

## ***KEY SAFETY SYSTEMS, INC.***

### ***STANDARD PURCHASE ORDER TERMS AND CONDITIONS***

**1. BUYER AND SUPPLIER** – “Buyer” and “Supplier” shall be as identified in the Purchase Order into which these terms and conditions are incorporated by reference.

**2. OFFER, ACCEPTANCE, MODIFICATION AND SCOPE** - The Purchase Order is an offer to Supplier by Buyer to enter into the agreement it describes and shall, along with these Standard Purchase Order Terms and Conditions, any Request for Quotation issued by Buyer to Supplier, any Releases, and any special terms and conditions applicable to any specific order, issued by Buyer in writing in connection herewith, be the complete and exclusive statement of such Purchase Order. Supplier shall accept the offer in writing by signing the Purchase Order or by beginning work thereunder. Neither assumptions nor conditions contained in any proposal by Supplier, nor any modifications proposed by Supplier shall be considered part of the Purchase Order in the absence of Buyer's written acceptance thereof.

**3. RELATIONSHIP OF PARTIES** - Supplier and Buyer are independent contracting parties and nothing in the Purchase Order shall make either party the agent or legal representative of the other for any purpose whatsoever, nor does it grant either party any authority to assume or to create any obligation on behalf of or in the name of the other.

**4. ASSIGNMENT** - Buyer reserves the right to assign this Purchase Order to any of its subsidiaries or affiliates at any time without further notification or penalty. Supplier may not assign nor subcontract any of its substantive obligations under this Purchase Order without Buyer's written consent.

**5. FORECASTED REQUIREMENTS (FPV) AND RELEASES** - A Forecast Planning Volume (FPV) may be provided by Buyer. The FPV is Buyer's anticipated requirements based upon Buyer's customer's projections and may be used for planning purposes only. Supplier is not authorized to make commitments based on the FPV. Supplier shall procure materials and fabricate, assemble and ship goods or materials (collectively referred to as “Parts”) or perform services only as authorized by Releases issued to Supplier by Buyer. For the supply of Parts, unless otherwise provided in the Purchase Order or Releases, Buyer commits to a lead time of eight weeks for raw materials. Buyer may return non-conforming shipments, including, without limitation, those with non-conforming quantities or delivery dates, to Supplier at Supplier's expense for all packing, handling, sorting, and transportation. Buyer may, from time to time, change or suspend shipping schedules specified in any Release. Any reasonable, direct expenses incurred by Supplier as a result thereof, which were incurred pursuant to Releases issued prior thereto, shall be for Buyer's account.

#### **6. PACKAGING, MARKING AND SHIPPING**

- A) Supplier shall pack, mark and ship the Parts in accordance with the requirements of Buyer and the carrier. Supplier shall reimburse Buyer for all expenses incurred by Buyer as a result of improper packing, marking, routing or shipping.
- B) Upon request, Supplier shall advise Buyer with regard to packing, marking, routing, and shipping that will enable Buyer to secure the most economical transportation rates.
- C) Supplier shall not charge separately for packing, marking or shipping or for materials used therein unless Buyer specifies in writing that it will separately reimburse Supplier for such changes.

#### **7. PACKING SLIPS AND BILLS OF LADING**

- A) Supplier shall obtain a Straight Bill of Lading from the carrier of the Parts and shall include on each packing slip and Bill of Lading the number of the Purchase Order and the location of the destination facility.
- B) Supplier shall include a numbered master packing slip with each shipment. If less than a carload or truckload is being shipped, the slip shall be included in one of the packages, which shall be marked "PACKING SLIP INSIDE." In carload and truckload shipments the master packing slip shall be enclosed in an unsealed envelope that is affixed near the door on the inside of the freight vehicle.
- C) Supplier shall retain the original Bill of Lading for three years from the date of shipment unless otherwise directed by the Traffic Manager at the destination facility.

