

Terms and Conditions of purchase

Mayser USA, Inc.

MAYSER®

These Terms and Conditions of Purchase (these "Terms and Conditions") are the only terms which govern the purchase of Products and/or Services by Mayser USA, Inc. ("Mayser") from a seller or service provider ("Supplier");

§ 1 Priority of Terms and Conditions.

Any order for Products or Services from Mayser to Supplier (a "Purchase Order") is an offer. Mayser may withdraw a Purchase Order at any time before it is accepted by Supplier. Supplier accepts the offer and the Purchase Order becomes effective and binding upon the earlier of: (a) Supplier issuing a written acceptance of the Purchase Order (by electronic means or otherwise); (b) Supplier performing any act consistent with fulfilling the Purchase Order; or (c) Supplier's failure to acknowledge or accept a Purchase Order within seven (7) days of its receipt. Supplier, by accepting the offer, shall be deemed to have accepted all of these Terms and Conditions without exception. No contrary or additional terms or conditions of sale proposed by Supplier will be accepted by Mayser and any such proposed contrary or additional terms are to be construed as proposals for addition to this Purchase Order which are hereby rejected unless otherwise indicated in a written instrument executed by an authorized representative of Mayser making specific reference to the Purchase Order and the specific contrary or additional terms proposed by Supplier. These Terms and Conditions apply to the exclusion of any other terms or conditions of sale that Supplier seeks to impose or incorporate, or which are implied by trade, custom, practices, or course of dealing and supersedes all prior agreements, purchase orders, quotations, proposals and other communications regarding the Products covered by the Purchase Order, except that a signed prior agreement (such as an award letter, specifications, a statement of work or non-disclosure agreement) will continue to apply to the extent not directly in conflict with the Purchase Order. These Terms and Conditions apply to any repaired or replacement Products or remedial Services provided by Supplier hereunder. Mayser does not commit to any minimum purchase or future purchase obligations under the Purchase Order. If a contract between Mayser and Supplier is established through performance or other conduct, the terms and conditions of that contract will not be deemed to consist only of terms and conditions as to which the parties' writings agree, but rather these Terms and Conditions will be a part of that contract and will prevail over the conflicting and/or different terms and conditions of any other document forming a part of the contract. The Purchase Order shall not constitute a requirements or output contract unless specifically designated as such in the Purchase Order.

§ 2 Products and Services.

Unless otherwise defined, the term "Products" shall, from time to time, include any and all of the following provided or performed by or on behalf of Supplier: (i) all raw materials, items, equipment, general stores, spare parts, goods, personal property, software and other intellectual property; (ii) all machinery, equipment and related items identified in or related to the Purchase Order; (iii) all specifications, plans, drawings, standards, project schedules, accessions and additions relating to any Products; (iv) any and all services rendered by Supplier in performing the Purchase Order (the "Services"); (v) all price specifications and pricing data; (vi) all custom Products; and (viii) all labor, materials, equipment, software, spare parts and services provided by Supplier in connection with or reasonably related to the installation, testing, calibration, operating trials and repair of any of the foregoing.

§ 3. Forecasts.

Mayser reserves the right to project or target volumes, provided, however, that such projections or targets are not intended to be nor shall they be deemed a firm commitment or guarantee that a certain quantity of Products be purchased by Mayser. Unless otherwise expressly stated by Mayser in a Purchase Order, such projections or targets will be effective only as non-binding forecasts.

§ 4. Order Changes.

Mayser reserves the right at any time by written notice to change the type, quantity, and place and/or time of delivery of the Products or Services, including changes to any specifications, plans, drawings, standards or project schedules, as well as inspection, testing or quality control. If any such change causes an increase or decrease in the cost of or the time required for Supplier's performance, an equitable adjustment may be made in the price and/or delivery schedule. Any claim for adjustment by Supplier will be deemed waived unless made within 7 days after receipt of the change. Nothing contained herein will relieve Supplier from its obligation to proceed without delay to perform any order, as changed. Mayser may cancel without liability any order at any time prior to Mayser's receipt of the ordered Products or Services.

§ 5. Price; Payment Terms.

Prices are those stated in the Purchase Order and, unless otherwise stated in the Purchase Order, are DDP Mayser-specified destination (Incoterms 2010) and include packing and shipping charges. Supplier's prices include all applicable customs, taxes, duties and levies, including but not limited to sales, use, value-added, and excise taxes. If Supplier reduces its prices or fees to any customer

prior to delivery of the Products or rendering of the Services, the lower prices or fees will apply to Mayser. Supplier shall issue an invoice to Mayser on or any time after the completion of delivery and only in accordance with these Terms and Conditions. Mayser shall pay all properly invoiced amounts due to Supplier in U.S. dollars in accordance with any payment schedule agreed to in writing by the parties, except for any amounts disputed by Mayser in good faith. If no schedule has been agreed to in writing, then Mayser will make payments of all undisputed amounts due to Supplier within 60 days after Mayser's receipt of Supplier's invoice. Disputed invoices will not become due and payable until such dispute has been resolved to the mutual satisfaction of the parties. Supplier may request, and Mayser may grant such request in its sole discretion, an increase in the per product price due to substantial increases in raw material prices.

