

## TRANS-MATIC MFG. CO., INCORPORATED TERMS OF PURCHASE

Trans-Matic Mfg. Co., Incorporated (“**Buyer**”) purchase orders are subject to these Terms of Purchase. In these Terms, “**goods**” and “**services**” refer to the goods or services described on the face of this order to be purchased by Buyer from the seller named on the face of this order (“**Seller**”), and “**Contract**” refers to any contract formed pursuant to this order.

1. **Agreement.** This order is an offer to buy by Buyer, and Buyer rejects any prior offers to sell made by Seller. If this order nevertheless is in legal effect an acceptance of a prior offer by Seller, then Buyer’s acceptance is conditional upon Seller’s assent to all terms of this order that are additional to or different from the terms of Seller’s offer. By signing and returning a copy of this order, by shipping the goods or performing the services, or by any other conduct that recognizes the existence of a contract, Seller accepts and agrees and assents to all of the terms contained in this order. Any reference in the order to any proposal made by Seller is solely to incorporate the description or specifications for the goods or materials in the proposal, but only to the extent that the description or specifications do not conflict with the description or specifications in the order. Additional or different terms in Seller’s proposal or any attempt by Seller to vary in any degree any of the order terms shall be deemed material and are objected to and rejected by Buyer.

2. **Term.** The Program covered by the order has an estimated life (the “Life of the Program”). Unless a specific term is otherwise set forth on the order, the term of the order shall be for the Life of the Program. Seller acknowledges and agrees that the Life of the Program is an estimate only, that the Life of the Program may be terminated or extended at any time by Buyer or Buyer’s customers (whether direct or indirect), and that any termination or extension of the Life of the Program shall serve to modify the time period of the order, related to that Program, to end the order on the expiration of the Life of the Program.

3. **Price and Payment.** Unless Buyer agrees otherwise in writing, (i) Buyer shall not be required to pay any sales, use or other taxes arising because of Buyer’s purchase from Seller and prices shall include storage, handling, packaging and all other expenses and charges of Seller. Buyer shall not be required to pay any late charge, interest, finance charge or similar charge. Buyer’s payment of the purchase price does not indicate its acceptance of the goods or services. Payment terms, including discount periods, shall run from the latest of (i) the scheduled date for delivery or performance, (ii) the actual date of delivery of conforming goods or performance of conforming services, (iii) the date of Seller’s invoice, (iv) in the case of capital equipment, completion of Buyer’s final inspection and acceptance after installation, and (v) in the case of tooling, approval by Buyer of production pieces produced by the tooling. Seller shall issue invoices for tooling and capital equipment upon Buyer’s approval. Buyer may withhold payment until it receives proof of the absence of liens or encumbrances on the goods. Payment shall be made in US Dollars.

4. **Delivery and Force Majeure.** Seller shall deliver the goods DDP (“delivered duty paid”) (Incoterms 2000) at Buyer’s facility identified in the order, except that if Buyer’s facility and Seller’s facility (from which the goods will be shipped) are both located in the United States, then Seller shall deliver the goods F.O.B. (Uniform Commercial Code term) Buyer’s facility identified in the order, and except that Buyer may at its option take delivery of all or any part of the goods at Seller’s facility. Time and quantities of delivery or performance is of the essence, and Buyer’s stated delivery or performance date and performance of any other obligations of Seller, shall not be extended or excused for any reason, including anything that Seller cannot control. Seller will pay premium freight costs to meet agreed upon delivery dates. Seller will pay any costs incurred by Buyer that result from Seller’s failure to comply with shipping or delivery requirements.

5. **Excess, Installment and Early Deliveries.** If Seller delivers more goods than Buyer ordered, then, unless Buyer agrees otherwise in writing, Buyer shall not have to pay for the excess. Unless Buyer agrees otherwise in writing, Seller shall deliver all of the goods in a single delivery and not in installments. Buyer’s acceptance of a delivery containing less than the required quantity shall not relieve Seller of its obligation to deliver the balance of the ordered goods at the price and on the other terms specified in this order. If Seller delivers the goods before the scheduled delivery date, then Buyer may, at Seller’s expense and risk, either store them or return them to Seller. Buyer’s acceptance of an early delivery shall not change the payment terms.