**8. TIMING/DELAYS** - Time is of the essence for all times and dates contained in this Purchase Order. Supplier shall immediately notify Buyer if it expects any delay in delivery of Parts or the performance of services. In the event that a delay in delivery or performance of services is imminent and/or occurs, Supplier shall, in addition to being liable for any loss or damage incurred by Buyer as a result of such delay, use its best efforts, and Buyer may require, that Supplier take such actions as the use of premium wages, overtime, and premium shipments, to deliver the product or perform the services as soon as possible after the contracted date, at Supplier's expense. In the event Buyer pays for premium shipments Supplier shall, at Buyer's option, (a) promptly reimburse Buyer for the difference in cost between the more expeditious method and the original method, or (b) allow Buyer to reduce its payment of Supplier's invoices by such difference. Supplier acknowledges that Buyer's customers' are reliant upon Buyer's timely supply of conforming goods which incorporate the Parts supplied hereunder. Supplier further acknowledges that, due to the just-in-time nature of the supply chain in the automotive industry, the inability of Buyer to supply such goods to its customer will result in the customer and Buyer incurring significant damages of both a monetary and a non-monetary nature. Therefore, Supplier acknowledges that remedies at law may be

inadequate to protect Buyer against any actual or threatened breach of this Purchase Order by Supplier, and Supplier agrees that Buyer shall be entitled to seek injunctive relief in the event of any breach or threatened breach of this Purchase Order. Should any delay exceed ten calendar days, in addition to any other remedies at law or equity, the Buyer shall have the right to partially or totally terminate this Purchase Order with no further liability to the Supplier for the terminated part.

**9. SALES AND USE TAXES** - Unless otherwise specified in this Purchase Order the Supplier shall not include in its price, nor otherwise charge to Buyer, state or local sales or use taxes on the Parts or services. Buyer will use the Parts for resale in industrial processing or manufacturing or the Buyer holds appropriate certificates and permits from the taxing authorities of any applicable governments regarding exemption of these Parts or services from sales and use taxes. With regard to Parts imported into Canada, Buyer certifies that the Parts are to be used in or attached to taxable Parts for sale.

**10. INVOICES** - Except as provided herein, Supplier shall furnish invoices for Parts purchased or services performed hereunder. Supplier shall include on each invoice the number of the Purchase Order and (if applicable) the location of the destination facility. Such invoices shall not refer to more than a single Purchase Order and shall include the following data: Buyer's item/Part number, Supplier part number (if applicable), item description, quantity, shipment date, packing slip number and other appropriate shipping information, as required. In the event that the Purchase Order is processed as an Evaluated Receipt System Order (ERS Order), payment shall be made automatically based on the quantity of Parts received and the Purchase Order unit price on the date the Parts are received at the destination facility. Supplier shall not furnish invoices to Buyer for ERS Orders. All shipments against ERS Orders must be made Freight Collect. Any items that can not be physically received at Buyer's facility (e.g., Supplier tooling, expediting/set up charges, services etc.) must be covered under a separate Purchase Order and invoiced as outlined above.

**11. PAYMENT** - Except as otherwise provided in this Purchase Order, the payment date for Parts or services shall be on the 25th day of the month following (a) Buyer's receipt of a complete, correct invoice, reasonably satisfactory to Buyer, or (b) in the case of ERS Orders, Buyer's receipt of the Parts. Cash discount periods, if applicable, shall commence upon the receipt of such invoice or Parts and Supplier's cash discount privileges to Buyer shall be extended accordingly. Buyer may withhold payment pending receipt of evidence, in such form and detail as Buyer may reasonably direct, of the absence of any liens, encumbrances and claims on the Parts supplied. All payments will be made in US Dollars and will not fluctuate based on exchange rate variances.

**12. SETOFF** - In addition to any right of setoff provided by law, all amounts due Supplier shall be considered net of indebtedness of Supplier to Buyer and its subsidiaries, and Buyer may deduct any amounts due or to become due from Supplier to Buyer and its subsidiaries from any sum due or to become due from Buyer to Supplier.

**13. WARRANTY** - Supplier warrants that it has good and merchantable title to the Parts and that the Parts and services will conform to any applicable drawings and specifications and will be free of defects in design (to the extent that Supplier furnishes the design), material, workmanship and performance.

