the right to enter Seller's premises (or wherever Buyer's Property is located) and take possession of Buyer's Property, or to request that Seller surrender Buyer's Property to Buyer, at any time and without any reason and without any payment or any other precondition. At Buyer's request, Seller must immediately surrender Buyer's Property and prepare it for shipping or deliver it to Buyer or its customer, and cooperate in any other way

with the surrender of Buyer's Property, as directed by Buyer. Buyer will reimburse Seller for reasonable delivery costs. Seller expressly waives any right to additional notice or process and agrees to provide Buyer or its designee with immediate access to Buyer's Property. Seller has no right to retain any of Buyer's Property, either for outstanding payment demands or for any other reason. Seller's obligation to cooperate with the repossession, surrender, or delivery of Buyer's Property is not contingent on final payment or any other precondition.

- 19.6. Seller affirmatively waives any lien, whether based in statute or common law, that Seller might otherwise have on any Products or Buyer's Property for any reason. Seller assigns to Buyer any claims against third parties with respect to Buyer's Property. Seller acknowledges that the continued and unauthorized possession of Buyer's Property by Seller will cause irreparable harm to Buyer, Buyer's customers, and others. Therefore, Seller recognizes the right and need of Buyer to obtain immediate relief in the nature of a replevin, claim-and-delivery, or other similar action. Accordingly, provided that Seller receives at least 24 hours' notice of any request for hearings in connection with proceedings instituted by Buyer, Seller waives, to the fullest extent possible under applicable law, the right to notice in excess of 24 hours in connection with any judicial proceedings instituted by Buyer. Further, Seller hereby waives any requirement for Buyer to post a bond in a replevin, claim-and-delivery, or other similar action under Michigan Court Rule 3.105, other Michigan Court Rules, or under similar procedures found in other states or the federal courts. However, if a bond is required by any court rule or court order, Seller agrees that the bond will not exceed 50% of the cost to Buyer of Buyer's Property. Seller will pay all costs incurred by Buyer, including reasonable attorney's fees, the cost of the bond, and sheriff and other court officers' fees in connection with the recovery of Buyer's Property through any legal process.
- 19.7. To the extent that Buyer's Property is in the possession or control of a subcontractor or supplier to Seller, Seller will cause that party to release or deliver Buyer's Property to Buyer under these Terms. Regardless of whether Buyer's Property is in the possession or control of a subcontractor or supplier to Seller, Seller remains directly responsible to Buyer for the performance of the obligations in this section, and remains fully liable to Buyer for any breach of this section.
- 19.8. If Buyer's Property becomes lost or damaged while in Seller's possession, Seller will indemnify Buyer for the loss or replace the property at Seller's expense, at Buyer's option.

20. SELLER'S PROPERTY

- 20.1. Unless otherwise specified in the Order, Seller, at its expense, will furnish, keep in good condition, and replace when necessary all machinery, equipment, tools, jigs, dies, gauges, fixtures, molds, patterns, and other items that are necessary for the

production of the Products but are not Buyer's Property ("Seller's Property"). Seller will insure Seller's Property with full fire and extended coverage for its full replacement value.

- 20.2. Seller grants Buyer an irrevocable option to take possession of and title to any of Seller's Property that is specially designed or configured for the production of the Products upon Buyer's payment to Seller of the net book value of those items of Seller's Property less any amounts that Buyer has previously paid to Seller for the cost of those items. This option will not apply to any item of Seller's Property that is used to produce a substantial quantity of products for other customers of Seller.

