



Aerojet Redmond – Automotive Fire Suppression Terms & Conditions

1. ACCEPTANCE: This order is Buyer's offer to purchase the goods or services (the "Products") described in this order. Acceptance of this offer is limited to its terms. This order consists only of the terms contained herein and in any documents or specifications expressly incorporated by reference. It does not constitute an acceptance by Buyer of the terms contained in any quotation, proposal or order confirmation furnished by Seller.
2. BLANKET ORDERS: If this order is identified as a "blanket order", Buyer shall issue a "Vendor Release and Shipping Schedule" to Seller for specific quantities and delivery dates for Products. Buyer shall have the right to cancel, adjust or reschedule the quantities of Products shown in such "Vendor Release and Shipping Schedule" except that it may not cancel, adjust or reschedule the Products shown as "Firm Obligations" on such "Vendor Release and Shipping Schedule".
3. WARRANTY:
 - 3.01. *Supplier Warranty: The Supplier warrants that during the applicable Warranty Period (as defined in Section 3.01.07, 3.01.12 or 3.01.16) the Goods will:*
 - 3.01.01. *Conform in all respects to the drawings, specifications, Statements of Work, samples and other descriptions and requirements relating to the Goods that have been furnished, specified or approved by the Buyer;*
 - 3.01.02. *Comply with all Government Requirements of the countries in which the Goods or the vehicles into which the Goods are to be installed are to be sold;*
 - 3.01.03. *Be merchantable;*
 - 3.01.04. *Be free from defects in design to the extent furnished by the Supplier, its Related Companies or their subcontractors, even if the design has been approved by the Buyer;*
 - 3.01.05. *Be transferred to Buyer free and clear of all liens and encumbrances; and*
 - 3.01.06. *Be free from defects in materials and workmanship, and bbe suitable for their intended use by the Buyer, including the specified performance in the component, system, subsystem and vehicle location specified by the Buyer and the environment in which the Goods are or reasonably may be expected to perform.*
 - 3.01.07. *Warranty Period for Production Vehicles: For Goods installed or used in a Production Vehicle, the Warranty Period begins on the date the Goods are delivered to the Buyer (or a Related Company or third party designated by the Buyer) and expires on the date that is the later of:*
 - 3.01.08. *The date on which the period of the applicable New Vehicle Warranty (as defined in Section 3.01.11) covering the Goods ends; or*
 - 3.01.09. *The date on which any longer or broader Government Requirement covering the Goods ends.*
 - 3.01.10. *A Production Vehicle is a vehicle currently being produced by the Buyer or any of its Related Companies. Goods that are dealer-installed accessories on new vehicles are also covered under Section 3.01.07.*
 - 3.01.11. *New Vehicle Warranty: The New Vehicle Warranty consists of the basic warranties provided by the Buyer or any of its Related Companies to the end customer that cover the specific vehicle, its components and parts. The New Vehicle Warranty includes extended warranty coverage provided at no additional charge to the end customer, but does not include any optional extended warranty that may be separately purchased by the end customer.*
 - 3.01.12. *Warranty Period for Service and Replacement Parts: For Goods installed, used or sold as service or replacement parts, the Warranty Period begins on the date the Goods are delivered to the Buyer (or a Related Company or third party designated by the Buyer) and expires on the date that is the later of:*
 - 3.01.13. *The date on which the period of the warranty provided by the Buyer (or one of its Related Companies) for the Goods ends;*
 - 3.01.14. *The date on which the period remaining under the applicable New Vehicle Warranty covering the Goods ends; or*
 - 3.01.15. *The date on which any longer or broader Government Requirement covering the Goods ends.*
 - 3.01.16. *Warranty Period for Used Vehicle Accessories: For Goods installed, used or sold as accessories for used vehicles, the Warranty Period begins on the date the Goods are delivered to the Buyer (or a Related Company or third party designated by the Buyer) and expires on the date that is the later of:*
 - 3.01.17. *The date on which the period of the warranty provided by the Buyer (or one of its Related Companies) for the Goods ends; or*
 - 3.01.18. *The date on which any longer or broader Government Requirement covering the Goods ends.*