**14. DEFECTIVE OR NONCONFORMING PARTS /BREACH OF WARRANTY** - Supplier shall indemnify Buyer for all costs incurred by Buyer, including, without limitation, costs imposed upon Buyer by its customer, as a result of Supplier's breach of warranty. No exclusions, limitations or disclaimers of warranties shall be binding upon Buyer unless specifically agreed to in writing. In addition, Supplier shall defend and indemnify Buyer from and against any third party claims of liability for damage or injury (including death) to persons or property resulting from Supplier's delivery of non-conforming Parts. The remedies expressed herein shall be in addition to any other remedies available to Buyer at law or equity.

**15. NON-CONFORMING MATERIAL COST RECOVERY** - In addition to any other remedies provided herein, the following costs will be charged to Supplier for each instance in which non-compliant Parts are received by Buyer.

- A) An administrative fee (\$350.00 maximum/\$100.00 minimum, prorated for value of transaction)
- B) An hourly rate of \$25 for US labor and \$15 for Mexican labor for time spent to correct the Supplier Quality Non-conformance.
- C) In cases where material is returned to Supplier:
  - Material will be shipped Freight Collect. Supplier must submit, in writing, requested carrier upon issuance of return authorization.
  - Supplier will be charged prorated in bound Freight
  - Any other related costs as defined in Defective or Non-conforming Items/Breach of Warranty

**16. CANCELLATION FOR BREACH**

Buyer reserves the right to cancel all or any part of the Purchase Order, without liability to Supplier, if Supplier:

- A) Repudiates or breaches any of the terms of the Purchase Order,
- B) Fails to perform services or deliver Parts as specified by Buyer, or
- C) Fails to make progress so as to endanger timely and proper completion of services or delivery of Parts; and does not correct such failure or breach within ten (10) days (or such shorter period of time if commercially reasonable under the circumstances or necessary for Buyer to meet its supply commitments to its customer) after receipt of written notice from Buyer specifying such failure or breach.

**17. INDEMNIFICATION/WORK ON BUYER'S PREMISES** - If Supplier performs any work on Buyer's premises or utilizes Buyer's property, whether on or off Buyer's premises, Supplier shall defend, indemnify and hold Buyer harmless from and against any liability, claim, demand or

expense (including reasonable attorney fees) for damages to the property of, or injuries (including death) to Buyer, its employees or any other person arising from or in connection with Supplier's performance of service or use of Buyer's property, except for such liability, claim, demand or expense arising out of the gross negligence or willful acts or omissions of Buyer or its employees. Supplier's employees, contractors and agents shall not possess, use, sell or transfer illegal drugs, medically unauthorized drugs or controlled substances or unauthorized alcohol and shall not be under the influence of alcohol or drugs on Buyer's premises.

**18. INSURANCE**

Supplier shall maintain insurance coverage in amounts not less than the following:

- A) Workers Compensation - statutory limits for the state or states in which this order is to be performed (or evidence of authority to self-insure)
- B) Employer's liability- \$250,000
- C) Comprehensive general liability (including products completed operations and blanket contractual liability) \$1,000,000 per person, \$1,000,000 per occurrence personal injury, and \$1,000,000 per occurrence property damage, or \$1,000,000 per occurrence personal injury and property damage combined single limit.
- D) Automobile liability (including owned, non-owned and hired vehicles) - \$1,000,000 per person, \$1,000,000 per occurrence personal injury and \$1,000,000 per occurrence property damage or \$1,000,000 per occurrence personal injury and property damage combined single limit.

At Buyer's request, Supplier shall furnish Buyer with Certificate(s) of Insurance setting forth the types and amounts of coverage, policy number(s) and date(s) of expiration for insurance maintained by Supplier; and if requested by Buyer, such Certificates of Insurance will provide that Buyer shall receive thirty (30) day's prior written notification from the insurer of any termination or reduction in the amount or scope of coverages. Supplier's purchase of appropriate Insurance coverage or the furnishing of Certificates of Insurance shall not reduce or release Supplier of its obligations or liabilities under this order. In the event of Supplier's breach of this provision, Buyer shall have the right to cancel the undelivered portion of any Parts or services covered by this order and shall not be required to make further payments except for conforming Parts delivered or services rendered prior to cancellation.