6. **Export and Import Requirements; Drawback and Refund Rights.** Seller shall prepare, maintain and, to the extent that that applicable law, regulation or customs authority requires it to do so, submit to the applicable customs authorities, all information and documentation that is necessary to comply with the applicable customs and export and import requirements of each country from which the goods will be exported and each country into which they will be imported, and Seller shall comply with all other applicable customs requirements. Whenever Buyer requests it to do so, Seller shall promptly furnish to Buyer copies of that information and documentation. Seller is solely responsible for complying with all technical compliance and country of origin requirements of each country into which the goods are to be imported. Seller is responsible for obtaining all export licenses or authorizations. Seller will notify Buyer in writing of (i) any material or components used by Seller in filling the order that Seller purchases in a country other than the county in which the supplies are

delivered and (ii) any duty included in the purchase price of the goods. Where the goods are manufactured in another country, Seller will mark goods "Made in [country of origin]." Seller warrants that any information that is supplied to Buyer about the import or export of goods is true and that all sales covered by the Contract will be made at not less than fair value under the anti-dumping laws of the countries to which the goods are exported. Seller assigns and transfers to Buyer all transferable customs duty and tax drawback or refund rights relating to the goods, including rights developed by substitution and rights that Seller acquires from its suppliers. Seller shall promptly inform Buyer of each such right and, upon Buyer's request, shall promptly provide to Buyer all documents and information that are required for Buyer to obtain each such drawback and refund. Seller at all times shall maintain, and shall cause each of Seller's suppliers and logistics providers to maintain, at each facility where the goods are manufactured or located, strict security measures that are reasonably calculated to prevent acts of terrorism with respect to the goods.

**7. Blanket Order.** If the face of this order states that it is a blanket purchase order or blanket purchasing agreement, then, except to the extent otherwise expressly stated on the face of this order, (i) Seller is obligated to deliver to or perform for Buyer all goods or services ordered or released by Buyer during the period, or in accordance with the delivery or performance schedule, specified on the face of this order, (ii) volumes are estimated, and Buyer is not obligated to order, release or purchase from Seller any particular quantity or volume of goods or services, and (iii) Buyer may purchase any or all of the goods or services from others.

**8. Packaging; Marking; Shipping; Disclosure.** Seller will (i) properly pack, mark, and ship the goods according to the requirements of Buyer, the carriers and the country of destination, (ii) route the shipments and label each package according to Buyer's instructions, (iii) provide documentation with each shipment showing Buyer's purchase order number, amendment or release number, Buyer's and Seller's part number, number of pieces and containers in the shipment, Seller's name and number and the bill of lading number, (iv) forward the original bill of lading or other shipment receipt for each shipment according to Buyer's instructions and carrier requirements. Seller will promptly provide Buyer with the following information (a) a list of all materials in the goods, (b) the amount of all materials, (c) information regarding any changes to the materials. Seller will warn Buyer in writing (including appropriate labels) of any hazardous or restricted material that is a part of the goods and any special handling instructions that are need to advise the carriers, Buyer and their employees how to take appropriate measures when handling, transporting, processing, using or disposing of the goods, containers and packing. Seller agrees to comply with all foreign and domestic laws and regulations regarding

product content and warning labels. Seller will reimburse Buyer for any expenses incurred as a result of improper packing, marking, routing or shipping.

**9. Representations, Warranties and Agreements Concerning Seller.** Seller represents and warrants to Buyer that (i) Seller has all necessary experience, qualifications, expertise, authority, licenses and permits to enable it to perform its obligations under the Contract, (ii) the Contract is the valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, (iii) Seller is solvent, (iv) Seller has not offered or given, and shall not offer or give, any gratuity or thing of value to any employee of Buyer or of any affiliate of Buyer (v) Seller is and shall continue to be in compliance with all equal employment and affirmative action provisions of Executive Order 11246, the Vietnam Era Veterans' Readjustment Assistance Act ("VEVRAA"), Section 503 of the Rehabilitation Act of 1973 and all implementing regulations under that Order, VEVRAA and Section 503, and (vi) Seller's performance of the Contract does not and will not conflict with any interests or obligations of Seller or its employees or contractors.

