

GENERAL TERMS AND CONDITIONS OF PURCHASE OF INDIRECT GOODS AND SERVICES

These General Terms and Conditions of Purchase of Indirect Goods and Services (these “Terms and Conditions”), which shall apply to each Purchase Order for indirect goods and services which references these Terms and Conditions and shall be deemed to be incorporated by reference therein, are entered into as of the Effective Date, by and between Rivian Automotive, LLC, a Delaware limited liability company (collectively with its Affiliates, “Purchaser”), and the party to whom the applicable Purchase Order is addressed (“Seller”). Purchaser and Seller are each referred to herein as a “Party” and collectively as the “Parties.”

1. Offer/Acceptance.

1.1 Purchase Orders.

(a) A Purchase Order does not constitute an acceptance by Purchaser of any offer or proposal by Seller, whether in Seller’s quotation, acknowledgement, invoice or otherwise. In the event that any Seller quotation or proposal is held to be an offer, that offer is expressly rejected and is replaced in its entirety by the offer made up of the Purchase Order. By accepting the Purchase Order, Seller agrees that it is willing and able to provide the services and/or goods referenced in such Purchase Order during the period reference therein.

(b) Seller shall accept any Purchase Order that conforms to a written agreement signed by both Parties. Each Purchase Order (and the terms and conditions which relate to such Purchase Order, including these Terms and Conditions) shall be deemed accepted by Seller by (i) written acceptance (which may occur electronically), (ii) shipment of goods, performance of services, or commencement of work on goods, or (iii) any other conduct of Seller that recognizes the existence of a contract pertaining to the subject matter hereof. Additionally, each Purchase Order shall be deemed accepted five (5) business days after Purchaser delivers the Purchase Order to Seller, if Seller fails to object to the Purchase Order. If Seller objects to any of the terms in the Purchase Order, Seller shall inform Purchaser and propose alternative terms. If Purchaser accepts such alternative terms, Purchaser shall issue a revised Purchase Order that includes such alternative terms. If a revised Purchase Order is not issued by Purchaser, the Parties acknowledge and agree that such alternative terms are expressly rejected.

1.2 Contract. Upon the earlier of (a) the date that the parties execute a written agreement, including a Master Purchase Agreement for Indirect Goods and Services, or (b) Seller’s acceptance of a Purchase Order (as set forth in Section 1.1(b)), the terms of such Purchase Order, together with these Terms and Conditions and any other applicable agreements, will form a binding contract between Purchaser and Seller (the “Contract”). Acceptance is expressly limited to the terms of the Contract. No purported acceptance of any Purchase Order on terms and conditions which modify, supersede, supplement or otherwise alter these Terms and Conditions shall be binding upon Purchaser and such terms and conditions are expressly rejected and replaced by these Terms and Conditions unless Seller’s proffered alternative terms or conditions are agreed in writing by Purchaser, notwithstanding Purchaser’s acceptance of or payment for any shipment of goods or similar act of Purchaser.

1.3 Order of Precedence. In the event of a conflict between or among any document comprising the Contract, the terms of the applicable document will prevail in a descending order as follows: (a) a Purchase Order amendment issued by Purchaser (if any), (b) the Purchase Order, (c) any written agreement between Purchaser and Seller, including a Master Purchase Agreement for Indirect Goods and Services and any related Statement of Work (“SOW”), and (d) these Terms and Conditions.

2. **Quantity of Goods.**

2.1 Seller acknowledges and agrees that Seller is obligated to provide Goods to Purchaser in the quantity specified in any Purchase Order issued by Purchaser.

2.2 If the quantity is not specified on the Purchase Order, the quantity is for all or a portion of Purchaser's requirements and may be for up to one hundred percent (100%) of Purchaser's requirements.

2.3 If Seller's ability to deliver any Products is or is reasonably likely to be constrained, Seller shall immediately notify Purchaser setting forth the cause for the anticipated delay and use best efforts to resolve the issue causing the constraint. Any oral communication shall be immediately confirmed in writing. During the period of any delay, Seller shall fulfill Purchaser's Purchase Orders prior to fulfilling orders for the same or similar products for any of Seller's other customers for the period in which Seller's production is constrained, using existing on-hand stock and Seller's actual output. The foregoing is in addition to, and not in limitation of, Seller's other obligations under the Contract and Purchaser's other rights and remedies at law, in equity, and in the Contract.

3. **Services; Deliverables.**

3.1 **Authorization of Services.** Seller shall provide Services pursuant to the terms of the Contract. Seller shall not perform any Services unless and until Purchaser issues a Purchase Order with respect to such Services which incorporates these Terms and Conditions.

3.2 **Obligation to Provide the Services, Generally.** Seller shall diligently and completely render all Services and deliver all Deliverables as described and defined in the Contract and any amendment or change orders hereto accepted by both Parties. All obligations of Purchaser relating to the applicable time schedule for Deliverables hereunder are preconditioned on the due fulfillment of all contractual obligations hereunder by Seller. Seller shall promptly notify Purchaser of any factor, occurrence, or event that may affect Seller's ability to meet the requirements of the Contract or that is likely to result in delay of delivery of the Deliverables.

4. **Seller Status; Covenants; Obligations.**

4.1 Seller acknowledges that Seller is a non-exclusive provider of Goods and Services. Purchaser has no obligation to order or purchase any Goods or Services beyond those Goods and Services specifically identified in the Purchase Order. Purchaser may purchase from any third-party goods and/or services that are identical or similar to the Goods and Services described in the Contract. Seller shall cooperate and coordinate with Purchaser for any other goods or service providers selected by Purchaser as reasonably required for Purchaser or the service provider to perform services for which it is responsible.

4.2 Seller acknowledges that it shall at all times act and perform as an independent contractor hereunder and shall not, for any purposes, be deemed an employee of Purchaser. Neither Party shall take any actions or make any statements that would indicate that the relationship between the Parties is other than that of independent contractors. Nothing in the Contract shall be construed to create a partnership, joint venture, or any other form of fiduciary relationship. Purchaser will have no right to control or direct the details, manner or means by which Seller accomplishes the results of the Services performed hereunder or the Deliverables produced and delivered hereunder.

4.3 Seller covenants and agrees to provide the Services and produce and deliver the Deliverables to Purchaser as described in the Contract and to meet all deadlines set by Purchaser with respect thereto.

4.4 Subject to the Seller's compliance with its obligations set forth in Section 12, Seller may engage in any other trade or business and provide services and deliverables to other customers or clients during the term of the Contract;

provided, that such other trade, business, or service does not conflict with Seller's performance of the Services and production and delivery of the Deliverables under the Contract.

4.5 During the term of the Contract, Seller shall maintain in effect and pay all applicable taxes and premiums for all insurance and other programs required by law, together with comprehensive general liability insurance in amounts and with insurers reasonably satisfactory Purchaser.

4.6 Any personnel supplied or used by Seller shall be deemed to be employees or subcontractors of Seller and shall not be considered employees, agents, or subcontractors of Purchaser for any purpose. Seller assumes full responsibility for the actions of all such personnel while performing Services and producing and delivering the Deliverables under the Contract and for the payment of compensation, (including, if applicable, the payment and withholding of federal, state, provincial and/or local income taxes, and social security and other payroll taxes), workers' compensation, disability benefits and related liabilities and obligations therefor.

4.7 Unless otherwise explicitly set forth in the Contract, (i) while Seller has the authority to perform the duties specified in the Contract on behalf of Purchaser, Seller shall not hold itself out as an agent of Purchaser or as having any authority whatsoever to act for or bind Purchaser in any business, contractual, legal, or other matter and (ii) Seller shall have no express, implied, or apparent authority to bind Purchaser to any legal obligation or to execute contracts on behalf of Purchaser.

4.8 Unless otherwise explicitly set forth in the Contract, (i) Purchaser makes no commitment to Seller as to the number of hours Seller will be asked to work during the term of the Contract, (ii) Purchaser may contact Seller at its sole discretion when it has a need for the Services and Deliverables and (iii) when Purchaser contacts Seller, Seller is free to accept or decline Purchaser's request for Services and Deliverables.