**19. INSPECTION** - Supplier agrees that Buyer shall have the right to enter Supplier's facility at reasonable times to inspect the facility, Parts, materials and any property of Buyer covered by this order. Buyer' inspection of the Parts, whether during manufacture, prior to delivery or within a reasonable time after delivery, shall not constitute acceptance of any work-in-process or finished Parts.

**20. FORCE MAJEURE-EXCUSABLE DELAY/ADEQUATE ASSURANCE** - Neither Buyer nor Supplier shall be liable for a failure to perform to the extent such failure arises from an act of God, acts of public enemy or similar events beyond its reasonable control and without its fault or negligence, provided, however, that strikes and labor disturbances shall not be deemed to be an event of force majeure. Supplier will notify Buyer, in writing, within 5 business days of the commencement of an event which causes or may cause an excusable delay. Failure of Supplier to so notify Buyer shall constitute a waiver of Supplier's right to rely upon this provision. During the period of such delay or failure to perform by Supplier, Buyer, at it's option, may purchase Parts or services from other sources and reduce its schedules to Supplier by such quantities or services, without liability to Supplier, and recover from Supplier any costs over the original Purchase Order price or have Supplier provide the Parts or services from other sources in quantities and at times requested by Buyer and at the price set forth in this Purchase Order. If requested by Buyer, Supplier shall, within ten (10) days of such request, provide adequate assurances; that the delay shall not exceed thirty (30) days. If the delay lasts more than thirty (30) days or Supplier does not provide adequate assurance that the delay will come to an end within thirty (30) days, Buyer, may immediately cancel the order without liability.

**21. CHANGES** - Buyer may, at any time, by written order change the design (including drawings, materials and specifications), processing, method of packing and shipping and the place of delivery of the Parts and services. If any such change causes an increase or decrease in cost or affects the timing of performance, Buyer shall adjust the purchase price and delivery schedules equitably, by Purchase Order amendment. Supplier shall not make any change in the design, processing, packing, shipping or price of delivery of the Parts or services without Buyer's written approval.

**22. TERMINATION FOR OTHER THAN CAUSE** - In addition to any other rights of Buyer to cancel or terminate the Purchase Order, Buyer may at its option immediately terminate all or any part of this Purchase Order, at any time, for any or no reason, by giving written notice to Supplier. No provision of the Purchase Order which states a basis for cause to terminate shall be construed as requiring cause to terminate the Purchase Order as provided herein. Upon such termination, Buyer shall pay to Supplier the following amounts without duplication:

- A) The order price for all Parts or services which have been completed in accordance with the Purchase Order and Releases and not previously paid for, and
- B) The actual costs of work-in-process and raw materials incurred by Supplier in furnishing the Parts or services under the Purchase Order to the extent such costs are reasonable in amount and are properly allocable or apportionable under generally accepted accounting principles to the terminated portion of the Purchase Order, less, however, the reasonable value or cost (whichever is higher) of any Parts or material which may be used or sold by Supplier. Buyer will make no payments for finished Parts, work-in-process or raw materials fabricated or procured by Supplier in amounts in excess of those consistent with the eight week lead time for raw materials set forth herein or as otherwise authorized in the Purchase Order or issued Releases, nor for any undelivered Parts which are in Supplier's standard stock or which are readily marketable. Except as specifically provided in this Purchase Order, Buyer shall not be liable for and shall not be required to make payments to Supplier directly or on account of a claim by Supplier or Supplier's subcontractors for loss of anticipated profit, unabsorbed overhead, interest on claim, product costs or rental, unamortized depreciation or other unamortized costs and general and administrative burden charges from termination of this order. Within sixty (60) days from the effective date of termination, Supplier shall

submit a comprehensive termination claim to Buyer, with sufficient supporting data to permit Buyer's audit, and shall thereafter promptly furnish such supplemental and supporting information as Buyer shall reasonably request. Buyer, or its agents, shall have the right to audit and examine all books, records, facilities, work, materials, inventories, and other items relating to any termination claim of Supplier.

