

“ACP Canada” Terms and Conditions

1. CONTRACT.

This Purchase Order (“Order”) is the entire contract between “ACP Canada”, as applicable, and the Seller named on the face of the Order with respect to the goods or materials ordered and any related services (collectively, “Goods”) and it supersedes any prior communications or agreements between the parties about the Goods. The term “The Company” in this document refers to ACP Canada. Any documents incorporated or referred to in this Order or in any releases issued to Seller hereunder are a part of this Order, except that any references to Seller’s quotation or other form of offer for the Goods is for information only and “The Company” hereby rejects all terms and conditions proposed by Seller therein. **These Terms and Conditions (“Terms”) will apply to all purchases made by “The Company” under this Order and any related releases unless modified or waived by any specific different terms stated on the face of the Order or release, regardless of any course of dealing or industry practice to the contrary.** Captions in these Terms are for convenience only.

2. ACCEPTANCE.

Seller’s written acknowledgment of this Order, commencement of work on the Goods, or delivery of any Goods hereunder will constitute its acceptance of these Terms. Without “The Company’s” written consent, no additional or different terms proposed by Seller in its acknowledgment or otherwise will be effective to modify this Order and Seller will be deemed to have accepted the Order without such modifications.

3. SELLER’S STATUS.

Seller is an independent contractor and not an employee, agent or partner of or joint venturer with “The Company”.

4. ASSIGNMENT.

Seller may not assign or subcontract this Order or any of its rights or obligations hereunder without “The Company’s” prior written consent and any purported assignment in violation of this provision will be void.

5. CHANGES TO ORDER.

“The Company” may change this Order in any respect at any time by written notice to Seller. Seller will promptly notify “The Company” if any such change materially affects Seller’s costs of producing the Goods or delivery schedule for them. On receipt of such notice and such supporting documentation as “The Company” may reasonably require, “The Company” will adjust the price and/or schedule equitably, at its discretion, and this Order will be deemed amended accordingly.

6. PACKING AND SHIPMENT.

Seller will pack and ship the Goods in accordance with “The Company’s” instructions, furnish all shipping documents required by “The Company”, and plainly mark “The Company’s” name and the Order number on all packages and documents. “The Company’s” count or weight will be final and conclusive for all shipments.

7. DELIVERY

Unless otherwise stated on the face of the Purchase Order, the Goods are sold “F.O.B. Sherbrooke” “The Company’s” designated facility (if originating within the USA) or “Delivered Duty Paid” (as defined in *Incoterms 2000*) to “The Company’s” designated facility (if originating outside the USA) and Seller will bear all risks and costs of delivering the Goods, including shipping and insurance charges, duties, taxes and other charges. Seller will deliver all Goods in accordance with “The Company’s” instructions about volume, mix and

delivery dates and times. If any Goods are delivered in excess of volumes ordered or in advance of schedule, "The Company" may return them at Seller's expense or retain them and invoice Seller for any resulting handling and storage costs. "The Company" will not process invoices for Goods shipped in advance of schedule until the scheduled delivery date. "The Company" may change scheduled deliveries at any time by written notice to Seller and will reimburse Seller for reasonable, documented, unavoidable incremental costs incurred by Seller due to such changes. **Time is of the essence in Seller's performance of this Order.** If Seller fails to deliver any shipment of Goods in accordance with "The Company's" instructions, "The Company" may cancel the shipment and/or purchase substitute goods. Seller will reimburse "The Company" for its incremental costs in procuring any substitute goods and for any costs or losses "The Company" incurs due to such delivery failure.

8. INSPECTIONS.

"The Company" and its customers may inspect and/or test the Goods at any time, at their own expense, and Seller will make its premises available for this purpose and provide any necessary assistance at no charge. However, no inspections or tests by "The Company" or its customers will relieve Seller of any of its obligations hereunder relating to the Goods. If "The Company" finds any Goods to be defective or not in conformity with its specifications or requirements, it may return them for a refund of the purchase price, require Seller to repair or replace them, or rework or repair them (itself or through third parties) and Seller will reimburse "The Company" for the resulting costs.