5. **Representations and Warranties of Seller.**

5.1 **General.** In addition to any express warranties set forth in the Purchase Order, any statutory warranties and any warranties implied by law, Seller, on behalf of itself and its sub-contractors and/or sub-suppliers, as applicable, expressly represents and warrants to Purchaser and Purchaser's respective customers, successors and assigns that the Goods, Services, and Deliverables provided, produced and delivered under the Contract (i) shall strictly conform with all Specifications, drawings, statements on containers or labels, descriptions and samples furnished to or by Purchaser, and all industry standards, laws and regulations in force in countries where such Services provided and Deliverables are being used; (ii) shall be free from defects in design, material and workmanship and shall meet or exceed the quality standards specified by Purchaser; (iii) shall be free and clear of all liens, claims or other encumbrances, and that Seller is conveying good title to Purchaser; (iv) shall be merchantable, of good material and workmanship, free from defects, and safe, fit and sufficient for the particular purposes intended by Purchaser; and (v) shall be performed in a professional, competent, workmanlike manner in conformance with all policies, rules and schedules established by Purchaser with respect thereto, and in compliance with all applicable laws, including all federal, state, and local laws, as well as all regulations, customary business, trade and industry practices and standards, other applicable standards, and labeling, transporting, licensing approval or certification requirements, in the United States or any other country where the Services will be performed and the Deliverables will be used. These warranties shall survive inspection, test, delivery, acceptance, use and payment by Purchaser and shall inure to the benefit of Purchaser, its successors, assigns, and the users of Purchaser's goods and services.

5.2 **Non-Infringement.** Seller expressly warrants that all Deliverables will not and do not infringe any patent, trademark, copyright or other intellectual property of any third party. Seller (i) agrees to defend, hold harmless and indemnify Purchaser and its customers against all claims, demands, losses, suits, damages, liability and expenses (including actual fees for attorneys, experts and consultants, settlement costs and judgments) arising out of any suit, claim or action for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark, copyright or other proprietary right by reason of the performance or receipt of the Services

or the manufacture, use or sale of the Deliverables, including infringement arising out of compliance with specifications furnished by Purchaser or for actual or alleged misuse or misappropriation of a trade secret resulting directly or indirectly from Seller's actions; and (ii) waives any claim against Purchaser and its customers, including any hold-harmless or similar claim, whether known or unknown, contingent or latent, in any way related to a claim asserted against Seller or Purchaser for infringement of any patent, trademark, copyright or other proprietary right, including claims arising out of compliance with Specifications furnished by Purchaser.

5.3 Malware. Seller represents and warrants that it will not introduce malware into Purchaser or any of its Affiliates' systems and that Seller will exercise commercially reasonable efforts to prevent malware from being so introduced. If malware is found to have been introduced into Purchaser's or any of its Affiliates' systems as a result of a breach of the foregoing warranty, Seller will, at no additional charge, assist Purchaser in eradicating the malware and reversing its effects and, if the malware causes a loss of data or operational efficiency, to assist Purchaser in mitigating and reversing such losses.

5.4 Compliance Warranties. Seller represents and warrants to Purchaser that:

(a) it is not debarred, suspended, excluded, or disqualified from doing business with the United States Government, or listed as the Excluded Parties List System maintained by the General Services Administration of the United States Government (found at www.epls.gov);

(b) (i) it is not under investigation by any Governmental Authority for, nor has it been charged with, or convicted of, money laundering, drug trafficking, terrorist-related activities, any crimes which in the United States would be predicate crimes to money laundering, or any violation of any Anti-Money Laundering Laws, (ii) has not been assessed civil or criminal penalties under any Anti-Money Laundering Laws, and (iii) it has not had any of its funds seized or forfeited in any action under any Anti-Money Laundering Laws;

(c) it is in compliance with all applicable domestic or foreign Anti-Corruption Laws, including those prohibiting the bribery of Government Officials, and will remain in compliance with all applicable Laws; that it will not authorize, offer or make payments directly or indirectly to any Government Official; and that no part of the payments received by it (whether compensation or otherwise) from Purchaser will be used for any purpose that could constitute a violation of any applicable Law;

(d) neither it nor any of its Representatives or subcontractors is the subject of any sanctions administered or enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC), the United Nations Security Council (UNSC), the European Union (EU), Her Majesty's Treasury (HMT), or other relevant sanctions authority (collectively, "Sanctions"), nor is Seller, or any of its Representatives or Subcontractors located, organized or resident in a country or territory that is the subject of Sanctions;

(e) neither it nor any of its Representatives or Subcontractors has violated any Sanctions;

(f) neither it nor any of its Representatives or Subcontractors will use any funds received by or on behalf of Purchaser to fund or engage in any activities with any Person or in any country or territory, that, at the time of such funding or activity, is the subject of Sanctions, or in any other manner that will result in a violation by any Person of any Sanctions.

5.5 Future Performance: Non-Exhaustive. All representations and warranties of Seller shall be deemed to be repeated on a daily basis during the term of the Contract and for the duration of all of Seller's obligations under the Contract. As such, all representations and warranties of Seller shall extend to, and shall be deemed to be made by Seller with respect to, future performance of the Products and are not modified, waived or discharged by delivery, inspection, tests, acceptance or payment. Purchaser's approval of any design, drawing, material, process or specifications will not

relieve Seller of these representations and warranties. The warranties set forth in this [Section 5](#) are in addition to any warranties express or implied by law or equity or otherwise made by Seller.

6. **Quality.**

6.1 Seller's Products shall comply and strictly with any and all Purchaser Specifications related to quality and additional quality assurance procedures separately prescribed by Purchaser. Purchaser, in its sole discretion, decide whether the quality standards required for each Products are being met. Seller shall, in accordance with the quality standards provided by Purchaser, provide, maintain, perform, and enforce all measures necessary to secure the quality of Products and the manufacturing and performance processes thereof, including quality control standards, inspect standards, and specifications.

6.2 **Duty to Notify.** Seller will immediately notify Purchaser in writing when it becomes aware of any ingredient, component, design or defect in the Products that is or may become harmful to Persons or property or fails to meet the Specifications or other requirements of the Contract. Promptly upon learning of defective or non-conforming Products, Seller will develop, document and implement corrective actions in accordance with all applicable quality control policies and standards of Purchaser, including by: (a) promptly investigating and reporting on the root cause of the problem; (b) remedying the cause of the problem and resume performance in accordance with the Contract; (c) implementing and notifying Purchaser of measures taken by Seller to prevent recurrences if the problem is otherwise likely to recur; and (d) making written recommendations to Purchaser for improvements in procedures.

7. **Delivery.**

7.1 Seller shall deliver Products both in quantities and at times specified on the Contract. Unless otherwise stated in the Contract, Goods shall be delivered DDP (Incoterms 2010) Purchaser's designated facility specified on the Purchase Order, and if applicable, with export customs formalities completed by Seller, and title will transfer upon receipt of the Goods by Purchaser at such facility. Seller shall adhere to shipping directions specified by Purchaser. Purchaser shall not be required to make payment for Products delivered to Purchaser that are in excess of firm quantities and delivery schedules specified in the Contract. Seller shall not procure, produce or ship any Products unless authorized in writing by Purchaser or as necessary to meet specific delivery dates. Shipments in excess of those authorized by Purchaser may be returned to Seller at Seller's expense, and Purchaser may debit Seller for the cost of such returns. Purchaser may change shipping schedules or direct temporary suspension of such scheduled shipments. Purchaser may change the rate of scheduled shipments or direct temporary suspension of scheduled shipments, neither of which shall entitle Seller to a modification of the price of Products. Premium shipping expenses and/or other expenses necessary to meet delivery schedules set forth in the Contract shall be Seller's sole responsibility.

7.2 Seller shall provide packing slips for all shipments of Goods. Packing slips and other shipping documents and memos, such as bills of lading, shall show the Purchase Order number, part number, vendor, and item and reference numbers. For each international shipment, in addition to the packing list, Seller shall include a customs valuation invoice (pro forma or "Commercial Invoice," using the value set forth in the Purchase Order), with a master packing slip and shall furnish all other required export/import documents. Export and trade credits shall belong to Purchaser. Seller shall furnish (a) all documents required to obtain export credits and customs drawbacks; (b) certificates of origin of the materials and Products provided and the value added in each country; (c) all NAFTA, AALA and any other FTA or trade preference related or required documents; (d) all required export licenses or authorizations; and (e) any other documents requested by Purchaser or any of its customers. Seller warrants that the contents of such documents shall be true and accurate. Seller shall indemnify Purchaser for any damages, including duties, interest and penalties, arising from a false or inaccurate statement.