**10. Representations, Warranties and Agreements Concerning the Goods and Services.** Seller represents, warrants and agrees that (i) the goods shall be new, (ii) the goods and services shall be merchantable, of good material, workmanship and quality, fit for the purposes for which Buyer intends them and free from faults and defects, (iii) the goods and services shall conform to any samples, drawings, specifications, performance criteria standards or other requirements that are referred to on the face of this order or that Buyer has otherwise specified or agreed to in writing (including, but not limited to, TS 16949), (iv) the goods, their manufacture and sale and the services shall comply with all applicable foreign and domestic federal, state and local laws, regulations, standards and orders, including, without limitation, the Fair Labor Standards Act of 1938 and the Occupational Safety and Health Act of 1970, as amended, and (v) the prices and other terms on which Seller is selling the goods or services to Buyer are not less favorable to Buyer than the prices and other terms on which Seller is currently selling comparable goods or services to others. If Buyer requests it, Seller shall give Buyer certificates of compliance with applicable laws and regulations. Buyer's approval of a sample, drawing, specification or standard shall not relieve Seller of any of its warranties under this paragraph, including, without limitation, its warranties of merchantability, fitness and compliance with laws. Buyer's inspection of or payment for the goods does not constitute acceptance. Seller's warranties extend to future performance of the goods and services and survive inspection, tests, acceptance and payment. The warranty period shall be the longer of the warranty period provided by law or the warranty period offered by Buyer or its customer to the end-user of the product in which the goods are installed. Seller's contracts with its subcontractors shall

provide Buyer and Buyer's customers with all of the rights that they have under the Contract.

**11. Seller's Quality Control; Inspection of Seller.** Seller agrees to participate in all Buyer Supplier and Development Program(s) and to comply with all quality requirements and procedures specified by Buyer, as revised from time to time. In addition, Seller agrees to establish and maintain quality control procedures to satisfy the requirements of Buyer and Buyer's Customers, including, but not limited to, all applicable automotive manufacturer and other automotive industry standards. Buyer has the right to periodically inspect Seller's facility, goods, materials, and property covered by the order to determine Seller's compliance with applicable quality control standards, upon reasonable advance notice to Seller. Buyer's inspection, 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 or services. Further, Seller shall continuously monitor the goods and services and promptly report to Buyer any goods and services that do not comply with specifications, drawings, and all other specifications applicable to the order. The warranties required of Seller in the order shall apply to all goods and services provided by Seller for Buyer. Seller shall promptly notify Buyer of any defects or deficiencies in design (including if Seller has reason to believe that any specification provided by Buyer are not adequate to provide the goods and services that will function throughout the greater of the expected life of the goods or services or the applicable warranty period), manufacture, or in use-performance of the goods relating to the order.

**12. Customer Requirements.** Seller agrees to comply with the applicable terms and conditions of any agreements ("Customer Agreements") received by Buyer from a third party (each a "Customer"), in which Buyer agrees to supply to Customer, or incorporate into goods supplied to Customer, goods purchased by Buyer from Seller. Buyer may provide Seller with information regarding the Customer Agreements, but Seller shall be responsible for ascertaining any terms and conditions contained in the Customer Agreements that may affect Seller's obligations under the order. Seller will do everything within its control to enable Buyer to meet the terms and conditions of the Customer Agreements. If this section conflicts with any other paragraph in the order, Buyer has the right to elect to have the provisions of this section prevail.

**13. Competitiveness.** It is agreed and understood between Buyer and Seller that maintaining the competitiveness of the goods is of huge importance for the delivery relationship. "Competitiveness of the Goods" is ensured if the goods correspond to comparable goods of competitors in terms of prices and technology. If a comparable product is offered to Buyer at competitive conditions, Buyer will notify Seller thereof in writing and will set a reasonable period of time for Seller to restore full competitiveness of the goods. Seller

will promptly prepare a catalogue of actions which Seller will take in order to restore competitiveness of the goods, and will furnish Buyer with such catalogue, together with a corrected offer. By means of such corrected offer, Seller shall restore competitiveness of the goods within the period of time set by Buyer. The obligation to maintain competitiveness shall be a material contractual obligation. In the event of any violation of such obligation, Buyer may demand adjustment or terminate the agreement in whole or in part for cause.

**14. Material Identification.** Seller shall cause all goods delivered to Buyer to be accompanied by a packing list, and Seller shall provide to Buyer at the time Seller performs any service a work order, that specifies (i) the number of this purchase order, (ii) any applicable item number of Buyer, and (iii) the quantity of goods delivered or a description of the services being performed.

**15. Indemnity.** Seller shall indemnify and hold Buyer and its directors, officers, employees, direct and indirect customers, and end-users of the goods ("**representatives**") harmless (and defend Buyer and its representatives if it requests) as to any claims, liabilities, losses, damages and expenses (including, without limitation, attorneys' fees and other legal expenses) brought against or incurred by Buyer or its representatives because of (i) any breach by Seller of any of its warranties to, or agreements with, Buyer, (ii) any claim that any of the goods or services infringes any patent, trademark, copyright or other intellectual property right, anywhere in the world or (iii) any death, injury or damage to any person or property alleged to have been caused by the goods or services or by Seller's manufacture of the goods or performance of the services.