21. PAYMENTS AND SETOFF

- 21.1. In addition to any right of setoff or recoupment provided by law, all amounts due to Seller or any of its subsidiaries or affiliates will be considered net of indebtedness or other obligations of Seller and its affiliates or subsidiaries to Buyer and its affiliates or subsidiaries. Buyer and its subsidiaries or affiliates has the right to set off against or recoup from Seller and its affiliates or subsidiaries any amounts owed or claimed-owed to Buyer and its affiliates or subsidiaries.
- 21.2. Buyer will pay the prices set forth on the face of the Order for Products delivered and accepted, less deductions, if any, permitted under the Order, but only:
 - 21.2.1. upon submission by Seller to Buyer of an invoice; or
 - 21.2.2. pursuant to other mutually agreed-upon arrangements.
- 21.3. The prices for Products will not be subject to any variation without the prior written consent of Buyer. Unless otherwise specified, Buyer will pay for a partial delivery only if it is accepted by Buyer.

22. REMEDIES

- 22.1. All remedies provided in the Order are distinct from and cumulative to any other right or remedy provided to Buyer by the Order, law, or equity. Buyer may exercise all available rights concurrently, independently, or successively.
- 22.2. Any forbearance by Buyer in exercising any right or remedy provided by the Order, law, or equity will not be a waiver of or preclude the exercise of any other right or remedy.
- 22.3. In no case will Buyer's exercise of any rights provided by the Order, or Buyer's failure to exercise any of its rights, relieve Seller from legal responsibility for the failure of any Products to comply with the requirements of the Order.

- 22.4. Seller agrees that, in the event of any dispute arising from or related to the Order, or any claim by Seller that it has been damaged in any way as a result of or related to the Order, that its exclusive remedy in any court is an action for monetary damages, and it may not seek an equitable remedy.
- 22.5. Seller agrees that any harm or damage it may claim arising from or related to the Order is not irreparable harm. Seller admits that any harm or damage it may claim is compensable by the legal remedy of monetary damages. Seller therefore waives any claim it has now or may have in the future related in any way to the Order that seeks injunctive or other equitable relief as a remedy, and it waives any right to seek that relief by motion or by any other means from any court.
- 22.6. Seller acknowledges and agrees that under no circumstances will it have the right to cease those deliveries to Buyer that are required by the Order. Seller acknowledges and agrees that its failure to deliver as required by the Order will cause irreparable harm to Buyer. Seller acknowledges and agrees that if it does stop deliveries, preliminary and permanent injunctive relief should be granted in Buyer's favor, compelling Seller to resume and continue deliveries as required by the Order.
- 22.7. Seller acknowledges that any failure to make deliveries as required to Buyer may cause Buyer, along with the irreparable harm it will suffer, to incur monetary penalties or fines imposed by Seller's customer, as well as other monetary damages. Seller agrees that if Buyer incurs any such penalties, fines, or damages as a result of Seller's failure to deliver in accordance with the Order that Seller will fully and immediately indemnify Buyer for those amounts.
- 22.8. In no event will Buyer be liable to Seller for anticipated profits or for special, incidental, consequential, exemplary, or punitive damages. Seller, on the other hand, shall be responsible for Buyer's anticipated profits or for special, incidental, consequential, exemplary, or punitive damages
- 22.9. In any event, upon demand by Buyer, Seller will accommodate any defect, claimed-defect, or apparent defect without delay, by providing replacement Products and by paying for all cost, including the cost of the replacement Products, the cost to provide replacement parts to Buyer, replacement costs claimed or not claimed by Buyer's customers, and all shipping, freight, duty, and all other costs associated with replacing Products.

23. SERVICE AND REPLACEMENT PARTS

Seller will sell Buyer Products necessary for Buyer to fulfill its current model service and replacement Product requirements at the prices set forth in the Order. Service and replacement Products shall be sold, as applicable, at the Price outlined in the Order.

24. CLAIMS OF SELLER

Any lawsuit or other action by Seller under or in connection with the Order must be commenced within one year after the breach or other event giving rise to Seller's claim occurs, regardless of Seller's lack of knowledge of the breach or other event giving rise to Seller's claim.