9. QUALITY.

Seller will comply with the ISO-9000 Quality System Requirements, a capability of Cpk of 1.33 on their processes and any other quality standards

and procedures furnished by "The Company". Any nonconformance must be approved by "the company" using deviation request.

10. COMPETITIVENESS, PRICE WARRANTY.

At all times while performing this Order, Seller will be competitive in price, quality, delivery, technology and service with respect to the Goods. Seller warrants that its prices to "The Company" for the Goods are and will remain no less favorable than its prices to other customers for the same or comparable goods in comparable quantities. Seller agrees to reduce its prices under this Order if necessary, at any time to maintain this warranty.

11. INVOICES, PAYMENT.

Unless otherwise stated in the Order, Seller will invoice "The Company" the day shipment leaves the slitter, and "The Company" will pay the invoices within 60 days after receipt. The invoice must be received on or before shipment is received by the company. Seller will mark "The Company's" name and order number on all invoices. "The Company" may withhold or set off from any invoice payment any amount as to which a *bona fide* dispute exists under this Order or arising out of any other transaction with Seller. Payment will not constitute acceptance of any defective or non-conforming Goods.

12. CONFIDENTIAL INFORMATION.

Except as necessary to perform this Order, as required by law and with prior written notice to "The Company", or with "The Company's" prior written consent, Seller will, at all times, keep confidential all information, drawings, Customer and technical specifications and data of any kind or nature furnished by or on behalf of "The Company" (whether in writing, electronically, orally, or visually) or derived or developed by Seller therefrom in the course of performing this Order. Seller will

not divulge such confidential information, use it for its own benefit or for the benefit of any other party, or copy it or permit copies to be made. These confidentiality obligations will not apply to information lawfully known by Seller at the time of disclosure by "The Company" or obtained by Seller from a third party lawfully entitled to disclose it, or to information that is or becomes public knowledge other than through disclosure by Seller. Seller will not publish or advertise the existence or nature of this Order without "The Company's" prior written consent.

13. ACCESS TO FACILITIES.

Access to facilities shall be made available on request to Purchaser's Quality Assurance Representatives including any representative of the Purchaser's Customer for the purpose of product verification and evaluation of source controls. Such verifications and evaluation shall not absolve Seller from its responsibility to supply conforming product nor preclude subsequent rejection for non-conformity.

14. CERTIFICATION BODY / REGISTRAR NOTIFICATION.

If its customer on any of the following status puts a supplier, the supplier shall notify "The Company" Canada in writing within 5 working days of the situation.

15. Chrysler "Need of Improvement, Ford Q-1 Revocation, GM Level II Controlled Shipping.

If a supplier is put on probation by its registrar, the supplier shall notify "The Company" in writing within 5 working days of the situation.

16. INTELLECTUAL PROPERTY RIGHTS, PATENT WARRANTY.

If "The Company" furnishes the design for the Goods or reimburses Seller in whole or part for designing them, then "The Company" will own all intellectual property rights relating to the design. If Seller furnishes the design for the Goods or bears the full cost of designing them, then Seller will own all intellectual property rights relating to the design. In the latter event, Seller hereby grants "The Company" a royalty-free license to use such intellectual property to rework, repair or replace any defective or non-conforming Goods. Each party warrants to the other that any designs, which it furnishes hereunder, will not infringe or contribute to the infringement of any U.S. or foreign patent or patent right or other third-party intellectual property right.

