

# Lear Corporation Purchase Order Terms and Conditions For Goods, Tooling and Equipment

**September 1, 2002 Version**

1. **Offer, Acceptance and Notification** - This order is an offer to Seller by Purchaser to enter into the agreement it describes and it shall be the complete and exclusive statement of such agreement. Seller shall accept the offer in writing or by beginning work hereunder. Acceptance is expressly limited to the terms of Purchaser's offer. Any additions or modifications proposed by Seller are expressly rejected by Purchaser and are not part of the agreement in the absence of an agreement in writing signed by an authorized representative of Purchaser.
2. **Delivery Schedules** - Deliveries shall be made both in quantities and at times specified herein or on written fabrication and shipping releases, which shall be furnished by Purchaser. Time and quantity of delivery are of the essence of this order. Seller shall adhere to shipping directions specified on Purchaser's releases. Purchaser shall not be required to make payment for goods delivered to Purchaser which are in excess of quantities specified in Purchaser's delivery schedules. Purchaser may change the rate of scheduled shipments or direct temporary suspension of scheduled shipments, neither of which shall entitle Seller to a modification of the price of goods or services covered by this order.
3. **Premium Shipments** - Premium shipping expenses and/or other related expenses necessary to meet delivery schedules shall be Seller's sole responsibility.
4. **Risk of Loss** - Notwithstanding any agreement concerning payment of freight expenses, delivery shall not have occurred and the risk of loss shall not have shifted to Purchaser until the goods or tooling or equipment have been delivered to Purchaser's applicable facility and have been accepted at that facility.
5. **Insolvency** - Purchaser may immediately terminate this order without liability to Seller in the event of the happening of any of the following or any other similar or comparable event: (i) insolvency of Seller; (ii) filing of a voluntary petition in bankruptcy by Seller; (iii) filing of an involuntary petition in bankruptcy against Seller; (iv) appointment of a receiver or trustee for Seller; (v) or execution of an assignment for the benefit of creditors of Seller, provided that such petition, appointment or assignment if made or filed involuntarily against Seller is not vacated or nullified within fifteen (15) days of such event.
6. **Termination For Breach** - Purchaser reserves the right to terminate all or any part of this order, without liability to Seller if Seller: (i) repudiates, breaches or

threatens to breach any of the terms of this order including Seller's warranties; (ii) fails to perform services or deliver goods as specified by Purchaser; or (iii) fails to make progress so as to endanger timely and proper completion of services or delivery of goods; and does not correct such failure within ten (10) days (or such shorter period of time as is commercially reasonable under the circumstances) after receipt of written notice from Purchaser specifying such failure or breach or if Purchaser terminates for breach any other purchase order issued by Purchaser to Seller in accordance with the terms of such other purchase order (whether or not such other purchase order is related to this order).

**7. Termination for Convenience -**

- A. In addition to any other rights of Purchaser to terminate this order, Purchaser may at its option, immediately terminate all or any part of this order at any time and for any reason by giving written notice to Seller.
- B. Upon receipt of notice of termination pursuant to this Section, Seller, unless otherwise directed in writing by Purchaser, shall (i) terminate immediately all work under this order; (ii) transfer title and deliver to Purchaser the finished work, the work-in-process, and the parts and materials which Seller produced or acquired in accordance with this order and which Seller cannot use in producing goods for itself or for others; (iii) settle all claims by subcontractors approved by Purchaser hereunder, if any, for reasonable actual costs that are rendered unrecoverable by such termination; (iv) take actions reasonably necessary to protect property in Seller's possession in which Purchaser has an interest and (v) upon Purchaser's request, cooperate with Purchaser in effecting the resourcing of Seller's goods and/or services covered by this order to a different supplier designated by Purchaser.
- C. Upon termination by Purchaser under this Section, Purchaser shall pay to Seller the following amounts without duplication: (i) the purchase order price for all finished work and completed services which conform to the requirements of this order and not previously paid for; (ii) Seller's reasonable actual cost of the work-in-process and parts and materials transferred to Purchaser in accordance with subsection (B) (ii) hereof; (iii) Seller's reasonable actual cost of settling the claims of the obligation Seller would have had to the subcontractors in the absence of termination, and (iv) Seller's reasonable actual cost of carrying out its obligations under subsection (B)(iv) and (v) Purchaser shall not be liable for and shall not be required to make payments to Seller, directly or on account of claims by Seller's subcontractors, for any other alleged losses or costs, whether denominated as loss of anticipated profit, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs or rental, unamortized depreciation costs,

general and administrative burden charges resulting from termination of this order or otherwise. Notwithstanding anything herein to the contrary, Purchaser's obligation to Seller upon termination under this Section shall not exceed the obligation Purchaser would have had to Seller in the absence of termination.