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- 3.01.19. Change in Warranty: The Buyer (or a Related Company) may change the New Vehicle Warranty or any warranty offered by it covering the Goods. If the change is made after the Production Purchase Order has been issued, the Buyer will promptly notify the Supplier of the change in a Written Notice. See Section 8.03.*
- 3.01.20. Long Term Durability Requirement: If the Production Purchase Order includes a Quality/Reliability Statement of Work, the specifications and requirements in it are in addition to the obligations of the Supplier specified in this Section 3 and Section 20.*
- 3.01.21. Warranty Programs: If the Supplier and the Buyer (or any of its Related Companies) have entered into a Warranty Program Agreement covering the Goods, it will specify the extent to which its terms take precedence over the relevant provisions in the Global Terms and Conditions. A Warranty Program Agreement will not affect the Supplier's obligations under the provisions of Section 20, unless the Warranty Program Agreement expressly provides otherwise.*
- 3.01.22. Claim for Breach of Warranty: The Supplier's Warranty and any rights of the Buyer to make a claim under it will be effective even if the Buyer has accepted all or a portion of the Goods.*

- 4. **QUALITY ASSURANCE:** Seller shall qualify as an acceptable vendor in compliance with the requirements of current revision of Buyer's supplier quality systems requirements within a reasonable time after Seller accepts Buyer's initial order for Products. Seller shall also supply initial samples and documentation per the Production Part Approval Process (PPAP) for Buyer's approval prior to the commencement of production runs by Seller. If Seller does not supply reports as required, Buyer may either reject the samples or inspect and test the samples itself and invoice Seller for such work at the rate of \$100.00 USD per hour. After its initial qualification, Seller shall maintain its status as an acceptable vendor under Buyer's supplier quality system requirements.
- 5. **PRICES:** The prices shown in this order shall be firm unless Buyer has expressly agreed to adjust the prices shown during the performance of this order. The prices shown include all charges by Seller for packing, reusable containers, and transportation to the point of delivery. The prices shown also include all applicable federal, state and local taxes except taxes with Seller is required by law to collect from Buyer. Seller shall show taxes which it is required by law to collect from Buyer separately on its invoices and shall not invoice any tax for which Buyer has furnished a valid exemption certificate. Seller represents that its prices charged for Products under this order are at least as low as the prices charged by Seller to buyers of the same kind as Buyer under conditions substantially similar to those specified in this order.
- 6. **SHIPPING AND DELIVERY:** Seller will comply with Buyer's "ship to" and "bill to" instructions as shown in this order or in the applicable "Vendor Release and Shipping Schedule". Seller will route its shipments in accordance with the instructions of Buyer or its shipping agent. Title to and risk of loss of the Products shall pass to Buyer upon delivery of the Products at F.O.B. Origin. Seller understands that Buyer establishes its manufacturing schedules in reliance on Seller's timely performance of this order and that time is of the essence in Seller's performance. Seller agrees to show the engineering revision level of the Products shipped on all shipping documents.
- 7. **INSPECTION:** Buyer, or Buyer's customer shall have the right to review any designs, drawings or specifications prepared by Seller under this order and to inspect and test Products at Seller's premises prior to delivery to Buyer. Buyer shall make such inspections and test so as not to delay the work unduly. Buyer shall also have the right to inspect Products at Buyer's plant within a reasonable time after delivery. Any review, inspection or test by Buyer under this section shall not relieve or excuse Seller from its obligations under this order.
- 8. **CHANGES:**
 - 8.01. Changes To Buyer's Order: The Buyer may make changes to its order for the Goods at any time. These may include changes to the design, specifications, engineering level, materials, packaging, or place of delivery. The Supplier will make all changes requested by the Buyer. The Supplier may not make any change on its own without first obtaining the Buyer's consent in a Written Notice.*
 - 8.02. Notice: The Buyer will provide the Supplier with notice of any change through an amendment or revision to the outstanding Purchase Order, the issuance of a new Production Purchase Order, an RFQ or a Written Notice.*