17. Warranty:

Seller further represents and warrants to Purchaser that; The goods and services supplied hereunder will conform to the specifications, drawings, samples or other descriptions furnished or specified by Purchaser and will be merchantable of good material and workmanship and free of defect; That the goods which are Seller's own products or are in accordance with Seller's specifications will be fit and sufficient for their intended purpose and if such goods are subject to the Motor Vehicle Safety Act of Canada or the National Traffic and Motor Vehicle Safety Act of the United States or any similar legislation of any Province of Canada such goods conform to all safety standards established under such legislation; and Seller will indemnify and save Purchaser its customers and users of its products, harmless against any claims, demands or damages arising out of or incidental to the breach of this representation and warranty or the goods not conforming to such standards including without limitation the manufacturing costs and loss of profits and other special damages suffered by Purchaser by reason of such breach.

18. LEGAL COMPLIANCE.

Seller warrants that it will comply with all applicable laws, regulations, ordinances and orders in performing this Order and will furnish "The Company" and its designees with such certificates or reports of legal compliance as "The Company" may request from time to time.

19. ON SITE (HAZARDOUS MATERIALS).

Suppliers and contractors will exercise due diligence to prevent contamination of soil, air, surface water and ground water, on and around the facility. They will also comply with all applicable health, safety and environmental legislation. While performing their activities, they must ensure the proper disposal of material and waste used or produced at the facility. Seller warrants that it will properly classify, describe, package, mark, label and provide any necessary Material Safety Data Sheets for the Goods and will pack and ship them in compliance with all applicable hazardous materials laws, regulations, ordinances and orders.

20. SPECIAL TOOLING.

All dies, jigs, fixtures, drawings, molds, patterns, templates, gages and the like that "The Company" provides to Seller or pays Seller (in whole or in part) to make or buy for use in performing this Order (collectively, "Tooling") are the personal property of "The Company" or "The Company's customers, as the case may be. "The Company" will not be obligated to pay for such Tooling, if applicable, until Seller has provided "The Company" with an itemized list and adequate cost records for the same and "The Company" has accepted the Tooling or the first run of Goods manufactured or assembled therewith. If Seller fails to provide adequate cost records, "The Company" will be not be obligated to pay more than the fair market value of the Tooling, regardless of the Tooling purchase price set out in the Order. While

the Tooling is in its possession or custody, Seller will be responsible for any loss or damage to the Tooling and for all taxes, assessments, and similar charges levied with respect to or on it. Seller will label the Tooling in accordance with "The Company's instructions to permit accurate identification and will segregate it from other tooling in Seller's possession to the extent practicable. At its own expense, Seller will repair and maintain the Tooling, keep it in good working condition, and replace it when necessary for any reason, including normal wear and tear. Seller will use the Tooling exclusively to produce Goods for "The Company" hereunder and for no other purpose. Upon expiration, cancellation, or termination of this Order, Seller will hold the Tooling and any operation sheets, process data, or other information necessary to show its use, at no charge, pending receipt of "The Company's instructions about its removal or disposition, which will be at "The Company's expense. Seller hereby authorizes "The Company" and/or "The Company's customer, as applicable, and its agents, on Seller's behalf and as its attorney-in-fact, to prepare, sign and file such Uniform Commercial Code financing statements and amendments thereto and similar documents as it deems necessary to evidence its ownership of the Tooling.

21. TRADE CREDITS, COUNTRY OF ORIGIN.

All trade credits, export credits, customs drawbacks, tax and fee rebates and the like relating to this Order will belong to "The Company". Seller will cooperate with "The Company" in obtaining these benefits and credits. Seller will furnish "The Company" and its designees with such documentation establishing the country of origin and value of the Goods as "The Company" may request, including, as applicable, affidavits of manufacture and NAFTA certificates of origin.

22. INDEMNIFICATION.

Seller will defend and indemnify "The Company" and its directors, employees, agents, customers, end users, successors and assigns from and



against all actual and alleged claims, liabilities, suits, damages, losses and expenses (including attorneys' fees and legal costs) arising from or caused, in whole or part, by Seller's breach of any provision, term or condition of this Order (including, without limitation, Seller's warranties hereunder); Seller's negligent or willful acts or omissions in performing this Order; and/or any event leading to "The Company's" cancellation of this Order under Paragraph 25.