- C) In the event of termination for any or no reason Supplier will assist Buyer in the smooth transfer of business from Supplier. Such assistance shall include but not be limited to, the creation of a reasonable inventory bank of Parts ("Inventory Bank") sufficient to cover the time between the cessation of production at Supplier's facility and the commencement of production at a third party facility, the return of any machinery, tooling and/or equipment belonging to Buyer, and the transfer of any drawings and specifications relating to the Parts that belong to Buyer.

**23. NO IMPLIED WAIVER** - The failure of either party at any time to require performance by the other party of any provision of this order shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver by either party of a breach of any provision of this Purchase Order constitute a waiver of any succeeding breach of the same or any other provision.

**24. REMEDIES** - The rights and remedies reserved to Buyer in this Purchase Order shall be cumulative, and additional to all other or further remedies provided in law or equity.

**25. INSOLVENCY** - Buyer may immediately cancel this order without liability to Supplier in the event of the happening of any of the following or any other comparable event

- A) Insolvency of the Supplier.
- B) Filing of a voluntary petition of bankruptcy by Supplier.
- C) Filing of any involuntary petition of bankruptcy against Supplier.
- D) Appointment of a receiver or trustee for Supplier.
- E) Execution of an assignment for the benefit of creditors by Supplier, provided that such petition appointment, or assignment is not vacated or nullified within fifteen (15) days of such event.
- F) Except to the extent of force majeure as provided above, if, in Buyer's reasonable discretion, it becomes apparent that Supplier is or will be unable to perform its obligations hereunder and Supplier fails to provide reasonably adequate assurances of such performance as Buyer may request.

**26. ADVERTISING** - Supplier shall not, without first obtaining the written consent of Buyer, in any manner advertise or publish the fact that Supplier has contracted to furnish Buyer the Parts or services referenced herein, or use any trademarks or trade names of Buyer in Supplier's advertising or promotional materials.

**27. SEVERABILITY** - If any term of this order is invalid or unenforceable under any statute regulation, ordinance, executive order or other rule of law, such term shall be deemed reformed or deleted, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule, and the remaining provision of this order shall remain in full force and effect.

**28. NOTICE OF LABOR DISPUTES** - Whenever Supplier has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this order, Supplier shall immediately give notices thereof, including all relevant information with respect thereto to Buyer.

**29. GOVERNMENT COMPLIANCE AND APPLICABLE LAW** - Supplier agrees to comply with all Federal, State and Local law, Executive Orders, Rules, Regulations and Ordinances which may be applicable to Supplier's performance of its obligations under this Purchase Order. This Purchase Order shall be construed in accordance with and be governed by the law of Buyer's principal place of business, and any dispute resolution arising from the Purchase Order shall be brought only in that jurisdiction, without regard to any provisions of such jurisdiction's, conflicts of laws rules to the contrary.

**30. PRICING** - Pricing shall be as specified in the Purchase Order, and shall be applicable to any Release volume or Inventory Bank. Standard lot quantities and minimum Release quantities, unless specified here, shall be outlined on the Release. **Under no circumstances shall the Supplier invoice the Buyer at any price not agreed to and listed on the Purchase Order.** If special circumstances require alternate pricing, a separate Purchase Order shall be written to cover such instances. The volume of each part listed on the separate Purchase Order shall be considered in the total volume of business, which the Buyer purchases from the Supplier. Supplier agrees that, in the event it sells Parts or provides services comparable to those supplied hereunder to any third party at a lower price than that set forth in the Purchase Order, that it will notify Buyer and will immediately reduce the pricing to Buyer for such Parts or services to equal that of the third party. Pricing for all Purchase Orders (Tooling, Equipment, etc.) is fixed, as agreed to, unless Buyer changes any aspects of the Purchase Order, impacting Supplier's costs, in which case, Buyer and Supplier will conduct good faith negotiations based on Supplier's submission of documentation and justification for said change. All pricing is to be in US Dollars and will not fluctuate based on exchange rate variances.