25. HAZARDOUS MATERIALS AND RESTRICTED SUBSTANCES

Seller will notify Buyer of all "hazardous materials" (as that term is defined in applicable federal, state, and local statutes) that are contained in the Products. Seller will furnish Buyer with copies of all applicable "Material Safety Data Sheets" for Products no later than the initial shipment date under the Order. Seller will also comply with all laws, orders, and regulations pertaining to the use, storage, transportation, and disposal of restricted, toxic, and hazardous materials. For products that are incorporated into Buyer's customers' products, Seller will disclose restricted, toxic, and hazardous materials information to Buyer upon request. The disclosure must include Seller's entry of parts information into the International Material Data System ("IMDS"). Seller must submit ELV data by direct entry into IMDS via the Internet (www.mdssystem.com). Seller must send IMDS information to Buyer's # 30729. At a minimum, Seller will disclose those materials listed on the IMDS International List of Reportable Substances.

26. RECALL CAMPAIGNS

26.1. Seller will indemnify, defend, and hold harmless Buyer, its officers, employees, agents, successors, assigns, and customers from and against all loss, liability, damages, costs, or expense of any kind, including attorney's fees, court costs, repair and replacement expenses, and damages of any kind incurred by Buyer or its customers if Buyer recalls from Buyer's customers or others any Products, or any end products employing any Products as a part or component thereof, or if Buyer repairs, replaces, or refunds the purchase price of the Products or end product. This indemnity will apply only if the recall, repair, replacement, or refund:

26.1.1. is required under applicable statutes, laws, or regulations; or

26.1.2. is required by Buyer's contractual obligations to its customers, end users, or end customers; or,

26.1.3. is necessary, in Buyer's reasonable commercial judgment, to preserve Buyer's commercial reputation as a supplier of reliable, high-quality products.

26.2. If the Products are not the sole cause of a recall, then Buyer will apportion its costs, damages, and expenses as it determines to be reasonable and equitable.

Buyer will use reasonable efforts to inform Seller promptly after Buyer learns of facts that may require a recall, a repair, a replacement, or a refund under this section.

- 26.3. Buyer has the right, without Seller's consent, to report to any administrative or regulatory body any information that Buyer obtains indicating that the Products either fail to conform to any standard required by law or create of themselves, or within the end product of which they are a part or component, a situation requiring recall or notice as defined by applicable law.
- 26.4. Seller will prepare, maintain, and file with the appropriate agency those records and reports relating to the manufacture, sale, use, and characteristics of the Products that may be required by any federal, state, or local law or regulation concerning the manufacture, sale, or use of the Products or the end products of which the Products may be a part or component. Seller will provide Buyer with copies of those records at Buyer's request and will give Buyer access to Seller's records that allow Buyer to confirm Seller's compliance with this section. Seller will comply with all product safety and compliance requirements provided by Buyer and any applicable annex to that manual, and available on the Seller- accessible website established by Buyer for supplier-related requirements and related matters.

27. GOVERNMENT CONTRACT

- 27.1. If the Order is placed in support of a government contract, Seller will comply with all applicable requirements for the governmental entity.
- 27.2. If the Order is placed in support for the U.S. government, Seller will comply with all applicable requirements for U.S. government subcontractors, including any applicable provisions of the Buy American Act ("BAA") and the Federal Acquisition Regulations ("FAR"). If the Seller does not meet the applicable requirements of the BAA, it must demonstrate to the Buyer that it qualifies for the contract under one of the following exceptions:
 - 27.2.1. *Nonavailability.* The head of the federal department or agency issuing the subject contract may determine that the relevant manufactured good is not produced or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality;
 - 27.2.2. *Unreasonable cost.* The head of the federal department or agency may determine that the cost of relevant manufactured goods will increase the cost of the overall project by more than 25 percent; or
 - 27.2.3. *Inconsistent with public interest.* The head of the federal department or

agency may determine that application of the restrictions of Section 1605 of the Recovery Act would be inconsistent with the public interest.

- 27.3. In addition, if any Order is placed pursuant to a state or municipal government contract, Seller must also comply with any reference in those contracts to the BAA (and applicable exceptions as set forth above).