- D. Within twenty (20) days after the effective date of termination under this Section, Seller shall furnish to Purchaser its termination claim, together with all supporting data which shall consist exclusively of the items of Purchaser's obligation to Seller that are listed in subsection (C). Purchaser may audit Seller's records before or after payment to verify amounts requested in Seller's termination claim.
8. **Assignment** - Seller shall not assign or delegate any of its substantive duties or performance under this order without the prior written consent of Purchaser. Any sale or other transfer of stock or other securities of Seller that would result in a change in control of Seller, shall be deemed an assignment under this order. Seller may assign its claims for money under this order but Purchaser shall not be required to pay the assignee until Purchaser receives written notice of the assignment, a true copy of the assignment and a release from Seller. Any such assignment shall not prohibit Purchaser from enforcing its rights against Seller or the assignee. Purchaser may freely assign to any third party its rights and obligations under this order.
9. **Changes** - Purchaser reserves the right at any time to direct changes, or cause Seller to make changes, to the design (including drawings and specifications) processing, methods of packing and shipping and the date or place of delivery of the goods covered by this order or to otherwise change the scope of the work covered by this order including work with respect to such matters as inspection, testing or quality control, and Seller agrees to promptly make such changes. Seller shall not make any change in this order without the written approval of Purchaser. Any such changes shall be deemed not to affect the time for performance or cost unless Seller notifies Purchaser in writing within ten (10) days of receipt by Seller of notice of any change order. Seller shall not make any change in this order without the written approval of Purchaser. Seller shall consider and advise Purchaser of the impact of a design change on the system in which the product covered by this order is used. Nothing in this Section 9 shall excuse Seller from proceeding with the order as changed.

Without Purchaser's prior written approval, Seller shall not change (i) any third party supplier to Seller of services, raw materials or goods used by Seller in connection with its performance under this order, (ii) the facility from which Seller or such supplier operates, or (iii) the nature, type or quality of any services, raw materials or goods used by Seller or its suppliers in connection with this order.

10. **Bailed Property-**

- A. All supplies, materials, molds, machinery, equipment patterns, tools, dies, jigs, fixtures, blueprints, designs, specifications, drawings, photographic negatives and positives, art work, copy layout, consigned material for production or repair and other items furnished by Purchaser, either directly or indirectly, to Seller to perform this order, or for which Seller has been reimbursed by Purchaser (collectively, "Bailed Property"), shall be and remain the property of Purchaser and be held by Seller on a bailment basis. Seller shall bear the risk of loss of and damage to the Bailed Property and Seller at its own expense shall keep such Bailed Property insured for the benefit of Purchaser. The Bailed Property shall at all times be properly housed and maintained by Seller; shall not be used by Seller for any purpose other than the performance of this order; shall be deemed to be personalty; shall be conspicuously marked by the Seller to identify it as the property of the Purchaser and indicate the Purchaser's name; 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 Purchaser's prior written approval. Seller, at its expense, shall maintain, repair and refurbish Bailed Property in first class condition. 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.
- B. Seller agrees that Purchaser has the right, at any time, with or without reason and without payment of any kind to retake possession of or request return of any or all Bailed Property. Upon the request of Purchaser, the Bailed Property shall be immediately released to Purchaser or delivered to Purchaser by Seller, either (i) F.O.B. transport equipment at Seller's plant, properly packaged and marked in accordance with the requirements of the carrier selected by Purchaser to transport such property, or (ii) to any location designated by Purchaser, in which event Purchaser shall pay to Seller the reasonable cost of delivering such Bailed Property to such location. 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. When permitted by law, Seller waives any lien or other rights that Seller might otherwise have on any of the Bailed Property for work performed on such property or otherwise.
- C. Seller acknowledges and agrees that (i) Seller has inspected the Bailed Property and is satisfied that the Bailed Property is suitable and fit for its purposes, and (ii) PURCHASER HAS NOT MADE AND DOES NOT MAKE ANY WARRANTY OR REPRESENTATION 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, the use or maintenance thereof, or the repair, service or adjustment thereof, or by any interruption of service or for any loss of business whatsoever or howsoever caused, including, without limitation any loss of anticipatory damages, profits or any other indirect, special or consequential damages.