§ 6. Setoff.

Without prejudice to any other right or remedy it may have, Mayser reserves the right to set off at any time any amount owing to it by Supplier against any amount payable by Mayser to Supplier.

§ 7. Packing.

Supplier shall pack and mark all Products for shipment according to Mayser's instructions or, if there are no instructions, Supplier shall pack and mark all Products (a) with a description of the Products and the respective quantities; (b) in a manner sufficient to ensure that the Products are delivered in undamaged condition; (c) in accordance with the requirements of the involved carrier, consistent with any applicable guidelines and standards of the Automotive Industry Action Group (AIAG); and (d) in accordance with the laws and regulations of the country of manufacture, the country of destination and any country in which the Products will be transported. Supplier must provide Mayser prior written notice if it requires Mayser to return any packaging material. Any return of such packaging material will be made at Supplier's expense and risk.

§ 8. Shipping; Risk of Loss.

- a. Supplier, at its own risk and expense, shall deliver the Products and/or perform the Services at the place(s), in the manner, and at the times specified by Mayser. Time is of the essence. Supplier shall provide with each shipment of Products such packing slips, bills of lading and/or other shipping receipts or identifying documentation which taken together will allow Mayser to identify the Products shipped and determine that such Products have been delivered in strict conformity with all applicable packaging, delivery, and routing requirements of Mayser. Mayser may return or store, at Supplier's risk and expense, any Products delivered prior to the date(s) specified by Mayser. If Supplier does not deliver the Products or perform the Services within the time(s) specified by Mayser, Mayser may, in addition to its other rights and remedies: (i) terminate the affected order; (ii) obtain substitute goods or services elsewhere, and Supplier will pay all costs and expenses associated therewith; and (iii) expedite shipment of the Products, and Supplier will pay all costs and expenses associated therewith.
- b. Mayser will have no liability for payment of Supplier claims arising from Products delivered to Mayser that exceed the quantities specified in the Purchase Order. In case of any overshipment of Products, Mayser may, in its sole discretion, (i) keep any such overshipments and elect to revise up the quantities of Products in the applicable Purchase Order by the amount of the overshipment; or (ii) return the quantity of overshipment to Supplier at Supplier's expense and risk. In case of undershipments of any Products, Supplier shall, if so requested by Mayser, immediately at its cost and risk, ship the additional Products needed to fully complete the applicable Mayser's requirements to the destination and by the time designated by Mayser. Alternatively, Mayser may elect to revise down the quantities of Products in the applicable Purchase Order reduced by the amount of the undershipment.

§ 9. Delay.

If at any time Supplier has reason to believe that the delivery of any Products may not be made in strict conformity with applicable delivery schedules, Supplier shall immediately notify Mayser setting forth the cause for the anticipated delay. Any oral communication shall be immediately confirmed in writing. During the period of any delay, Supplier shall use its best efforts to provide the Products called for in the Purchase Order from other sources and reduce its deliveries of Products to Mayser by such quantities of substituted Products, all without cost or liability to Mayser. In the event Supplier's performance is delayed or is expected to be delayed by more than five (5) business days, Mayser upon written notice to Supplier may terminate the affected Purchase Order in accordance with Section 26(b) of this purchase order.

§ 10. Tooling.

- a. All tools, jigs, dies, gauges, fixtures, molds, patterns, equipment, related software and other items provided to Supplier by Mayser or produced or obtained by Supplier for production or development of the Products delivered hereunder (if any)

and paid for by Mayser ("Tooling") are, shall become, and remain the property of Mayser and title shall pass to Mayser: (i) as set forth in any tooling purchase order as issued by Mayser; (ii) if no such tooling purchase order exists or does not specify transfer of title, upon successful completion of Mayser's production part approval process (PPAP); or (iii) in any other circumstance in which subsections (i) and (ii) above do not apply, upon the later of Supplier's acceptance of the Purchase Order or Supplier's acquisition of the Tooling.