7.3 Unless otherwise specified in the Contract, all Goods shall be properly packed, marked, loaded and shipped as required by the Purchase Order and by the transporting carrier. For international shipments, all wooden packaging will be properly heat treated with IPPC stamp applied, and certificate delivered to Purchaser upon request. Purchaser may

specify the method of transportation and the type and number of packing slips and other documents to be provided with each shipment. Seller shall comply with shipping instructions and process as provided by Purchaser. If Purchaser has not provided packing or shipping instructions, Seller will pack and ship Products in accordance with industry standards. Seller shall reimburse Purchaser for all expenses, including damage to the Products, incurred due to improper packing, marking, or loading. Unless otherwise provided in the Purchase Order, any charges or costs related to the handling, packaging, storage or transportation of the Products are the responsibility of the Seller and have been included in the price of the Products.

7.4 Time, Quantity and Quality are of the Essence.

(a) TIME, QUANTITY, AND QUALITY ARE OF THE ESSENCE AS TO ALL GOODS AND SERVICES. If Seller is late in delivery of any Goods or its provision of any Services, or if Seller is unable to deliver the full quantities of Goods required under the Contract by the applicable delivery dates, or if Seller cannot meet the quality requirements under the Contract, Seller shall be in default under the Contract. In addition to any other binding obligations on Seller under the Contract, if Seller cannot meet the delivery dates, quantities or quality requirements specified in the Contract, Seller will promptly notify Purchaser and:

(i) Purchaser may, at its option: (A) cancel the Contract or all or any portion of the Purchase Order, as applicable, without liability to Seller; (B) require Seller to deliver the Goods using priority freight delivery with incremental freight charges at Seller's expense; and/or (C) perform the Services using additional labor or have an alternative supplier perform the required Services that were to have been performed by Seller, at Seller's expense;

(ii) if the provisions in clause (i) of this Section 7.4(a), alone or together, are insufficient to meet Purchaser's requirements or if Seller will be unable to comply with such provisions (as determined by Purchaser in its sole discretion), Purchaser may purchase substitute goods and procure alternative services and hold Seller accountable for the difference between the price of the Goods or Services and the price paid by Purchaser for substitute goods or services, if higher, including amounts charged for shipping, insurance, handling, and any taxes or duties; or

(iii) if the provisions in clauses (i) and (ii) of this Section 7.4(a), alone or together, are insufficient to meet Purchaser's requirements or if Seller will be unable to comply with such provisions (as determined by Purchaser in its sole discretion), Seller's default shall be deemed to subject Purchaser to irreparable and continuing injury for which remedies at law would be inadequate and, accordingly, Purchaser will have the right to apply at any time to a judicial authority for appropriate injunctive relief (or other interim or conservatory measures), including, as applicable, the exercise of the rights set forth in Section 2-716 of the Uniform Commercial Code and/or as otherwise available at law or in equity.

(b) The provisions of this Section 7.4 are in addition to Seller's other obligations under the Contract and Purchaser's other rights and remedies provided at law, in equity, and in the Contract.

8. Price; Fees; Payment.

8.1 Price and Fees. The purchase price and/or fees charged for Products and the associated payment schedules or other applicable terms shall be set forth in the Purchase Order. The purchase price and/or fees listed on the Purchase Order are (a) not subject to increase (including any increase based upon currency fluctuations, changes in raw material or component pricing, labor or overhead), unless specifically agreed to by Purchaser in writing, (b) inclusive of taxes, if any, as set forth in Section 8.3, and any duties applicable to provision of the Products, and (c) inclusive of all storage, handling, packaging, labeling, shipping and all other expenses and charges.

8.2 **Payment Terms.** Except as otherwise provided in the Purchase Order, Purchaser shall pay Seller for undisputed, accepted Products. For Services, in addition to the fees paid under Section 8.1, Purchaser agrees to reimburse Seller for out-of-pocket expenses as provided in the Contract or pre-approved by Purchaser in writing, subject to Purchaser's travel or other applicable policies. Seller shall provide to Purchaser all documentation reasonably requested by Purchaser to support the price and fees and Purchaser-reimbursable out-of-pocket expenses incurred by Seller. No amounts other than those specified in the Purchase Order shall be payable by Purchaser to Seller. Unless otherwise specified in the Purchase Order, Seller shall invoice Purchaser on the first day of each calendar month. All payments of undisputed invoices are due Net 60 end of month from the date of invoice, provided, however, Purchaser may withhold payment for any invoiced charges that Purchaser disputes in good faith. Payment of charges shall not be deemed an approval of such charges or acceptance of non-conforming Products, and Purchaser may later dispute such charges, and payment of charges shall not relieve Seller of any of its warranties or other obligations under the Contract, or limit or affect any rights or remedies of Purchaser.

8.3 **Taxes.** Unless prohibited by Law or stated in the Contract, Seller shall pay all federal, state or local tax, transportation tax, or other tax, including customs duties and tariffs, which is required to be imposed upon the Products ordered, or by reason of their sale or delivery. All Purchase Order prices shall be deemed to have included all such taxes. Purchaser shall withhold all applicable taxes from amounts payable to Seller, without liability to Seller therefor, if such withholding is required by Law, and, in such event, Purchaser may require Seller to indicate on each invoice the percentage of Services performed within the United States. If Seller is required by Law to pay or collect from Purchaser any taxes or charges, Seller will provide a separate invoice to Purchaser for such taxes or charges, subject to Purchaser's rights under Section 8.2.

8.4 **Invoices.** Invoices may only be issued upon transfer of title to Products to Purchaser and Purchaser's acceptance of the Products. Payment will be deemed to occur upon mailing of a check, wire transfer or commencement of other means of payment to Seller. All invoices will be issued in the currency set forth in the Contract. All invoices for Products provided pursuant to the Purchase Order must reference the Purchase Order number, Purchase Order amendment number, as applicable, Purchaser's part number, Seller's part number where applicable, quantity of pieces in shipment, number of cartons or containers, Seller's name and number, and bill of lading number, before any payment will be made for Products by Purchaser. In addition, no invoice may reference any term separate from or different than these Terms and Conditions or the terms that appear on the face of the Purchase Order. Purchaser reserves the right to return all invoices or related documents submitted incorrectly. Payment terms will commence upon the receipt and input of a correct invoice. Any payment by Purchaser of a nonconforming invoice is not an acceptance of any non-conforming or additional terms on such invoice.

9. **Setoff and Recoupment.**

9.1 In addition to any right of setoff or recoupment allowed by Law, all amounts due Seller or any of its Affiliates shall be considered net of indebtedness or obligations of Seller to Purchaser and its Affiliates, and Purchaser may setoff against or recoup from any amounts due or to become due from Seller or any of its Affiliates to Purchaser and its Affiliates however and whenever arising, including the Purchaser's attorneys' fees and costs of enforcement. In the event that Purchaser or any of its Affiliates reasonably feels at risk, Purchaser may withhold and recoup a corresponding amount due Seller and its Affiliates to protect against such risk.

9.2 If an obligation of Seller or any of its Affiliates to Purchaser is disputed, contingent or unliquidated, Purchaser may defer payment of all or any portion of the amount due until such obligation is resolved. Without limiting the generality of the foregoing and by way of example only, in the event of a bankruptcy of Seller, if all of the Purchase Orders between Purchaser and Seller have not been assumed, then Purchaser may defer payment to Seller, by an administrative hold or otherwise, for Products until claims for rejection and other damages are resolved. In the event of a Seller Insolvency, Purchaser also may setoff, recoup, and/or withhold from amounts due Seller or any of its Affiliates any amounts that Seller is obligated to indemnify Purchaser pursuant to the Purchase Order, regardless of whether such amounts become due before or after the filing of a petition for bankruptcy protection by Seller.