**31. FINISHED INVENTORY** - Supplier shall maintain at its expense, finished inventory (first in - first out), at the latest design level, equal to the higher of, 4% of FPV or a two week average of current scheduled requirements. Buyer at its option, may draw down such inventory and, in such event, Supplier shall have a reasonable time to replenish the inventory.

**32. QUALITY** - At all times, Supplier shall fully comply with all of the quality and documentation requirements, including, without limitation:

- Certification of Conformance requirements
- Requirements to provide MSDS' with each shipment of OSHA regulated materials.
- All requirements in the Quality First Manual. (Buyer Doc. No. 82000030, Rev. C, 2/1/97 or succeeding documents) - including quality data document submissions.
- All Packaging Specifications.
- All other Documents as required by Local, State, Federal or International Regulatory Agencies.

In the event Supplier is not familiar with or has not been provided with any of the foregoing, they may be found at [www.keysafetyinc.com/supplier\\_info/quality](http://www.keysafetyinc.com/supplier_info/quality).

**33. BAILED PROPERTY** - All supplies, materials, equipment, tools, jigs, dies, gauges, fixtures, molds, patterns, equipment and other items purchased, either directly or indirectly, by Buyer and/or furnished to Supplier to perform the Purchase Order, or for which Supplier has been reimbursed by Buyer (collectively referred to as "Bailed Property"), shall be and remain the property of Buyer. Supplier shall bear the risk of loss of and damage to Bailed Property in Supplier's possession, custody or control. Bailed Property shall at all times be properly housed and maintained by Supplier; shall not be used by Supplier for any purpose other than the performance of this Purchase Order; shall be deemed to be property; shall be conspicuously marked "PROPERTY OF KEY SAFETY SYSTEMS, INC." by Supplier; shall not be commingled with the property of Supplier or with that of any third person; and shall not be moved from Supplier's premises without Buyer's prior written approval. Upon the request of Buyer, Bailed Property shall be immediately released to Buyer or delivered to Buyer by Supplier, at Buyer's direction and expense. Buyer shall have the right to enter onto Supplier's premises at all reasonable times to inspect Bailed Property and Supplier's records with respect thereto. Supplier agrees that it will comply with the obligation hereunder to release Bailed Property notwithstanding any offsetting claim it might have against Buyer and that Supplier shall be liable for any loss or damage to Buyer resulting from Supplier's failure to release Bailed Property when requested.

**34. SUBJECT TO AUDIT** - All work performed by Supplier or subcontracted to Sub-suppliers, to the extent permitted hereunder, is subject to an on-site audit. All expenses, to be recovered from Buyer, must be supported by a Purchase Order from Buyer, invoice and canceled check or other evidence of payment or Supplier internal expense. Any costs which cannot be substantiated by Supplier will be removed from the invoice. Buyer may conduct an on-site audit at any reasonable time during the life of the program, whether or not the Supplier's invoice has been paid. Buyer may debit Supplier for any unsubstantiated costs, which were invoiced and paid by Buyer. Where practical, subcontracted purchases should have two or more quotations to demonstrate the competitiveness of subcontractor. If Buyer demonstrates that the cost should have been lower, the difference will be charged back to the Supplier.

