

# PURCHASE ORDER GENERAL TERMS AND CONDITIONS

*(For Procurement of Automotive Components, Raw Materials and Auxiliary Materials Used in Manufacture)*

No. T&C-Production-20080101-CHINA

**January 1, 2008 Version**

## **1. Offer; Acceptance; Formation of Contract; Exclusive Terms**

A. These Purchase Order General Terms and Conditions, as the same may be amended from time to time (the "**General Terms**"), shall constitute an indispensable part of each purchase order issued by **Purchaser** (as **defined in the Framework Agreement**) . Each purchase order, together with these General Terms (collectively, the "**Order**") constitutes an offer by Purchaser to the party to whom such Order is addressed ("**Seller**" or "**Supplier**") to enter into a contract contemplated by the Order (the "**Procurement Contract**") and shall be the complete and exclusive statement or terms of such offer and Procurement Contract, superseding all previous relevant agreements and other documents, if any, unless otherwise expressly provided for in such previous agreements, the Order, these General Terms or other relevant documents. For the avoidance of doubt, an 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 constitutes an offer, that offer is hereby expressly rejected by Purchaser.

B. A Procurement Contract is formed when Seller accepts an Order of Purchaser, i.e. Seller accepting the offer of Purchaser. Each Order shall be deemed accepted upon the terms and conditions of such Order by Seller by written acknowledgement, shipment of Goods (as defined below) ordered, commencement of manufacture of the Goods, or by any other conduct of Seller that recognizes the Order. **Generally, Seller's of accepting the Order shall be made within three (3) working days after Seller's receipt of the Order and otherwise, Purchaser shall be entitled to cancel the Order without bearing any liabilities.**

C. **Acceptance by Seller is limited to acceptance of the terms and conditions of an Order in its entirety and no modification, replacement or supplement to any of the terms and conditions of the Order shall be allowed. Acceptance shall be invalid if the Order is modified, replaced or supplemented. In case Seller makes such modification, replacement or supplement and, concurrently, performs under the Order by act (such as by delivery of goods), Purchaser may select to reject or accept Seller's performance. If Purchaser accepts Seller's performance, unless a duly authorized representative of Purchaser (the "Authorized Representative") has signed in writing (a "Signed Writing") to confirm Purchaser's acceptance of the aforementioned modification, replacement or supplement, Seller shall be deemed to have accepted the terms and conditions of the Order in its entirety and expressly waived such modification, replacement or supplement.**

**Only the Authorized Representatives of Purchaser are competent to sign on behalf of Purchaser an Order, Order amendment and any other document binding upon both parties. Such Authorized Representatives shall include Purchaser's legal representative, general manager, head of the purchase department and their respective representatives authorized in writing. The seal stamped by Purchaser on any Order, Order amendment and any other document binding upon both parties shall only be limited to the administrative seal of Purchaser. If any Order, Order amendment or any other document binding upon both parties is signed by any person other than an Authorized Representative of Purchaser or stamped with a seal other than the administrative seal of Purchaser and Purchaser ratifies the effectiveness of such Order, Order amendment or other document retroactively by actual performance thereof, then such retroactive ratification shall only be limited to such Order, Order amendment or other document and shall not apply by analogy to any other Order, Order amendment or document.**

D. In the event of a conflict between an Order and any prior agreement or document exchanged between Purchaser and Seller, the Order shall govern.

E. Purchaser may modify the General Terms from time to time according to its needs. In case Purchaser makes any modification to the General Terms, it shall make the modified General Terms available to Seller. **Seller hereby agrees that in case it has any objection to the modified General Terms, it will notify Purchaser within five (5) working days upon receipt thereof; otherwise, Seller shall be deemed to have accepted the**

**modified General Terms. Thereafter, the modified General Terms shall automatically replace the previous ones.**

## **2. Applicability of General Terms**

A. These General Terms apply to all Orders issued by Purchaser to Seller after Jan. 1, 2008 for purchase of any Goods from Seller. The Goods under these General Terms include, without limitation, raw materials, components, sub-assemblies, auxiliary materials and relevant services necessary for the manufacture of automotive seats, wire harnesses, interior trim parts and other automotive parts (collectively, the "**Goods**"). The exact name, code and specification of the Goods procured by Purchaser from Seller shall be specified in each Order by Purchaser.

B. These General Terms apply to all Suppliers, including, without limitation, any Directed Supplier. A "Directed Supplier" refers to any supplier from which Purchaser has been requested or recommended to procure Goods at the direction or suggestion of Purchaser's customer and/or the ultimate Original Equipment Manufacturer ("**OEM**") customer (collectively, the "**Customer**"), and/or supplier which, due to a Customer's product description, specification or other limitation, Purchaser is limited to for the purchase of the Goods required. Each Directed Supplier acknowledges the applicability of these General Terms and agrees to be bound by these General Terms.

C. In addition, Supplier Requirements Manual, Packaging and Shipping Requirements, and other manuals, guidelines, documents and requirements, as the same may be amended from time to time, which are provided by Purchaser to Seller together with each Order or otherwise, are incorporated herein by reference. In the event of a conflict between any of the above documents and these General Terms, these General Terms shall govern unless Purchaser expressly indicates otherwise in writing.

**D. No exception to, deviation from, or waiver of, these General Terms shall be valid or binding on Purchaser unless expressly specified on the face of an Order or made in a Signed Writing by an Authorized Representative of Purchaser with the affixation of Purchaser's administrative seal.**

E. Purchaser may use the words "Lear Corporation" and/or the trademark of Lear Corporation on an Order or any other relevant document, which shall not be construed, however, as an Order or document issued by Lear Corporation nor shall it be construed that Lear Corporation should be liable or enjoy any right under such Order or documents. Such Order or other documents shall not be binding upon Lear Corporation except specifically issued by Lear Corporation.

## **3. Relevant Documents**

The following one or several documents may be signed by Purchaser for purchase of certain Goods based on the relevant circumstances. As described above, such documents shall be superseded by an Order except as otherwise provided in such documents *per se* or the Order. However, in any case, if there is a conflict between such documents and the Order, the Order shall govern.

A. Joint Development Agreement ("**JDA**"). This is an agreement between Purchaser and another party to develop jointly a specific product or technology.

B. Procurement Contract. This is a contract between and binding upon Purchaser and Seller related to the Goods ordered by Purchaser via an Order. A Procurement Contract is formed when Seller accepts an Order of Purchaser.

C. Early Sourcing and Target Agreement ("**ESTA**"). This is an agreement that, without a commitment by Purchaser to source any Goods from Seller, provides a prospective Supplier with the opportunity to develop required technology and processes that may be necessary for the manufacture of Goods for Purchaser. Purchaser shall own any and all related developments resulting from an ESTA or shall have the right to acquire such developments at the audited cost thereof.

D. Supplier Owned Tooling Agreement ("**SOTA**"). This is an agreement between Purchaser and Seller relating to the use of tooling owned by Seller, which is used, in certain cases, to supplement the relevant terms of an Order.

E. Request for Quotation ("**RFQ**"). This is an introductory-step document, which may potentially generate an offer from Purchaser to Seller to be contained in an Order. It may include Volume and Duration Projections and specifications for the Goods to be quoted for.

F. Quotation. Following the RFQ, this is generally the next step in generating the offer from Purchaser to Seller contained in an Order. It also may include Volume and Duration Projections and may reference projected prices.

G. Framework Agreement ("**FMA**"). This is an agreement by which Purchaser and Seller agree upon some key terms under which the supply of Goods for a particular program will be made.

H. Release. This is a schedule by which Purchaser specifies the firm quantity of Goods that Seller is to deliver to Purchaser on a monthly basis and authorizes material fabrication, and/or purchase of raw materials/components. A Release does not bind on Purchaser nor constitute an offer by Purchaser unless it otherwise expressly stipulates, and A Release shall be acknowledged by Purchaser by issuing an Order. A Release may also provide a forecast of the quantity of Goods that will be ordered beyond the firm quantity. Likewise, such forecast is not binding on Purchaser.

I. Order Amendment. This is an amendment to an Order issued by Purchaser on Purchaser's purchase order form through Purchaser's standard purchasing protocol to reflect an amendment or modification to the Order, which will be sent to Seller together with the Order.

#### **4. Quantity and Duration**

Unless an Order specifically provides that Seller shall produce one hundred percent (100%) of Purchaser's requirements for any Goods, Purchaser shall have the right to procure a portion of such Goods from another third party source or from Purchaser's internal sources.

#### **5. World Class Supplier Requirements**

Seller must provide world-class competitive Goods in terms of cost, quality, delivery, technology and customer support as set forth below. Each reference to World Class Supplier in these General Terms and in any other document between Purchaser and Seller incorporates by reference each of the foregoing elements (i.e., cost, quality, delivery, technology and customer support) and all of the conditions, provisions and requirements pertaining to such elements in these General Terms. Seller's failure to meet the requirements of a World Class Supplier is a basis for Purchaser's immediate termination of the Order or the Procurement Contract.

#### **6. Price**

A. Prices charged for each batch of Goods procured by Purchaser shall be set forth in the Order or such other document as agreed upon by both parties. Seller undertakes that (1) the prices of the Goods it sold to Purchaser, in terms of quotation, sales and delivery, are in compliance with the relevant PRC laws and regulations; (2) such prices shall be no less favorable than those of the like goods it sells to any other purchaser; (3) all price reduction implemented by Seller shall apply to all shipments of such Goods to Purchaser under any Order; (4) the prices charged for Goods by Seller shall be persistently competitive compared with the prices charged by any other suppliers on the market; and (5) the prices, once determined, are not subject to increase for any reason (other than reasons attributable to Purchaser), such as any increase based upon changes in raw material pricing or labor, unless agreed to by a Signed Writing by a Purchaser's Authorized Representative.

B. In addition, with Purchaser's procurement in batches and in large scale, as well as Purchaser's requirement for cost savings and the requirement of Purchaser's Customers for price reduction, Seller agrees to unconditionally participate in Purchaser's cost saving and productivity increase programs and general price reduction initiatives to ensure that Purchaser's Goods are persistently competitive compared with its Customer's requirements.

#### **7. Quality**

A. Seller is fully aware of Purchaser's purpose of procuring the Goods, i.e. after purchasing the Goods from Seller, Purchaser will use the Goods to assemble or manufacture automotive components or assemblies.

B. Seller shall meet all quality requirements of Purchaser and all quality requirements of Purchaser's Customer, including, but not limited to, its existing qualification or plan to acquire qualification for TS 16949, ISO 14001 and the various OEM End of Life Vehicle ("ELV") reporting and other requirements.

C. Goods sold by Seller to Purchaser shall, in all aspects, conform to China's national standards and industry standards as well as such standards, specifications, drawings, samples, descriptions and requirements of other documents provided by Purchaser. Purchaser will persistently improve and modify such standards, specifications, drawings, samples, descriptions and other documents. Seller agrees to fully implement such improved and modified documents on an unconditional basis upon receipt thereof.

During the manufacturing process, if Seller discovers any doubt or deficiency in the standards, specifications, drawings, samples, descriptions and other documents provided by Purchaser, it shall promptly notify Purchaser thereof. Without prior written consent of Purchaser, Seller shall not make any modification or improvement to the standards, specifications, drawings, samples, descriptions or other documents provided by Purchaser.

D. Seller agrees to participate in Purchaser's quality and development programs which are held from time to time. Seller shall make its best efforts to participate in and support such programs in terms of product testing, process improvement and product manufacture and shall bear the expenses incurred thereby. Based on Purchaser's assessment of responsibility, Seller may be held responsible for any and all costs associated with quality issue investigations, quality control and Remedial Actions on account of the Goods provided by Seller to Purchaser (including third party acts specified or proposed by Purchaser). Seller is obligated to provide any and all reasonable support requested by Purchaser to address immediately and correct concerns regarding the quality of Goods supplied. Seller must also provide additional resources, as considered necessary and as identified by Purchaser, to support product development, process development, production launch, or in respect of any issues that may jeopardize the success of the manufacture or assembly of any Goods or of any program.