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8.03. *Impact on Cost: The Supplier will promptly notify the Buyer in a Written Notice if the proposed change will affect cost or timing and provide substantiation of its claim. If the Buyer determines that an adjustment is appropriate, the Buyer and the Supplier will negotiate in good faith on an equitable price adjustment (up or down), a change in shipping or delivery terms, or other appropriate adjustment.* In the event any dispute arises between the parties under or in relation to any contract change, the parties agree to explore resolution of the dispute through negotiation or alternate dispute resolution (ADR) techniques before pursuing full scale litigation. If either party believes that the dispute is not suitable for ADR techniques, or if such techniques do not produce results satisfactory to either party, then either party may proceed with litigation before any court of competent jurisdiction. Pending final disposition of any dispute hereunder, Seller shall proceed diligently with the performance of this Contract and in accordance with Buyer's direction

9. INFORMATION:

9.01. If Buyer supplies drawings, data, design, inventions, computer software or other technical information to Seller to facilitate the performance of this order, then such information shall remain Buyer's property and Seller shall hold it in confidence. Seller shall not reproduce, use or disclose such information to others for any purposes other than the performance of this order without Buyer's prior written consent. Such information shall be either destroyed or returned to Buyer upon completion by Seller of its obligations under this order or upon demand, along with all copies Seller has made and all other documents in which such information has been incorporated.

9.02. Unless Buyer has entered into a separate written non-disclosure agreement with Seller, any information which Seller may disclose to Buyer with respect to the design, manufacture, sale or use of the Products covered by this order shall be deemed to have been disclosed as part of the consideration for order, and Buyer shall be free to use such information.

10. BUYER'S PROPERTY: All property used by Seller in connection with this order which Buyer owns and delivers to Seller, or pay Seller for, including, but not limited to, tools, dies, jugs, molds, patterns, fixtures and equipment and any replacement thereof, shall be and remain the property of Buyer. Buyer may remove or inspect such property at any time and Buyer shall have free access to Seller's premises for such purposes. All property owned by Buyer shall be marked as Buyer's property and used only for performing Buyer's orders. Seller shall maintain and repair such property and return it to Buyer in its original condition, reasonable wear and tear excepted, at the request of the Buyer.

Any order resulting from this proposal will be a 'build to print' therefore, clause 11, 12 13 and 14 are not applicable.

11. TITLE AND ENGINEERING DRAWINGS, SPECIFICATIONS

11.01. *Any drawings and specifications produced or acquired by Seller under this Purchase Order will belong to Buyer, subject only to Seller's patent rights, but without any other restrictions on Buyer's use, including reproduction, modification, disclosure or distribution of the documents or the information contained therein. To the extent such documents contain original work of authorship created in order to comply with this purchase order, the copyrights to such work shall be owned in accordance with the Copyrights clause of this purchase order. Seller agrees not to label any such documents with a notice asserting that the documents contain confidential or proprietary information of Seller. Any engineering drawing that Seller is required to prepare and furnish to Buyer will conform to the requirements of the local computer aided design standards of Buyer.*

11.02. *All drawings, know-how, and confidential information supplied to Seller by Buyer and all rights therein will remain the property of Buyer and will be kept confidential by Seller in accordance with paragraph f of the clause entitled, INFORMATION AND DATA Seller is licensed to use Buyer's drawings, know-how, and confidential information only for the purpose of fulfilling its obligations under a Purchase Order. In addition to the obligations of paragraph f of the clause entitled, INFORMATION AND DATA, Seller will not disclose such drawings to third parties unless this is required for Seller to fulfill its duties under this purchase order. Seller will inform Buyer in writing of any third parties to whom Seller subcontracts any of the work required under this purchase order specifying in detail the work which has been subcontracted to such third party. Seller will ensure that any third party to which Seller subcontracts any of the work hereunder is bound by all the terms and conditions relating to such work to which Seller is bound under this purchase order*