- b. All Tooling purchase orders from Mayser to Supplier are subject to the Purchase Order and the following provisions: (i) upon receipt and acceptance of a Tooling purchase order, if not producing the Tooling itself, Supplier will promptly place an order with a competent toolmaker to supply the Tooling and provide notice to Mayser of such order; (ii) Mayser reserves the right, but not the obligation, to review and approve the Tooling, in process and upon completion, and if not approved, Mayser may require Supplier at Supplier's cost either to repair such rejected Tooling and render it compliant or replace the rejected Tooling with new conforming Tooling; and (iii) if any Tooling is not made within the countries of Mexico, Canada or the United States, Supplier shall ensure that the Tooling qualifies for NAFTA country of origin status and provide that Supplier will be the importer of record of the Tooling.
- c. Time, quality and quantity are of the essence in completion of Tooling. Tooling must be completed and delivered to Supplier within the time specified in a Tooling purchase order. Supplier is solely responsible to Mayser for having Tooling completed by the specified completion and delivery dates. Mayser may shorten or lengthen the time specified in a Tooling purchase order; if any change from a specified time results in a changed cost to Supplier, Mayser and Supplier will negotiate in good faith to adjust the pricing accordingly.
- d. Unless provided otherwise in a signed separate written agreement or unless Mayser has failed to provide Tooling within the time specified by, Supplier is responsible for installing Tooling in its operations no later than the date Mayser specifies, and to complete testing of the Tooling to be certain that it is merchantable, accomplishes its intended purpose and is in compliance with all applications standards, specifications and instructions provided by Mayser.
- e. Supplier shall mark and identify all Tooling as property of Mayser or its customers as specified in the Tooling purchase order or as subsequently notified by Mayser to Supplier. Supplier will keep proper Records to determine at all times the Tooling's ownership.
- f. Supplier will serve in the capacity of a bailee of the Tooling, and will take all reasonable steps to protect and preserve it. Supplier shall keep the Tooling maintained, repaired and in good condition at Supplier's expense, normal wear and tear excepted. Supplier will promptly inform Mayser when any item of Tooling is nearing obsolescence or unfit for its intended purpose, so that substitute Tooling can be ordered and in place without disruption to supply of Products. Supplier shall replace, at its own expense, any Tooling that does not comply with specifications, is unfit for its intended purpose or fails prior to the end of its expected life as specified by its manufacturer. Supplier will safely store the Tooling after a model run and make it available for service orders at Mayser's request and at no extra charge for Mayser.
- g. Supplier shall purchase insurance in an amount sufficient to repurchase replacement tooling for each piece of Tooling, in an amount approved by Mayser, with Mayser named as an additional insured and a certificate of insurance provided to Mayser confirming this. Supplier shall provide Mayser with at least 30 days prior written notice of any notice of cancellation of insurance or an indication from an insurer of intent to cancel insurance covering the Tooling. While in Supplier's possession or control, Supplier bears the risk of total or partial loss of the Tooling, normal wear and tear excepted.
- h. Mayser or its designated representatives are hereby granted the unconditional right of entry at any time to remove the Tooling without liability for such entry. Tooling shall be used by Supplier only for the benefit of Mayser, and shall be delivered DDP Mayser-specified location upon request, free and clear of all liens and encumbrances and in the same condition as originally received by Supplier, normal wear and tear excepted. If Mayser requests the return of any tooling from Supplier and Supplier determines the return of such tooling prevents Supplier from providing the Products to Mayser, then Supplier shall inform Mayser in writing, and Mayser and Supplier shall negotiate a mutually acceptable resolution.
- i. Supplier shall indemnify, defend and hold Mayser harmless against any liability or expense incurred related to damage to the Tooling during Supplier's custody or control of the Tooling. Supplier will indemnify and hold Mayser harmless from any responsibility, liability, claims, demands, losses, expenses or commitment arising from Supplier's possession or use of the Tooling during Supplier's custody or control of the Tooling, including but not limited to any claims by third parties claiming injury related to the Tooling.
- j. Supplier acknowledges that Mayser was never a manufacturer or distributor of the Tooling, and Mayser expressly disclaims liability for damage to persons or property resulting from use of the Tooling. MAYSER DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE TOOLING, INCLUDING WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.

§ 11. Warranties.

- a. In addition to Supplier's other warranties and to the warranties provided by law, Supplier represents and warrants that all Products delivered to Mayser (i) comply with any specifications provided by Mayser to Supplier, (ii) are merchantable, (iii) are free from defects in workmanship, material and design, (iv) are fit and sufficient for the purposes intended, (v) do not infringe any third-party's intellectual property rights, and (vi) are manufactured and sold in compliance with all applicable laws and regulations, including all laws regarding bribery, employment, labor, child labor, slavery, and human trafficking in any country in which Supplier is doing business, and all rules, regulations, standards, and rulings promulgated or issued thereunder, as from time to time amended, modified, and/or superseded.
- b. Supplier further warrants that all Services rendered to Mayser will be performed in a good and workmanlike manner by qualified personnel in accordance with all applicable professional standards for the field of expertise.
- c. Supplier further warrants that on delivery Mayser will receive good title to the Products, free and clear of all claims, liens and encumbrances, and that the Products and Services will be free from any actual or claimed infringement of any patent, copyright, trademark or other intellectual property right.
- d. These warranties survive any delivery, inspection, acceptance or payment of or for the Products or Services by Mayser and shall extend to future performance for the greater of: (i) a period of three (3) years after delivery of the applicable Products to Mayser and/or performance of the Services (or for such longer period as Supplier's warranties may specify); (ii) the period ending on a date that coincides with the expiration of the warranty for any goods into which the Products have been installed or incorporated; or (iii) where applicable, the period ending on a date that coincides with the expiration of the consumer vehicle warranty (the "Base Automotive Consumer Warranty Period") for any vehicle into which the Products have been installed or incorporated. The applicable consumer vehicle warranties may vary in length, duration and scope depending on the vehicle. These warranties are cumulative and in addition to any other warranty provided by Supplier or by law or equity. Any applicable statute of limitations runs from the date of Mayser's discovery of the noncompliance of the Products and/or Services with the foregoing.