**16. Changes and Inspections.** Buyer may at any time, by written notice to Seller, change this order or the Contract as to (i) designs or drawings of or specifications for the goods or services, (ii) time or place of delivery or performance, (iii) supply of raw materials or other components, (iv) method of packing or shipment or (v) quantity of the goods or extent of the services. If this causes a change in Seller's cost or time of performance, then an equitable adjustment shall be made in the price or time for delivery or performance, or both, if Seller gives Buyer a written request for an adjustment within 10 days after Buyer notifies Seller of the change. Seller will not change the design, specifications, packing, marking, shipping, price or date of delivery of the goods without Buyer's prior written approval. Buyer's employees, agents and direct or indirect customers may at any time enter Seller's premises to (i) conduct a routine audit for quality, cost or delivery verification and (ii) inspect and test the goods, Seller's process of manufacture of them and any materials, components or work-in-process that are to be used in their manufacture.

**17. Directed Buy Status.** In the event Buyer's Customer requires Buyer to source production of certain goods or

services to Seller (each, a “Directed Buy”), Seller acknowledges that, notwithstanding Seller’s negotiations with Buyer’s Customer, these terms shall apply to all production of such Directed Buy goods or services as between Buyer and Seller. Further, Seller acknowledges and agrees that it shall indemnify and hold Buyer harmless from any commercial issue that arises out of the supply of Directed Buy goods or services, which shall be resolved between Seller and Buyer’s Customer directly. Seller shall not be entitled to cease or withhold the timely supply of any goods or services under any circumstances, including, but not limited to, any unresolved commercial issue, including an unresolved commercial issue between Seller and Buyer’s Customer on a Directed Buy good or service.

**18. Seller’s Default.** Seller will be in default if any of the following occurs (each, a “Seller Default”):

- i. Seller breaches, repudiates, or threatens to breach any term in the order, or in any Customer Agreement, including, but not limited to, failing to deliver goods or services in accordance with Buyer’s required quality and quantity terms;
- ii. Insolvency of Seller or filing of a voluntary or involuntary petition in bankruptcy with respect to Seller;
- iii. Appointment of a receiver or trustee for Seller; or
- iv. Execution of an assignment for the benefit of creditors of Seller.

**19. Buyer’s Remedies.** In the event of a Seller Default, Buyer may exercise any remedies available under applicable law, including, but not limited to:

- i. Seller’s immediate correction, repair, or replacement of the goods and services at Seller’s expense;
- ii. Suspending payments or performance or canceling all or any part of the balance of any order with Seller; and
- iii. Requiring Seller to reimburse Buyer for all damages suffered due to Seller’s breach, including, but not limited to, incidental, consequential, and other damages, as well as lost profits, actual attorney fees, and court costs.

The remedies in this order shall be cumulative and in addition to any other remedies allowed to Buyer under applicable law, including, but not limited to, the Uniform Commercial Code. No waiver by Buyer of any breach or remedy shall be a waiver of any other breach or remedy.

**20. Limitation on Seller’s Remedies.** If Buyer breaches any term in the order or in any Customer Agreement, Buyer shall not be liable for any incidental, consequential, indirect, or any other special damages of Seller, including, but not limited to, Seller’s lost profits, attorney fees, and any and all costs of any litigation. Any action against Buyer arising out of the order must be filed within one (1) year after Seller’s claim accrues.

## 21. **Termination.**

i. The order shall be terminable as follows:

1) **Breach.** Buyer may immediately terminate the order without further obligation in the event of Seller’s breach of or Default under the order or any breach of or default under any Customer Agreement. Either party may terminate the order without further obligation in the event the other party fails to perform any material obligation under the order, through no fault of the non-breaching party, which remains uncured after giving twenty (20) calendar days written notice of such material breach. Delays in delivery or repeated deliveries of non-conforming goods or services, which result in Seller’s failure to meet its delivery time or goods or services conformity obligations for all goods or services shipped, shall automatically be deemed a failure to perform a material obligation for the purposes of the order.

2) **Insolvency, Bankruptcy, or Liquidation.** Either party may terminate the order if the other party: (a) becomes insolvent; (b) makes an assignment immediately or the benefit of creditors; (c) files or has filed against it a petition in bankruptcy; (d) has a receiver appointed for its assets; or (e) is dissolved or liquidated.