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12. INFORMATION AND DATA

- 1.01.12.01. Seller will furnish to Buyer, or another party designated by Buyer, without restriction on use or disclosure all information and data Seller acquires or develops in the course of Seller's activities under this purchase order. Seller also will discuss with Buyer or another party so designated by Buyer, without restrictions on use or disclosure any potential design, quality or manufacturing problems with Supplies Seller worked on or produced pursuant to this purchase order.
- 12.02. Seller will furnish to Buyer all other information and data of Seller which Buyer or its customer reasonably deems necessary to fit such goods into a vehicle, and to advise Buyer's customer on how to maintain such goods, and to understand and apply the information and data of paragraph (a) hereof, with no restrictions on use other than Seller's patent rights.
- 12.03. Unless otherwise indicated in writing by Buyer, Seller will use reasonable care to prevent disclosing to others and will use only for the benefit of Buyer, (i) the technical information and data furnished by Buyer or developed or acquired by Seller in its work under this purchase order, prior development agreement or early sourcing agreement for Supplies related to or using such technical information or data, and (ii) information relating to any portion of Buyer's or Buyer's customer's business that Seller may acquire in the course of Seller's activities under this purchase order, prior development agreement or early sourcing agreement. This obligation shall continue so long as any purchase order for Supplies related to or using such technical information or data is in effect and for a period of two years thereafter. This obligation will not apply to information that is or becomes publicly known through no fault of Seller. Nevertheless, Seller may disclose the information and data of subsections (f)(i) and (f)(ii) hereof to third parties if this is required for Seller to fulfill its duties under this purchase order and such third parties have agreed to conditions at least as stringent as those contained herein.
- 12.04. In the event Seller provides Supplies under a purchase order in production quantities for use on Buyer's products, and Seller refuses or is unable to provide, under commercially reasonable terms, such Supplies to Buyer in additional markets after receiving written request from Buyer, then effective 60 days after receiving such written request, Seller grants Buyer a permanent, paid-up, nonexclusive, worldwide license, with a right to grant sublicenses to any of its associated companies, in such additional markets under all intellectual property rights under which Seller has a right to grant licenses, to make, have made, use, have used and sell the Supplies and derivatives thereof in the manufacture of vehicles manufactured by or for Buyer's customer or any of its associated companies and the worldwide sale of such vehicles. Seller shall also cooperate with Buyer in the exercise of such license including providing, without restriction on use, reproduction or disclosure, all information and data deemed necessary by Buyer.
- 12.05.

13. **PATENT INDEMNITY:** Seller shall indemnify Buyer, its successors, assigns, agents, customers and users of the Products against loss, damage, or liability, including costs and expenses, including attorney's fees, which may be incurred on account of any suit, claim, judgement or demand involving infringement or alleged infringement of any patent, copyright, industrial design, right or other intellectual property rights in the manufacture, use or disposition of the Products supplied under this order, if the Products delivered under this order are produced to a specification or design other than one provided by Buyer. It shall be a condition of this indemnity that Buyer shall notify Seller of any suit, claim or demand against it and, shall permit Seller to defend or settle such suit, claim, judgement or demand.
14. **RELEASE OF INFORMATION AND ADVERTISING:** Seller and Buyer agree that this order is confidential business information. Neither of them, without the prior written consent of the other, shall make any news release or public announcement of the order or advertise or publish the fact that Buyer has placed this order with Seller.
15. **ASSIGNMENT:** Seller may assign this order or any of Seller's rights or duties under this order, or subcontract the performance of any of its duties under this order, only with Buyer's prior written consent. The terms and conditions of this order shall bind any permitted successors and assigns of Seller.