E. Seller must ensure that its overall equipment and plant capacity are adequate to meet Purchaser's needs. Ongoing capacity analysis must account for at least: scrap variation, downtime, maintenance, and other Customer requirements. Each production process must successfully complete a Run-at-Rate. The Run-at-Rate must demonstrate that Seller's production process can produce in less than 24 hours one day's quantity of acceptable quality Goods to satisfy Seller's daily Capacity Planning Volume ("CPV"). **Purchaser is not obligated to pay Seller any incremental costs as long as the daily quantities set forth on the Order of Purchaser do not exceed Seller's daily CPV. The requirement for Seller's capacity and the daily CPV shall not constitute the quantities ordered by Purchaser or other commitment by Purchaser.**

F. Seller is fully responsible for the qualities of components and services and other aspects of the supply provided by its subcontractors. Seller must maintain ongoing supervision on the qualities of Goods provided by its subcontractors to ensure that such subcontractors participate in and complete on schedule quality improvement and development programs held by Purchaser, that such subcontractors have production capability meeting Seller's production needs, and that all Goods provided by them conform to all applicable standards, specifications, drawings, samples, descriptions and other documents.

G. Whether the Goods conform to the requirements or not shall be subject to the results of the testing or appraisal conducted by Purchaser, Purchaser's Customer or a third party entrusted by Purchaser. For nonconforming Goods, Purchaser will retain such Goods at its premises or the place where such Goods are located at the time and notify Seller. Seller shall reply within ten (10) calendar days upon receipt of Purchaser's notice and remove the nonconforming Goods within twenty (20) calendar days upon receipt of Purchaser's notice. Otherwise, Seller shall be deemed to have abandoned the nonconforming Goods, and Purchaser shall have the right to dispose of such Goods in any manner. Seller shall pay Purchaser storage fees, freight and disposal fees in an amount equal to 30% of the original total price of the nonconforming Goods. Such arrangements shall not release Seller from assumption of any other contractual obligations and legal liabilities arising from or in connection with the nonconforming Goods.

H. **Purchaser's Customer may enter into a special quality guarantee agreement with Purchaser. Seller agrees that it will enter into the same quality guarantee agreement with Purchaser to ensure that the Goods provided by Seller to Purchaser conform to the provisions of said quality guarantee agreement. Seller agrees that in case the quality guarantee agreement between Purchaser and Seller is not executed for any reason, Seller shall be deemed to have accepted the quality guarantee agreement between Purchaser's Customer and Purchaser. Under such circumstance, Purchaser will provide Seller with a copy of the quality**

**guarantee agreement between Purchaser's Customer and Purchaser and such agreement will automatically become the quality guarantee agreement between Purchaser and Seller. The quality guarantee and obligations of Seller to Purchaser shall be the same as the quality guarantee and obligations of Purchaser to its Customer under said quality guarantee agreement.**

## **8. Delivery**

A. Time and quantity of delivery are of the essence of the Procurement Contract. Seller shall deliver the Goods in strict accordance with the time, quantity and other directions specified in the Procurement Contract. **Purchaser may change the frequency of Seller's scheduled shipments or direct temporary suspension of the scheduled shipments. In either case, the prices set forth in the Procurement Contract shall remain unchanged.** Where the quantity and/or delivery date are unclear, Seller shall make delivery as per the instructions issued by Purchaser thereafter.

In case Seller's shipments are in excess, Purchaser shall have the right to reject the excess portion, or accept such excess portion, provided that the time of payment for such excess portion shall be postponed to the time of payment for the next delivery. If Seller delays in delivery, it shall pay liquidated damages to Purchaser equal to two percent (2%) of the aggregate amount of the Goods so delayed for each day of delay. In case Seller's shipments are less than the prescribed quantity, the shortage shall be deemed as delay in delivery on the part of Seller. If Purchaser suspends its production or is liable for any compensation or other obligations to its Customer as a result of such delivery delay or shortage of shipment, Seller shall compensate Purchaser and be liable in accordance with Section 25.B.

B. Freight and other shipping and transportation expenses, loading and unloading expenses, insurance premium and other relevant expenses incurred by Seller in delivering the Goods to Purchaser in accordance with the Order or other relevant documents shall be Seller's sole responsibility.

C. Seller may deliver to and unload the Goods at the place specified by Purchaser in the Order or such other place as otherwise notified by Purchaser by itself or entrust a carrier to do so. Seller shall be deemed to have completed the delivery of the Goods after the Goods are unloaded and placed at the place designated by Purchaser and upon Purchaser signing a confirmation of acceptance. Prior to delivery of the Goods, all risks of the Goods, including, without limitation, loss, damage and contamination, shall be borne by Seller. The title to the Goods shall be immediately transferred from Seller to Purchaser after delivery of the Goods.

## **9. Technology and Intellectual Property**

A. The technical specification and requirements for the Goods shall be determined in accordance with the designs, drawings, specifications, samples and other technical information provided or acknowledged by Purchaser. Purchaser may modify the designs, drawings, specifications and other technical information it provides. Such modification shall become effective upon delivery of notice thereof to Seller. If Seller discovers any deficiency in any of the designs, drawings, specifications, samples or other technical information provided or acknowledged by Purchaser or has any doubt about any of them, Seller shall promptly raise such issues to Purchaser and remedy such deficiency or doubt after Purchaser's confirmation.

B. Both parties agree that Purchaser shall have all intellectual property (including patent, trademark, trade name, trademark, copyright, know-how, trade secret, packaging and decoration particular to well-known commodities, etc., hereinafter referred to as "**Intellectual Property**") in and to any and all designs, drawings, specifications, blueprints, samples and other technical information that it provides to Seller. Seller may not transfer or license any Intellectual Property to any third party. In addition, Seller shall comply with the confidentiality obligations set forth in Article 43 below.

C. Seller warrants that it owns, in accordance with law, all rights in and to the Intellectual Property used in the Goods and services it provides (including ownership, proprietary right, use right and disposal right) and that it has the right to provide Purchaser with the Goods and services containing such Intellectual Property. In the event that any Intellectual Property of Purchaser used in the Goods provided by Seller is licensed by a third party, Seller warrants that the use and sale of Seller's Goods by Purchaser and Purchaser's Customer are completely within such third party's license term, licensed territory and product scope.

D. Seller warrants that the Intellectual Property used in the Goods and services by Seller and the use and sale of Seller's Goods by Purchaser and its Customer do not infringe on the Intellectual Property of any third party. Seller agrees:

(1) to defend, hold harmless and indemnify Purchaser and its Customers against any actions or claims, demands, losses, damages, liability, fees and expenses (including fees payable to attorneys, experts and consultants, settlement costs and litigation fees) arising out of any alleged infringement of any Intellectual Property by reason of the manufacture, use or sale of the Goods, including infringement arising out of compliance with specifications furnished by Purchaser or actual or alleged misuse of a trade secret resulting directly or indirectly from Seller's actions;

**(2) to waive any claim against Purchaser or its Customer in respect of any alleged infringement of Intellectual Property by Seller or Purchaser, including infringement arising out of compliance with specifications furnished by Purchaser; and**

(3) Seller hereby assigns to Purchaser all right, title and interest in and to all Intellectual Property generated by Seller for Purchaser under each Order or otherwise paid for by Purchaser.

E. Seller warrants that all copyrightable works (including but not limited to computer programs, technical specifications, documentation and manuals), ideas, inventions (whether patentable, patented or not), know-how, processes, compilations of information, trademarks and other Intellectual Property used in or covered by the Goods shall be original to Seller and shall not incorporate any Intellectual Property of any third party.

F. With respect to new products as well as improvements and developments made by Seller in accordance with the designs, drawings, blueprints, specifications, samples and other technical documents furnished by Purchaser, the relevant Intellectual Property and the right to apply for relevant Intellectual Property registration and authorization thereof shall be owned by Purchaser.

With respect to the manufacture, use and sale of the Goods sold by Seller to Purchaser, Seller hereby grants to Purchaser an irrevocable, non-exclusive and worldwide license to use the Intellectual Property of Seller and its affiliates free of charge and allows Purchaser to grant sublicenses to its affiliates and Customers to use such Intellectual Property free of charge. The license shall be effective from the first delivery of Goods under an Order.

G. Seller shall ensure that the terms of this Article 9 are incorporated in contracts for goods between Seller and any of its subcontractors to ensure that Purchaser shall receive the same protection from Seller's subcontractors as well.

H. Unless upon prior written consent of Purchaser, Seller shall not provide any third party with any goods containing Purchaser's Intellectual Property or any goods developed or improved based thereon or goods similar to the aforementioned goods. Any Intellectual Property furnished by Purchaser to Seller shall only be used for the manufacture of the Goods for delivery to Purchaser and shall not be used for any other purposes. Any Goods manufactured by Seller for supply to Purchaser shall only be used for supply to Purchaser and shall not be otherwise disposed of.

## **10. Customer Support**

A. Seller shall support all supplier initiatives of Purchaser and support Purchaser in meeting the initiatives of its Customers. Upon Seller's written request, Purchaser shall cooperate with Seller to explain to Seller the terms, conditions and requirements of Purchaser's Customers.

B. As all elements of the automotive tiered supply network must work together to ensure that Purchaser's Customer's terms, conditions and requirements are met, both Seller and Purchaser agree that the terms, conditions and requirements of Purchaser's Customer shall flow through Purchaser to Seller. After the terms, conditions and requirements of Purchaser's Customer are provided to Seller, if Seller does not meet the terms, conditions or requirements of Purchaser's Customer and even though any of the terms conflicts with the terms of the Order, Seller agrees to indemnify and hold harmless Purchaser from any and all claims and demands from Purchaser's Customer relating to any alleged problem or issue with the Goods.

C. The automotive industry is customer focused and Seller agrees to work with Purchaser to meet the requirements of Purchaser's Customers. Therefore, in the event that any requirement imposed by any Order on

Seller is found to be unenforceable or a gap is otherwise created between the terms of any Order and any provision of any applicable law or they conflict with each other, the parties agree that the corresponding requirement of Purchaser's Customer shall be applicable to and binding on Seller. Seller acknowledges that it is familiar with the practice of the automotive industry and agrees that the terms of Purchaser's Customer shall apply in such an event.

## 11. Warranty

In addition to the other warranties herein, Seller hereby warrants to Purchaser as follows:

A. Seller warrants that all Goods provided by Seller will conform to the PRC laws and regulations, applicable PRC national standards, industry standards and all specifications, standards, drawings, samples, descriptions and other documents furnished to or by Purchaser, provided that all Goods will be merchantable, of good material and workmanship and free from defects. If the Goods are for export purpose after they are procured, assembled or manufactured by Purchaser, the Goods shall also conform to the standards, laws and regulations of the country to which the Goods are exported.

Seller acknowledges that it knows of Purchaser's intended use of the Goods ordered and warrants that all Goods provided by Seller will be fit and sufficient for the particular purpose intended by Purchaser.

B. Seller warrants that it owns and has the right to dispose of all Goods and ensures that the Goods are free and clear of all liens, claims, encumbrances or any other third party right. Seller ensures that it owns all rights to sell the Goods to Purchaser.

C. The warranty period for the Goods provided by Seller shall be the longer of the warranty period provided by applicable law and regulations and the warranty period required by Purchaser's Customer. The warranty period requirement of Purchaser's Customer will be set forth in the Order or any other document provided to Seller by Purchaser. For the warranty period provided by law, Purchaser is not obligated to notify Seller separately, and Seller shall constantly take measures on its own account to get to know and observe such warranty period. If, within the warranty period, Purchaser's Customer has to recall vehicles and replace the Goods, Seller shall provide Purchaser with goods for replacement free of charge as set forth in the notice issued by Purchaser. For such purposes, Seller shall produce and store sufficient quantity of the Goods as spares at its own expense in order to ensure that there are sufficient stocks to be used for replacement of Goods by Purchaser's Customer during the warranty period.

In the event that Purchaser or its Customer voluntarily or pursuant to a government mandate, makes an offer to owners of vehicles or other finished products incorporating the Goods to provide remedial action to address a defect or condition that relates to motor vehicle safety or the failure of the vehicle to comply with any applicable law, regulation, safety standard or guideline, whether in connection with a recall campaign, corrective service action or other customer satisfaction action (collectively, "**Remedial Actions**"), the warranty shall continue for such time period as may be required by Purchaser's Customer or by the relevant government authority, and Seller shall be fully comply with the provisions of Section 11.G.