11. **Seller's Property** - Seller hereby grants Purchaser an irrevocable option to purchase, free and clear of all liens, claims and other encumbrances, any or all of Seller's supplies, materials, molds, machinery, equipment, patterns, tools, dies, jigs, fixtures, blueprints, designs, specifications, drawings, photographic negatives and positives, art work, copy layout and other items necessary for the production of the products under this order (collectively, "Seller's Property") that are specially designed or configured for manufacture or assembly of products under this order upon Purchaser's payment of the unamortized portion of the cost of such items 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's customer(s) from third parties unless, at Purchaser's election upon exercise of the option, Seller assigns to Purchaser and Purchaser assumes Seller's obligation to produce such products for Seller's other customers using those items of Seller's Property during the period subsequent to the sale of the Seller's Property to Purchaser. Seller shall cooperate with Purchaser's reasonable requests for information regarding any such obligation to Seller's other customer(s) and to effect such assignment and assumption. Purchaser's right to exercise the option under this Section 11 is not conditioned on a breach by Seller or Purchaser's termination of this order.
12. **Inspection** - Purchaser shall have the right to enter Seller's facility at reasonable times to inspect the facility, goods, materials and any property of Purchaser covered by this order. Purchaser's inspection of the goods, whether during manufacture, prior to delivery or within a reasonable time after delivery, shall not constitute acceptance of any work-in-process or finished goods.
13. **Subcontracted Product** - Seller shall not subcontract any of its duties under this order without Purchaser's prior written approval. Purchaser or Purchaser's representative shall be afforded the right to verify at any subcontractor's premises and Seller's premises that subcontracted product conforms to specified requirements. Such verification shall not be used by Seller as evidence of effective control by Purchaser of quality by the subcontractor. Verification by

Purchaser shall not absolve Seller of the responsibility to provide acceptable product nor shall it preclude subsequent rejection by Purchaser. Notwithstanding the foregoing, Seller remains fully liable for any work subcontracted.

If Purchaser approves Seller's subcontracting of any of the work under this order, Seller will ensure that the subcontractor agrees to be bound by the terms and conditions of this order.

14. **Nonconforming Goods** - Purchaser, at its option, may reject and return at Seller's risk and expense, or retain and correct, goods received pursuant to this order that fail to conform to the requirements of this order even if the nonconformity does not become apparent to Purchaser until the manufacturing or processing stage. To the extent Purchaser rejects goods as nonconforming, the quantities under this order will not be reduced by the quantity of nonconforming goods unless Purchaser otherwise notifies Seller in writing. Seller will replace nonconforming goods with conforming goods unless otherwise notified in writing by Purchaser. Nonconforming goods will be held by Purchaser for disposition in accordance with Seller's written instructions at Seller's risk. Seller's failure to provide written instructions within ten (10) days (or such shorter period as may be commercially reasonable under the circumstances) after notice of nonconformity shall entitle Purchaser, at Purchaser's option, to charge Seller for storage and handling, or to dispose of the goods without liability to Seller. Seller shall reimburse Purchaser for (a) any amounts paid by Purchaser on account of the purchase price of any returned nonconforming goods, and (b) any costs incurred by Purchaser in connection with the nonconforming goods, including, but not limited to inspection, sorting, testing, evaluations, storage or rework, within ten (10) days after a debit memo for the costs has been issued by Purchaser. Payment by Purchaser for nonconforming goods shall not constitute an acceptance hereof, limit or impair Purchaser's right to assert any legal or equitable remedy, or relieve Seller's responsibility for latent defects.
15. **Warranty-**
  - A. Seller expressly warrants that all goods and services covered by this order will conform to the specifications, drawings, samples or descriptions furnished to or by Purchaser and/or U.S. industry standards, and all laws and regulations in force in countries where products or vehicles equipped with such products are to be sold and will be merchantable, of good material and workmanship and free from defects. In addition, Seller acknowledges that Seller knows of Purchaser's intended use and expressly warrants that all goods covered by this order which have been selected, designed, manufactured or assembled by Seller, based upon Purchaser's intended use, will be fit and sufficient for the particular purpose intended by Purchaser.