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16. **EXCUSABLE DELAYS:** Neither Seller nor Buyer shall be liable for damages for delay in or prevention of its performance of this order arising out of causes beyond its reasonable control, including, but not limited to, acts of God or the public enemy, acts of any Government in either its sovereign or contractual capacity, fires, floods, strikes or other labor disputes, or freight embargoes. It shall be a condition of excuse under this section that the part seeking excuse notify the other party in writing within ten (10) days after the beginning of any cause which may excuse performance under this section. If all or any material portion of Seller's performance of this order is excused under this section for a period exceeding ninety days, Buyer shall have the right to terminate this order without further liability to Seller.
17. **TERMINATION RIGHTS:**
- 17.01. Buyer may terminate the performance of work under this order (or any part thereof) at any time without cause upon written notice of termination to Seller. Upon receipt of such notice, Seller shall, unless the notice directs otherwise, immediately discontinue work under this order. Within thirty days after receipt of the written notice of termination, Seller shall submit any claim for its expenses resulting from the termination and Buyer shall promptly make a reasonable settlement of the claim.
- 17.02. Buyer may terminate the performance of work under this order (or any part thereof) for cause upon written notice of termination to Seller if (a) Seller fails to cure any material failure to perform, discharge or fulfill its obligations under this order to the reasonable satisfaction of Buyer within ten days after receipt of a written notice from Buyer that Buyer considers Seller to be in default under this order; or (b) Seller, without the prior written consent of Buyer, assigns or transfers all or part of its rights and obligations under this order to another person either voluntarily or by operation of law; or (c) Buyer has reasonable grounds for insecurity about Seller's ability to continue to perform this order satisfactorily, including Seller's ability to maintain acceptable quality standards and delivery schedules, or a satisfactory financial condition.
- 17.03. *No Other Liability: The Buyer has no liability to the Seller or any Related Company of the Supplier for lost profits, unabsorbed overhead, capital investment, interest expense, product development and engineering costs, facilities and equipment rental or purchase or rearrangement costs, unamortized depreciation costs, penalties, or general or administrative charges, whether incurred directly or indirectly by the Supplier, any of its Related Companies, or their suppliers, except to the extent provided in Section 18.*
18. **HAZARDOUS MATERIALS:** Seller shall notify Buyer of all "hazardous materials" (as that term is defined in applicable federal, state and local statutes) which are contained in the Products. Seller shall furnish Buyer with copies of all applicable "Material Safety Data Sheets" for Products no later than the initial shipment date under this order. Seller shall also comply with all laws, orders and regulations pertaining to the use, storage and disposal of restricted, toxic, and hazardous materials.
19. **RECALL CAMPAIGNS:**
- 1.01.19.01. Seller shall indemnify and hold Buyer harmless against all loss, liability, cost or expense incurred by Buyer if Buyer recalls from Buyer's customers or others any Products furnished hereunder or an end product employing any such Products as a part of component thereof or repairs, replaces or refunds the purchase price of , or makes any field service action with respect to, such Products or end product. This indemnity shall apply only if the recall, repair, replacement or refund (a) is required pursuant to applicable statutes, laws or regulations or (b) in Buyer's reasonable commercial judgement is necessary to preserve Buyer's commercial reputation as a supplier of reliable, high quality products.
- 19.02. If Seller's Product is not the sole cause for such action by Buyer, then Buyer shall apportion its costs, damages and expenses as it shall determine is reasonable and equitable.
- 19.03. Buyer and seller shall each use reasonable efforts to inform the other promptly after learning of facts which may require a recall, or repair, replacement or refund pursuant to this section. Buyer shall have the right, without the consent of Seller, to report to any administrative or regulatory body, any information which Buyer obtains indicating that the Products furnished by Seller either fail to conform to any standard required by law, or constitute or create themselves or within the end product of which they are a part or component a situation requiring recall or notice as defined by the applicable law. Seller shall prepare, maintain and file with the appropriate agency those records and reports relating to the manufacture, sale, use and characteristics of the Products furnished to Buyer under this order which may be required by any federal, state or local law or



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regulation concerning the manufacture, sale or use of the Products or the end products of which the Products may be a part or component.