§12. Inspection and Testing.

Mayser will be entitled to inspect and test the Products, or the results of the Services, within a reasonable time after delivery, which Supplier acknowledges will be not less than 180 days after receipt of the Products or final completion of the Services. Mayser, at its sole option, may inspect all or a sample of the Products and/or Services, and may reject all or any portion of the Products and/or Services if it determines the Products and/or Services are nonconforming or defective. If Mayser rejects any portion of the Products and/or Services, Mayser has the right, effective upon written notice to Supplier, to: (a) rescind the applicable Purchase Order in its entirety; (b) accept the Products and/or Services at a reasonably reduced price; or (c) reject the Products and/or Services and require replacement and/or re-performance of the rejected Products and/or Services. If Mayser requires replacement and/or re-performance of the Products and/or Services, Supplier shall, at its expense and risk, promptly replace and/or re-perform the nonconforming Products and/or Services and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective Products and the delivery of replacement Products. If Supplier fails to timely deliver replacement Products, Mayser may replace them with goods from a third party and charge Supplier the cost thereof and terminate the applicable Purchase Order for default pursuant to Section 26(b). Neither Mayser's failure to conduct inspection or testing, nor the failure to discover nonconforming Products or Services, nor payment by Mayser will constitute acceptance of the Products or Services and will not prejudice Mayser's continuing right to reject (or revoke acceptance of) nonconforming Products or Services and to avail itself of any other remedy to which Mayser may be entitled pursuant to these Terms and Conditions or applicable law.

§13. Service and Replacement Parts.

Supplier shall provide Mayser with aftermarket and warranty service and replacement parts for the Product(s) not less than fifteen (15) years following the earlier of either (a) the date when Supplier ceases to sell the Product(s) or a reasonable substitute of the Product(s) or (b) the expiration of the applicable warranty period, including all extensions (the "Aftermarket Period"). Supplier will make available all replacement parts for the Product(s) within 5 business days of Mayser's request for such parts, or in whatever time period is specified in the request. During the first five years of the Aftermarket Period, the price of such service and replacement parts will be the price specified in the last Purchase Order. For the remainder of the Aftermarket Period, the prices will be as agreed by Mayser and Supplier. If the parties are unable to agree on a price, Mayser shall determine the price at its reasonable discretion. At Mayser's request, and at Supplier's sole expense, Supplier shall provide all literature and other materials available to support all service and replacement parts.

§ 14. Service Personnel.

All personnel performing Services (the "Service Personnel") shall be qualified to perform the tasks assigned to them. Mayser will have the right to review and approve any Service Personnel. Within two (2) business days after written notice from Mayser that Supplier must replace any of its Service Personnel, Supplier shall replace at its cost such person(s) with a qualified employee who is reasonably satisfactory to Mayser.

§ 15. Ingredients.

Prior to the shipment of any Item, Supplier will provide Mayser with any and all Material Safety Data Sheets ("MSDS"), Environmental Data Sheets ("EDS") and comparable documents that are related, directly or indirectly, to the Products, as well as any modifications, amendments or supplements thereto. Following Mayser's review of the MSDS and EDS and if requested by Mayser, Supplier shall provide Mayser with any other information it requests concerning the ingredients or materials in the Products. Supplier agrees to notify Mayser immediately upon obtaining any information or indications that Products supplied by or to be supplied by Supplier have hazardous characteristics, regardless of the information provided in the MSDS and EDS. In support of the reporting requirements of Mayser's customers, Supplier shall promptly provide, in writing, any information regarding the Products requested by Mayser so that Mayser or Mayser's customers may comply in a timely manner with reporting requirements regarding use of any "conflict minerals" contained in the Products, as required under applicable law or regulations.

§ 16. Intellectual Property.