**35. CAPACITY PLANNING VOLUMES** - Supplier will provide a statement of available production capacity expressed, where applicable, in three ways: Tool Capacity, Equipment Capacity, and Commercial Capacity. In all cases, these capacities are the Supplier's weekly output based on two eight-hour shifts worked five days per week, whether or not additional hours are actually worked. Where multiple operations or fixtures are involved, the capacity will be given for all operations and/or fixtures with an identifying description of each operation or fixture. The Tool Capacity is the theoretical capability of the tool assuming 100% utilization. The Equipment Capacity is the practical capacity of the tool in specified equipment for 100% of the time, specified above, but reduced for normal weekly down time (utilization factor). The Commercial Capacity is based on the committed time that the tool will run in a given piece of equipment, based on other customer commitments to the piece of equipment. This requirement applies whether or not Buyer has purchased specific tooling for the product being produced. Supplier agrees at all times to maintain Tool, Equipment and Commercial Capacities equal to or greater than 120% of Buyer's anticipated needs based upon the FPV provided to Supplier. If the required volume exceeds the FPV by greater than 20% and the Supplier does not normally work more than 80 hours per week, Buyer will reimburse the Supplier for overtime worked, unless the increased requirements are the result of the Supplier's failure to deliver or quality issues in a prior time period. Note that the Tooling and Equipment Capacities are fixed, unless the utilization factor changes for equipment, whereas the Commercial Capacity may change frequently, subject to contract; however, such changes shall not affect the 120% excess capacity referenced herein. Supplier must notify Buyer of any changes to committed capacity.

**36. COMPETITIVENESS CLAUSE** - If, during the life of the Purchase Order, Buyer establishes that Supplier's pricing has become uncompetitive with that of other suppliers of the same or substantially similar Parts or services, the Buyer will give to Supplier a right of first refusal to continue to supply the Parts or services at a reduced price which shall be no greater than the competitor's price. If Supplier does not exercise this right within ten business days, Buyer may cancel the Purchase Order subject to conditions expressed in the "Termination for Other Than Cause" clause. In the event that Supplier fails to be competitive with other suppliers of the same or substantially similar Parts or services in terms of delivery time or quality, Buyer may cancel the Purchase Order subject to the conditions expressed in the "Termination for Other Than Cause" clause.

**37. INITIAL SAMPLE SUBMISSION** - Supplier, at its own expense, shall fabricate from production tooling and processes and furnish to Buyer the number of samples, reasonably specified by the Buyer, or if none is specified, as defined by the Buyer Quality First Manual for PPAP submission. Supplier shall inspect such samples before delivery and shall certify inspection results in the manner requested by the PPAP procedure. **PPAP approval is required prior to production shipments, and final tooling payments.**

**38. SERVICE AND REPLACEMENT** - At Buyer's request, (a) Supplier will sell to Buyer sufficient Parts to fulfill Buyer's current model service and replacement requirements at the prices specified herein, and (b) during the fifteen-year period following the termination or expiration of this Purchase Order, Supplier will sell Buyer Parts to fulfill Buyer's past model service and replacement requirements at the prices specified in the Purchase Order. All of the terms and conditions set forth herein and in the Purchase Order shall survive termination or expiration of the Purchase Order for purposes of, and shall be applicable to, the supply of service and replacement parts.

**39. MAINTENANCE** - The Supplier is responsible for maintaining and/or replacing broken or worn-out tooling for the life of the program.

**SUPPLIER-OWNED TOOLING AND EQUIPMENT** - Unless otherwise agreed to by Buyer, Supplier at its own expense shall furnish, keep in good condition, and replace when necessary all equipment, tools, jigs, dies, gauges, fixtures, molds and patterns (Tools) necessary for the production of the Parts. The cost of changes to the Tools necessary to make design and specification changes authorized by Buyer shall be paid for by Buyer. Supplier shall insure the Tools with full fire and extended coverage insurance for the replacement value thereof. Supplier grants Buyer an irrevocable option to take possession of and title to the Tools that are special for the production of the Parts upon payment to Supplier of the book value thereof less any amounts which Buyer has previously paid to Supplier for the cost of such tools; provided, Supplier must re-qualify Tooling/Component after any change or modification or relocation.

**40. COST BREAKDOWN** - Supplier is to provide a cost/price breakdown at any time during the life of this Order, at Buyer's option and request. This applies to any monies that Buyer is committed to pay.