20. **GOVERNING LAW:** This order shall be governed by the law of the state of Washington, including the Uniform Commercial Code, but excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods, and excluding Washington law with respect to conflicts of law.
21. **CONTINUING OBLIGATIONS: SEVERABILITY:** *The obligations of the Buyer and the Supplier under the following Sections will survive the expiration, non-renewal or termination of the Purchase Order: 3, 8, 11, 12, 13, 14, 15, 18, 20, 29, and 30.*
22. **EXPORT, TRADE CREDITS, OFFSET & COUNTER TRADE CREDITS:** To the extent permitted by law or Treaty, Seller shall assign to Buyer all such credits which arise from this order with the right to reassign such credits as determined by Buyer.
23. **GOVERNMENT CONTRACTS:** If this order contains a “Contract Number” on the face hereof, the following Federal Acquisition Regulations (FAR) clause is incorporated herein by reference, except the “Contractor” means Seller, “Subcontractor” means Seller’s Subcontractor, and “Contract” means this Order: SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (APRIL 1998) – FAR 52.244.6.
24. **ENTIRE AGREEMENT:** This order, including all documents incorporated by reference, contains the entire agreement between Buyer and Seller with regard to the purchase and sale of the Products sold under this order. This order supersedes any prior agreements or discussions (whether written or oral) between Buyer and Seller about this order. No amendment or modification to this order (other than a written notice of change issued by Buyer under Section 8) shall be valid unless made in writing and signed by a duly authorized representative of each of Buyer and Seller.
25. **NO WAIVER:** No modification or waiver of any provisions hereof will be effective for any purpose unless such modification or waiver is specifically set forth in writing signed by a procurement representative of the party to be charged with such modifications or waiver. No waiver of any right or remedy in respect to any occurrence or event on one occasion will be deemed a waiver of such right or remedy in respect of such occurrence or event on any other occasion.
26. **OFFSETS:** Buyer may offset against any sums otherwise due Seller any amounts Buyer in good faith claims to be due from Seller, whether such claims arise under or outside this order.
27. **GOVERNMENT REGULATIONS:** Seller shall not, in performing the work required by this order, discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age or handicap. Seller will comply with all provisions of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act of 1967, as amended; the Rehabilitation Act of 1973; the Vietnam Era Veterans Readjustment Act of 1974; and Executive Orders No. 11246 of September 25, 1965, and No. 11141 of February 12, 1964; and of the rules and regulations created thereby and requirements of the Clean Air Act; Federal Water Pollution Act, as amended; and Executive Order 11738, dated September 10, 1973.
28. **QUALITY PRODUCT:**
 - 28.01. Buyer requires 100% quality parts and on-time delivery performance, based upon appropriate information. Buyer will not be obligated to accept substitutions, untimely deliveries, deliveries in quantities other than those ordered by Buyer or deliveries of goods failing to conform to Seller’s warranties contained in Warranties clause hereof. Time is of the essence in this order. Seller will immediately give written notice to Buyer of any actual or potential cause or event which threatens the timely performance of this order.
 - 28.02. *Buyer’s Options:* The buyer is entitled to: (a) reject the nonconforming Goods, return them to the Supplier and, at Seller’s option, deliver conforming Goods; or repair them. In any event the Supplier will bear the risk and expense of the remedial action undertaken by the Buyer and the Supplier.



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29. **NO THIRD-PARTY RIGHTS.** *No Third-Party Rights Except as expressly provided in this agreement, no term, condition or right in or arising under any of the documents or Web-Guides relating to the purchase of the Goods gives or creates any third-party beneficiary rights or any other rights whether in law or equity to any person or entity other than the Buyer, the Supplier and their Related Companies.*
30. **AUDIT RIGHTS:**
- 30.01. *If requested by the Buyer, the Seller will permit the Buyer to examine all pertinent documents, data and other information relating to the Goods, , the Seller's obligations under the Purchase Order, any payment made to the Supplier or any claim made by the Seller; View any facility or process relating to the Goods or the Purchase Order, including those relating to production quality; and Audit any facility or process to determine compliance with the requirements of the Purchase Order. Any examination will be conducted during normal business hours and upon advance Written Notice to the Supplier. The Supplier will use its best efforts to permit the Buyer to obtain from the subcontractors of, and vendors, to the Supplier the information and permission to conduct the review specified hereof.*
 - 30.02. *Supplier Records and Facilities: If requested by the Buyer, the Supplier will permit the Buyer (which, for purposes of this Section 32, includes its authorized representatives) to:*
 - 30.03. *Examine all pertinent documents, data and other information relating to the Goods, the Supplier's obligations under the Purchase Order, any payment made to the Supplier or any claim made by the Supplier;*
 - 30.04. *View any facility or process relating to the Goods or the Purchase Order, including those relating to production quality; and*
 - 30.05. *Audit any facility or process to determine compliance with the requirements of the Purchase Order, including those under Section 4.*
 - 30.06. *Any examination under this Section 32 will be conducted during normal business hours and upon advance Written Notice to the Supplier.*
 - 30.07. *Subcontractor Records and Facilities: If requested by the Buyer, the Supplier will use its best efforts to permit the Buyer to obtain from the subcontractors of, and vendors, to the Supplier the information and permission to conduct the reviews specified in Section 32, regardless of any other right the Buyer may have to that information or facilities.*
 - 30.08.
 - 30.09.
 - 30.10. *If the Supplier is a publicly traded company, the Supplier will provide Financial Reports to the Buyer under Section 32.03 at the time it is permitted to do so under applicable law and the rules of the appropriate stock exchanges.*
 - 32.05 *Confidentiality: The Buyer's obligations to treat information provided to its Purchasing Controller's Office under Section 32 as confidential are described in Section 35.*
 - 30.11. *Records Retention: The Supplier will keep all relevant documents, data and other written information for at least 2 years following: in the case of the Goods, the later of the last delivery of the Goods or the date of the final payment to the Supplier under the Purchase Order;*
31. **INDEMNIFICATION OBLIGATIONS OF THE SUPPLIER**
- 31.01. *Definitions For purposes of this Section 33, Indemnified Person includes the Buyer, its Related Companies, and their directors, officers, and employees. Litigation Costs includes all costs, damages, losses, claims and expenses (including actual fees for attorneys, experts and consultants, settlement costs and judgments) incurred in defending against a claim under Section 33.*
 - 31.02. *Supplier's Obligations: The Supplier will indemnify and hold an Indemnified Person harmless against all Litigation Costs occasioned by, resulting from, or arising out of any claim by a third party for death, personal injury, or property damage which results from: (a) any defect or alleged defect in the Goods supplied by the Supplier; (b) any noncompliance or alleged noncompliance by the Supplier with any of its representations, warranties or obligations under a Purchase Order; or (c) any negligence or fault or alleged negligence or fault of the Supplier in connection with the design or manufacture of the Goods.*
- 1.03.31.03. *Apportionment of Litigation Costs: Upon the filing of any third-party claim against an Indemnified Person that is subject to Section 33.02, the Supplier and the Buyer will, in good faith, attempt to*