10. **Intellectual Property.**

10.1 Seller agrees that, for the consideration set forth herein, Purchaser has purchased all right, title and interest in and to all Products, including whether or not patentable, any idea, invention, concept, design, prototype, product configuration, process, technique, procedure, system, plan, model, program, software or code, data, specification, drawings, diagram, flow chart, documentation, or the like that are created pursuant to the Contract (including any improvement in the design of the Products or any alternative or improved method of accomplishing the objectives under the Contract, as well as any reduction to practice of any subject matter, application or discovery which could be patented or copyrighted) and any associated Intellectual Property Rights therein (collectively, "Inventions"), and they are the sole and exclusive property of Purchaser. Seller agrees that all Inventions created by Seller in connection with each Purchase Order are "works made for hire" on behalf of Purchaser as that term is used in connection with the U.S. Copyright Act. Seller shall promptly disclose all Inventions to Purchaser and shall cooperate (and cause its employees and contractors to cooperate) in executing any documents and taking any other actions necessary or convenient to patent, copyright, assign to Purchaser or otherwise perfect or protect such Inventions for the benefit of Purchaser.

10.2 Seller hereby assigns to Purchaser ownership of all right, title, and interest in the Products and any associated Intellectual Property and Intellectual Property Rights, and further agrees to cooperate with Purchaser and to assist in the preparation and execution of all documents relating to any effort by or on behalf of Purchaser to apply for, obtain, maintain, transfer, or enforce any Intellectual Property Right related to the Products at the request and expense of Purchaser. Seller grants to Purchaser an irrevocable, non-exclusive, royalty-free, worldwide license, with the right to grant sublicenses, to use any technical information, know-how, copyrights, and patents, or other Intellectual Property owned or controlled by Seller or its Affiliates to make, have made, use, sell, and import the Products. Such license shall be effective from the first delivery under the Purchase Order.

10.3 Notwithstanding anything provided in this Section 10 to the contrary, all inventions, ideas, improvements, developments, designs, trade secrets, know-how, formulations, information, data, processes, methods, techniques, drawings, schematics, diagrams, test protocols, methods and other technology created and owned by Seller independently of the performance of Seller's obligations under the Contract, including all Intellectual Property Rights embodied therein, (collectively, the "Seller Background IP") shall remain the exclusive property of Seller and shall not be assigned or otherwise transferred to Purchaser. Unless otherwise agreed in a separate written license agreement executed by the Parties, Seller hereby grants to Purchaser a non-exclusive, royalty-free, perpetual, irrevocable, fully paid-up, non-transferable (other than to its Affiliates or in conjunction with a change in control or sale of all or substantially all of the assets of Purchaser), sub-licensable, worldwide license to Use, sub-license and distribute the Seller Background IP in respect of the Products and Purchaser's use thereof.

10.4 Third Party Material; Open Source Code. Seller shall not incorporate any third party proprietary materials, information or intellectual property ("Third Party Material") into Products, including all Deliverables or other work product to be delivered to Purchaser, unless Seller has obtained for Purchaser a perpetual, worldwide, fully paid-up, royalty-free, non-exclusive license permitting Purchaser and its Affiliates to use, sublicense and distribute such Third Party Material in the conduct of their normal business operations. Seller shall not incorporate any Open Source Code into a Deliverable or other work product to be delivered to Purchaser without Purchaser's express, prior written consent.

10.5 Seller shall ensure that any subcontractors to Seller have contracts with Seller in writing consistent with the terms of this Section 10 to ensure that the protections required by Purchaser from Seller are also received from subcontractors for the benefit of Purchaser and Seller.

11. **Changes; Suspension; Cancellation.**

11.1 **Changes and Suspension.**

(a) Purchaser reserves the right at any time to change or suspend any and all work in progress under the Purchase Order including changes in the design (including drawings and Specifications), processing, methods of packaging and shipping and the date or place of delivery of the Products covered by the Purchase Order or to otherwise change the scope of the work covered by the Purchase Order, including work with respect to such matters as inspection, testing or quality control, and Seller agrees to promptly take proper steps to carry out such change(s) or suspension. Any such changes shall be deemed not to affect the time for performance or cost under the Purchase Order unless (a) Seller provides Purchaser with written notice of a claim for adjustment to time for performance or cost within ten (10) days after Purchaser's notice to Seller of the change and (b) after auditing such claim, Purchaser determines that an adjustment (up or down) is appropriate. Any such claim by Seller for adjustment to time for performance or cost under the Purchase Order must be solely and directly the result of the change directed by Purchaser and any notice of such claim shall be effective only if accompanied by all relevant information sufficient for Purchaser to verify such claim. In addition, Purchaser shall have the right to audit all relevant records, facilities, work or materials of Seller to verify any claim. In the event of such adjustment is determined to be appropriate, Seller must submit a separate quotation which must be approved and agreed by Purchaser (in the form of an executed SOW) prior to any work being performed under such separate quotation. Nothing in this Section 11.1 shall excuse Seller from proceeding with the Purchase Order as changed.

(b) Without the prior approval of Purchaser on the face of a Purchase Order amendment, Seller shall not make any changes to any Purchase Order or the Products covered by the Purchase Order, including changing (a) any third party supplier to Seller of services, raw materials or goods used by Seller in connection with its performance under the Purchase Order, (b) the facility from which Seller or such supplier operates, (c) the price of any of the Products covered by the Purchase Order, (d) the nature, type or quality of any services, raw materials or goods used by Seller or its suppliers in connection with the Purchase Order, (e) the fit, form, function, appearance, performance of any Products covered by the Purchase Order, or (f) the production method, or any process or software used in the production or provision of any Products under the Purchase Order.

11.2 **Cancellation.** Subject to Purchaser's obligations in this Section 11.2, Purchaser may at any time cancel all or any part of a Purchase Order. Upon any such cancellation, Seller will, to the extent and at the times specified by Purchaser, stop all work pertaining to the cancelled portion of the Purchase Order, incur no further costs, and protect all property in which Purchaser has or may acquire an interest. Purchaser will not be responsible for any costs in connection with a cancelled Purchase Order except for payment of: (a) the portion of the Goods delivered and/or Services performed prior to notice of the cancellation, provided that such Goods and/or Services meet all of the Specifications and requirements of the Contract; (b) raw materials and components (if any) that were purchased by Seller in order to meet the requirements of the Purchase Order and that: (i) met all of the relevant Specifications under the Contract; (ii) were ordered no earlier than applicable Lead Times of the materials and components in order to meet the delivery dates specified in the Purchase Order; and (C) could not be returned for a refund or credit or used for or sold to any of Seller's other customers.

12. **Confidentiality.**

12.1 **Prior Non-Disclosure Agreements.** Notwithstanding anything to the contrary contained herein, in the event of any conflict between any provision of these Terms and Conditions and any prior non-disclosure or confidentiality agreement(s) executed between the Parties with respect to the disclosure, receipt and/or use of confidential or proprietary information, as applicable, the provisions of these Terms and Conditions shall prevail.

12.2 **Restrictions on Disclosure and Use of Confidential Information.** Each Party shall, and shall cause its Representatives to, hold the Confidential Information of the other Party in secrecy and confidence (in a manner

consistent with the protection of its own confidential information of a similar nature, and in any event no less than a reasonable standard of care) in accordance with the provisions of these Terms and Conditions. Each Party shall not, and shall ensure that its Representatives do not, use the Confidential Information of the other Party for any purpose other than performance of such Party's obligations under the Contract. Each Party, in its capacity as the Receiving Party, shall not, and shall cause its Representatives not to, disclose, divulge, use, exploit (whether for its own benefit or the benefit of anyone other than the other Party), provide or otherwise make available any Confidential Information of the other Party to any Person other than in accordance with these Terms and Conditions and on a need-to-know basis, provided such Persons are bound in writing by confidentiality obligations that are applicable to the Confidential Information and are substantially as restrictive as the provisions of this Section 12 (or, in the case of accountants and attorneys, are bound by professional obligations of confidentiality), in order to permit those Persons to assist the Receiving Party in connection with performance of its obligations under the Contract. The Receiving Party shall notify the Disclosing Party in writing of any misuse, misappropriation or unauthorized disclosure of Confidential Information of the Disclosing Party promptly following knowledge or discovery (in each case after due inquiry) thereof. Upon the Disclosing Party's written request, the Receiving Party shall, at the Disclosing Party's option, either (a) deliver to the Disclosing Party all documents, notes, summaries, analysis, compilations and other recordings containing or reflecting the Disclosing Party's Confidential Information and all copies thereof or (b) destroy all such material, and in either case (a) or (b), an officer of the Receiving Party shall certify in writing to the Disclosing Party that the same has been done; provided, that copies of such Confidential Information may be retained by the Receiving Party if automatically stored pursuant to the Receiving Party's archival or record retention policies, provided such Confidential Information is not readily accessible and the Receiving Party complies with the confidentiality obligations and use restrictions in these Terms and Conditions for so long as such Confidential Information is so retained.