D. **Seller acknowledges that Purchaser will assemble and manufacture automotive components after purchase of the Goods and thereafter Purchaser will sell such automotive components to its Customer for manufacturing vehicles. Seller acknowledges that Purchaser has made warranties to its Customer in terms of, *inter alia*, product quality, delivery quantity and delivery time. Seller agrees that the warranties made by Purchaser to its Customer shall be automatically incorporated in these General Terms as warranties made by Seller to Purchaser. Such warranties made by Purchaser to its Customer will be set forth in the Order or any other document provided by Purchaser to Seller.**

E. The following communications shall each constitute notice to Seller of breach of warranty:

(1) any communication specifying a defect, default, claim of damages or other problem or quality issue with respect to the Goods;

(2) any communication to Seller claiming that Seller's Goods are in breach of any warranty or that Seller is otherwise in default under the Procurement Contract; and

(3) a termination notice issued under Article 16.

F. If any claim is brought against Purchaser by its Customer or any third party due to Seller's breach of the Procurement Contract, Seller shall fully authorize Purchaser to defend such claim. Seller agrees that this defense is in the interest of both Purchaser and Seller and further undertakes that anything contained in such defense will not limit Purchaser's right to assert a claim against Seller thereafter, nor will it become a reason for Seller to excuse itself.

If any claim is brought and arbitration or litigation is initiated against Purchaser by its Customer or any third party and such claim is caused by Seller's Breach (as defined below), Purchaser will notify Seller of the arbitration or litigation. Upon prior consent of Purchaser, Seller may attend such arbitration or litigation in an appropriate manner and at its own cost.

G. Regardless of whether the warranty period set forth in Section 11.C expires or not, Seller shall be responsible for the expenses and damages incurred in connection with Purchaser's adoption of Remedial Actions. In addition, Seller shall also pay all reasonable costs and expenses incurred in determining whether Remedial Actions are required.

## **12. Changes**

A. Purchaser reserves the right at any time to direct changes to the Goods under any Order, Order amendment or Procurement Contract, including, but not limited to, changes in the design (including drawings and specifications), processes, methods of packing and shipping and the date or place of delivery of the Goods or changes in the scope of the work covered by the Procurement Contract (including work with respect to such matters as inspection, testing or quality control). Seller agrees to promptly implement such changes once it is directed by Purchaser. Any such changes shall not affect the time for performance or the cost thereof under the Procurement Contract unless Seller provides Purchaser with written notice of a request for adjustment to the time for performance or cost within ten (10) calendar days of the date Purchaser's notice to Seller of the change. After auditing such claim, Purchaser determines whether Seller's claim for adjustment is appropriate. Any such request by Seller for adjustment to the time for performance or cost of performance under an Order/Procurement Contract must be solely and directly the result of the change directed by Purchaser and any notice of such request will be considered by Purchaser only if accompanied by all relevant information sufficient for Purchaser to verify such request. Moreover, Purchaser has the right to review all relevant records, facilities, work or materials of Seller to verify such request raised by Seller. Seller shall consider and advise Purchaser of the impact of a design change on the system in which the Goods covered by the Order/Procurement Contract are used. Nothing in this Article 12 shall excuse Seller from performing the Procurement Contract as changed.

B. Without the prior written consent of Purchaser, Seller shall not make any changes to any Order, the Goods covered by the Order or anything related thereto, including, without limitation:

- (1) any third party supplier to Seller of services, raw materials or goods used by Seller in connection with its performance under the Procurement Contract;
- (2) the facility from which Seller or such supplier operates for manufacturing the Goods;
- (3) the price of any of the Goods covered by the Procurement Contract;
- (4) the nature, type or quality of any services, raw materials or goods used by Seller or such third party supplier in connection with the Procurement Contract;
- (5) the fitness, form, function, appearance or performance of any Goods covered by the Procurement Contract; and
- (6) the production method, or any program or software used in the production or procurement of any Goods under the Procurement Contract.

Any of the foregoing changes by Seller without the prior written approval by Purchaser shall constitute Seller's Breach.

## **13. Financial and Operational Condition of Seller**



A. Seller represents and warrants to Purchaser as of the acceptance of each Order and at the time of each delivery of Goods, that it is not insolvent and is paying all debts as they become due; that it is in compliance with all loan covenants and other obligations; that all financial information provided by Seller to Purchaser concerning Seller is true and accurate; that such financial information fairly represents Seller's financial condition; and that all financial statements of Seller have been prepared in accordance with generally accepted accounting principles, uniformly and consistently applied.

B. Seller shall permit Purchaser and its representatives to review Seller's books and records concerning compliance with each Procurement Contract and Seller's overall financial condition and agree to provide Purchaser with full and complete access to all such books and records for such purpose upon Purchaser's request. 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 other) that are necessary for Seller to fulfill its obligations under any Procurement Contract, 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 Goods.

#### **14. Seller Insolvency**

In case any of the circumstances described in Article 68 of the PRC Contract Law occurs, Purchaser may immediately suspend the implementation of the Procurement Contract and notify Seller thereof. During the suspension, Purchaser has the right to procure Goods from any third party. If Seller fails to provide appropriate guarantee satisfactory to Purchaser or resume the capability of implementation of the Procurement Contract within fifteen (15) calendar days upon receipt of Purchaser's notice of suspension, Purchaser shall have the right to terminate the Procurement Contract without any liability to Seller.

Purchaser may immediately cancel the Order or terminate the Procurement Contract without being liable to Seller upon the occurrence of any of the following or any other similar or comparable event:

- ( 1) filing of a voluntary petition in bankruptcy by Seller;
- ( 2) filing of an involuntary petition in bankruptcy against Seller; or
- ( 3) appointment of a receiver or trustee for Seller.

#### **15. Remedies for Breach by Seller**

A. The rights and remedies reserved to Purchaser under each Procurement Contract shall be cumulative with, and additional to, all other or further remedies provided in law or equity. Without limiting the generality of the foregoing, should any Goods fail to conform to the warranties made by Seller or should any Goods provided by Seller fail to conform to the requirements, Purchaser shall notify Seller and Seller shall, if requested by Purchaser, indemnify Purchaser from and against, among others, any special, incidental and consequential damages caused by nonconforming Goods, including, but not limited to, costs, expenses and losses incurred by Purchaser:

- (1) in inspecting, sorting, testing, repairing or replacing such nonconforming Goods;
- (2) resulting from production interruptions;
- (3) in taking Remedial Actions; and
- (4) in connection with claims for personal injury (including death) or property damage caused by such nonconforming Goods.

The nonconforming Goods shall be disposed of in accordance with Section 7.G.

B. In addition, notwithstanding the foregoing, Seller acknowledges and agrees that shutting down Customer's plant creates issues for which monetary damages are not a sufficient remedy. Furthermore, a plant shutdown may easily generate substantial costs, as the potential risks of losing business will damage Purchaser's

relationship with its Customer and will result in other countless losses. Because of such risks, in the event of a breach or threatened breach by Seller of any of the representations, warranties or covenants of Seller, Purchaser may, without notice to Seller, source the production of Goods from another supplier or source the Goods from another supplier as well as Seller (i.e., having another supplier produce or be prepared to produce Goods which would otherwise be supplied by Seller) to protect Purchaser and its Customers. It may take quite a long period of time to transfer such business and Seller understands that since there is the risk of shutting down Customer's plant, Purchaser has reason to transfer the business without notifying Seller.

C. Seller understands that: (i) re-sourcing of business during a program, while not desirable, is a part of the automotive business and is an acknowledged risk to Seller in the industry; and (ii) even the risks of Seller's financial or operational uncertainty, in light of the huge risks to Purchaser and its Customer that may result therefrom, constitute a justified reason to move production, without notice to Seller. Therefore, any corresponding action taken by Purchaser will be understandable and reasonable.

D. Notwithstanding anything to the contrary contained in any Order, Purchaser does not release any claim against Seller that is based in whole or in part on any fraud or duress in connection with the Order or any breach or anticipatory breach of the Order on the part of Seller.

## 16. Termination

A. Purchaser's Right to Terminate for Seller's Breach.

**Purchaser has the right to cancel any Order or terminate any Procurement Contract with immediate effect, without any liability to Seller if:**

- (1) Seller is in breach of the Procurement Contract;**
- (2) Seller expressly indicated or demonstrated by conduct not to perform any of its major obligations; or**
- (3) Any competitor of Purchaser acquires the control right over Seller or owns over twenty percent (20%) or more of Seller's equity.**

B. Purchaser's Right to Terminate under Other Circumstances.

In addition, Purchaser may, at its option, immediately cancel an Order or terminate a Procurement Contract, in whole or in any part, at any time and for any reason by giving notice to Seller. Except as otherwise directed by Purchaser, upon receipt of Purchaser's notice, Seller shall:

- (1) terminate immediately all work under the Procurement Contract;
- (2) transfer title and deliver to Purchaser usable and merchantable finished Goods, work-in-process, and raw materials/components that Seller produced or acquired in accordance with the Procurement Contract and which Seller cannot use in producing goods for itself or for others;
- (3) settle all claims of subcontractors approved by Purchaser for reasonable actual costs incurred from such termination;
- (4) take actions reasonably necessary to protect property in Seller's possession in which Purchaser has an interest; and
- (5) upon Purchaser's request, cooperate with Purchaser in channeling the sourcing of the Goods to an alternative supplier designated by Purchaser.

**After termination of any Procurement Contract by Purchaser under this Article 16 B. , Purchaser shall pay to Seller the following amounts, which shall be the sole obligation and liability of Purchaser:**

- (1) the amount for all delivered finished and completed Goods that conform to the requirements payable under the Procurement Contract but has not been paid;**

(2) Seller's reasonable actual cost of the usable and merchantable work-in-process and raw materials/components covered by the Goods ordered by Purchaser and transferred to Purchaser by Seller upon termination of the Procurement Contract; and

(3) Seller's reasonable actual cost of settling claims of its subcontractors approved by Purchaser in accordance with Article 22 limited to the reasonable portion of the quantity of Goods and raw materials/components specified under the Procurement Contract that have not been used.

Purchaser shall not be liable for, and shall not be required to make payments to Seller in respect of, claims of Seller's subcontractors for any other alleged losses or costs resulting from the termination of the Procurement Contract, whether 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, general or administrative cost . In any event, Purchaser's obligation to Seller upon termination of a Procurement Contract shall not exceed the obligation Purchaser would otherwise have had to Seller in the absence of such termination.

Within twenty (20) calendar days after the effective date of termination of the Procurement Contract, Seller shall furnish to Purchaser its termination claim, together with all supporting data, which claim shall be limited to the items specifically listed in Section 16.C. above. Purchaser shall not make payment for such claim until it has confirmed upon audit of Seller's records that the amount claimed by Seller is correct.

C. Because Purchaser's commitments to its Customers are made in reliance on Seller's commitments under each Procurement Contract, Seller has no right to terminate any contract, unless otherwise agreed upon by the parties in writing.

D. Transition of Supply.

Upon the expiration or earlier termination of any Procurement Contract in accordance with the terms thereof, Seller agrees to take such actions as may be reasonably required by Purchaser to accomplish the transition from Seller to an alternative supplier (includes Purchaser-owned facilities), which actions include, but are not limited to, the following:.

(1) Seller shall provide all notices necessary or desirable for Purchaser to send an order to an alternative seller.

(2) Seller shall provide sufficient inventories of the Goods covered by the Procurement Contract to ensure a smooth transition to an alternative supplier. Unless otherwise agreed upon by Purchaser in writing, a six (6)-week parts inventory shall be provided by Seller. Such six-week period will be calculated from the date on which the Procurement Contract is terminated.

(3) Seller shall return to Purchaser all bailed property and any other property furnished by or belonging to Purchaser or any of Purchaser's Customers in good condition the same as when received by Seller, normal wear and tear excepted.

(4) Seller shall, at Purchaser's request, (a) assign to Purchaser any and all supply contracts or orders for raw materials or components relating to the Procurement Contract, (b) sell to Purchaser, at Seller's cost price, any and all inventory and work-in-process relating to the Procurement Contract and (c) sell its equipment to Purchaser pursuant to Article 20 below.