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reach agreement concerning whether, notwithstanding the provisions of Section 33.02, it is appropriate under the circumstances of the particular case to apportion Litigation Costs between the Supplier and the Buyer.

- 31.04. *Factors to be Considered in Apportionment: In determining whether and to what extent Litigation Costs should be apportioned between the Supplier and the Buyer under Section 33, all relevant factors should be considered, including the relative strength of the claim, whether the claimant alleges solely that the Indemnified Person is vicariously liable for the Supplier's fault (for a defect in the Goods for which the Supplier is primarily responsible*
- 31.05. *Fault alleged on the part of an Indemnified Person consists of a mere failure to discover or guard against the Supplier's negligence or an alleged defect in the Goods . Absent an agreement on apportioning Litigation Costs, the terms of Section 33 will apply.*
- 31.06. *Work Performed on Premises: If the Supplier performs any work on an Indemnified Person's premises or utilizes the property of an Indemnified Person, whether on or off the Indemnified Person's premises, the Supplier will indemnify and hold the Indemnified Persons harmless from and against any liability, claims, demands or expenses (including actual fees of attorneys and other professionals) for damages to the property of or injuries (including death) to Indemnified Persons, their employees or any other person arising from or in connection with the Supplier's performance of work or use of the Indemnified Person's property, except for such liability, claim, or demand arising out of the sole negligence of an Indemnified Person..*