12.3 Disclosures Required by Law. Notwithstanding the foregoing, it shall not be a breach of these Terms and Conditions for the Receiving Party to disclose Confidential Information of the Disclosing Party if required to do so under law or in a judicial, arbitral, or governmental proceeding or investigation, provided, that (x) the Disclosing Party has been given reasonable prior notice to allow it to take actions to protect its interest and the Receiving Party shall cooperate with all reasonable requests of the Disclosing Party in connection thereof, including any protective orders or other safeguards sought by the Disclosing Party and (y) the Receiving Party only discloses that portion of the Confidential Information (with a full copy to the Disclosing Party) required to be disclosed and shall preserve the confidentiality of all other Confidential Information of the Disclosing Party.

12.4 Ownership; No License Rights Granted; No Warranty. All Confidential Information shall remain the exclusive property of the Disclosing Party and nothing in these Terms and Conditions, or any course of conduct between the Parties, shall be deemed to grant the Receiving Party any license, right, title, or interest in or to the Confidential Information (unless explicitly set forth in the Contract or otherwise agreed in writing by the Parties). The Receiving Party acquires no intellectual property license or rights under the Contract except the limited right to review and use such Confidential Information to perform its obligations under the Contract. All Confidential Information provided under the Contract is provided "AS IS" without any warranty, express, implied or otherwise, except that the Disclosing Party warrants that it has the right to disclose the Confidential Information to the Receiving Party.

12.5 Period of Confidentiality. Each Party's confidentiality obligations under this Section 12 will survive the expiration or earlier termination of the Contract and continue for a period of five (5) years thereafter. Following the expiration or earlier termination of the Contract, and at any time during a Contract, the Disclosing Party may request that the Receiving Party return or destroy all Confidential Information disclosed and within thirty (30) days after such request, the Receiving Party shall return or certify to the destruction of the Disclosing Party's Confidential Information, as applicable.

12.6 Data Security. Seller shall: (i) establish, implement and maintain commercially reasonable safeguards against the destruction, loss, alteration and unauthorized access and use of Purchaser's Confidential Information in the possession or control of Seller (or its subcontractors) that are no less rigorous than those maintained by Purchaser as of

the Effective Date and are no less rigorous than those maintained by Seller for its own data of a similar nature; and (ii) comply with Purchaser's information and data security policies as disclosed to Seller from time to time.

12.7 **Non-Disparagement.** During the term of the Contract and thereafter, Seller shall not make or publish any disparaging or derogatory statements with respect to Purchaser, or its integrity, business or professional standing or reputation, or that of any of its Representatives.

12.8 **Non-Solicitation.** Seller hereby acknowledges and recognizes the highly competitive nature of the respective businesses of Purchaser and that Seller will have access to proprietary and confidential information regarding Purchaser's business. Accordingly, unless otherwise specified in a separate written agreement, for the consideration stated herein, Seller hereby agrees that, during the term of the Contract and continuing thereafter for a period of two (2) years, Seller will not directly or indirectly (whether as an owner, principal, lender, stockholder, partner, member, employer, employee, consultant, contractor, subcontractor, representative, distributor, officer, director or otherwise) attempt to or solicit to employ or engage, or employ or engage any employee or independent contractor of Purchaser, or induce or otherwise advise any employee or independent contractor of Purchaser to leave the employ of or to cease being engaged by Purchaser.

13. **Compliance with Laws.**

13.1 Seller shall comply with all applicable Laws that regulate the sale, manufacture, labeling, transportation, licensing, approval, permits or certification of the Products, including: (a) all applicable export control and sanctions Laws of the United States and any other relevant country; and (b) those relating to environmental matters, data protection and privacy, wages, hours and conditions of employment, subcontractor selection, discrimination, occupational health and safety and motor vehicle safety. The Purchase Order shall be deemed to incorporate by reference all the clauses required by the provisions of said Laws. At Purchaser's request, Seller shall certify in writing its compliance with the foregoing.

13.2 Seller agrees that during the period in which it ships Goods to Purchaser, it and its sub-contractors who either ship directly or package goods for shipment shall either (a) be certified under the Customs Trade Partnership Against Terrorism ("C-TPAT") program by the U.S. Bureau of Customs and Border Protection or (b) comply with applicable trade security programs including, as applicable, the C-TPAT security procedures that may be found on the U.S. customs website at www.cbp.gov.

13.3 Seller agrees to comply with all Purchaser policies, standards, rules, and procedures, as they may be amended from time to time, that are disclosed to Seller in writing and are applicable to the performance of Seller's obligations under the Contract.

14. **Insurance.** Seller shall maintain insurance in amounts as are specified by Purchaser, naming Purchaser as an additional insured, and covering general liability, public liability, product liability, product recall, completed operations, contractor's liability, automobile liability insurance, worker's compensation, and employer's liability insurance as will adequately protect Purchaser against damages, liabilities, claims, losses and expenses (including attorneys' fees) with respect thereto. Seller will also insure for replacement value all machinery, equipment, tools and other property or items necessary to perform under the Purchase Order. Seller agrees to submit certificates of insurance evidencing its insurance coverage, when and as requested by Purchaser.

15. **Remedies.**

15.1 The rights and remedies reserved to Purchaser in the Contract shall be cumulative with, and additional to, all other or further remedies provided in law or equity.

15.2 Rejection of Non-Conforming Goods. Purchaser shall have the right, in addition to exercising all other rights Purchaser may have under the Uniform Commercial Code and any other applicable Law, to reject Goods as non-conforming or defective, and at Purchaser's option: (a) retain the non-conforming or defective Goods in whole or in part with an appropriate adjustment in the price for the Goods; (b) require Seller to reperform, repair or replace the non-conforming or defective Goods within twenty-four (24) hours of Purchaser's notice thereof, at Seller's sole expense, including all shipping, transportation, and installation costs; and/or (c) correct or replace the non-conforming or defective Goods with similar items and recover all costs relating thereto from Seller.

15.3 Rejection of Non-Conforming Services or Deliverables. In the event of any deficiencies in the Services or non-conformity of the Deliverables to the Specifications, Purchaser has the right to take remedial steps and shall be entitled to, at the sole option of Purchaser, (a) Seller's re-performance of the deficient portion of the Services and re-delivery of the Deliverables, or (b) price reduction or refund of the deficient portion of the Services and non-conforming portion of the Deliverables, provided that such steps shall be in addition to, and not in exclusion of, any other rights or remedies of Purchaser hereunder.

15.4 Other Remedies. Without limiting the generality of the foregoing, if Seller breaches any of the representations or warranties set forth herein, Purchaser shall notify Seller and Seller shall, if requested by Purchaser, reimburse Purchaser for any special, incidental and consequential damages caused by non-conforming Products, including costs, attorneys' fees, expenses and losses incurred by Purchaser in connection with claims for personal injury (including death) or property damage caused by such non-conforming Products.

16. Indemnification.

16.1 General. Seller shall indemnify and hold harmless Purchaser, its Affiliates and its and their respective directors, officers, employees, contractors, representatives, invitees, agents and customers (collectively, "Indemnitees") from and against all liability, demands, claims, losses, costs, actions, judgments, fines, penalties, damages and expenses, including expert and attorneys' fees, (collectively, "Liabilities") incurred by Purchaser or its Affiliates arising out of any Claim against any Indemnitee that arises from or relates to: (a) Seller's noncompliance or breach of any representation, warranty or obligation under the Contract (including these Terms and Conditions); (b) any service campaign, product recall campaign, corrective action, or other voluntary or involuntary action or effort in which Purchaser participates with respect to the Products; (c) any spill, discharge, or emission of hazardous wastes or substances; (d) any infringement or misappropriation of any Intellectual Property Right relating to any Product or any portion thereof; (e) any product liability claim; or (f) any personal injury claim, including death or injury, or damage to property, caused by Seller, its employees, agents, subcontractors, or in any way attributable to the performance of Seller, its employees, agents, or invitees. Seller waives the application of the doctrine of comparative negligence and other doctrines that may otherwise allocate the liability covered by Seller's indemnity. This indemnification obligation shall apply regardless of whether the Claim arises in tort, negligence, contract, warranty, strict liability or otherwise.