Such warranty will be effective for the longer of (i) the period provided by applicable law, or (ii) the warranty period provided by Purchaser to its customers; provided, however, in the case of any recall campaign or other customer satisfaction or corrective service action undertaken by Purchaser or its customers, the warranty shall continue for such time period as may be dictated by Purchaser's customer or the federal, state, local or foreign government where the goods are used or the services provided.

- B. The warranty period for non-production goods shall be the longer of one (1) year after final acceptance by Purchaser or the period stated in Seller's sales materials.

**16. Indemnification-**

- A. Seller hereby covenants and agrees to indemnify and hold Purchaser, its directors, officers and employees harmless from any claims, liabilities, damages (including special, consequential, punitive and exemplary damages), costs and expenses (including reasonable attorney fees) incurred in connection with any claims (including lawsuits, administrative claims, regulatory actions and other proceedings to recover for personal injury or death, property damage or economic losses) that are related in any way to or arise in any way from Seller's representations, performance of obligations under this order, including claims based on Seller's breach or alleged breach of warranty (whether or not Seller's goods or services have been incorporated into Purchaser's products and/or resold by Purchaser), and claims for any violation of any applicable law, ordinance or regulation or government authorization or order. Seller's obligation to indemnify under this Section will apply regardless of whether the claim arises in tort, negligence, contract, warranty, strict liability or otherwise, except to the extent of any such liability arising out of the sole negligence of Purchaser.
- B. 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 Purchaser, its directors, officers and employees harmless from and against any liabilities, claims, demands or expenses (including reasonable attorney fees) for damages to the property of or injuries (including death) to Purchaser, 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 out of the sole negligence of Purchaser.



17. **Insurance** - Seller shall obtain and maintain at its sole expense insurance coverage as reasonably requested by Purchaser with such insurance carriers and in such amounts as are reasonably acceptable to Purchaser. Seller shall furnish to Purchaser certificates of insurance setting forth the amount of coverage, policy number and date(s) of expiration for insurance maintained by Seller and such certificates must provide that Purchaser shall receive thirty (30) days prior written notification from the insurer of any termination or reduction in the amount or scope of coverages.
18. **Compliance** - Seller agrees to comply with all federal, state, local and foreign laws, Executive Orders, rules, regulations and ordinances which may be applicable to Seller's performance of its obligations under this order, and this order shall be deemed to incorporate by reference all the clauses required by the provisions of said laws, orders, rules, regulations and ordinances. All purchased materials used in part manufacture shall satisfy current governmental and safety constraints on restricted, toxic and hazardous materials as well as environmental, electrical and electromagnetic considerations applicable to the country of manufacture and sale. All suppliers must be in compliance with QS9000, Section I or its successor.
19. **Production Part Approval Requirements** - With respect to orders for production parts, Seller agrees to meet the full requirements identified in the industry production part approval process manual and agrees to present this information and data relating thereto to Purchaser upon request, regardless of the authorized submission level at Level No. 3 unless otherwise authorized in writing by Purchaser
20. **Parts Identification** - All goods supplied pursuant to this order which shall be construed as a completed part shall permanently bear the Purchaser's part number and name or code name, Seller's name or code name, and date of manufacture by Seller.
21. **Shipping** -
  - A. Seller agrees (i) to properly pack, mark and ship goods in accordance with the requirements of Purchaser and the involved carrier in a manner to secure the lowest transportation cost; (ii) to route shipment in accordance with Purchaser's instructions; (iii) to make no charge for handling, packaging, storage, transportation (including duties, taxes, fees, etc.) or drayage of goods unless otherwise stated in this order; (iv) to provide with each shipment papers showing the order number, amendment or release 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 vendor number and the bill of lading number; and (v) to promptly forward the original bill of lading or other shipment



receipt for each shipment in accordance with Purchaser's instructions and carrier requirements. The marks on each package and identification of the goods on packing slips, bills of lading and invoices shall be sufficient to enable Purchaser to easily identify the goods purchased.