32. CONFIDENTIALITY

- 32.01. *Confidential Information: Confidential Information is information that meets the requirements specified below for Supplier Confidential Information or Buyer Confidential Information. Information that does not meet these requirements is not Confidential Information, regardless of any legend or marking to the contrary. A reference in this Section 34 to Confidential Information of the Other Party is a reference to Supplier Confidential Information when the reference relates to an obligation of the Buyer, and to Buyer Confidential Information when the reference relates to an obligation of the Supplier.*
- 32.01.01. *Supplier Confidential Information is any information disclosed under the Purchase Order that meets all of the following requirements:*
- 32.01.02. *The information is non-public information that is proprietary to: (A) the Supplier; (B) any of its Related Companies; or (C) any third party to which any of them has an obligation of confidentiality relating to the information.*
- 32.01.03. *The information is disclosed to the Buyer: (A) in tangible form and identified as confidential in the tangible form; or (B) orally, and is identified as confidential at the time of disclosure, and is described in a written statement (which must also identify it as confidential) within a reasonable time after disclosure.*
- 32.01.04. *The information is: (A) Level Two Materials; (B) provided under a Team Value Management initiative; (C) Embedded Software;*
- 32.01.05. *Buyer Confidential Information is any information that meets all of the following requirements, regardless of whether it has been disclosed under the Purchase Order:*
- 32.01.06. *The information is non-public information that is proprietary to: (A) the Buyer; (B) any of its Related Companies; or (C) any third party to which any of them has an obligation of confidentiality relating to the information.*
- 32.01.07. *The information is:*
- 32.01.08. *a Volume Projection, or is provided under a Team Value Management initiative;*
- 32.01.09. *the Buyer's or any of its Related Companies' future product plans or any details of those plans; or*
- 32.01.10. *any other information identified by the Buyer or any of its Related Companies (orally or in writing) as confidential.*
- 32.02. *Obligations and Standard of Care*
- 32.02.01. *The Buyer and the Supplier will each use Reasonable Care to protect the confidentiality of Confidential Information of the Other Party. Reasonable Care is the standard of care that the party holding the information would use in protecting the confidentiality of its own confidential information.*
- 32.02.02. *Some of the Buyer's and its Related Companies' electronic systems (for example, WERS) are designed for collaboration and the sharing of information among multiple parties, including other suppliers. The Supplier should not input Supplier Confidential Information into any electronic system of the Buyer or any of its*



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Related Companies unless the Buyer or any of its Related Companies has advised the Supplier in a Written Notice that the system is suitable for receipt of Supplier Confidential Information.

The obligations under Section 34 (a) do not apply to any information that: (1) is or becomes publicly available through no breach of any agreement between the Buyer and the Supplier; (2) is approved for release by the disclosing party in a Written Notice; (3) is lawfully obtained from a third party without a duty of confidentiality; (4) was already known to the receiving party prior to its disclosure; (5) is required to be disclosed by a valid court order; or (6) is input by the Supplier into an electronic system for which the Supplier has not received the Written Notice described in Section 34 (b). The exception in clause (5) will apply only if the receiving party has: (A) provided the disclosing party with a Written Notice of the court order; and (B) fully cooperated with the disclosing party in seeking confidential treatment for the disclosures. The Buyer's confidentiality obligations under Section 34 (a) also do not apply to Embedded Software, to the extent required to exercise License rights for the Embedded Software.

32.02.03. Sharing with Related Companies and Consultants: The Buyer and the Supplier may share Confidential Information of the Other Party with their: (a) Related Companies; and (b) consultants, contractors, experts and agents; provided, that the person or entity with whom or which the information is being shared has agreed in writing to be bound by confidentiality provisions comparable to those specified in this Section 17. The Supplier will first obtain the written consent of the Buyer if the Supplier or any of its Related Companies wants to share Buyer Confidential Information with any party (including any of its Related Companies) that is a motor vehicle manufacturer or distributor.

32.02.04. Sharing with Other Third Parties: Neither the Buyer nor the Supplier will share any Confidential Information of the Other Party with any third party, including any competitor of the other party, without the prior written agreement of the other party, except as may otherwise be permitted under the Purchase Order, a Technology Agreement, or other written agreement between the parties.

32.02.05. No Other Obligations: The Buyer, the Supplier, and their Related Companies have no other obligation for confidential information supplied to them from whatever source, unless otherwise agreed to in writing.

32.02.06. Effective Date of Buyer's Obligations: The Buyer's obligations under this Section 34 apply to Supplier Confidential Information disclosed to the Buyer on or after January 1, 2004.

33. BUYERS INTELLECTUAL PROPERTY RIGHTS: The Supplier will first obtain the Buyer's written approval before it manufactures, sell or otherwise discloses to third parties any goods made by the Supplier, or one of their subcontracts using any Tooling, equipment or Intellectual Property Rights of the Buyer or its Related Companies.

34. COMPLETION AND PAYMENT: *The Supplier, at its own expense, will manufacture the requisite number of sample Goods using the Tooling in order to successfully complete the Buyer's Production Part Approval Process (PPAP) and submit the Part Submission Warrant (PSW). The Tooling will be completed when the necessary samples have been submitted and approved by the Buyer. The Supplier has no claim for payment until the Tooling is completed and the Part Submission Warrant and any other necessary documentation have been submitted.*

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