16.2 Indemnification Procedure. Purchaser shall give Seller prompt written notice of any Claim for which indemnification is sought under this Section 16. Failure to give notice will not diminish Seller's obligation under this Section 16. When provided notice of any actual or potential Liabilities, Seller, at Purchaser's option and at Seller's expense, will undertake defense of such actual or potential Liabilities through counsel approved by Purchaser. Seller may select legal counsel to represent the Indemnitees (said counsel to be reasonably satisfactory to Purchaser) and otherwise control the defense of such Claim; provided, however, that Seller shall first obtain authorization from Purchaser before settlement is made of the actual or potential Liabilities if the terms of such settlement (a) require any action or inaction by Purchaser or any Affiliate thereof or (b) could materially adversely affect Purchaser, including any terms which admit the existence of a defect in Products or a failure of Purchaser to fully and faithfully perform its obligations. In the alternative, Purchaser may elect to undertake defense of such Liabilities to the extent asserted against Purchaser, and Seller shall reimburse Purchaser on monthly basis for all expenses, attorneys' fees, and other costs incurred by Purchaser.

16.3 **Infringement Claims.** If a Good or Service becomes, or in Seller's reasonable opinion is likely to become, the subject of a claim of infringement or misappropriation of any Intellectual Property Rights, Seller shall, at its sole expense, either (a) promptly procure for Purchaser the right to continue to use the Good or Service, or (b) replace or modify the Good or Service to make it non-infringing, provided that the modified Good or Service meets the Specifications and all other requirements under the Contract.

17. **Seller Financial and Operational Condition.**

17.1 Seller represents and warrants to Purchaser as of the date of each Purchase Order that: (a) it is not insolvent and is paying all debts as they become due; (b) it is in compliance with all loan covenants and other obligations; and (c) all financial information provided by Seller to Purchaser concerning Seller is accurate and has been prepared in accordance with generally accepted accounting principles of the jurisdiction in which it operates.

17.2 Upon Purchaser's request, Seller shall permit Purchaser and its Representatives to review Seller's books and records concerning Seller's compliance with each Purchase Order. Seller agrees that, if Seller experiences any delivery or operational problems, Purchaser may, but is not required to, designate a Representative to be present in Seller's applicable facility to observe Seller's operations. Seller agrees that, if Purchaser provides to Seller any accommodations (financial or otherwise, including providing designated Representatives as set forth above) that are necessary for Seller to fulfill its obligations under any Purchase Order, Seller shall reimburse Purchaser for all costs, including attorneys' and other professionals' fees, incurred by Purchaser in connection with such accommodation and shall grant a right of access to Purchaser to use Seller's premises, machinery, equipment and other property necessary for the production of Products covered by such Purchase Order (and a lien to secure the access right) under an access and security agreement. Additionally, Seller agrees to provide prompt written notice to Purchaser of any impending or threatened insolvency of the Seller.

17.3 Purchaser may immediately terminate each Purchase Order without any liability of Purchaser to Seller upon the occurrence of any of the following or any other similar or comparable event (each, a "**Seller Insolvency**"): (a) insolvency of Seller; (b) Seller's inability to promptly provide Purchaser with adequate and reasonable assurance of Seller's financial capability to perform timely any of Seller's obligations under any Purchase Order; (c) filing of a voluntary petition in bankruptcy by Seller; (d) filing of an involuntary petition in bankruptcy against Seller; (e) appointment of a receiver or trustee for Seller; or (f) execution of an assignment for the benefit of creditors of Seller. Seller shall reimburse Purchaser for all costs incurred by Purchaser in connection with a Seller Insolvency, including all attorneys' fees and other professional fees.

18. **Audit Rights.** Purchaser or its authorized Representatives shall have the right at any reasonable time to access Seller's premises to examine all relevant documents, records, or other relevant information to verify Seller's compliance with the Contract, and to validate Seller's performance or ability to perform under the Contract. Seller agrees to reasonably cooperate in any such audit request by the Purchaser.

19. **Term and Termination.**

19.1 **Duration.** Unless otherwise specified in a separate written agreement, the Contract shall be effective as of the Effective Date and shall remain in effect until terminated under this **Section 19** or by mutual written agreement of the Parties.

19.2 **Termination by Purchaser.** Purchaser may terminate immediately all or any part of each Contract, without any liability of Purchaser to Seller, in the event of any default by Seller or for convenience, by providing written notice thereof to Seller. Seller is in default if: (a) Seller fails to perform or breaches any obligations under the Contract and has not cured such breach within the cure period, if any, granted by Purchaser; (b) Seller repudiates, or threatens to breach any of the terms of the Contract; (c) Seller breaches any representation or warranty in the Contract; (d) Seller fails to

provide Purchaser with adequate and reasonable assurance of Seller's ability to perform timely any of Seller's obligations under the Contract, including delivery of Products; (e) Seller fails to meet reasonable quality requirements so as to endanger timely and proper performance of the Contract; or (f) in the event of a Seller Insolvency.

19.3 Termination for Change of Control. In addition to its other remedies, Purchaser may, at its option, terminate the Contract without any liability to Seller for a change of control of Seller. A change of control of Seller includes: (a) the sale, lease or exchange of a substantial portion of Seller's assets used for the production of Products, or the entrance into an agreement by Seller regarding the same; (b) the sale or exchange of more than 20% of Seller's stock or other ownership interest (or of such lesser percentage as would result in a change of control of Seller), or the entrance into an agreement regarding the same; (c) the execution of a voting or other agreement providing a Person with control of Seller or control of more than 20% of Seller's stock or other ownership interest (or of such lesser percentage as would result in a change of control of Seller). Seller shall notify Purchaser promptly in writing in the event of the earlier of (i) the entrance into an agreement, or (ii) the occurrence of an event, described above in this Section 19.3.

19.4 Termination by Seller. If Purchaser fails to pay Seller when due undisputed charges for more than two invoice cycles, and fails to make such payment within sixty (60) days after the date Purchaser receives notice of non-payment from Seller, Seller may terminate the Contract as of a date specified in a written notice of termination referencing this Section 19.4 and expressly stating Seller's intent to terminate the Contract. Seller may not suspend performance of the Services during the term of this Contract for any reason.

19.5 Termination Claims; Obligations Following Termination.

(a) Upon receipt of notice of termination pursuant to Sections 19.2, or 19.3, Seller, unless otherwise directed in writing by Purchaser, shall (i) terminate immediately all work under the Purchase Order and / or related SOW; and (ii) deliver to Purchaser any remaining property of Purchaser in Seller's possession, including reports, data, work products, and Confidential Information (alternatively, as requested by Purchaser, Seller will destroy such property), and certify that all such Purchaser's property has been removed from Seller's systems, premises and control and either returned or destroyed. All materials in electronic form shall be delivered to Purchaser on such media and in such file format as Purchaser may direct.

(b) Upon termination for convenience pursuant to Section 19.2 or termination by Seller pursuant to Section 19.4, Purchaser shall be liable only for the portion of the Services performed by Seller and Deliverables delivered to Purchaser prior to the termination date of the Contract, provided such Services and Deliverables conform to all timing and other Specifications.

(c) Except as expressly set forth in this Section 19, Purchaser shall not be liable for and shall not be required to make payments to Seller, directly or on account of claims by Seller's subcontractors, for any other alleged losses or costs, whether denominated as loss of anticipated profit, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs or rental, unamortized depreciation costs, ancillary exit charges (including costs of riggers, warehousing, premium manufacturing costs, loading of trucks or other standard business procedures related to transitioning production to an alternative supplier), capital costs or expenditures, internal labor costs or charges, or general and administrative burden charges resulting from termination of the Contract or otherwise. Notwithstanding anything to the contrary, Purchaser's obligation to Seller upon termination shall not exceed the obligation Purchaser would have had to Seller in the absence of termination.