3) **Termination by Buyer.** Seller acknowledges and agrees that, in addition to any other rights of Buyer to terminate this order, Buyer may, at its option, immediately terminate all or part of the order or any other agreement between Buyer and Seller, at any time and for any reason, by giving written notice to Seller. Buyer may elect to terminate some, but not all, orders or other agreements between Buyer and Seller, at Buyer’s discretion. However, upon such termination, Buyer shall pay to Seller the following amounts, without duplication:

a. The contract price for all goods or services that have been completed and delivered in accordance with the terminated order, or in accordance with any other agreement between Buyer and Seller that is terminated, and not previously paid for; and

b. The actual costs of work-in-process and raw materials incurred by Seller in furnishing the goods and services under the terminated order, or under any other agreement between Buyer and Seller that is terminated, to the extent such costs are reasonable in amount and are properly allocable or apportionable under generally accepted commercial accounting principles to

the terminated portion of the order, or to any other agreement between Buyer and Seller that is terminated, if any; less, however, the sum of the reasonable value or cost (whichever is higher) of any goods or materials used or sold by Seller with Buyer's written consent, and the cost of any damaged or destroyed goods or materials. Buyer will make no payments for finished goods or services, work-in-process, or raw materials fabricated or produced by Seller in amounts in excess of those authorized by Releases, issued by Buyer prior to the date of termination of the order, nor will Buyer make any payments for any undelivered goods or services that are in Seller's standard stock or that are readily marketable. Payments made under this section shall not exceed the aggregate price payable by Buyer for finished goods or services that would be produced or performed by Seller under Releases issued by Buyer prior to the date of termination. Except as provided in this section, Buyer shall not be liable for and shall not be required to make payments to Seller, directly or on account of claims by others, including, but not limited to, for loss of anticipated profit, unabsorbed overhead, interest on claims, product development and engineering costs, or general and administrative burden charges from termination of this or any Releases. Within sixty (60) days from the effective date of termination of the order, or any other agreement between Buyer and Seller that is terminated, if any, Seller shall submit a comprehensive termination claim to Buyer, with sufficient supporting data to permit Buyer's audit, and shall thereafter promptly furnish such supplemental and supporting information as Buyer shall request. Buyer or its agents shall have the right to audit and examine all books, records, facilities, work, material, inventories, and other items relating to any termination claim of Seller;

ii. In the event that a Program is terminated prior to the conclusion of the estimated Life of the Program, the order for the Program shall terminate effective immediately;

iii. If any competitor of the Seller offers lower goods or services prices and/or payment or delivery conditions, or if the competitive nature of the Seller no longer exists in terms of price, quality, or time schedule for goods and services under the order, or if Buyer's Customer cancels a Customer

Agreement, Buyer may terminate the impacted order or any other impacted agreement between Buyer and Seller, without notice. The same shall apply if other technological prerequisites become necessary or there is no further need for the goods or services;

iv. No termination of the order, regardless of the basis for such termination, shall serve to terminate any other order or any other agreement between Buyer and Seller in effect at the time of such termination. Further, the termination of the order or of any other agreement between Buyer and Seller, regardless of the basis for such termination, shall not impact, in any way, the enforceability of all other outstanding orders or other agreements between Buyer and Seller, each of which shall remain in full force and effect; and

v. The Parties agree that *Paragraphs 9, 10, 15, 18, 19, 20, 21, 22, 25, 31, 32 and 33* of the terms set forth in these Terms of Purchase shall survive and continue to apply following the conclusion of the Life of the Program or an earlier termination of the order or Customer Agreement.

**22. Transition of Supply.** Upon the expiration or earlier termination of any order for whatever reason, Seller agrees to take such action as may reasonably be required by Buyer to accomplish the transition from Seller to an alternative seller, including, without limitation, the actions set forth below. The term "alternative seller" expressly includes, but is not limited to, a Buyer-owned facility.