All right, title, and interest in and to any and all inventions and deliverables (including discoveries, ideas, or improvements, whether patentable or not) which are conceived or made during or after the term of the Purchase Order and are (i) based upon or arising from Confidential Information (as defined in Section 27 below), or (ii) developed for Mayser, will belong to Mayser. If Supplier produces works of authorship for Mayser (the "Works"), the Works will be deemed "works made for hire" and Mayser will receive all right, title, and interest thereto. However, if any Works are not determined to be "works made for hire," Supplier agrees to assign, and hereby assigns to Mayser and its successors, the entire right, title, and interest, in and to the Works. Supplier represents and warrants that Supplier's personnel have expressly waived any and all moral rights over the Works. Nothing in the Purchase Order will affect the intellectual property rights of the parties existing prior to the Purchase Order. To the extent that the Works contain any intellectual property which was created and owned by Supplier prior to the Purchase Order, such intellectual property shall remain the property of Supplier, and Supplier grants to Mayser an irrevocable, perpetual, fully paid-up and unrestricted license to use such intellectual property for Mayser's purposes. If the Works contain the intellectual property of a third party, Supplier shall take all steps required to provide Mayser with an irrevocable and perpetual license to use such intellectual property for Mayser's purposes.

§ 17. Software.

If the Products set forth in the Purchase Order include any software (including pursuant to a software-as-a-service offering), related documentation and/or updates thereto (collectively, "Software") the following terms and conditions apply: (a) Supplier shall retain all intellectual property rights in and to the Software. Supplier hereby grants to Mayser and its affiliates a perpetual (unless otherwise limited in the Purchase Order to a specific duration), worldwide, non-exclusive license to access and use the Software for the business purposes of Mayser and its affiliates. If the Purchase Order limits the Software to use by a certain number of users, then Mayser may replace a user with another user from time to time, provided that the then-current number of users using the Software does not exceed such number. If Supplier determines that Mayser and its affiliates have exceeded rights to the Software in the Purchase Order through increased usage that is otherwise in accordance with these Terms and Conditions, Supplier shall promptly notify Mayser in writing of such excess usage and Mayser shall thereafter promptly eliminate such excess usage. If Mayser does not eliminate such excess usage, Supplier's exclusive remedy shall be to invoice Mayser proportionally for such excess usage using the pricing set forth in the Purchase Order. (b) Mayser and its affiliates may (i) make a reasonable number of backup or archive copies of any Software provided by Supplier and (ii) permit one or more third parties to exercise the rights granted to Mayser and its affiliates hereunder, provided that any such third party may only use the Software to provide goods to or perform services for Mayser and its affiliates. Except as expressly permitted herein, Mayser and its affiliates shall (i) not reverse engineer, decompile or otherwise discover the source code of the Software; (ii) not remove any copyright, trademark or other proprietary rights notices in the Software; and (iii) reproduce such notices on any copies of the Software. Supplier shall electronically deliver the Software such that no tangible media passes to Mayser.

§ 18. Audit.

Mayser and/or its designated representatives have the right to audit Supplier's or Supplier's subcontractors' facilities and examine Supplier's or Supplier's subcon-

tractors' books and records to verify compliance with its obligations under these Terms and Conditions. In connection with any audit under this Section, Supplier shall, at Mayser's request, participate in and complete a quality and supply chain Supplier Assessment Survey for Products supplied to Mayser under any Purchase Order.

§ 19. Limitation of Liability.

Mayser's liability arising out of or in connection with any Purchase Order will not exceed the price or fees allocable to the Product (or unit thereof) or Services giving rise to the claim.

§ 20. General Indemnity.

Supplier shall, at its expense, indemnify, hold harmless, and, at Mayser's request, defend Mayser and its shareholders, directors, officers, employees, agents and affiliates (each, an "Indemnitee") from and against any and all damages, loss, liability, suits, actions, demands, proceedings (whether legal or administrative) and expenses (including but not limited to reasonable attorneys' fees, other professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers) (collectively, "Losses") arising, directly or indirectly, out of or in connection with the Products or Services or Supplier's negligence, willful misconduct, or breach of the Purchase Order or these Terms and Conditions. In no event shall Supplier enter into any settlement without Indemnitee's prior written consent. The foregoing indemnity will remain operative and in full force and effect regardless of any termination or expiration of this contract, and will be in addition to any liability that Supplier otherwise may have to Mayser. Supplier expressly agrees that with respect to any and all claims against any Indemnitee by any Service Personnel, Supplier's indemnification of Mayser under this Section 20 shall not be limited (i) by reason of any immunity to which Supplier may be entitled under any workers' compensation and/or industrial insurance acts, disability benefits acts, or other employee benefits acts or (ii) by any statutory or contractual limitation on the amount or type of damages, compensation, or benefits payable by or for Supplier to such Service Personnel with respect to such claim.

§ 21. Intellectual Property Indemnity.