23. INSURANCE.

Seller will maintain insurance coverage, at its own expense and in amounts and with insurers satisfactory to "The Company", for workers' compensation, products liability, public liability (including contractual and product liability) and automobile liability. On request, Seller will furnish "The Company" with certificates of insurance that evidence this coverage, name "The Company" as an additional insured, and require written notice to "The Company" 15 days prior to the cancellation or reduction of coverage. At "The Company's" option, Seller may furnish evidence of self-insurance. Compliance with this Paragraph 20 will not relieve Seller of its defense and indemnification obligations under Paragraph 20.

24. TERMINATION.

"The Company" may terminate this Order for convenience at any time by written notice to Seller. On termination, "The Company" will be liable to Seller solely for unpaid invoices for conforming Goods previously shipped and for Seller's reasonable, documented costs of raw materials, work-in-process and finished Goods that cannot be canceled without penalty or sold in the general trade, not to exceed the volumes specified in this Order (if a spot Order) or in any open releases hereunder (if a blanket Order) and payable only after "The Company's" receipt of the same.

25. CANCELLATION.

"The Company" may cancel this Order without liability or further obligation hereunder by 15 days' written notice to Seller if Seller breaches any provision, term or condition of the Order (or "The Company" anticipates such breach); provided, that the cancellation will be void if Seller cures the breach (or provides assurances of performance acceptable to "The Company") within the 15-day notice period. "The Company" may cancel this Order immediately by written notice to Seller without liability or further obligation hereunder (i) if Seller fails or refuses to furnish "The Company" promptly with such information and assurances as "The Company" may request, from time to time, about Seller's financial and operating conditions and ability to supply Goods under this Order, and (ii) to the extent not restricted by law, in the event of Seller's insolvency, the filing of a voluntary or involuntary petition in bankruptcy by or against Seller, the appointment of a receiver or trustee for Seller, Seller's execution of an assignment for the benefit of creditors, or a comparable event.

26. FORCE MAJEURE.

Neither party will be liable for delays in its performance of this Order due to events beyond its reasonable control (including, without limitation, acts of God, fire, flood, acts of war, and acts of sovereign governments), provided that such party notifies the other promptly of the nature and expected duration of the delay and uses all reasonable commercial efforts to mitigate any resulting losses or damages to the other party. If Seller experiences any delay that continues for more than 15 days, "The Company" may, without liability, cancel this Order or any open releases hereunder, in whole or part, by written notice to Seller.



27. BINDING EFFECT.

This Order is binding on the parties and their respective directors, officers, employees, agents, subcontractors, successors and permitted assigns.

28. CUMULATIVE REMEDIES.

"The Company's remedies herein are cumulative and in addition to any other or further remedies available to it at law or equity.

29. WAIVER.

"The Company's failure to enforce any right provided herein or to which it is entitled at law or equity will not constitute a waiver of that right or of any other rights to which it is entitled.

30. GENERAL.

The Contract resulting from acceptance of this Purchase Order shall not be assigned without the prior written consent of Purchaser, shall benefit and bind the parties hereto and their respective successors, permitted assigns, heirs, executors and administrators and shall be construed in accordance with the domestic laws of the Province of Québec of whose courts shall have sole jurisdiction with respect to the subject matter hereof provided that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to the Contract resulting from the acceptance of this Purchase Order. Each waiver or consent by Purchaser to be effective must be in writing and shall not constitute a continuing waiver or consent.

31. DISPUTE RESOLUTION.

The parties will attempt to resolve any dispute involving the interpretation, performance or non-performance, or enforceability of the Order by prompt good faith negotiations and, if such

negotiations fail, will consider alternate dispute resolution procedures before resorting to litigation.

32. ENGLISH FORM.

It is the express wish of the parties that this agreement be drawn up in the English language. Les parties confirment qu'il est de leur volonté express et réciproque que cette entente soit rédigée en anglais.