28. CUSTOMS DOCUMENTATION

- 28.1. To the extent permitted by law or Treaty, Seller will assign to Buyer all export, trade, offset, and counter-trade credits that arise from the Order, with the right to reassign the credits as determined by Buyer.
- 28.2. Seller will provide Buyer all necessary information and documentation of Seller relating to the Products supplied under this Order. Seller is required to comply with all laws and regulations administered and enforced by the applicable customs and border authority for the country listed in the Order as the site of delivery.
- 28.3. If the site of delivery is within the United States, the Seller will comply with all laws and regulations administered and enforced by the U.S. Customs and Border Protection (“CBP”). Specifically, Seller is required to:
- 28.3.1. provide a commercial invoice meeting the requirements of 19 C.F.R. §§ 141.86 and 142.6, including the appropriate eight- digit subheading from the Harmonized Tariff Schedule of the United States;
 - 28.3.2. if the Products are consigned or otherwise not subject to a sale, provide a pro forma invoice meeting the requirements of 19 C.F.R. § 141.85;
 - 28.3.3. provide a validly executed NAFTA Certificate of Origin if the Products are produced in the United States, Canada, or Mexico and otherwise meets the specific Rule of Origin for the Products;
 - 28.3.4. maintain all required supporting documentation attesting to the NAFTA-originating status or other preferential-trade-agreement status claimed for the Products (such as the Generalized System of Preferences or the African Growth and Opportunity Act);
 - 28.3.5. supply to Buyer upon request a validly executed CBP Certificate of Manufacture and Delivery or CBP Certificate of Delivery for any Products subject to Buyer’s filing of a duty drawback entry; and,
 - 28.3.6. otherwise maintain all records related to the origin, manufacture, and delivery of the Products for a period of five years from the date of

importation of any Products into the customs territory of the U.S.

- 28.4. Seller will hold Buyer harmless and will reimburse Buyer for any and all increased costs, customs duties and fees (including Merchandise Processing Fees and Harbor Maintenance Fees), penalties, and liquidated or other damages incurred by Buyer as a result of deficient or erroneous documentation supplied by Seller.
- 28.5. Buyer and its subsidiaries and affiliates will be entitled to, and Seller hereby assigns to Buyer, all duty drawback rights of Seller related to Products that it imports and that are later exported from the U.S. by Buyer in some form, e.g., in the same condition as imported or as a further-manufactured article. These rights include those rights developed by successorship and rights which may be acquired by Seller from its Suppliers. The compensation for this assignment is included in the purchase price of the Products. Seller will not be compensated for this assignment with any portion of duties refunded to Buyer through the approval by CBP of Buyer's duty drawback entry covering the subject Products.

29. GOVERNING LAW; JURISDICTION; VENUE; COMPLIANCE WITH LAWS

- 29.1. The Order is made in Oakland County, Michigan, and is governed by the internal laws of the state of Michigan without regard to any conflict-of-law provisions. The United Nations Convention on Contracts for the International Sale of Products does not apply to the Order. Seller consents to the exclusive jurisdiction of the state courts in Oakland County, Michigan, and of the appropriate federal court in the U.S. District Court for the Eastern District of Michigan, Southern Division for any legal or equitable action or proceeding arising out of, or in connection with, the Order. Seller further consents to venue in those courts, and specifically waives any and all objections to venue in those courts.
- 29.2. The Equal Employment Opportunity Clause in Section 202-Executive Order No. 11246, as amended relative to Equal Employment Opportunity, and the implementing rules and regulations of the Office of Federal Contract Compliance are incorporated by specific reference. The Veterans job listing provisions of Title 41 Part 50, of the Code of Federal Regulations as amended are also incorporated by specific reference. The Affirmative Action Clause and implementing regulations set forth in 41 C.F.R. Part 60-741: Affirmative Action for Individuals with Disabilities, and 41 C.F.R. Part 60-250: Affirmative Action for Veterans as amended, are also incorporated by specific reference.
- 29.3. If the Order specifies that it is issued under a government contract, the terms and conditions on form GC-1 will govern the Order and are incorporated by specific reference and each reference to Buyer will be deemed to include a reference to the U.S. Government.