20. Limitation of Liability. IN NO EVENT SHALL PURCHASER BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, SPECIAL, PUNITIVE OR LOST PROFIT, LOST REVENUES DAMAGES OF ANY KIND OR NATURE ARISING OUT OF THE CONTRACT, THE GOODS AND DELIVERABLES DELIVERED HEREUNDER OR THE SERVICES RENDERED HEREUNDER REGARDLESS OF THE FORM OF ACTION (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE) AND REGARDLESS OF HOW CHARACTERIZED, EVEN IF THE PURCHASER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

21. **Force Majeure.** Neither party shall be liable for any loss, damage or delay arising out of its failure (or that of its subcontractors) to perform its obligations and responsibilities under the Contract due to causes beyond its reasonable control, including acts of God, acts of civil or military authority, fires, strikes, floods, epidemics, quarantine restrictions, war, riots, acts of terrorism, delays in transportation, or transportation embargoes. In the event of such delay, performance date(s) will be extended as reasonably necessary to compensate for the delay; provided, that such event causes a delay of greater than ten (10) business days, Purchaser shall have the right to terminate this Agreement upon written notice thereof to Seller.

22. **Governing Law; Dispute Resolution.**

22.1 The Contract shall be governed by and construed in accordance with the laws of the State of Michigan, without regard to its conflicts of law provisions. Any action or proceeding arising out of or relating to this Agreement shall be brought in the federal or state courts sitting in the jurisdiction of Wayne County, Michigan, and each of the parties hereto irrevocably submits to the exclusive jurisdiction of each such court in any such action or proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the action or proceeding shall be heard and determined only in any such court and agrees not to bring any action or proceeding arising out of or relating to this Agreement in any other court.

22.2 THE PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. THE PARTIES AGREE THAT ANY OF THEM MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED-FOR AGREEMENT AMONG THE PARTIES IRREVOCABLY TO WAIVE TRIAL BY JURY AND THAT ANY ACTION OR PROCEEDING WHATSOEVER BETWEEN THEM RELATING TO THIS AGREEMENT SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

23. **Miscellaneous.**

23.1 **No Waiver.** A waiver by Purchaser of any right or remedy shall not affect any rights or remedies subsequently arising under the same or similar clauses. The failure of the Purchaser to insist upon the performance of any term or condition of the Contract, or to exercise any right hereunder shall not be construed as a waiver of the future performance of any such term or condition or the exercise in the future of any such right.

23.2 **Assignment.** Each Purchase Order is issued to Seller in reliance upon Seller's personal performance of the duties imposed. Seller agrees not to, in whole or in part, assign the Contract or delegate the performance of its duties without the written consent of Purchaser, and any attempt to do so shall be void *ab initio*. Any consent by Purchaser to an assignment shall not be deemed to waive Purchaser's right to recoupment from Seller and/or its assigns for any claim arising out of the Contract. Assignment shall not relieve Seller from its obligations of confidentiality under Section 12 hereof. Purchaser may, in its sole discretion, transfer or assign the Contract, in whole or in part, to any third party upon notice to Seller.

23.3 **Subcontracting.** Seller shall not subcontract any of its obligations under the Contract without the prior written consent of Purchaser. Any such consent of Purchaser will not release Seller from, or limit, any of Seller's obligations under the Contract. Seller warrants and guarantees that any such subcontractor's performance will satisfy all requirements and obligations applicable to Seller under the Contract.

23.4 **Severability.** If any term(s) of the Purchase Order is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such term(s) shall be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule, and the remaining provisions of the Purchase Order shall remain in full force and effect.

23.5 Notices. All notices, claims and other communications to Purchaser required or permitted under the Contract shall be made in writing and sent by certified or registered mail, return receipt requested and proper postage prepaid to the following address (or such other address as is provided to Seller by Purchaser) and shall be effective only upon receipt by Purchaser in the form set forth in this Section 23.5:

If to Purchaser:

Attn: General Counsel
Rivian Automotive, LLC
13250 N. Haggerty Road
Plymouth, MI 48170

With a copy to:

Attn: Chief Procurement Officer
Rivian Automotive, LLC
13250 N. Haggerty Road
Plymouth, MI 48170

Seller's failure to provide any notice, claim or other communication to Purchaser in the manner and within the time periods specified in the Purchase Order shall constitute a waiver by Seller of any and all rights and remedies that otherwise would have been available to Seller upon making such notice, claim or other communication.

23.6 Claim from Seller. In addition to any other restrictions contained in the Contract, any action by Seller under the Contract 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 such claim.

23.7 Electronic Communications and Electronic Signatures. Seller shall comply with any method of electronic communication specified by Purchaser, including requirements for electronic funds transfer, Purchase Order transmission, production Releases, electronic signature, and communication.

23.8 No Third-Party Beneficiaries. Unless otherwise expressly provided for herein, no provisions of the Contract are intended or shall be construed to confer upon or give to any Person other than Seller, Purchaser any rights, remedies or other benefits under or by reason thereof; provided, that the Indemnitees shall be third party beneficiaries of Section 16 with rights of enforcement hereunder.

23.9 Survival. The obligations, representations, warranties, and covenants of Seller under these Terms and Conditions and each Contract that by their nature are intended or reasonably expected to survive the expiration or termination of these Terms and Conditions and each Contract, including (a) the obligations, representations, warranties, and covenants of Seller with respect to Products delivered to or ordered by Seller prior to such expiration and termination and (b) the obligations, representations, warranties, and covenants of Seller set forth in Sections 3 (Services; Deliverables), 5 (Warranty), 6 (Quality), 10 (Intellectual Property), 12 (Confidentiality), 13 (Compliance with Laws), 14 (Confidentiality), 15 (Remedies) 16 (Indemnification), 18 (Audit Rights), 19 (Term and Termination), 20 (Limitation of Liability), 22 (Governing Law; Dispute Resolution) and this Section 23.9, shall survive the expiration or termination of the Terms and Conditions and each Contract created hereunder.

23.10 Entire Agreement. The Contract constitutes the entire agreement between the Parties with respect to its subject matter and supersedes all prior representations, understandings, or agreements by the Parties, whether written or oral, with respect to the subject matter thereof. Except as authorized in Section 11, no subsequent terms, conditions,

understandings, or agreements purporting to modify the Contract will be binding unless in writing and signed by both Parties.

23.11 **Interpretation.** (a) The words "include," "includes" and "including" shall not be limiting and shall be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to these Terms and Conditions as a whole unless the context requires otherwise. Unless the context otherwise requires, references herein: (i) to Sections shall mean the Sections of these Terms and Conditions; (ii) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (iii) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. Section headings are for are included for convenience of reference only and shall be ignored in the construction or interpretation hereof. The Contract shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted.

23.12 **Advertising and Publicity.** Seller shall not discuss, disclose, advertise, market or otherwise make known to third parties (including any clients, customers, vendors or suppliers of Purchaser) any information relating to any projects or business of Purchaser or any Purchaser Products produced and delivered under any Contract, including mentioning, disclosing using or implying the name of Purchaser or any of Purchaser's projects, developments, clients, customers, vendors, suppliers, personnel or contractors, or the existence of any Contracts or these Terms and Conditions, in each case without the Purchaser's prior written consent. Seller shall not use or publicly display (in advertisements, press releases or otherwise) Purchaser's name, trademarks, service marks or logos without Purchaser's prior written consent.

24. **Definitions.** All capitalized terms not defined herein shall have the meanings set forth in other documents comprising the Contract.

24.1 **"Affiliate"** means with respect to a Person, any other Person controlling, controlled by, or under common control with, such Person. For purposes of the Contract, "control" means possessing, directly or indirectly, the power to direct or cause the direction of the management, policies or operations of a Person, whether through ownership of voting securities, by contract or otherwise.

24.2 **"Anti-Corruption Laws"** means all Laws of any jurisdiction applicable to Seller, any of its subsidiaries or any of their respective Representatives relating to bribery or corruption, including the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act.

24.3 **"Anti-Money Laundering Laws"** means the anti-money laundering Laws of all applicable jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines issued, administered or enforced by any Governmental Authority.

24.4 **"Claim"** means any demand, or any civil, criminal, administrative or investigative claim, action or proceeding (including arbitration) asserted, commenced or threatened against a Person by an unaffiliated third party. For purposes of this definition, an employee of either Party is considered an unaffiliated third party.