- B. For goods that may contain potentially hazardous and/or restricted materials, if requested by Purchaser, Seller shall promptly furnish to Purchaser in whatever form and detail Purchaser requests (i) a list of all potentially hazardous ingredients in the goods, (ii) the quantity of one or more such ingredients, and (iii) information concerning any changes in or additions to such ingredients. Before shipping the goods, Seller agrees to furnish to Purchaser sufficient warning and notice in writing (including appropriate labels on the goods, containers and packing) of any hazardous material that is an ingredient or a part of any of the goods, 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 or property damage in the handling, transportation, processing, use or disposal of the goods, containers and packing shipped to Purchaser. Seller shall comply with all applicable federal, state, local and foreign laws and regulations pertaining to product and warning labels. If products are shipped by Seller 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."
22. **Customs Drawback Documents** - Upon Purchaser's request, Sellers located outside the United States of America shall furnish promptly all documents required for customs drawback purposes, properly completed in accordance with government regulations applicable thereto. Unless otherwise stated herein, all customs drawback will be credited to the Purchaser.
23. **Invoices** - All invoices and/or advanced shipping notices ("ASN") for material shipped pursuant to this order must reference the order number, amendment or release 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 number, and bill of lading number, before any payment will be made for material by Purchaser. Purchaser reserves the right to return all invoices or related documents submitted incorrectly, and payment terms will be determined as of the date of the latest correct invoice or ASN received.
24. **Setoff** - In addition to any right of setoff or recoupment provided by law, all amounts due Seller, or its subsidiaries or affiliates shall be considered net of indebtedness or obligations of Seller, or its subsidiaries or affiliates to Purchaser or its subsidiaries or affiliates, and Purchaser or its subsidiaries or affiliates may

setoff against or recoup from any amounts due or to become due from Seller, or its subsidiaries or affiliates to Purchaser or its subsidiaries or affiliates however and whenever arising.

An "affiliate" of a party means any other company which controls, is controlled by, or is under common control with such party. For purposes of this definition, the term "control" means the ownership, directly or indirectly, of twenty percent (20%) or more of the capital or equity of a company or the ability, by voting securities, contract or otherwise, to elect a majority of the board of directors or other governing body of such company.

If an obligation of Seller or its subsidiaries or affiliates to Purchaser is disputed, contingent or unliquidated, Purchaser may defer payment of the amount due until such obligation is resolved.

**25. Applicable Law - Arbitration -**

- A. This order shall be governed by the internal laws of the State of Michigan without regard to an applicable conflict of laws provisions. The United Nations Convention on the International Sale of Goods is expressly excluded.
- B. All disputes arising under or in connection with this order shall be finally settled by arbitration in Detroit, Michigan, before a single arbitrator appointed by the American Arbitration Association ("AAA") which arbitration shall be conducted under AAA's commercial arbitration rules then in effect at the time of this order provided, however, that discovery shall be permitted in accordance with the United States Federal Rules of Civil Procedure. The decision of the arbitrator shall be final and binding upon Purchaser and Seller, shall not be appealable, and judgment on the award rendered may be entered in any court of competent jurisdiction. Each party will bear equally the costs and expenses of AAA and of the arbitrator. Each party will bear its own costs and expenses. Notwithstanding the foregoing, Purchaser shall have the right to seek equitable relief from any court of competent jurisdiction.

- 26. North American Free Trade Agreement Provisions** - Upon acceptance of this order, Seller is obligated to provide the Purchaser with NAFTA Certificates of Origin for all Components and Raw Material supplied for the duration of this order. The NAFTA Certificates of Origin must include the Purchaser's plant location as supplied. Completed NAFTA Certificates of Origin must be submitted by Seller to the Purchaser's Purchasing Department, ATTN: NAFTA Coordinator.

27. **Sales Tax Exemption** - Purchaser hereby certifies that materials and services purchased under this order and identified as industrial processing are eligible for state and federal sales tax exemption under the Federal tax payer identification number indicated on the face of this order.
28. **Proprietary Rights** -
- A. If Purchaser furnished or supplied Seller with any designs, drawings, specifications, blueprints or other materials which contain proprietary information, Seller shall not disclose or use for the benefit of Seller or others such designs, drawings, specifications, blueprints or other material including any copies thereof, except with the written approval of Purchaser.
- B. Seller agrees: (i) to defend, hold harmless and indemnify Purchaser and its customers against all claims, demands, losses, suits, damages, liability and expenses (including reasonable attorneys fees) arising out of any suit, claim or action for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark, copyright or industrial design right or other proprietary right by reason of the manufacture, use or sale of the goods or services ordered, including infringement arising out of compliance with specifications furnished by Purchaser or for actual or alleged misuse or misappropriation of a trade secret resulting directly or indirectly from Seller's actions; (ii) to waive any claim against Purchaser and its customers, including any hold-harmless or similar claim, in any way related to a claim asserted against Seller or Purchaser for infringement of any patent, trademark, copyright or industrial design right or other proprietary right, including claims arising out of compliance with specifications furnished by Purchaser; and (iii) to grant to Purchaser a worldwide, nonexclusive royalty-free, paid-up irrevocable license with the right to grant sublicenses to affiliates, to repair and have repaired, to reconstruct and have reconstructed, to make or have made the goods ordered hereunder. Seller hereby assigns to Purchaser all right, title and interest in and to all inventions, trademarks, copyrights, industrial design rights and other proprietary rights in any material created for and paid for by Purchaser under this order. Technical information and data furnished to Purchaser in connection with this order are disclosed on a nonconfidential basis.
- C. All copyrightable works of original authorship (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 (collectively, "Deliverables") shall be original to Seller and shall not incorporate any intellectual property rights (including