30. GENERAL TERMS

- 30.1. In these Terms, the word *including* or its variants means *including but not limited to*.
- 30.2. These Terms may be updated, at any time, in Buyer's sole discretion.
- 30.3. Seller will fully comply with all applicable laws and will hold Buyer harmless from any liability resulting from Seller's failure to do so. If the applicable laws are those of the United States, Seller is responsible for compliance with all laws administered and enforced by: U.S. Customs and Border Protection (including proper invoice descriptions of the covered Products and other required invoice information, qualification for preferential tariff treatment under the United States Mexico Canada Agreement ("USMCA") as set forth on any executed USMCA Certificate of Origin, and country of origin declaration and marking of the Products or its container); the Bureau of Industry and Security (via the Export Administration Regulations found in Subchapter C, Title 15 of the Code of Federal Regulations); and all other U.S. government agency laws and regulations pertaining to the import and export of the Products. If the Seller subcontracts any of its duties under the Order in accordance with the Section on Assignments and Subcontracting, Seller will ensure that all subcontractors comply with the requirements of this section, and will hold Buyer harmless from any liability resulting from any subcontractor's failure to comply.
- 30.4. Seller's prices will not include any federal, state, or local sales, use, or excise taxes levied upon, or measured by, the sale, the sales price, or use of the Products unless Seller is required by law to collect those taxes from Buyer. Seller will list separately on its invoice any of those tax lawfully applicable to the Products and payable by Buyer with respect to which Buyer does not furnish to Seller lawful evidence of exemption.
- 30.5. Any provision of the Order that is finally determined to be unlawful will be deemed severed from the Order and every other lawful provision of the Order and its incorporated Terms will remain in full force and effect.
- 30.6. No part of the Order may be assigned or subcontracted without Buyer's prior written approval, and notwithstanding, the terms and conditions of the Order bind any permitted assignee of Seller.
- 30.7. If Seller is authorized to use subcontractors, Seller will obtain from each subcontractor rights and obligations no less favorable to Buyer than the provisions of the Order, and will ensure that any approved subcontractor complies with all of Buyer's requirements.

- 30.8. In the event Seller cannot fulfill any of its obligations under the Order, Seller will, at Buyer's option and in addition to any other rights or remedies available to Buyer under the Order or otherwise, assign to Buyer all of Seller's rights with respect to any subcontractors under the Order.
- 30.9. Regardless of whether Seller subcontracts some or all of its obligations under the Order, Seller remains directly responsible to Buyer for the performance of its obligations under the Order, and remains directly liable to Buyer for any breach of those obligations.
- 30.10. The Order, including all documents incorporated by reference, and specifically including these Terms, contains the entire agreement between Buyer and Seller with regard to the purchase and sale of the Products sold under the Order. Seller and Buyer may use electronic means, including computer-based communications systems, to transmit the Order, Seller's acknowledgment of the Order, Releases, and other correspondence or information relating to the placing of the Order. The terms and conditions contained in or incorporated into the Order, including the Terms set forth herein, supersede any terms and conditions contained in any of those electronic transmissions.
- 30.11. Whenever the Order requires the giving of written notice to Buyer or Seller, that notice will be mailed via certified or registered mail, return receipt requested, and proper postage prepaid (along with a courtesy copy by email), to the following addresses:

As to Buyer:

Attention: John Deyarmond
Procurement Manager
23171 Groesbeck Hwy.
Warren, MI 48089
johnd@polemfg.com

As to Seller: Seller's most current address on file with Buyer.

and will be deemed duly given on the date the mailed notice is received by the addressee.