i. Seller shall provide all notices necessary or desirable for Buyer to resource the order to an alternative seller;

ii. Seller shall provide a sufficient bank of goods covered by the order to ensure that the transition to any alternative seller chosen by Buyer will proceed with an uninterrupted supply of goods. Unless otherwise specified by Buyer on the face of an order amendment or in a signed writing by Buyer's designated representatives, a six-week goods inventory bank will be deemed sufficient to accomplish the transition. Such "six-week goods bank" will be calculated using the releases of Buyer from the six weeks immediately preceding the termination/expiration of this order, not including any temporary interruptions, plant, industry shutdowns, or other reduced schedules;

iii. Seller shall provide to Buyer all Buyer's Items and any other property furnished by or belonging to Buyer or any of Buyer's customers in as good of condition as when received, purchased, or fabricated by or for Seller;

iv. Seller shall, at Buyer's option: (1) assign to Buyer any or all supply contracts or orders for raw materials or components relating to the order; (2) sell to Buyer, at Seller's cost, any or all inventory

or work-in-process relating to the order; and (3) sell to Buyer, at the unamortized portion of the cost of such items, less any amounts Buyer previously paid to Seller for the cost of such items, any or all property owned by Seller (except for Buyer's Items, which are or will be, as detailed, above, Buyer's property) related to production under the order.

23. **Buyer's Items.** Any drawings, specifications, documents and other information and any tooling, packaging, equipment or other property that Buyer shall furnish to, or acquire from, Seller in connection with Seller's manufacture of the goods or performance of the services ("**Buyer's Items**") are and shall at all times be Buyer's property. Seller shall (i) maintain the Buyer's Items in good condition, (ii) mark the Buyer's Items "**PROPERTY OF TRANS-MATIC MFG. CO., INCORPORATED**", (iii) bear the risk of loss of and damage to the Buyer's Items and insure them for full replacement value, (iv) inspect, test and approve the Buyer's Items prior to use, (v) assume all risk of injury to persons or property arising from the Buyer's Items, (vi) not commingle the Buyer's Items with property of Seller or third parties, (vii) allow Buyer to inspect and examine them at any time, (viii) not remove the Buyer's Items from Seller's premises and (ix) return them to Buyer upon its request and without payment of any kind. Buyer may file a notice financing statement to reflect its interest in the Buyer's Items.

24. **Seller's Items.** Seller shall, at its own expense, furnish and maintain all specifications, machinery, tooling, molds, equipment and other items that are not Buyer's Items and that are necessary for the supply of the goods ("**Seller's Items**"). Seller grants to Buyer the option to take possession of and title to any Seller's Item that is special to the production of the goods (but not to any Seller's Items that are used to produce goods that are the standard stock of Seller) upon payment to Seller of the net book value less any amounts that Buyer has previously paid for the cost of such Seller's Item.

25. **Service Parts.** To the extent the order relates to production of component parts ("**Parts**") for Buyer, then, in addition to the number of Parts sold by Seller to Buyer to allow Buyer to meet its requirements to its Customer, Seller also agrees to sell to Buyer the number of Parts necessary to allow Buyer to fulfill its past model service and replacement parts requirements during the Life of the Program for which the Parts are produced and for fifteen (15) years following the conclusion of the Life of the Program. Unless otherwise agreed to in writing by Buyer, the per-Part price during the first five (5) years following the conclusion of the Life of the Program shall be the last price for such Part(s) prior to the expiration of the Life of the Program. For the remainder of the fifteen (15) year period, the per-Part price shall be increased only by mutual agreement of Buyer and Seller. Upon request by Buyer, Seller shall make service literature

and other materials available at no additional charge to support Buyer's Parts sales activities.

26. **Government Contracts.** If the goods or services covered by this order are to be used by Buyer in connection with a contract with the United States or other government, then all terms and conditions required by the government contract or by applicable law or regulation to be included in any contract formed pursuant to this order ("**Government Terms**") are incorporated in this order by reference. If any provision of this order is inconsistent with any Government Term, the Government Term will control.

27. **Insurance.** Seller shall maintain insurance coverage that will fully protect both Seller and Buyer from any and all claims and liabilities of any kind or nature for property damage, personal injury, death and economic damage, to any person, that shall arise from the goods or their use or the performance of the services or any activities connected with the services. Seller shall maintain employee's liability and compensation insurance that will protect Buyer from any and all claims and liabilities made by Seller or any employee or agent of Seller under any applicable worker's compensation or occupational disease acts. All insurance required by this paragraph shall be in amounts and coverages, and shall be issued by insurers, that shall be satisfactory to Buyer. All policies shall name Buyer and (if requested by Buyer) Buyer's customer as additional insureds and loss payees and shall provide that Buyer shall receive 30 days prior written notice from the insurer of any termination or reduction in the amount or scope of coverage. Upon request by Buyer at any time, Seller shall furnish Buyer with certificates evidencing required insurance.