Supplier shall, at its expense, indemnify, hold harmless, and, at Mayser's request, defend any Indemnitee from and against any and all Losses arising, directly or indirectly, out of or in connection with any claim that an Indemnitee's use or possession of the Products infringes or misappropriates the patent, copyright, trade secret or other intellectual property right (whether U.S. or foreign) of any third party. In no event shall Supplier enter into any settlement without Mayser's or Indemnitee's prior written consent. The foregoing indemnity will remain operative and in full force and effect regardless of any termination or expiration of this contract, and will be in addition to any liability that Supplier otherwise may have to Mayser.

§ 22. Export and Import Control.

- a. Supplier shall (i) promptly provide all information necessary to export and import the Products purchased under the Purchase Order, including, as applicable: (A) the Export Control Classification Numbers (ECCN) and subheadings; and (B) any Harmonized Tariff Schedule (HTS) codes, where applicable; (ii) provide Mayser with all documents required to obtain trade credits, export credits, or the refund of duties, taxes or fees available to Mayser; (iii) provide Mayser with all documents necessary to fulfill any customer obligations or other applicable legal requirements; (iv) provide upon Mayser's request a valid Manufacturer Affidavit and/or a complete Certificate of Origin, as well as any supporting documents requested in connection with a NAFTA, U.S. Customs and Border Protection or other governmental investigation; and (v) notify Mayser of any changes to the information provided by Supplier to export and import the Products purchased under the Purchase Order. Supplier represents and warrants that all such information provided to Mayser is and shall be accurate.
- b. To the extent that any Products will be imported into the US or will be shipped temporarily to a US destination for transfer elsewhere, Supplier shall comply and ensure compliance by its carriers and freight forwarders with (i) all applicable recommendations and requirements of U.S. Customs and Border Protection's ("CBP's") C-TPAT initiative; (ii) CBP's Importer Security Filing and Additional Carrier Requirements (a.k.a. ISF/"10+2") and (iii) such additional requirements as CBP or other agencies of the US Government establish for goods to be imported into the United States or for temporary destination to US ports, for the purpose of accomplishing timely delivery into the US and Customs clearance of the Products. Upon request by Mayser, Supplier will certify in writing its compliance with this Section and provide copies of supporting forms to Mayser's logistics personnel.

§ 23. Recalls; Products Liability.

- a. Supplier shall fully cooperate and assist Mayser in any such Recall. If Products are the subject of Products Liability Matter or a Recall, whether initiated by Mayser, Supplier, or a U.S. or foreign governmental agency ("Agency") (including the issuance of safety notices), Mayser and Supplier will negotiate in good faith to

reasonably allocate the costs of complying with or contesting any such Products Liability Matter or Recall. Supplier shall indemnify and hold Mayer harmless from the costs and expenses of resolving any Products Liability Matter or Recall caused, directly or indirectly, by Supplier. If an Agency initiates any inquiry or investigation relating to Products, Supplier shall notify Mayer immediately and take all steps necessary to resolve the matter without exposing Mayer to liability or risk.

- b. For the purposes of these Terms and Conditions, a "Recall" means any instance in which Supplier or Mayer decides, or an Agency issues an order requiring Mayer, to recall, replace, repair or make refunds with respect to any Products or of Mayer's products that incorporate Products.
- c. For the purposes of these Terms and Conditions, a "Products Liability Matter" means any action brought for or on account of personal injury, death or property damage caused by or resulting from the manufacture, construction, design, formulation, development of standards, preparation, processing, assembly, testing, listing, certifying, warning, instructing, marketing, advertising, packaging or labeling of any Products.

§ 24. Insurance.

During the term of the Purchase Order and for a period of three (3) years thereafter, Supplier shall, at its own expense, maintain and carry insurance on an occurrence basis in full force and effect with financially sound and reputable insurers. Coverage must include, but is not limited to commercial general liability (automotive supplier liability insurance, premises, operations, independent contractors, products, completed operations, personal and advertising injury, and contractual liability) in a sum no less than \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate. Upon Mayer's request, Supplier shall within twenty four hours of such request provide Mayer with a certificate of insurance from Supplier's insurer evidencing the insurance coverage specified in this Purchase Order. If the Purchase Order, or any Release under a blanket Purchase Order, relates to Products and/or Services in excess of \$100,000, the certificate of insurance shall name Mayer as an additional insured, and Supplier shall provide Mayer with 30 days' advance written notice in the event of a cancellation or material change in Supplier's insurance policy. Except where prohibited by law, Supplier shall require its insurer to waive all rights of subrogation against Mayer's insurers and the Indemnitees.

§ 25. No Waiver.

The failure of Mayer to insist upon performance of any of these Terms and Conditions or to take advantage of any of its rights hereunder will not be construed as a waiver of such provisions or the relinquishment of such rights. No single or partial exercise by Mayer of any right or remedy will preclude other or further exercise thereof or the exercise of any other right or remedy.

§ 26. Termination.