## **17. Limitation of Damages**

In no event shall Purchaser be liable to Seller for any indirect loss. This limitation of liability provision applies to all Orders and Procurement Contracts. Purchaser's liability for a claim of any kind by Seller or for any loss or damage arising out of or in connection with or resulting from any Order, Procurement Contract, the Goods or any other agreement between Purchaser and Seller is limited to reasonable losses, i.e. those provided for in Section 16.C above, and is also subject to the other provisions set forth in Section 16.C above.

## **18. Assignment**

Seller shall not assign or delegate any of its duties or obligations under any Procurement Contract to any third party without the prior written consent of Purchaser, which consent may be withheld in Purchaser's sole discretion. Seller may assign its creditor's right to claim for payment of the Goods to a third party, but Purchaser shall not be required to pay the assignee until Purchaser receives written notice of the assignment and an original copy of the assignment of creditor's right. Any such assignment shall not prohibit or impair Purchaser from enforcing its rights against Seller or the assignee, including, without limitation, Purchaser's rights to setoff under Article 33, all of which rights of Purchaser against Seller or assignee are superior to any rights of such assignee.

## **19. Bailed Property**

A. Purchaser may provide Seller or any subcontractor of Seller with materials, tools, dies, jigs, measuring apparatus, fixtures, molds, samples, patterns, equipment and other items (collectively, "**Bailed Property**"), either directly or indirectly, used in the manufacture of Goods, or pay for such Bailed Property, for the implementation of the Procurement Contract. The ownership of such Bailed Property shall always be and remain with Purchaser and be possessed by Seller on a bailment at-will basis. Seller shall inspect such Bailed Property before receipt thereof. Upon receipt, Seller shall be deemed to have inspected and accepted such property and the risk of loss of, and damage to, the Bailed Property shall be transferred to Seller.

Seller shall properly maintain and use the Bailed Property and at its own expense, shall be responsible for maintenance and repair of the Bailed Property. All replacement parts, additions, improvements and accessories for such Bailed Property shall automatically become Purchaser's property upon their incorporation into or attachment to the Bailed Property. Seller, at its own expense, shall keep such Bailed Property appropriately insured for the benefit of Purchaser.

The Bailed Property shall not be used by Seller for any purpose other than the performance of the Procurement Contract.

Seller shall record the Bailed Property for clear management. The Bailed Property shall be conspicuously marked by Seller to identify it as the property of Purchaser and indicate Purchaser's name and address thereon or therewith; shall not be commingled with the property of Seller or with that of a third person and shall not be moved from Seller's premises without the prior written consent of Purchaser

B. Seller agrees that Purchaser has the right, at any time, without reason and without payment of any kind, to retake possession of or request the return of any or all Bailed Property, without the necessity of obtaining a court order. However this does not exclude any retention right which Seller could be entitled to pursuant to applicable laws. Upon the request of Purchaser, the Bailed Property shall be immediately delivered to Purchaser by Seller in such manner and to such location as required by Purchaser. Purchaser will bear the reasonable cost incurred by Seller in delivering the Bailed Property provided that Seller can provide legitimate invoices.

Seller shall provide Purchaser with an inventory list of all Bailed Property. In case there is any change in the Bailed Property, Seller shall promptly adjust the inventory list and furnish it to Purchaser. Purchaser shall have the right to enter onto Seller's premises at all reasonable times to inspect the Bailed Property and Seller's records with respect thereto.

Seller expressly agrees to waive any lien on any of the Bailed Property or the Goods produced with such Bailed Property.

Seller agrees that any missing components or inserts of any Bailed Property shall be replaced by Seller at its own cost.

C. Seller acknowledges and agrees that (1) Purchaser is not the manufacturer of the Bailed Property nor the manufacturer's agent or dealer therefor; (2) Purchaser is bailing the Bailed Property to Seller for Purchaser's and Seller's benefit; and (3) Seller has inspected the Bailed Property and is satisfied that the Bailed Property is suitable and fit for its purposes; and (4) Purchaser has not made and does not make any warranty or representation or covenant whatsoever, either express or implied, as to the fitness, condition, merchantability, design or operation of the Bailed Property or its fitness for any particular purpose.

**Purchaser will not be liable to Seller for any loss, damage, injury or expense of any kind or nature caused, directly or indirectly, by the Bailed Property, including, without limitation, its use or maintenance, or its repair, service or adjustment, or by any interruption of service or for any loss of business whatsoever or howsoever caused, including, without limitation any anticipatory damages, loss of profits or any other indirect, special or consequential damages.**

## **20. Seller's Property**

Unless otherwise agreed to by Purchaser and Seller in writing, Seller, at its expense, shall purchase, keep in good condition, and replace when necessary all Seller's property, including raw materials, molds, machinery, equipment, patterns, tools, dies, blueprints, designs, specifications, drawings, photographic negatives and positives, art work, copy layout and other property that are specially designed or manufactured for the production and provision of the Goods (collectively, "**Seller's Property**").

Seller hereby grants Purchaser an irrevocable option to purchase, free and clear of all liens, claims and other encumbrances, Seller's Property, the purchase price of which shall be the non-depreciated/unamortized portion of the cost of Seller's Property, less any amounts Purchaser previously has paid to Seller for the cost of such Seller's Property. Seller shall permit Purchaser to audit Seller's records to verify the amount due for any of Seller's Property.

This option will not apply to any of Seller's Property that is used by Seller to produce a substantial quantity of like products for other customers of Seller which cannot readily be obtained by Seller from third parties. However, if Seller assigns to Purchaser the obligation to produce goods for other customers using such portion of Seller's Property and Purchaser or its designated third party is willing to assume such obligation of Seller after purchasing such portion of Seller's Property, Purchaser shall also have the right to purchase such portion of Seller's Property. Seller shall provide Purchaser with such information in respect of Seller's obligation to its other customers as may be reasonably required by Purchaser and effectively assign such obligation to Purchaser.

Purchaser's right to exercise the option under this Article 20 is not conditioned on a breach by Seller or Purchaser's termination of the Procurement Contract.

## **21. Inspection**

Purchaser shall have the right to enter Seller's premises for the manufacture, storage, inspection and shipment of the Goods during normal business hours or, in the event of a Seller shutdown, at reasonable times, to inspect the facility, Goods, materials and any property of Purchaser covered by each Procurement Contract and, without the necessity of a court order, may enter upon Seller's property and remove property belonging to Purchaser or any Customer of Purchaser, including, without limitation, Bailed Property and other Goods, inventory or Seller's Property that has been or is agreed to be sold to Purchaser under the Procurement Contract or any other agreements. **Purchaser's inspection of the Goods, whether during manufacture, prior to or after delivery, shall not constitute acceptance of any work-in- process or finished Goods.**

## **22. Subcontracting**

A. Seller shall not subcontract any of its obligations under any Procurement Contract to any third party without prior express consent by Purchaser on the face of an Order or otherwise in writing. Seller shall ensure that any subcontractor complies with all production part approval process requirements of Purchaser's Customer and any other requirements of Purchaser. Purchaser or Purchaser's representative shall be afforded the right to verify at any subcontractor's premises and Seller's premises that subcontracted Goods conform to specified requirements. For the avoidance of doubt, verification by Purchaser or Purchaser's representative shall not shift responsibility for quality by the subcontractor from Seller to Purchaser or release Seller from its responsibilities for providing Goods meeting requirements nor deprive Purchaser of its rights to reject Goods. Notwithstanding any verification by Purchaser or Purchaser's representative, Seller remains fully liable for any work subcontracted.

B. In connection with Purchaser's approval of any Seller's subcontracting of any of its work, as a condition to such approval, Seller shall provide Purchaser with written evidence that the subcontractor agrees to be bound by the Order, these General Terms and any other document constituting a Procurement Contract.

C. In the event Seller cannot fulfill any of its obligations under any Procurement Contract, Seller shall, at Purchaser's request and in addition to any other rights or remedies available to Purchaser under the Procurement Contract, assign to Purchaser all of Seller's rights with respect to any subcontractors.

### **23. Nonconforming Goods**

Purchaser, at its option, may reject and return or retain and correct, at Seller's expenses, the Goods received pursuant to any Procurement Contract that fail to conform to the requirements of the Procurement Contract even if the nonconformity does not become apparent to Purchaser until its manufacturing, processing or assembly stage or later. To the extent Purchaser rejects Goods as nonconforming, the quantities under the Procurement Contract will not be reduced by the quantity of nonconforming Goods unless Purchaser otherwise notifies Seller in writing. Seller shall replace the nonconforming Goods with conforming Goods unless otherwise notified in writing by Purchaser, including, without limitation by way of a termination notice from Purchaser under Section 16.A. Nonconforming Goods will be disposed of in accordance with Section 7.G. Seller shall reimburse Purchaser for any amounts paid by Purchaser for any rejected nonconforming Goods, and reimburse, within ten (10) calendar days of the date on which Purchaser issued to Seller a notice or memorandum for payment, all costs incurred by Purchaser as a result of the nonconforming Goods, including, but not limited to, costs of inspection, sorting, testing, evaluation, storage or rework. **For the avoidance of doubt, payment by Purchaser for nonconforming Goods shall not constitute an acceptance thereof, limit or impair Purchaser's right to assert any legal or equitable remedy from Seller, or relieve Seller from any liability.**

### **24. Breach and Indemnification by Seller**

A. Seller's any violation of laws, regulations, government authorization or order, Order, Procurement Contract, these General Terms or any standards, specifications, drawings, patterns, representations, warranties and obligations set forth in any other document binding upon both parties or Seller caused by error, omission or negligence of Seller, any of its employees, agents or representatives shall constitute Seller's breach of the Procurement Contract ("**Seller's Breach**").

B. **Seller shall be liable for all risks of property loss or personal injury (including death) caused by its breach.**

**Seller hereby covenants and agrees to indemnify and hold harmless Purchaser, its affiliates, and their respective directors, officers, employees and agents from any claims, demands, lawsuits, administrative claims, arbitration, regulatory actions or other proceedings, personal injury or death compensation, property damage or economic losses, obligations, liabilities, damages, costs and expenses that are related in any way to or arise in any way from the Goods, Seller's representations or warranties, Seller's performance of any Procurement Contract or Seller's Breach. Such indemnification shall include, without limitation:**

**(1) Purchaser's direct property loss or damage as a result of Seller's Breach, which shall be calculated at the replacement price of the property;**

**(2) all expenses for repairing Purchaser's equipment and facilities as a result of Seller's Breach;**

**(3) Purchaser's incremental costs and expenses (including, but not limited to, fees for investigation, consultation and attorneys incurred by Purchaser in connection with investigations, consultation, lawsuits and arbitration) as a result of Seller's Breach;**

**(4) costs and expenses incurred by Purchaser for inspecting, testing, sorting, repairing or replacing nonconforming Goods;**

**(5) the decrease of Purchaser's gross profits due to Seller's Breach;**

**(6) the utility fees and employee compensation incurred during shutdown and/or production suspension caused by Seller's Breach that have to be paid by Purchaser;**

**(7) Purchaser's expenses in connection with any personal injury or death arising out of Seller's Breach;**

**(8) any claim against Purchaser by Purchaser's Customer and/or any third party caused by Seller's Breach; and**

**(9) costs and expenses incurred by Purchaser in connection with adoption of other remedies caused by Seller's Breach.**

**The rights and indemnification of Purchaser under each Order and Procurement Contract shall be cumulative and can be used together with all other rights and indemnification provided by law.**

C. Since Seller's Breach may lead to a breach by Purchaser to its Customer or a relevant third party, Purchaser has the right to source goods from other suppliers without notice to Seller upon occurrence of Seller's breach or upon reasonable proof of threatened Breach by Seller.

D. If Seller performs any work on Purchaser's premises or utilizes the property of Purchaser, whether on or off Purchaser's premises, Seller shall indemnify and hold harmless Purchaser, its affiliates, and their respective directors, officers, employees and agents from and against any obligations, liabilities, claims, demands or expenses (including actual fees for attorneys, experts and consultants, settlement costs and judgments) arising from or in connection with any damage to property or injuries (including death) to its employees or any other person arising from or in connection with Seller's performance of work or use of Purchaser's property except to the extent of any such liability, claim or demand arising solely out of the gross negligence of Purchaser.