28. **Prepayment.** If Buyer pays any part of the purchase price of the goods before delivery to Buyer, then (i) title (but not risk of loss) to each item of the goods shall pass to Buyer upon identification of the item to the Contract, (ii) to the extent necessary to protect Buyer's title to the goods, Seller grants Buyer a security interest in the goods to secure Seller's obligation to deliver them to Buyer and all of Seller's other present and future obligations to Buyer, (iii) Seller authorizes Buyer to file appropriate financing statements to evidence Buyer's title to the goods and that security interest, and (iv) Seller shall obtain from each person holding a security interest in or lien upon the goods a written agreement releasing that security interest or lien or subordinating it to Buyer's interest in the goods.

29. **Work on Premises.** If performance of services or delivery or installation of goods by Seller involves operations by its employees or subcontractors on the premises of Buyer or of a customer of Buyer, then (i) Seller shall at all times enforce strict discipline and maintain good order among all persons engaged in the activity on the premises and shall cause them to comply with all fire prevention and safety rules and regulations in force at the premises and (ii) Seller shall keep the premises free from accumulation of waste materials and rubbish caused by its employees or subcontractors and

upon completion shall promptly remove all of Seller's equipment and surplus materials.

**30. Independent Contractor.** Seller is an independent contractor, and neither Seller nor any of Seller's employees or agents shall be considered agents or employees of Buyer. Seller shall pay all taxes and furnish, at Seller's expense, all labor, materials, equipment, transportation, facilities and other items necessary to perform the services.

**31. Confidentiality and Non-Use.** Seller shall not sell or offer to sell or otherwise provide to anyone other than Buyer any goods made in accordance with any drawings, designs or specifications that Buyer furnishes to Seller or that incorporate, embody or are made in accordance with any of Buyer's intellectual property. Seller shall maintain the confidentiality of, and shall not disclose or use or permit to be disclosed or used or to be viewed by any third party (including any of Seller's suppliers), the goods, any designs of or specifications for the goods, any Buyer Property or any information concerning Buyer's business, operations or activities, including, without limitation, information concerning Buyer's present or proposed products, the terms or existence of the Contract, product developments, plans, strategies, finances, know-how, sales, customers and marketing or sales techniques ("Confidential Information"), except that Seller may disclose Confidential Information to a third party (other than a competitor of Buyer or a subsidiary or affiliate of a competitor) to the extent disclosure is necessary in order for Seller to perform its obligations under the Contract. If Seller breaches or threatens to breach this paragraph or **Paragraph 23**, then Buyer's remedies at law will be inadequate. Therefore Buyer shall have the right of specific performance or injunctive relief, or both, in addition to any and all other remedies and rights at law or in equity, and Buyer's rights and remedies shall be cumulative. Seller shall not assert any claim against Buyer or its customers or suppliers with respect to any technical information that Seller discloses to Buyer in connection with the supply of the goods unless such information is expressly covered by a separate signed confidentiality agreement or license agreement between the parties.

**32. Intellectual Property.** All inventions (whether or not patentable), devices, technologies, ideas, improvements, processes, systems, copyrights in any copyrightable works, trademarks, trade names, trade dress, service marks, names, software and other works and matters created or developed by Seller in the course of Seller's performance of the services or Seller's design or development of the goods for Buyer, including all proprietary rights in the foregoing ("**Intellectual Property**") shall be the sole property of Buyer, and Seller assigns, and agrees to assign, to Buyer all right, title and interest that Seller now has or in the future acquires in the Intellectual Property. All copyrightable works shall be considered "works made for hire" within the meaning of the federal Copyright Act of 1976, as amended,

and under the equivalent laws of any other country. To the extent that any such copyrightable work is not considered a "work made for hire," it shall be the sole property of Buyer, and Seller assigns, and agrees to assign, to Buyer all right, title and interest that Seller now has or in the future acquires in it and in all copyright rights in it. Seller shall sign and deliver to Buyer all assignments and other documents, and Seller shall take all other actions, that Buyer shall request for the purpose of perfecting Buyer's ownership of and title to the Intellectual Property. If the goods or their design are subject to any patent rights or other proprietary rights held by Seller, then Seller grants to Buyer an irrevocable, non-exclusive, royalty-free license of the patent rights and other proprietary rights to the extent necessary to enable Seller to modify, repair or rebuild any or all of the goods. This license is in addition to all licenses impliedly granted to Buyer as a purchaser of the goods.