- a. Termination for Convenience. Mayer may terminate, for its convenience, the Purchase Order, in whole or in part, by providing written notice to Supplier. Upon receipt of such notice, Supplier shall (i) immediately discontinue all work with respect to that portion of the Purchase Order terminated by Mayer; (ii) place no additional orders or subcontracts for materials or services as to that part of the work terminated; (iii) transfer title and deliver to Mayer any finished Products, works in process, and the parts and materials that Supplier reasonably produced or acquired in accordance with the Purchase Order and which Supplier cannot use in producing goods for itself or for others; (iv) verify and settle any claims by subcontractors for actual costs incurred directly and made unrecoverable by the termination and ensure the recovery of materials in subcontractor's possession; and (v) take such other reasonable action as may reduce any termination costs due to Supplier. In the event Mayer terminates for convenience any Purchase Order, in whole or in part, Supplier may submit a written claim, which shall be limited to (y) an amount equal to or less than the aggregate purchase price of all Products completed prior to the termination within the established lead-times set by Mayer's delivery schedule, and (z) Supplier's raw materials, work in process, supplies and other material costs (excluding overhead and profit) incurred in the production of any unfinished Products scheduled for delivery; provided, however, that such costs under (y) and (z) are only available if they cannot be allocated by Supplier to other work. In no event shall the termination costs exceed the total purchase price of the Products and/or Services terminated by Mayer.
- b. Termination for Default. Mayer, by written notice, may terminate the Purchase Order for default if Supplier fails to: (i) comply with any of the terms of the Purchase Order or these Terms and Conditions; (ii) make progress so as to endanger performance of the Purchase Order; or (iii) provide Mayer, upon request, with adequate assurance of future performance within the time period requested by Mayer.
- c. Termination for Insolvency. Mayer may terminate the Purchase Order immediately upon written notice to Supplier if Supplier: (i) becomes insolvent; (ii) files a voluntary petition in bankruptcy; (iii) executes an assignment for the benefit of creditors; (iv) is adjudicated as bankrupt or insolvent or a receiver or trustee is appointed by Supplier; or (v) terminates its existence or ceases to do business.

- d. Remedies Upon Termination for Default or Insolvency.

Any termination under Sections 26(b) or 26(c) of these Terms and Conditions shall be without liability to Mayer except for completed Products delivered or Services performed and accepted by Mayer prior to such termination. Unless otherwise agreed to in writing by Mayer, any termination of the Purchase Order under Sections 26(b) or 26(c) of these Terms and Conditions shall operate as a cancellation of the entire undelivered portions of the Purchase Order, and Mayer shall retain all remedies at law or in equity arising out of the cancellation. Supplier will be liable for and indemnify, defend, and hold harmless Mayer from and against any actual or consequential losses, claims, damages, and reasonable costs and expenses due to Supplier's default or insolvency, including but not limited to excess costs associated with the re-procurement of the Products or Services.

§ 27. Confidential Information.

All non-public, confidential or proprietary information of Mayer, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Mayer to Supplier, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this contract is confidential (collectively, "Confidential Information"), solely for the purpose of performing this contract and may not be disclosed or copied unless authorized in advance by Mayer in writing. Upon Mayer's request, Supplier shall promptly return all documents and other materials received from Mayer. Mayer shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Supplier at the time of disclosure; or (c) rightfully obtained by Supplier on a non-confidential basis from a third party.

§ 28. Publicity.

Supplier shall not issue a press release or other public announcement mentioning or concerning its supply of Products to Mayer without the Mayer's prior written consent, which may be withheld or approved in Mayer's sole discretion. Nor shall Supplier use Mayer's name, or otherwise identify Mayer as a client or business relationship, in any external communications, marketing or sales materials or on social media without the prior express written consent (email suffices) of Mayer, such consent to include, if given, explicit approval of the form of such identifying use or reference.

§ 29. Force Majeure.

Neither party shall be liable to the other for any delay or failure in performing its obligations under the Purchase Order to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, without such party's fault or negligence, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable ("Force Majeure Event"). Force Majeure Events include, but are not limited to, acts of God or a public enemy, floods, fire, earthquakes, explosion, epidemic, or war. Supplier's economic hardship or changes in market conditions are not considered Force Majeure Events. Supplier shall use all diligent efforts to end the failure or delay of its performance, ensure that the effects of any Force Majeure Event are minimized, and resume performance under the Purchase Order. If a Force Majeure Event prevents Supplier from carrying out its obligations under the Purchase Order for a continuous period of more than 30 days, Mayer may terminate this Purchase Order immediately by giving written notice to Supplier. Notwithstanding anything in this Section to the contrary, no delay or failure of Supplier to perform its obligations hereunder shall be excused if and to the extent that it is caused by (a) labor problems of Supplier, its subcontractors, and/or its suppliers such as, by way of example and not by way of limitation, lockouts, strikes, and slowdowns; (b) the inability of Supplier, its subcontractors, and/or its suppliers to obtain power, material(s), labor, equipment, or transportation; or (c) changes in prices of raw materials, energy or other elements of cost adverse to Supplier.