## **25. Insurance**

Seller shall obtain and maintain, at its sole expense, such insurance coverage and in such amounts as are reasonably acceptable to Purchaser in accordance with industry customs, relevant laws or Purchaser's reasonable requests, which insurance coverage shall include, without limitation, full fire and extended coverage insurance for all the replacement value of Seller's Property and any Bailed Property. All such insurance shall name Purchaser as the beneficiary and the additional insured. Seller shall furnish to Purchaser insurance policies, setting forth the insured amount, policy number and date(s) of expiration of the insurance. The insurance policies must provide that if any insurance coverage terminates or the insured amount decreases, the insurance company shall notify Purchaser thereof thirty (30) calendar days in advance. Seller's furnishing of insurance policies to Purchaser or purchasing of insurance shall not release Seller from its obligations or liabilities under an Order or a Procurement Contract. If Seller fails to maintain any insurance, Purchaser shall have the right to procure such insurance and Seller shall reimburse Purchaser on demand, for all actual costs and expenses of procuring such insurance.

## **26. Compliance**

A. Seller agrees to strictly comply with the provisions of applicable laws and regulations, especially provisions concerning equal employment. Each Procurement Contract shall be deemed to have incorporated by reference all such provisions of the said laws and regulations. All raw materials procured by Seller and used in the manufacture of Goods shall comply with the government regulations in respect of safety relating to restricted, toxic and hazardous raw materials as well as of environmental, electrical and electromagnetic considerations applicable in the country of manufacture and sale. All Suppliers must be in compliance with ISO14001, TS16949, ELV and their successors, as amended from time to time.

B. Seller shall not utilize forced or involuntary labor or employ any child, regardless of its form, except as part of a job training, apprenticeship or similar program permitted by laws, or engage in abusive employment or corrupt business practices in the manufacture or supply of Goods under any Order.

C. Seller shall adopt and enforce a code of conduct for business practices by taking reference to the principles, policies and procedures of Purchaser's Code of Conduct for Business Practices, a copy of which is hereto attached. Seller shall promptly report all violations of Seller's code of conduct for business practices to Purchaser.

D. Seller shall provide Purchaser with written notice immediately upon becoming aware that any director, officer or employee or immediate family member of any director, officer or employee of Seller or any of its subsidiaries or affiliates is also a director, officer or employee or immediate family member of any director or officer or employee of Purchaser or any of its subsidiaries or affiliates. As to employees of Seller only, Seller only needs to report this information to Purchaser if the employee (excluding an officer or director of Seller) is substantively involved in Seller's business relationship with Purchaser or receives any direct or indirect compensation or benefit based on Seller's business relationship with Purchaser.

E. In the event Seller subcontracts any of its duties or obligations under the Procurement Contract to any third party in accordance with Article 22, Seller shall ensure that all subcontractors comply with the requirements under this Article 26. At Purchaser's request, Seller shall certify in writing Seller's and its subcontractor's compliance

with all such requirements. Purchaser shall have the right to audit and monitor Seller's and its subcontractor's compliance with Seller's and its subcontractor's obligations under the Procurement Contract. Seller shall indemnify and hold harmless Purchaser, its affiliates and subsidiaries, and their respective directors, officers, employees and representatives from and against any liabilities, obligations, claims, demands or expenses (including actual fees for attorneys, experts and consultants, settlement costs and court costs) arising from or relating to Seller's or its subcontractor's noncompliance.

## **27. Production Part Approval Requirements**

In the event any Goods are production parts, Seller agrees to meet the full requirements identified in the production part approval process manual and agrees to provide such information and data at request of Purchaser, except those otherwise required by Purchaser's Authorized Representative in the Procurement Contract or other written documents.

## **28. Identification of Goods**

All Goods supplied pursuant to each Procurement Contract shall be deemed to be complete parts and shall permanently bear Purchaser's part number or code name, Seller's name or code name, and date of manufacture by Seller.

In the event there are other requirements for Goods identification in accordance with applicable laws and regulations or from Purchaser's Customers, Seller shall ensure that the Goods comply with such requirements.

## **29. Shipping**

A. Seller shall properly pack, mark and ship the Goods in accordance with the national standards of the PRC and/or industry standards and the packing and marking requirements of Purchaser and/or the carrier in order to secure the safe arrival of the Goods at the place of delivery without any damage and at the lowest possible transportation cost.

Seller shall clearly mark Purchaser's Order number on the packing labels of each shipment of Goods and Order, factory, workshop and dock numbers on each container. In the event one shipment consists of numerous containers, Seller shall mark a series number on each container.

Seller shall route shipment in accordance with Purchaser's instructions and shall charge no additional fees for loading, unloading, handling, packaging, storage or shipping unless otherwise approved by Purchaser on the face of an Order or Order amendment or in a Signed Writing by Purchaser.

Seller shall provide Purchaser with shipping documents for each shipment, setting forth the Order number, Order amendment number, Purchaser's part number, Seller's part number where applicable, quantity of pieces in shipment, number of cartons or containers in shipment, Seller's name and code name, the bill of lading number and the country of origin.

Seller shall promptly forward the original bill of lading or other shipment receipt for each shipment in accordance with Purchaser's instructions and carrier requirements. The marking on each package, the packing list, the bills of lading and invoices shall be sufficient to enable Purchaser to easily identify the Goods procured.

B. For Goods that may contain any inflammable, explosive, toxic and caustic ingredients or other restricted materials, Seller shall furnish to Purchaser and the carrier a list of all ingredients and the quantity thereof as well as a warning, and paste striking warning labels on the packages. Before shipping any Goods, Seller shall furnish to Purchaser sufficient warning and notice in writing together with such special handling instructions necessary to advise the involved carriers, Purchaser, and their respective employees how to exercise that measure of care and precaution that will best prevent bodily injury and property damage in the packing, handling, shipment, load and unload, use or disposal of Goods and their package. If Goods are shipped to European destinations, before shipments are made, Seller shall notify Purchaser of the "Classification of Dangerous Goods" as required by the European Agreement concerning the "International Carriage of Dangerous Goods".



C. Any packaging made of wood (including pallets) must conform to the international softwood standards. In the event Seller fails to comply with such standards, Seller shall be liable for all related replacement and transportation costs.

D. In the event Seller fails to meet Purchaser's delivery requirements due to its own reasons and causes Purchaser to take a swifter mode of transportation, based on the choices of Purchaser, Seller shall:

(1) promptly compensate Purchaser for the cost differential between the swifter mode of transportation and the original mode of transportation; or

(2) allow Purchaser to deduct the cost differential from the invoice amount payable to Seller; or

(3) ship Goods as quickly as possible at its own expense and issue to Purchaser the invoice with the amount of normal shipment cost.

### **30. Customs Declaration Documents and Export Controls**

A. Upon Purchaser's request, Seller shall furnish promptly all documents required for customs declaration purposes in accordance with government regulations applicable thereto. Seller shall furthermore provide all information (including written documents and electronic transaction records relating to Goods) necessary for Purchaser to fulfill any customs-related or other governmental agency-related obligations, origin marking or labeling requirements and certification or local content reporting requirements, to enable Purchaser to claim preferential duty treatment at the time of entry for Goods eligible under applicable trade preference regimes, and to make all arrangements that are necessary for Goods to be covered by any applicable duty deferral or free trade zone program(s) of the country of import. Seller shall provide Purchaser or Purchaser's nominated service provider with all documents to enable Goods to be exported, and obtain all export licenses or authorizations necessary for the export of Goods unless otherwise indicated in the Procurement Contract, in which event Seller shall provide all information as may be necessary to enable Purchaser to obtain such licenses or authorization(s). Credits or benefits resulting or arising from any Procurement Contract, including trade credits, export credits or the refund of duties, taxes or fees, shall belong to Purchaser.

B. Seller is responsible for any incorrect information provided by it or its violation of laws. Seller acknowledges and agrees to adhere to all export security procedures and regulations. Seller shall share with Purchaser the information concerning export security audit or inspection. Seller shall hold Purchaser harmless and compensate to Purchaser any losses due to any incorrect information provided by it or its violation of laws.

### **31. Invoices**

Seller shall provide Purchaser with correct and valid invoices as soon as possible after Seller delivers Goods. Purchaser is not liable for payment before the receipt of said invoices.

All invoices must reference the Order number, Order amendment number, Purchaser's part number, Seller's part number where applicable, quantity of pieces in shipment, number of cartons or containers, Seller's name and code name, and bill of lading number. In addition, no invoice may reference any term inconsistent with these General Terms, the Order or the Procurement Contract; otherwise, they shall be deemed as invalid invoices and Seller shall reissue the invoices. Payment terms will begin to run once Purchaser finally receives the correct and valid invoices from Seller. Any payment by Purchaser of a nonconforming invoice shall not be deemed as acceptance of any non-conforming element or terms of such invoice.

### **32. Payment Terms**

A. Payment terms are set forth in the Framework Agreement and/or the Procurement Contract.

**B. Notwithstanding any terms in an Order, Purchaser may, upon prior notice to Seller and upon consent of Seller in writing or by act, revise its payment terms to take into account any change in the payment terms of Seller's Customer.**

C. Payment method shall be check transfer or other payment methods determined by Purchaser.

### **33. Setoff**

A. In addition to such other rights of setoff provided by laws and regulations, all amounts due to Seller from Purchaser at any time shall be considered as net of indebtedness or obligations of Purchaser to Seller. Seller hereby agrees that Purchaser shall have the right to directly set off and recoup any amounts due or to become due from Seller to Purchaser, or any settled or pending compensation payable by Seller to Purchaser, from the amounts due from Purchaser to Seller.

**B. If there is a dispute with respect to the performance of certain obligations of Seller under the Procurement Contract or such obligations which should have been performed by Seller but have not been performed, Purchaser shall have the right to defer payment of all or any portion of the amount due to Seller until such dispute is resolved or such outstanding obligation is performed. Without limiting the generality of the foregoing and by way of example only, in the event of a bankruptcy of Seller, if a Procurement Contract has not been fully performed, then Purchaser shall have the right to defer payment for Goods, which shall be used to setoff any damages which may become payable by Seller to Purchaser in the case of any rejection of Goods or any other damages.**

C. An "affiliate" means, for purposes of any specific entity, any other entity that directly or indirectly controls, is controlled by, or is under common control with, such entity. For purposes of this definition, the term "control" (including "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the major affairs of an entity, whether through the ownership of voting equity interest or shares or the appointment of directors.

#### **34. Audit**

Purchaser shall have the right to assign its own financial personnel or entrust a third party auditor to audit Seller's quotations of Goods and the composition of such quotations. Purchaser shall notify Seller of the time, content and period of the audit in advance, and Seller shall provide convenience for such audit and provide them access to the relevant materials and data. Seller agrees that the audit results shall be valid and binding upon both parties unless Seller is able to provide evidences to prove otherwise, and Purchaser shall have the right to request adjustment to the prices of the Goods in accordance with the audit results.

#### **35. Advertising**

Seller shall not make any reference to Purchaser in any advertising or public releases without the prior approval in a Signed Writing of a Purchaser's Authorized Representative and shall not use any of the Purchaser's intellectual property in any advertising or promotional materials or any other information carrier not approved by Purchaser in writing in advance.

#### **36. Force Majeure**

In the event either party fails to perform all or any of its obligations under a Procurement Contract due to force majeure, such party shall be released from such obligation or liability for breach of contract within the duration of force majeure and its impact and to the extent of the impact of force majeure.

Force majeure means an objective event that cannot be predicted, avoided or overcome by the party encountering force majeure without its fault or negligence, such as wars, riots, earthquakes, explosions, fires, typhoons, floods, storms, other natural disasters and any prohibitions and restrictions imposed by a governmental authority.

The party suffering from force majeure shall notify the other party by telephone or facsimile within twelve (12) hours after the occurrence of such force majeure and shall, within seven (7) calendar days thereafter, provide the other party with the proof of the occurrence of force majeure and informing the other party of the anticipated duration of force majeure and the anticipated time for resuming performance of the Procurement Contract.