**41. IMPORT/EXPORT SHIPMENTS** - As reasonably requested by Buyer, Supplier agrees to provide information necessary for Buyer to comply with all laws, regulations and related legal reporting obligations in the country(ies) of destination. Supplier agrees to provide documentation and/or electronic transaction records to allow Buyer to meet customs-related obligations, any local content/origin requirements, and to obtain all tariff and trade program duty avoidance(s) and/or refund benefits, where applicable. Supplier agrees to assume, and to indemnify Buyer against any and all financial responsibility arising from Supplier's failure to comply with the above obligations, including, any fines, penalties, forfeitures or counsel fees incurred or imposed as a result of actions taken by the importing country's government. Supplier agrees to submit a Certificate of Origin upon request.

**42. CUSTOM DUTIES** - Unless otherwise specifically agreed in writing, the Purchase Order price includes all duties and other import costs.

**43. CONFIDENTIALITY** - Supplier is expected to and must maintain confidentiality of Part and processing information unless specifically and formally released by Buyer. This includes, but is not limited to, publicity regarding involvement in this project, processing techniques, quantity and pricing, and end use.

**44. SHIPPING ADVICE** - Supplier is to provide an advanced shipping notification for all Parts shipped herein, to designated Buyer employee.

**45. PROPRIETARY RIGHTS** - (A) Supplier at its expense will defend and indemnify Buyer from and against any claim that may be brought against Buyer or against those selling or using any product of Buyer for any alleged infringement of any present or future patent, copyright, industrial design right or other proprietary right, based on the sale or use of the Parts supplied hereunder (i) alone, (ii) in combination by reason of their content, design or structure, or (iii) in combination in accordance with Supplier's recommendations. Supplier's obligations shall apply even though Buyer furnishes any portion of the design and specifies all or any portion of the processing. Supplier will pay all expenses and damages (including attorneys fees and costs of suit) that Buyer and those using or selling Buyer's products may sustain by reason of each such claim. (B) Supplier grants to Buyer and its associated companies a nonexclusive, royalty free, irrevocable license to rebuild and have rebuilt the supplies purchased by Buyer under this purchase order. (C) Supplier will neither assert nor transfer to another a right to assert against Buyer and/or its associated companies, or dealers or customers thereof, any copyright of Supplier that is applicable to any works of authorship furnished to Buyer or any of Buyer's associated companies in the course of Supplier's activity hereunder. (D) In the event that Buyer terminates this Purchase Order due to Supplier's fault, including without limitation, Supplier's lack of competitiveness, Supplier grants to Buyer and any third parties contracted by Buyer to supply the Parts or services contracted hereunder, a non-exclusive, irrevocable, royalty free license to any of Supplier's technology necessary to supply the Parts in order that such third party may complete this Purchase Order (E) Unless otherwise indicated by Supplier, all technical information disclosed heretofore and hereafter by Supplier to Buyer in connection with these supplies or services is disclosed on a non-confidential basis.

**46. AUTHORIZATION TO PROCEED ON TOOLING** - Tool drawings, layouts, and processes must be submitted to and approved by Buyer's Tool Engineering, prior to the start of fabrication of the tools. This approval is in addition to and separate from the receipt of the authorizing Purchase Order, or appropriate alternative document, which also must be received by Supplier prior to start of work. Buyer is not responsible for costs incurred without these approved authorizations. Supplier is to maintain all tool drawings and submit proposed revisions to Buyer prior to incorporating said changes.

**47. ECONOMIC RECOVERY/PRODUCTIVITY PRICE REDUCTION** - Supplier is expected to introduce cost reduction opportunities to offset any cost increase in the supply of the Parts, including, without limitation, materials, labor, etc. In no case, is Supplier to invoice Buyer at any price not previously agreed to, in writing. At a minimum, such reductions shall be in addition to any separately agreed upon productivity price reductions.

**48. SURVIVABILITY** - In addition to the relevant provision of the Service and Replacement Part clause, the following provisions shall survive termination or expiration of the Purchase Order: Setoff, Warranty, Defective or Non-Conforming Parts/Breach of Warranty, Non-Conforming Material Cost Recovery, No Implied Waiver, Remedies, Advertising, Severability, Quality, Bailed Property, Confidentiality, Service and Replacement, Import/Export Shipments, Proprietary Rights,