copyright, patent, trade secret, mask work, or trademark rights) of any third party.

- D. AH Deliverables which are created in the course of performing this order (separately or as part of any products), and all intellectual property rights in Deliverables, are owned by Purchaser and not by Seller. Seller agrees that all works of original authorship created by Seller in connection with this Agreement are "works made for hire" as that term is used in connection with the U.S. Copyright Act. To the extent that, by operation of law, Seller owns any intellectual property rights in the Deliverables, Seller hereby assigns to Purchaser all rights, title and interest, including copyrights and patent rights, in such Deliverables.
- E. Seller grants to Purchaser an irrevocable, nonexclusive, worldwide license with the right to grant sublicenses to affiliates to any technical information, know how, copyrights and patents owned or controlled by Seller or its affiliates reasonably necessary for Purchaser to make, have made, use and sell any goods provided by Seller under this order. The license shall be effective from the first delivery of goods under this order. For a period of two (2) model years from Seller's first delivery of goods under this order, Purchaser shall pay to Seller a "reasonable royalty" for such license, which is acknowledged by Seller to be included in the price paid by Purchaser to Seller for the goods. In the event Purchaser sources the goods from a party other than Seller, Purchaser shall pay Seller a "reasonable royalty" for a period of two (2) model years from the date of Seller's first delivery of goods and thereafter, Purchaser's license shall be royalty free, fully paid up, permanent and irrevocable.
- F. Seller shall ensure that any subcontractors to Seller shall have contracts with Seller in writing consistent with the terms of this section.

29. **Advertising** - Seller shall not refer to Purchaser in advertising or public releases without Purchaser's prior written approval.

30. **Excusable Delay** -

- A. Subject to the provisions of subsection B below, Neither Purchaser nor Seller shall be liable for a failure to perform that arises from causes or events beyond its reasonable control and without its fault or negligence, including labor disputes of any kind, provided, however, that the party claiming the excusable delay must provide prompt notice of the delay after the event causing the delay has occurred. During the period of excusable delay or failure to perform by Seller, Purchaser at its option may purchase goods from other sources and reduce this order by such quantities without liability to Seller.

B. Seller shall take all actions deemed reasonably necessary by Seller to ensure that in the event of a labor disruption, strike or worker slowdown, an uninterrupted supply of goods will be available to Purchaser in an area that will not be affected by any such disruption for a period of at least thirty (30) days. If upon request of Purchaser, Seller fails to provide within ten (10) days (or such shorter period as Purchaser requires) adequate assurances that any excusable delay will not exceed thirty (30) days or if any excusable delay lasts longer than thirty (30) days, Purchaser may terminate this order without liability.

31. **Service and Replacement Parts** - Upon receipt of a release by Purchaser therefor, Seller will sell to Purchaser all goods necessary for Purchaser to fulfill Purchaser's and its customers' service and replacement parts requirements for its current model year at the then current production prices order plus any cost differential for packaging. If the goods are systems, modules or assemblies, Seller will sell the components or parts of such systems, modules 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 cost differential for packaging.

After the current model production of the vehicle involved, Seller will sell Purchaser goods necessary for Purchaser to fulfill Purchaser's and its customers' service and replacement parts requirements for past model years at the prices then specified in the last order for current model production plus any cost differential for packaging for the first three (3) years of past model service. For the following seven (7) years of past model service, the prices shall be as specified in the last order for current model production plus any cost differential for packaging and manufacturing. The prices for service and replacement parts after that ten (10) year period will be as negotiated by the Seller and Purchaser.