If Seller fails to fully supply Goods on time due to force majeure, before its full resumption of supply, Purchaser may at its option:

(1) purchase Goods and relevant service from a third party and reduce the quantity of its purchase from Seller without any liability for breach of contract or compensation; or

(2) require Seller to deliver to Purchaser, at a reasonable cost to Purchaser, all finished Goods, work-in-process and parts and materials produced or acquired for the manufacture of Goods; or

(3) require Seller to provide Goods from a third party in quantities, at the time and at the price as set forth in the Order.

In addition, Seller shall take, at its expense, all actions deemed reasonably necessary by Seller to ensure that in the event of any anticipated labor dispute, strike or worker slowdown or expiration of Seller's labor contracts, an uninterrupted supply of Goods will be available to Purchaser for a period of at least thirty (30) calendar days. **If upon request of Purchaser, Seller fails to provide within ten (10) calendar days (or such shorter period as Purchaser requires) adequate assurances that any delay will not exceed thirty (30) calendar days, Purchaser shall have the right to terminate the Procurement Contract without liability for breach of contract or compensation and Seller shall reimburse Purchaser for the costs associated with the cancellation.** Seller acknowledges and agrees that any change in cost or availability of raw materials, components or services as a result of market conditions, Seller's own acts, contract disputes will not excuse Seller from performance under the excuse of force majeure and Seller expressly agrees to assume such risks.

### **37. Service and Replacement Parts**

A. Seller shall sell to Purchaser all Goods necessary for Purchaser to fulfill Purchaser's and its Customer's service and replacement parts requirements for its current model at the then current production prices plus any actual net cost differential for required unique packaging. If the Goods are systems or assemblies, Seller shall sell the components or parts of such systems or assemblies at prices that will not in the aggregate exceed the then current production price of the system, module or assembly less the costs of labor involved in connection with the system, module or assembly plus any actual net cost differential for required unique packaging.

B. **Within fifteen (15) years after termination of the production of a current model of vehicle, Seller shall sell to Purchaser Goods necessary for Purchaser to fulfill Purchaser's and its Customers' service and replacement parts requirements for such past model. During the first five (5) years thereof, the prices for such replacement Goods shall be those then specified in the last Order for such model delivered by Purchaser to Seller plus any actual net cost differential for required unique packaging. For the following ten (10) years after the five-year period or such longer period in which Purchaser's Customer requires replacements Goods, the prices for such replacement Goods shall be as specified in the last Order for such model plus any actual net cost differential for required unique packaging, plus any actual net cost differential for manufacturing costs as mutually agreed upon between Purchaser and Seller. In case the customers of Purchaser require that Purchaser provide replacement Goods in any longer period than the said fifteen (15) years, Purchaser will notify Seller such longer period which Seller agrees to observe.**

### **38. Taxation**

A. In accordance with the PRC tax laws, any and all taxes payable by either party in accordance with such laws shall be paid by that party. Any and all taxes and customs duties to be levied on Seller in accordance with such laws shall be paid by Seller, and Seller shall not request Purchaser to pay any of such taxes and customs duties.

B. All benefits of all relevant favorable treatment in customs duties and import tax refund that may be enjoyed by Seller, including, without limitation, the favorable treatment derived from the use of import substitutes and similar favorable treatment that can be obtained from the third party suppliers of Seller, shall inure to Purchaser. Seller agrees to inform Purchaser of any such applicable preferential treatments in a timely manner and provide to Purchaser, in accordance with Purchaser's request, such documents that are necessary for the obtainment of such tax refund or other favorable treatments.

### **39. Relationship between the Parties**

No agency relationship shall be created between Purchaser and Seller as a result of the Order, these General Terms, the Procurement Contract or any other relevant documents. Therefore, unless both parties expressly agree otherwise in writing, neither party shall have the right to make on behalf of the other party any written or oral covenants or representations binding upon the other party nor shall it have the right to execute, on behalf of the other party, any agreements or other documents binding upon the other party.

### **40. Severability**

If any term of these General Terms is declared invalid or unenforceable under any law or regulation, such term shall be deemed to be deleted or amended, as the case may be, only to the extent necessary to comply with such law and regulation, and the remaining provisions shall remain in full force and effect.

#### **41. Electronic Communications and Electronic Signatures**

The use of any electronic communications shall be subject to prior written consent of both parties and conducted by the method required by Purchaser, including electronic funds transfer, purchase order transmission, production directions, electronic signature and other electronic communications. **E-mails, even containing a signature block of one of Purchaser's representatives, shall not constitute a binding document of Purchaser.**

#### **42. Notices**

Any formal notices sent and any other formal communications delivered by either party to the other party shall be made in writing and delivered by one of the following methods to the address of the other party as set forth in a Procurement Contract or such other address as notified by the other party thereafter:

(1) Facsimile: for facsimiles successfully transmitted during normal business hours of a working day, notices shall be deemed effectively given on the then current day, otherwise on the first working day following the transmission, **provided that the party sending notices shall send an original of the notices by any of the following methods as enclosed in Item (2) to (4) to the other party.**

(2) Registered mail: notices shall be deemed effectively given on the seventh calendar day after the date on which they were mailed (as indicated by the postmark).

(3) Courier: notices shall be deemed effectively given on the date set forth in the return receipts.

(4) Personal delivery: notices shall be deemed effectively given on the date set forth in the return receipts.

#### **43. Confidentiality**

A. Seller shall keep strictly confidential the trade secrets provided by Purchaser and shall not disclose them to any third party without prior written consent of Purchaser. Seller shall use Purchaser's trade secrets solely for the purpose of performing the Procurement Contract and supplying Goods to Purchaser.

Purchaser's trade secrets mean any and all information provided to Seller by Purchaser or its representatives or subcontractors in connection with the business, programs and Goods covered by the Procurement Contract, including, without limitation, quotations, the Order, specifications, data, formulas, compositions, designs, drawing, photographs, samples, test samples, manufacturing processes, packaging or shipping methods, technology documents and computer software and programs (including object code and source code). Purchaser's trade secrets also include any materials or information that contain, or are based on any Purchaser's trade secrets, whether prepared by Purchaser, Seller or any other person.

B. Seller shall ensure that its directors, employees, consultants, accounting firms, attorneys and representatives comply with this Article 43. Seller agrees to make Purchaser's trade secrets available only to its employees who need to know such trade secrets in order to perform the Procurement Contract.

C. In the event Seller shall submit or disclose Purchaser's trade secrets or any part thereof to a competent judicial organ or administrative authority in accordance with laws, Seller shall promptly notify Purchaser and provide said organ and authority with that part of trade secrets approved by Purchaser after obtaining written consent from Purchaser.

D. After the business relationship between Purchaser and Seller terminates due to any reason, Seller shall return or handle relevant trade secrets and the embodiments thereof in accordance with the request of Purchaser.

#### **44. Construction**

When used in these General Terms, "including" means "including, without limitation," and terms defined in the singular include the plural and vice versa. The headers, titles and numbering are for convenience of reference only and shall not affect the construction or interpretation of these General Terms.

#### **45. Entire Agreement; Modification**

Each Order, these General Terms and applicable supplements, other applicable agreements and documents together with relevant technology specifications, samples, drawings and other binding documents provided by

Purchaser constitute the entire agreement between both parties with respect to the subject matters contained in a Procurement Contract and supersede any and all other oral or written representations and agreements.

Purchaser may modify a Procurement Contract. Such modifications shall become effective when Seller accepts them by signing or act.

Any modification to these General Terms shall be handled in accordance with Section 2(D) above.

#### **46. Governing Law**

The formation of each Procurement Contract, its execution, construction, performance, termination and settlement of disputes in connection herewith shall be governed by the published laws of the People's Republic of China.

#### **47. Dispute Settlement**

Any dispute arising out of or in connection with a Procurement Contract shall be settled through friendly consultations between both parties. If no settlement can be reached, the dispute shall be submitted to China International Economic and Trade Arbitration Commission Shanghai Sub-commission for arbitration in accordance with its then effective arbitration rules. The arbitration shall be conducted both in Chinese and English languages in Shanghai, and the arbitration award shall be made in both Chinese and English in writing. The arbitration award shall be final and binding on both parties.

#### **48. Languages**

If these General Terms, an Order and other documents constituting a Procurement Contract are written in both Chinese and English, both versions shall be equally valid. In case of any discrepancy between these two versions in respect of any wording, term or paragraph, they shall be interpreted in accordance with the version that most accurately reflects the original intentions of the parties.

### **Attachment:**

## **LEAR CORPORATION CODE OF BUSINESS CONDUCT AND ETHICS**

### **I. Introduction**

The Board of Directors (the "Board") of Lear Corporation (together with its subsidiaries, "Lear" or the "Company") has adopted this Code of Business Conduct and Ethics (this "Code"), which reflects the Board's commitment to continue to focus the Board and Lear management on areas of ethical risk. This Code Provides guidance to personnel to help them recognize and deal with ethical issues, provides mechanisms to report unethical or illegal conduct, and helps the Company maintain a culture of integrity, honesty and accountability.

While this Code covers a wide range of business practices and procedures, it does not cover every issue that may arise. Rather, it sets out basic principles to guide all directors, officers and employees of the Company (each an "Employee", and collectively, the "Employees"). The Company may adopt more specific or restrictive practices and procedures with respect to particular activities or situations. All of our Employees must conduct themselves accordingly and seek to avoid even the appearance of improper behavior. This Code should be provided to and followed by the Company's agents, representatives, consultants and contract employees as if such individuals were Employees of the Company for purposes of this Code.

In many instances it will be appropriate for an Employee to discuss a situation with his or her supervisor or local human resources representative. Where it may not be appropriate to discuss an issue with the supervisor or the local human resources representative, the Employee may contact the Company's Legal Department or the Board. The contact information for the Company's Legal Department and the Board can be found in Section VIX of this Code. Each person who receives notification of

a possible violation of this Code pursuant to this Code is required to act in accordance with this Code with respect to such situation.

The Board believes this Code should be an evolving set of conduct and ethics standards, subject to refinement from time to time as circumstances warrant. Those who violate the standards in this Code will be subject to disciplinary action up to and including dismissal. Any waiver of this Code must be in accordance with Section XIII of this Code. If an Employee is in a situation which the Employee believes may violate or lead to a violation of this Code, the Employee must follow the guidelines described in Section XV of this Code.

## **II. Compliance with Laws, Rules and Regulations**

The business of the Company is to be conducted in accordance with applicable laws, rules and regulations and in an ethical manner. Obeying the law, both in letter and in spirit, is the foundation on which the Company's ethical standards are built. All Employees must respect and obey the laws of the cities, states and countries in which the Company operates. Although not all Employees are expected to know the details of applicable laws, it is important to know enough to determine when to seek advice from a supervisor, the human resource representative or other appropriate Lear personnel. In addition, all transactions between Lear and any of its subsidiaries or between subsidiaries must meet all applicable legal requirements.

Lear is committed to complying with all applicable environmental legal requirements and protecting the quality of the environment. Employees are expected to comply with all applicable environmental legal requirements and report any incidents or conditions that might result in a violation of law or Company policy. Employees are also encouraged to support environmental programs in their workplace.

Political and charitable contributions by the Company must be made in compliance with all applicable federal, state, local and foreign laws and regulations and, to the extent legal, in accordance with (foreign) local custom. All contributions must be restricted to amounts in size sufficient to negate any impression that special consideration is sought for the Company. Questions in this area should be directed to the Company's Legal Department in the manner described in Section XIV.

If a law conflicts with a policy in this Code, Employees must comply with the law; however, if a local custom or practice conflicts with this Code, Employees must comply with this Code. If an Employee has any questions about potential conflicts, the Employee should seek assistance from his or her supervisor or other appropriate Lear personnel pursuant to this Code. Any questions regarding applicable legal requirements should be referred to the Company's Legal Department in the manner described in Section XIV.

## **III. Conflicts of Interest**

Each Employee of Lear is expected to avoid engaging in activities that conflict with, or have the appearance of conflicting with, the best interests of the Company and its stockholders. A conflict situation can arise when an Employee takes actions or has interests that may make it difficult for the individual to perform work for the Company objectively and effectively. Conflicts of interest may also arise when an Employee or a member of the Employee's family, receives improper personal benefits as a result of such individual's position in the Company. Loans to, or guarantees of obligations of, Employees and/or their respective family members by a supplier or customer of the Company may create a conflict of interest or the appearance of a conflict of interest and are prohibited.