§ 30. Remedies.

The rights and remedies reserved to Mayer in the Purchase Order shall be cumulative with and additional to all other or legal or equitable remedies. No action taken by Mayer to enforce its rights under these Terms and Conditions shall be deemed an election of remedies, nor shall any such action limit in any way the right and remedies of Mayer under the Purchase Order for the breach by Supplier of any nonconforming Products. At Mayer's request, Supplier will reimburse Mayer for any incidental or consequential damages caused by nonconforming Products, including but not limited to costs, expenses and losses incurred directly or indirectly by Mayer or its customer(s): (a) in inspecting, sorting, repairing or replacing the nonconforming Products; (b) resulting from production interruptions; (c) conducting recall campaigns or other corrective service actions; or (d) resulting from personal injury (including death) or property damage caused by the nonconforming Products. Consequential damages shall include, without limitation, professional fees incurred by Mayer. In any action brought by Mayer to enforce Supplier's obligation to produce and deliver Products under the Purchase

Terms and Conditions of purchase

Mayser USA, Inc.

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Order, the parties agree that Mayser does not have an adequate remedy at law and Mayser is entitled to specific performance of Supplier's obligations under the Purchase Order.

§ 31. Assignment.

Supplier shall not assign, transfer, delegate or subcontract any of its rights or obligations under the Purchase Order without the prior written consent of Mayser. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve Supplier of any of its obligations hereunder.

§ 32. Relationship of the Parties.

The relationship between the parties is that of independent contractors. Nothing contained in the Purchase Order shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever. No relationship of exclusivity shall be construed from this Purchase Order.

§ 33. No Third-Party Beneficiaries.

Except as forth in Sections 20 and 21, these Terms and Conditions are for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms and Conditions.

§ 34. Governing Law and Dispute Resolution.

All rights and obligations between the parties, and all claims arising out of or relating to any Purchase Order or these Terms and Conditions (including tort claims), will be governed by the laws of the State of Michigan, U.S.A., without regard to conflict of laws principles. The parties expressly exclude application of the United Nations Convention on Contracts for the International Sale of Goods. Any claim or dispute arising out of or relating to the Purchase Order, except for a claim for interim injunctive relief (which either party may bring in any competent court of jurisdiction) (a "Dispute"), shall be settled by final, binding arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. All Disputes shall be heard by a single arbitrator. The place of arbitration shall be Belleville, Michigan. Except as may be required by law, neither Supplier nor Mayser nor the arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both Supplier and Mayser. In case either party seeks interim injunctive relief, the parties agree that any such suit, action or proceeding shall be brought exclusively in the state or federal courts having jurisdiction over Wayne County, Michigan. The parties agree that any court in which a claim for interim injunctive relief under this Agreement is brought shall have the authority to determine its jurisdiction. In regard to such claims for injunctive relief or enforcement of an arbitration award rendered pursuant to the Purchase Order, Supplier and Mayser agree to submit to the personal jurisdiction of the state and federal courts having jurisdiction over Wayne County, Michigan, and waive any and all objections to the exercise of jurisdiction over the parties by such courts and to venue of such courts. Nothing contained herein will prevent Mayser from seeking interim injunctive relief against Supplier or Supplier's property within any other state or nation.

§ 35. Entire Agreement.

These Terms and Conditions, any Purchase Order accepted by Supplier, and the Mayser Quality Agreement (where applicable), constitute the entire agreement between the parties related to their subject matter and supersede all prior or contemporaneous understandings, statements or agreements between the parties on such subject matter. Supplier is not entering into this contract or transaction in reliance upon any representation, statement or promise of Mayser except as expressly stated herein.

§ 36. Severability.

If any term or provision of the Purchase Order or these Terms and Conditions is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

§ 37. Language.

These Terms and Conditions, any Purchase Orders and all other communications under or in connection therewith are and shall be in the English language. Any translation into any other language shall not be an official version thereof, and in the event of any conflict in interpretation between the English version and such translation, the English version shall control.

§ 38. Survival.

Provisions of these Terms and Conditions which by their nature should apply beyond their terms will remain in force after any termination or expiration of this contract including, but not limited to, the following provisions: Section 6 (Setoff), Section 10 (Tooling), Section 11 (Warranties), Section 13 (Service and Replacement Parts), Section 16 (Intellectual Property), Section 17 (Software), Section 19 (Limitation of Liability), Section 20 (General Indemnity), Section 21 (Intellectual Property Indemnity), Section 23 (Recalls; Product Liability), Section 24 (Insurance), Section 31 (Assignment), Section 34 (Governing Law and Dispute Resolution), and Section 38 (Survival).