32. **Financial and Operational Condition of Seller** - Seller will permit Purchaser and its representatives to review Seller's books and records concerning compliance with this order and Seller's overall financial condition. 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 this order, Seller will reimburse Purchaser for all costs, including attorneys' and other professionals' fees, incurred by Purchaser in connection with such accommodation and will grant access to Purchaser to use Seller's premises, machinery, equipment and other property necessary for the production of goods covered by this order under an access agreement.

33. **Sourcing Limitations** - Unless Purchaser's order for goods to be delivered hereunder specifically provides that Seller shall produce one hundred percent (100%) of Purchaser's requirements for the goods, Purchaser shall have the right to obtain a portion of such goods from another third party source or from Purchaser's internal sources.
34. **Compliance with Equal Employment Opportunity** - To the extent that the services or goods provided under this agreement may be deemed to be necessary for the performance of a government contract, Seller agrees to comply with the EEO Clause in Section 202 of Executive Order 11246, as amended.
35. **Packaging** - All packaging must conform to Purchaser's standard packaging requirements, which can be found at [www.lear.com](http://www.lear.com), under Supplier Information.
36. **Supplemental Terms and Conditions for Tooling and Equipment**

All other provisions of this order shall apply to the purchase of tooling ("Tooling") and equipment ("Equipment") by Purchaser, except that in the event of an inconsistency between the other terms of this order and the provisions of this Section 36, this Section 36 shall control.

- A. **General.** Seller agrees to retain all cost records for Tooling and Equipment for a period of three (3) years after receiving final payment. All Tooling and Equipment are to be made to Purchaser's Tooling and Equipment Specifications Manual as amended from time to time (a copy of which is available from the manufacturing engineering department located at Purchaser's Technical Center). Any exceptions must be authorized by Purchaser in writing on this order or by letter from the Purchaser's applicable manufacturing engineer. Tooling Guidelines and Definitions are available on the Lear Corporation Web Site at [www.Lear.com](http://www.Lear.com) within the Supplier Information section.
- B. **Specifications.** Seller shall promptly inform Purchaser of any inconsistencies or ambiguities in Purchaser's specifications of which Seller is or becomes aware. After reviewing Purchaser's specifications, Seller must notify Purchaser of any questions that Seller has concerning whether the Tooling or Equipment that Seller is producing will meet Purchaser's needs. Seller shall provide Purchaser with a schedule for completion of the Tooling or Equipment so that Purchaser may monitor the ability and likelihood that Seller will meet its delivery requirements.
- C. **Inspection, Rejection and Payment**
  - 1.) Purchaser shall have the right to inspect and test all Tooling and Equipment at all times and places including, when practicable,

during manufacture. If any such inspection or test is made on Seller's premises, Seller shall furnish all reasonable facilities and assistance for a safe and convenient inspection or test without additional charge to Purchaser. Purchaser's inspection of the Tooling or Equipment, no matter when occurring, shall not be acceptance of any work-in process or Tooling or Equipment.

- 2.) Notwithstanding prior inspection, payment for, or use of the Tooling or Equipment, Purchaser shall have the right to reject any of such Tooling or Equipment which does not conform to the requirements of this order.
- 3.) No payment of funds for Tooling or Equipment shall be made by Purchaser until Seller transfers title to Purchaser to the Tooling or Equipment free and clear of all liens, claims or other encumbrances and completes all related services, or provides adequate assurance of continued performance in such form as requested by Purchaser.
- 4.) Seller agrees that Purchaser has the right to conduct an audit of Seller's expenditures, costs and expenses pursuant to Lear's Tooling Audit Guidelines as amended from time to time which are hereby incorporated herein and payment shall occur after Purchaser determines the final cost.

D. Acceptance. For purposes of this order, acceptance of Tooling and Equipment shall be defined as receipt by Seller of written acknowledgement from Purchaser's authorized representative of compliance of Tooling and Equipment with all manufacturing specifications, including "run at rate", in a production environment at Purchaser's facility. Purchaser's manufacturing specifications are hereby incorporated herein. If so requested by Purchaser, Seller shall provide a pre-acceptance run-off to Purchaser at Seller's facility, at no cost to Purchaser.