**33. Unsafe or Unfit Goods.** If a governmental agency declares that any of the goods or any material included in any of the goods or any packaging or supplies used in connection with the goods, or if Buyer at any time believes in good faith that any of the goods or any such material, packaging or supplies, (i) does not or may not conform with an applicable consumer product safety standard or (ii) is or may be otherwise unsafe or unfit for the intended use of the goods, then, without limiting other rights and remedies that are available to Buyer under these Terms of Purchase or applicable law, (1) Seller shall give Buyer written notice of any such declaration and shall furnish to Buyer copies of the declaration and of all relevant notices, documents and correspondence, (2) Seller shall stop including the material in the goods, (3) Buyer may terminate the order or the Contract, without liability to Seller, by giving written notice to Seller, which shall be effective immediately or on any later date that the notice specifies, (4) if Buyer does terminate, then (a) Buyer's obligations under the Contract shall terminate immediately and Buyer shall not be obligated to pay Seller damages or other compensation by reason of the termination and (b) Seller shall, unless Buyer directs otherwise, stop work and acquisition of materials under the Contract and protect property in Seller's possession in which Buyer has or may acquire an interest, (5) Buyer shall have the right (a) to recall (i.e. purchase or repurchase) any or all of the goods from its customers and end-users and any others having possession of the goods, and Seller shall reimburse Buyer for all costs that Buyer incurs in doing so and shall assist Buyer and any applicable governmental agency in the recall, to the extent that Buyer requires Seller to do so, and (b) to return to Seller, at Seller's expense, all such goods, packaging or supplies that Seller shall have previously delivered to Buyer and to require Seller to refund the price to Buyer, whether or not Buyer would then have the right under applicable law to reject or to revoke acceptance of those goods, packaging or supplies, (6) to the extent that Buyer requests, Seller shall assist Buyer in any or

all aspects of a recall, including, without limitation, developing a recall strategy and preparing and furnishing reports, records and other information, (7) if Seller demonstrates to Buyer's satisfaction that there is a safe and fit substitute for any such material, packaging or supplies and that the substitute conforms to all of the requirements of the Contract and that Seller can and will use the substitute in or with respect to the goods, then Buyer shall have the right, but no obligation, in Buyer's sole discretion, to reinstate the Contract and to require Seller to perform in accordance with the Contract, except that Seller shall use the substitute goods or materials, and (8) whether or not Buyer terminates and/or reinstates the Contract, Seller shall pay to Buyer an amount equal to all damages that Buyer incurs by reason of the declaration by the governmental agency and/or such good faith belief by Buyer and any resulting recall or delay in performance or return of goods to Seller and/or any termination of the Contract by Buyer.

34. **Other Terms.** Seller shall not have and waives any security interest in or lien (including any statutory or common law lien) upon any Buyer's Items or the goods. Seller may not delegate or subcontract any of its obligations under this order without Buyer's written consent. Buyer may deduct from, and set off against, any amounts at any time owing to Seller under this order any damages or other amounts then owing to Buyer by Seller, whether under this order or otherwise. If at any time Buyer has reasonable grounds for insecurity as to Seller's performance, Seller shall provide adequate assurance of due performance within 10 days after demand by Buyer, which shall be considered to be a reasonable time. Buyer shall continue to have all of its rights under the Contract even if it does not fully and promptly exercise them on all occasions. Buyer's failure to exercise, or Buyer's waiver of, a right or remedy on one occasion is not a waiver of that right or remedy with respect to any future occasion.

35. **Applicable Law.** This order and the Contract shall be governed by, and interpreted according to, Michigan law. Any action based upon or arising out of this order or the Contract may be handled by any state or federal court in Ottawa County, Michigan, and Seller irrevocably consents that the court shall have personal jurisdiction over Seller and waives any objection that the court is an inconvenient forum. The parties disclaim the application of the United Nations Convention on Contracts for the International Sale of Goods.

36. **Complete Agreement.** Seller has not made any promises or representations to Buyer, and Buyer has not made any to Seller, that are not in this order. Any change in, or waiver of, any provision of this order or the Contract must be contained in a writing signed by Buyer (or, in the case of a change within the scope of *Paragraph 16*, by a purchase order amendment issued by Buyer. Buyer may modify these terms with respect to future orders and Contracts at any time by posting revised terms to its website

at [www.transmatic.com](http://www.transmatic.com) and such revised terms will apply to all orders issued thereafter.

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