It is a conflict of interest for an Employee of the Company to work simultaneously as an employee of the Company and as an employee of a competitor, customer or supplier of the Company. In addition, an Employee is not permitted to work for a competitor as a consultant or board member (or in an equivalent position). A director of Lear may serve as a board member (or in an equivalent position) of a customer or supplier of the Company, provided that (i) such service would not affect his or her status as an "independent" director under the listing requirements of the New York Stock Exchange, as amended from time to time, and (ii) such director provides notice to the Board of such directorship. An officer or employee of Lear (other than the Chief Executive Officer) may serve as a board member (or in an equivalent position) of a customer or supplier of the Company with the approval of the Nominating and Corporate Governance Committee. The Chief Executive Officer may serve as a board member (or in an equivalent position) of a customer or supplier of the Company with the approval of the Board. Notwithstanding the foregoing, the best policy is to avoid any direct or indirect business connection with significant customers, suppliers or competitors of the Company, except on behalf of the Company.

No Employee shall participate in, or seek to influence, decisions regarding the selection of a particular vendor or supplier if such Employee (or any member of his or her family living in the same household) has any financial interest or investment in such vendor or supplier, other than investments of less than 1% of any class of publicly-traded securities, investments in diversified mutual funds and other immaterial investments or financial interests.

A conflict involving an executive officer (other than the Chief Executive Officer) will be reviewed by the Nominating and Corporate Governance Committee of the Board. A conflict involving the Chief Executive Officer or a director will be reviewed directly by the Board. Conflicts involving any other Employee of the Company will be reviewed by the Employee's supervisor or local human resources representative and the Company's Legal Department after full disclosure by the Employee.

In certain limited cases, activities giving rise to potential conflicts of interest may be waived and permitted if they are determined not to be harmful to the Company. That determination will be made by the Board in the case of the Chief Executive Officer or directors; by the Nominating and Corporate Governance Committee of the Board in the case of executive officers other than the Chief Executive Officer; and by the applicable supervisor or the local human resources representative and, in either case, the Company's Legal Department in the case of other Employees.

No Employee should accept gifts, credits, payments, services, excessive entertainment or anything else of value from an actual or potential competitor, supplier or customer unless such gift is customary and in the ordinary course. Permitting a supplier's or customer's employee to pick up the check at a meal or similar occasions is not inappropriate so long as Company business was discussed at arms-length and there is no suggestion of undue or unfair influence. If a gift or other service or object of significant value is offered to an Employee, such Employee should immediately report the offer to such Employee's supervisor or the Company's Legal Department in the manner described in Section XIV so that an appropriate response can be made to the offeror.

Please remember, however, that local, state and federal laws, including the Foreign Corrupt Practices Act, often impose special rules on relations with government customers and suppliers which may differ from commercial relations. Payments for expenses of government representatives should be reviewed by the Company's Legal Department prior to incurring the expenses and making the payment.

Conflicts of interest may not always be apparent, so if an Employee has a question, the Employee should consult with his or her supervisor or local human resources representative or the Company's Legal Department, who will assist in determining if there is a conflict and, if so, how to resolve it without compromising the Company's interests. Prompt and full disclosure is always the appropriate first step towards identifying and resolving any potential conflict of interest or problem. Any Employee who becomes aware of a conflict or potential conflict of interest should bring it to the attention of a supervisor, local human resources representative or the Company's Legal Department. Please consult the procedures described in Section XIV of this Code when confronted with a conflict or potential conflict of interest.

#### **IV. Insider Trading**

Each Employee of Lear is expected to comply with applicable securities laws. Ignorance of the law is not a defense. Insider trading or dealing means personally buying or selling securities of any company while in possession of material, non-public information about the company. Stock tipping means disclosing inside information about a company, for example, to a family member or friend, to enable the person to buy or sell securities of the company on the basis of such information. Insider trading, insider dealing and stock tipping are criminal offenses in the United States and most countries where Lear does business. If an Employee becomes aware of material information about Lear or any other company which has been available to the public for less than two (2) full business days, the Employee is prohibited by law as well as by Company policy from (a) using that information for stock trading purposes or for any other purpose except for use in the regular conduct of Lear's business, (b) directly or indirectly disclosing such information to any other persons (including family members or friends) so that they may use that information for stock trading purposes or for any other purpose, or (c) recommending or suggesting that anyone else buy, sell or retain securities of Lear or such other company, as the case may be.

It is difficult to describe exhaustively what constitutes "material" information, but an Employee should assume that any information, positive or negative, which might be of significance or important to an investor in determining whether to purchase, sell or hold a security would be material. Information may be significant for this purpose even if it would not alone determine the investor's decision. Examples, but not by way of limitation, may include a potential business acquisition or disposition, internal financial information, important product developments, the acquisition or loss of a major contract, or an important financing

transaction. We emphasize that this list is merely illustrative. Employees with questions should consult the Company's Legal Department in the manner described in Section XIV.

## **V. Corporate Opportunities**

Employees owe a duty to the Company to advance the Company's legitimate interests when the opportunity to do so arises. Employees are prohibited from taking for themselves personally (including for the benefit of family members or friends) opportunities that are discovered through the use of Company assets, property, information or position without the consent of the Board of Directors. No Employee may use Company assets, property, information, or position for improper personal gain (including for the gain of family members or friends), and no Employee may compete with the Company directly or indirectly.

## **VI. Competition and Fair Dealing**

We seek to outperform our competition fairly and honestly. We seek competitive advantages through superior performance, never through unethical or illegal practices. Stealing or illegally appropriating proprietary information, possessing trade secret information improperly obtained, or inducing such disclosures by past or present employees of other companies is prohibited. If an Employee improperly obtains proprietary information from competitors, suppliers or other third parties, the Employee should treat that information as confidential and not use it for improper business purposes. In addition, the Employee should promptly report the situation to the Company's Legal Department in the manner described in Section XIV. Each Employee should endeavor to respect the rights of the Company's customers, suppliers, competitors and employees.

To maintain the Company's valuable reputation, compliance with our quality processes and safety requirements is essential. In the context of ethics, quality requires that our products and services be designed and manufactured to meet our obligations to customers. All inspection and testing documents must be handled with appropriate confidentiality restrictions and in accordance with all applicable regulations and Company procedures.

All commissions or fees paid or accrued, for agents or other representatives of the Company, shall be in accordance with sound business practice, for legitimate commercial reasons, and reasonably related in value to the services performed. Where there is reason to suspect that all or part of any commission or fee paid by the Company may be used for improper payments, the Employee in charge of such commission or fee must promptly report the matter to the Employee's immediate supervisor and the Company's Legal Department in the manner described in Section XIV.

The Company may only purchase products from reputable and qualified individuals or firms based upon appropriate commercial considerations. An Employee should also not give the impression to a third-party that he or she has the authority to legally bind the Company when he or she is not authorized to do so. All agreements with customers, suppliers and other third parties should be memorialized in writing. If oral agreements are the local custom in the country in which an Employee works, he or she should contact his or her supervisor or the Legal Department in the manner discussed in Section XIV to determine the appropriate course of action.

The purpose of business entertainment and gifts in a commercial setting is to create good will and sound working relationships, not to gain unfair advantage with customers or suppliers. No gift or entertainment should ever be offered, given, provided or accepted by any Company Employee, family member of an Employee living in the same household or agent unless it: (a) is consistent with customary business practices; (b) is not excessive in value; (c) cannot be construed as a bribe or payoff; and (d) does not violate any laws or regulations. A "gift" in the form of cash is prohibited. Employees should discuss with their supervisor and the Company's Legal Department any gifts or proposed gifts which they are not certain are appropriate.

Antitrust laws in the United States, the European Union and other countries in which the Company does business govern permissible dealings with Lear's competitors. Severe criminal and civil penalties may be imposed on the Company and Employees if an Employee authorizes or participates in a violation of applicable anti-competition laws. Therefore, it is important to understand and strictly comply with Company policies governing unethical and illegal anti-competitive practices. No Employee may reach a formal or informal understanding or agreement with a competitor to limit competition by setting price levels or terms or conditions of sale, limiting production or establishing joint procedures relating to distribution, sales territories or customers. As discussed above, no Employee may hire a competitor's employees to obtain confidential information. Certain arrangements that involve exclusive dealing, tie-in sales or other restrictive agreements with customers or suppliers and certain



communications with competitors that relate to pricing, production, customer information, product development, sales goals and certain other matters may violate the law as well. Employees are encouraged to contact the Company's Legal Department in the manner discussed in Section XIV with any questions or concerns regarding the nature or application of applicable anti-competition laws.

## **VII. Discrimination/Harassment/Anti-Retaliation**

The diversity of the Company's Employees is a tremendous asset. The Company's objective is to create and maintain an environment that fosters collaboration, interaction, tolerance and respect. We are firmly committed to providing equal opportunity in all aspects of employment and will not tolerate any illegal discrimination or harassment of any kind. Examples include derogatory comments based on race, gender or ethnicity and unwelcome sexual advances. The Company has a policy against harassment of Employees on the basis of race, gender, color, national origin, disability or sexual orientation. An Employee who makes a good faith report of discrimination, harassment or other unlawful treatment should not be concerned about action being taken against him or her because of the report. The Company will not tolerate retaliation of any kind against those who make complaints in good faith. Employees can find a copy of Lear's policies concerning discrimination, harassment and anti-retaliation on Lear's Intranet, or can obtain a copy from the Company's Corporate Human Resources Department or Legal Department.

## **VIII. Health and Safety**

The Company strives to provide each Employee with a safe and healthful work environment. Each Employee has responsibility for maintaining a safe and healthy workplace for all Employees by following safety and health rules and practices and reporting accidents, injuries and unsafe equipment, practices or conditions.

Violence or threatening behavior is not permitted under any circumstances in the workplace. Employees should report to work in condition to perform their duties, and must be free from the influence of illegal drugs and alcohol. The use of illegal drugs or the misuse of alcohol or legally prescribed drugs in the workplace will not be tolerated.

In addition, Employees are required to adhere to all other health and safety policies, including the prohibition of weapons on any of the Company's premises. Employees can find a copy of the Company's health and safety policies on Lear's Intranet, or can obtain a copy from the local human resources representative.

## **IX. Record-Keeping**

All of the Company's books, records, accounts and financial statements must be timely maintained in reasonable detail and must completely and accurately reflect the Company's assets, liabilities and transactions, conforming to applicable legal requirements and financial policies and procedures of the Company's internal controls systems. No transaction shall be carried out in a manner such that the substance of the transaction is obscured or recorded improperly.

Many Employees regularly submit business expense accounts, which must be documented and recorded accurately. If an Employee is not sure whether a certain expense is legitimate, the Employee should ask his or her supervisor or the local controller. Rules and guidelines are available from the Company's local accounting department.

If an Employee has any concerns with accounting or auditing matters, the Employee should report them to his or her supervisor or the local human resources representative. Where it may not be appropriate to discuss an issue with the supervisor or the local human resources representative, the Employee may contact the Company's Legal Department by telephone at (248) 447-1500 for further information. To the extent the matter has been reported to local management or the Company's Legal Department and remains unresolved, or it would be inappropriate to report such matter to local management or the Company's Legal Department, the Employee should report such matter to the Audit Committee pursuant to the compliance procedures contained in Section XIV of this Code.

Business records and communications often become public, and we should avoid exaggeration, derogatory remarks, guesswork, or improper characterizations of people, events and companies. This prohibition applies equally to e-mail, internal memoranda, formal reports as well as business letters. E-mail systems and information technology systems provided by the Company should be used only to advance the legitimate business purposes of the Company, although incidental personal use may be permitted. Records should always be retained or destroyed according to the Company's record retention policies. In no event

should records be destroyed that relate to an existing dispute or investigation, unless directed by the Company's Legal Department. Employees should consult the Company's Legal Department with any questions concerning the Company's record retention policies.