24.5 **"Confidential Information"** of a Party (the **"Disclosing Party"**) means any information or items, or any part thereof, that is disclosed by or on behalf of such Party to the other Party (the **"Receiving Party"**) or to any of the Receiving Party's Representatives, that (a) is marked as confidential (or as a trade secret, proprietary, private or other similar designation), (b) is identified as confidential when it is disclosed, or (c) should reasonably have been understood by the receiving Party to be confidential, including (in each case of clause (a), (b), and (c)) marketing data, financial and pricing information, business plans and opportunities, computer programs, source code, object code, technologies, products, know-how, product specifications, designs, prototypes, test data, customer lists and information, current and future marketing plans, current and future research and development specifications, and related documentation, and all

materials, processes, demonstrations, copies, reproductions, analyses, summaries or combinations derived from, based on or using any of such information or items. Notwithstanding the foregoing, "Confidential Information" of the Disclosing Party shall not include information that: (i) is or becomes generally known to the public without any act or omission on the part of the Receiving Party or its Representatives; (ii) is in the Receiving Party's lawful possession at the time of disclosure by the Disclosing Party, free of restrictions on its disclosure and use, and was not acquired directly or indirectly from Disclosing Party; (iii) is or becomes known to the Receiving Party through disclosure by an unaffiliated third party (except where such third party is known by the Receiving Party to be disclosing such information in breach of obligations of confidence); or (iv) is independently developed by or for the Receiving Party by Persons who have had no access to or been informed of the existence or substance of such information; provided, that specific disclosures shall not be deemed to be within the foregoing limitations merely because they are embraced by general information in the public domain or in the Receiving Party's possession, and combinations of features disclosed by the Disclosing Party shall not be deemed to be within the foregoing exceptions merely because individual features of such combinations are in the public domain or in Receiving Party's possession, and which do not show the combination itself.

24.6 "Contract" means these Terms and Conditions, the Production PO or Non-Production PO (as applicable), any written agreements executed between the Parties, including a Master Purchase Agreement for Indirect Goods and Services, and any additional documents and attachments referenced in any of the foregoing (including Specifications and Releases), pricing agreements, statements of work, provided that such they are signed by authorized Representatives of both Parties and pertain to the Products.

24.7 "Deliverables" means any work product required to be delivered by Seller to Purchaser under the Contract.

24.8 "Effective Date" means the earliest effective date of any written agreement signed by both Parties, or in the absence of a written agreement, the date that Purchaser issues a Purchase Order to which these Terms and Conditions apply.

24.9 "Goods" means all products identified in a statement of work or product specific attachment or amendment to these Terms and Conditions, and all products that are not so identified, but which are offered or sold by Seller to Purchaser, and shall include (but is not limited to) (a) goods made by or on behalf of Seller and sold by Seller to Purchaser, directly or indirectly including through resellers, distributors, value-added distributors and subassembly manufacturers and (b) prototype and development parts, pre-production versions of products (including Software). To the extent that Goods are or include Software, references to "sale" or words of similar meaning in this definition shall be deemed to refer to a "license" of such Goods consistent with the terms in the Contract.

24.10 "Governmental Authority" means any nation or government, any state or other political subdivision thereof, and any supra-national, governmental, federal, state, provincial, local governmental or municipal entity or authority and any self-regulatory organization (including, in each case, any branch, department or official thereof).

24.11 "Governmental Official" means (a) an executive, official, employee or agent of a Governmental Authority, (b) a director, officer, employee or agent of a wholly or partially government-owned or -controlled company or business, (c) a political party or official thereof, or candidate for political office, or (d) an executive, official, employee or agent of a public international organization (e.g., the International Monetary Fund or the World Bank).

24.12 "Intellectual Property" means all patents, patent applications, patentable subject matter, copyrights, copyrightable subject matter, work of authorship, derivative works, trademark, trade name, trade dress, trade secrets, know-how, and any other subject matter, material, or information that is considered by Purchaser to be proprietary or confidential and/or that otherwise qualifies for protection under any Law providing or creating Intellectual Property Rights, including the Uniform Trade Secrets Act.

24.13 “Intellectual Property Rights” means any intellectual property rights or similar proprietary rights in any jurisdiction, whether registered or unregistered, including such rights in and to: (a) trademarks and pending trademark applications, trade dress, service marks, certification marks, logos, domain names, uniform resource locators, trade names and fictional business names, together with all translations, adaptations, derivations and combinations and like intellectual property rights, together with all goodwill associated with the foregoing, (b) issued patents and pending patent applications, and any and all divisions, continuations, continuations-in-part, reissues, renewals, provisionals, continuing patent applications, reexaminations, and extensions thereof, any counterparts claiming priority therefrom, utility models, patents of importation/confirmation, certificates of invention, certificates of registration and like rights, inventions, invention disclosures, discoveries and improvements, whether or not patentable, (c) works of authorship, all copyrightable works (including software) and all copyrights including all applications, registrations and renewals thereof, and all rights corresponding thereto, (d) trade secrets, proprietary business, technical and know-how information, non-public information, and confidential information and rights to limit the use or disclosure thereof by any Person, (e) mask works, and (f) moral rights.

24.14 “Law” means any and all (a) federal, territorial, state, local and foreign laws, treaties, conventions, directives, regulations and ordinances, (b) codes, standards, rules, requirements, directives, orders and criteria issued under any federal, territorial, state, local or foreign laws, ordinances or regulations, (c) rules of a self-regulatory organization (including the rules of any national securities exchange or foreign equivalent) and (d) judgments, orders, writs, directives, authorizations, rulings, decisions, injunctions, decrees, assessments, settlement agreements, or awards of any Governmental Authority.

24.15 “Lead Time” means the minimum time expressly agreed upon in a written agreement signed by both Parties that an order should be placed so that the supplier of the good or service may deliver by the desired delivery date, or if not so agreed, the shortest amount of time required by a typical supplier in the relevant industry, to manufacture the Goods and/or complete the Services, as applicable, that are the subject of the order.

24.16 “Open Source Code” means software that requires as a condition of its use, modification or distribution, that it be disclosed or distributed in source code form or made available at no charge, including, without limitation, software licensed under the GNU General Public License (GPL) or the GNU Lesser/Library GPL.

24.17 “Person” means a natural person or any partnership (whether general or limited), limited liability company, trust, estate, association, corporation, custodian, nominee or any other individual or entity in its own or any representative capacity or any other entity, in each case, whether domestic or foreign.

24.18 “Products” means Goods, Services, or Deliverables, or collectively for all Goods, Services, or Deliverables, as the context requires.

24.19 “Purchase Order” means a Production PO or Non-Production PO, and “Purchase Orders” may mean multiple Production POs, multiple Non-Production POs, or a combination of the two types of purchase orders.

24.20 “Purchaser Product” means any product that is manufactured by or on behalf of Purchaser, including vehicles, chargers, subassemblies, systems, and components.

24.21 “Release” means a written communication issued by Purchaser that identifies a specific quantity of Goods and associated delivery date by which Seller shall deliver such Goods.

24.22 “Representatives,” with respect to any Person, means such Person’s Affiliates and such Person’s and its Affiliates’ respective directors, officers, members, managers, employees, contractors, subcontractors, agents, consultants, advisors or other representatives.

24.23 “Services” means (a) functions described in a written agreement or SOW between the Parties or a Purchase Order as functions for which Seller is responsible; (b) any functions related to the foregoing that are not specifically described in a written agreement or in a Purchase Order but are required for the provision of Services.

24.24 “Software” means software provided for use in development, testing, or production of Goods, including firmware, or any other software specified by Purchaser on the Purchase Order.

24.25 “Specifications” means the most current version of all applicable specifications and requirements either: (a) provided by Purchaser, including other documents or requirements specifically incorporated or referenced in these Terms and Conditions, Purchase Orders, bills of materials, statements of work, project schedules, drawings, and CAD data; or (b) any samples, drawing, CAD data, spec sheets, or other descriptions or specifications or representations provided by Seller that are approved of by Purchaser or relied upon by Purchaser.

24.26 “Use” means the right to use, execute, display, copy, perform, distribute copies of, maintain, modify, enhance, and create derivative works of software or other copyrighted or copyrightable works.

CONFIDENTIAL