E. Warranty.

- 1.) Seller fully warrants all Tooling and Equipment purchased pursuant to this order will, for a minimum period of one (1) year following the date of acceptance of such Tooling or Equipment, conform to the applicable drawings, specifications and other descriptions furnished pursuant to this order, and all applicable laws and regulations, be free of defects in design (to the extent that Seller furnished the design), materials and workmanship, and be suitable for the purpose intended. Seller's responsibility under this warranty shall include without limitation, all parts, labor and transportation costs in



the event the Tooling and/or Equipment must be returned to Seller for repair or replacement. Furthermore, Seller shall require its suppliers of component parts of goods and/or equipment for Tooling or Equipment purchased pursuant hereto to provide a warranty equal to the warranties provided to Purchaser by Seller in this order and shall assign to Purchaser all such warranties. Seller shall provide all necessary documentation to Purchaser to evidence that it has assigned such warranties from its suppliers onto the Purchaser. In the event that Seller fails to obtain or assign such warranties, Seller agrees that it will reimburse Purchaser for all loss, cost, liability or expense (including reasonable attorneys' fees) related to such failure.

- 2.) Seller warrants that it will, whenever possible, use commercially available purchase parts of the highest industry quality, and will supply a detailed bill of materials listing all parts. Seller further agrees that it will comply with all specific product sourcing directions of Purchaser.
- 3.) Seller also will offer Purchaser an extended warranty on the Equipment on commercially reasonable terms. Seller will inform Purchaser in writing of the terms of the extended warranty prior to delivery of the Equipment to Purchaser. Purchaser shall have the option to purchase the extended warranty until sixty (60) days after acceptance of the Tooling and/or Equipment.
- 4.) Seller warrants that all Equipment supplied to Purchaser shall be equipped with approved or appropriate fail safe safeguarding systems.

F. Installation - Seller agrees that without further charge it shall assist Purchaser in the installation of any Tooling or Equipment purchased under this order. Purchaser and Seller shall agree in writing on the schedule for such installation and the roles of each party in the installation process.

G. Preventative Maintenance

- 1.) Seller agrees to provide Purchaser with a complete and comprehensive preventative maintenance plan for Equipment which also includes proper machine safeguarding systems prior to final acceptance at the Purchaser's facility. The preventative maintenance plan shall include, but not be limited to, one complete set of maintenance and operating manuals for all equipment and systems purchased by Purchaser (including one in a foreign language, if required by Purchaser), as well as a detailed bill of

material.

- 2.) Seller warrants to Purchaser that the Equipment will operate at quoted production rate and/or cycles times and safely for the stated expected useful life if Purchaser follows the preventative maintenance plan proposed by Seller.
- 3.) Seller agrees to escrow a complete copy of the source codes for any software incorporated in the Equipment purchased hereunder pursuant to an escrow agreement with a third party mutually acceptable to Purchaser and Seller to be accessed by Purchaser in the event of (i) a filing of voluntary or involuntary petition to have Seller declared bankrupt; (ii) the appointment of a receiver or trustee for Seller; (iii) the execution by Seller of an assignment for the benefit of creditors; (iv) insolvency of the Seller; or (v) the Seller's inability to promptly provide Purchaser with adequate and reasonable assurance of timely performance; provided, however, that in the case of any involuntary petition or appointment referenced in sub-paragraphs (i) and (ii) above if the same is not vacated or nullified within fifteen (15) days of such event.

H. Training - Seller agrees to provide any and all necessary training and training materials to Purchaser for the Tooling or Equipment at the initial stage of installation, at no additional cost to Purchaser. The amount of training, and schedule for such training, to be provided hereunder shall be mutually agreed upon by Purchaser and Seller, in writing. The training materials are to be provided in a computerized format, if possible.

I. Spare Parts/Service Discount

Upon the purchase of the Equipment, Seller agrees to provide a discount for any replacement and/or spare parts ordered by Purchaser as well as for any service for two (2) years after the expiration of Seller's warranty. The negotiated percentage discount shall be calculated using Seller's published price list at the time of purchase of the Equipment, which shall be provided by Seller to Purchaser upon purchase of the Equipment, or as otherwise agreed upon in writing.

In the absence of a published price list, Seller shall provide written certification of the price in effect for the replacement and spare parts at the time of delivery.

37. **Entire Agreement** - This order, together with the attachments, exhibits or supplements specifically referenced in this order, constitutes the entire agreement between Seller and Purchaser with respect to the matters contained herein and supersedes all prior oral or written representations and agreements. This order may only be modified by a purchase order amendment/alteration issued by an authorized representative of Purchaser.

Notwithstanding anything to the contrary contained in this order, Purchaser does not release any claim against Seller which is based in whole or in part on any fraud or duress in connection with this order or any breach or anticipatory breach of this order or any other order between Purchaser and Seller (even if that order relates to other products).