## **X. Confidentiality**

Employees must not disclose confidential information of the Company or confidential information provided to such Employee by the Company, except when disclosure is authorized by the Company's Legal Department or required by laws or regulations. Confidential information includes all non-public information that might be of use to competitors, or harmful to the Company or its customers or suppliers, if disclosed. Confidential information also may include information that a supplier or customer has entrusted to the Company. The obligation of an Employee to preserve confidential information continues after employment with the Company ends. Company personnel should not discuss internal Company matters or developments with anyone outside of the Company, except as required in the performance of their regular Company duties and in compliance with applicable laws and any confidentiality agreements to which the Company may be a party or otherwise subject.

This prohibition applies specifically (but not exclusively) to inquiries about the Company which may be made by the media, investment analysts or others. It is important that all such communications on behalf of the Company be made through an appropriately designated officer. Failure to follow the procedures set forth herein could result in severe penalties to both the Employee involved and the Company. Unless an Employee is expressly authorized to make a comment or respond, if an Employee receives any inquiries of this nature, the Employee should decline comment and refer the inquiry to the Company's Investor Relations and Communications Department, Lear Corporation, 21557 Telegraph Road, Southfield, Michigan 48034 or by telephone at (248) 447-1500.

## **XI. Protection and Proper Use of Company Assets**

All Employees should endeavor to protect the Company's assets and ensure their efficient use. Furthermore, Company assets should be used for legitimate business purposes, although incidental personal use may be permitted. In addition, the use of Company assets may be permitted pursuant to any duly-authorized compensatory plan or arrangement or under circumstances where the Company is reimbursed. It is important to remember that theft, carelessness, and waste of the Company's assets have a direct impact on the Company's profitability. Accordingly, any suspected incident of fraud, theft or misuse should be immediately reported for investigation in the manner described in Section XIV.

The obligation of Employees to protect the Company's assets includes its proprietary information. Proprietary information includes intellectual property such as trade secrets, patents, trademarks, copyrights and know how, as well as business, sales, marketing and service plans, engineering and manufacturing ideas and practices, designs, databases, records, salary and other compensation/benefit information and any unpublished financial data and reports. Unauthorized use or distribution of the Company's proprietary information is prohibited. Unauthorized use or distribution of the Company's proprietary information could also be illegal and may result in the imposition of civil or criminal penalties.

## **XII. Operating in the International Community**

Lear is an international company with relationships in many countries around the world. Lear is committed to maintaining high standards of business conduct in the United States and abroad. If an Employee conducts business outside the United States, it is important that the Employee have a general understanding of the laws and regulations that may be relevant to the business he or she is conducting on behalf of the Company. Any questions in this regard should be directed to the Company's Legal Department in the manner described in Section XIV.

The U.S. Foreign Corrupt Practices Act prohibits giving anything of value, directly or indirectly, to officials of foreign governments or foreign political candidates in order to obtain or retain business. Lear strictly prohibits the making of illegal payments to government officials of any country.

In addition, the U.S. government has a number of laws and regulations regarding business gratuities to U.S. government personnel. The promise, offer or delivery to an official or employee of the U.S. government of a gift, favor or other gratuity in violation of these rules would not only violate Company policy but may also be a criminal offense. State and local governments, as well as foreign governments, may have similar rules. If requested, the Company's Legal Department can provide guidance to Employees in this area.

Any activity that involves exporting commodities or transmitting technical data or software to another country may require a validated export license. An “export” is defined as any method of conveying products or data to foreign individuals or companies, verbally or in writing, including sales, training and consulting, and product promotion, even if the activities occur in the U.S. Regardless of the country in which you are working, United States Export Control Regulations apply to the following:

- ? Direct exports from the United States;
- ? Re-exports of certain U.S.-origin commodities and technical data from countries outside the U.S. to third countries;
- ? U.S.-origin parts and components used in the manufacture of a non-U.S. end-product for export or re-export; and
- ? Non-U.S.-produced direct products that result from U.S.-origin technical data.

A validated license may be needed even if a commodity is freely available in the United States or if technical data or software is not proprietary.

In addition, various embargo laws and U.S. Department of Treasury regulations place restrictions on trading with Burma (Myanmar), Cuba, North Korea, Iran, Iraq, Sudan, Syria, and certain other countries, as well as individuals and entities listed on the Specially Designated Nationals List. The European Union also has similar regulations. These regulations and their application to foreign subsidiaries vary, depending on the entity involved and the type of transaction. Their application is not limited to high technology trade but can extend to all types of transactions with listed countries, entities, and individuals.

If an Employee becomes aware of possible violations of applicable export control or embargo laws, or has a concern regarding a particular country, individual, or organization with which the Company is conducting business, he or she should seek advice from the Legal Department in the manner discussed in Section XIV.

### **XIII. Waivers of the Code of Business Conduct and Ethics**

A waiver of this Code for executive officers or directors may be made only by the Board or a Board committee acting on behalf of the Board and will be promptly disclosed to the extent required by law and the listing requirements of the New York Stock Exchange. A waiver of this Code for all other Employees may be made only by the Company’s Legal Department.

### **XIV. Reporting any Illegal or Unethical Behavior or Accounting or Auditing Concerns**

Employees are encouraged to talk to supervisors, managers or other appropriate personnel about observed illegal, unethical or inappropriate behavior or accounting or auditing concerns, and when in doubt about the best course of action in a particular situation. It is the policy of the Company not to allow retaliation for reports of misconduct by others or of accounting or auditing concerns, in each case, made in good faith by Employees. Employees are expected to cooperate in internal investigations of misconduct. If an Employee observes or becomes aware of what he or she believes to be illegal, unethical or inappropriate behavior or has accounting or auditing concerns, the Employee should report the behavior (1) to his or her local supervisor, (2) to his or her local human resources representative or, (3) if the Employee feels it would be inappropriate to discuss the matter with the local supervisor or local human resources representative, to the Company’s Legal Department as follows: by telephone, requesting the General Counsel, at (248) 447-1500; by mail, c/o Lear Corporation, 21557 Telegraph Road, Southfield, Michigan 48034, Attention: General Counsel; or pursuant to any other procedures that may be posted from time to time on the Legal Department’s website at <http://learnet.lear.com/divisions/hq/legal>.

If an Employee feels it would be inappropriate to discuss the matter with the Company’s Legal Department or the matter has been reported to the Company’s Legal Department and remains unresolved, the Employee may report such concerns directly to the Audit Committee or the presiding non-management director of the Board selected in accordance with the Company’s Corporate Governance Guidelines (the “Presiding Director”) Any submission to the Audit Committee or the Presiding Director should be marked confidential and addressed to the Chairman of the Audit Committee or the Presiding Director, as the case may be, c/o Lear Corporation, P.O. Box 604, Southfield, Michigan 48037, U.S.A.

### **XV. Compliance Procedures**

We must all work to ensure prompt and consistent action against violations of this Code. However, in some situations it is difficult to determine if an action will result, or has resulted, in a violation of this Code. Since we cannot anticipate every situation that will arise, it is important that we have a way to address the applicability of this Code to particular situations. These are the steps for Employees to keep in mind:

- Ask yourself: What specifically am I being asked to do? Does it seem unethical or improper? This will enable you to focus on the specific question you are faced with, and the alternatives you have. Use good judgment and common sense. If something seems unethical or improper, it probably is.
- Clarify your responsibility and role. In most situations, there is shared responsibility. Are your colleagues informed? It may help to get others involved and discuss the problem or situation.
- Discuss the problem with your supervisor or your local human resources representative. This is the basic guidance for all situations. In many cases, your supervisor or your local human resources representative will be more knowledgeable about the situation and circumstances. Remember that it is the responsibility of your supervisor and your local human resources representative to help solve problems.
- When to report matters to the Company's Legal Department. In the case where it may not be appropriate to discuss an issue with your supervisor or your local human resources representative, or where this Code requires the approval of the Company's Legal Department, you may report the matter to the Company's Legal Department. Any report to the Company's Legal Department should be made to the General Counsel of Lear Corporation. The telephone number to contact the General Counsel is (248) 447-1500.
- Seek help from the Company's Audit Committee or the Presiding Director. In the case where (i) the matter has been reported to your supervisor or your local human resources representative and the Company's Legal Department and remains unresolved or (ii) it would be inappropriate to report such matter to either your supervisor or your local human resources representative or the Company's Legal Department or (iii) your concern involves accounting or auditing matters, you may communicate your concerns confidentially to the Audit Committee or the Presiding Director (if a Presiding Director has been selected). Any submissions to the Audit Committee or the Presiding Director should be marked confidential and addressed to Chairman of the Audit Committee or the Presiding Director, as the case may be, c/o Lear Corporation, P.O. Box 604, Southfield, MI 48037, U.S.A. In addition, confidential communications may be submitted in accordance with other procedures set forth from time to time on the Company's website. The report should contain a full and complete description of the matter, the parties involved, the date of the occurrence or, if the matter is ongoing, the date the matter was initiated and any other information that you believe would assist the Audit Committee or the Presiding Director in the investigation of such matter.
- You may report violations of this Code or accounting or auditing concerns without fear of retaliation. All submissions to the Company's Legal Department, the Audit Committee or the Presiding Director will be handled in a responsible manner and in compliance with applicable law. The Company does not permit retaliation of any kind against Employees for good faith reports of violations of this Code or accounting or auditing concerns.
- Always ask first, act later. If you are unsure of what to do in any situation, seek guidance before you act.

## **XVI. Specific Provisions for Executive Officers**

The Board has adopted certain specific provisions in this Section XVI (the "Specific Provisions") that apply to the Company's executive officers who are designated as such by the Board for purposes of Section 16 of the Securities Exchange Act of 1934, as amended (each, an "Officer", and collectively, the "Officers"). The Specific Provisions are designed to deter wrongdoing and to promote (i) honest and ethical conduct, (ii) full, fair, accurate, timely and understandable disclosure in the

Company's filings with, or submissions to, the Securities and Exchange Commission ("SEC") and in other public communications made by the Company, (iii) compliance with applicable governmental laws, rules and regulations, (iv) prompt internal reporting to the Board or any Board committee overseeing the Specific Provisions or violations of the Specific Provisions (the "Board Committee") and (v) accountability for adherence to the Specific Provisions.

Each Officer is expected to act with uncompromising honesty and integrity. Each Officer is required to adhere to the highest standards regardless of local custom. An Officer is expected to be honest and ethical in dealing with all Employees of the Company and the Company's customers, suppliers and other third parties with whom the Company conducts business. The actions of an Officer must be free from illegal behavior. Each Officer is expected to avoid engaging in activities that conflict with, or have the appearance of conflicting with, the best interests of the Company and its stockholders. Any personal activities or interests of an Officer that could negatively influence, or which could have the appearance of negatively influencing, the judgment, decisions or actions of such Officer must be disclosed to the Board or the Board Committee, who will determine if there is a conflict and, if so, how to resolve it without compromising the best interests of the Company and its stockholders. Prompt and full disclosure is always the correct first step towards identifying and resolving any potential conflict of interest. A conflict involving an Officer will be reviewed by the Board or the Board Committee; provided, that any conflict involving the Chief Executive Officer will be reviewed by the Board.

Each Officer shall endeavor to ensure full, fair, accurate, timely and understandable disclosure in reports and documents that the Company files with, or submits to, the SEC and in other public communications made by the Company. Each Officer shall review each SEC periodic report and material press release prior to the time it is filed, furnished or issued to the SEC or made public, as applicable. Any material inaccuracy or misstatement in, or the omission of any information necessary to make the statements made not misleading from, any SEC filing or press release shall be immediately disclosed to the Board and, if applicable, the Company's auditors and legal advisors.

Each Officer shall comply with applicable governmental laws, rules and regulations.

If an Officer becomes aware of a violation of the Specific Provisions, such Officer should report the matter immediately to the Board or the Board Committee. It is the policy of the Company not to allow retaliation for violation allegations made in good faith by Employees of the Company. Officers are expected to cooperate in investigations concerning allegations of violations of the Specific Provisions.

Any waiver of the Specific Provisions may be made only by the Board or the Board Committee. The Board or the Board Committee will promptly disclose waivers of the Specific Provisions to the extent required by applicable law, including the rules and regulations promulgated by the SEC.

Any Officer who violates the Specific Provisions will be subject to disciplinary action up to and including dismissal. If an Officer is in a situation which he or she believes may violate or lead to a violation of the Specific Provisions, such Officer should contact a member of the Board or the Board Committee as soon as possible.

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**Effective November 10, 2005**