

**TENNECO GENERAL TERMS AND CONDITIONS  
FOR CAPITAL EQUIPMENT AND TOOLING PURCHASES**

(Form 270 CE-TC-US 01/17)

1. OFFER AND ACCEPTANCE

- (a) These Terms and Conditions Governing Capital Equipment and Tooling Purchase Orders, and any additional terms or conditions set forth in the purchase order, agreement, or other document to which these Terms and Conditions are attached or are incorporated, and any other documents attached to or incorporated therein (collectively, this “**Order**”), is an offer by Tenneco Automotive Operating Company Inc. or its affiliates from whom this Order was issued (“**Buyer**”) to the party to whom this Order is addressed (“**Seller**”), to enter into a contract for Seller’s manufacture, sale and delivery, and Buyer’s purchase, of the goods and services identified in this Order (together with all associated Foreground Intellectual Property Rights, as defined in **Section 6** below, collectively, “**Products**”) in accordance with the terms set forth in this Order.
- (b) This Order will be accepted by Seller and effective upon the earlier of (i) Seller’s written or electronic acknowledgment of acceptance; (ii) Seller’s commencement of performance under this Order (including work on Products); or (iii) any other conduct evidencing Seller’s intent to be bound to the terms of this Order. Acceptance is expressly limited to the terms of this Order. Once accepted, this Order will be the complete and exclusive statement of the parties’ agreement regarding the Products (this “**Contract**”). Any modifications proposed by Seller are expressly rejected by Buyer and shall not become part of this Contract in the absence of Buyer’s written acceptance. Any additional or different terms proposed by Seller, whether in Seller’s quotation, acknowledgment, invoice or otherwise, are unacceptable to Buyer, are expressly rejected by Buyer, and will not become part of this Contract. Except as otherwise provided in this Contract, or in a separate signed agreement between Buyer and Seller, Buyer is not required to purchase Products exclusively from Seller.

2. PAYMENT AND PRICING

- (a) Notwithstanding anything to the contrary in this Contract, Buyer will have no obligation to pay for tooling unless Seller has completed a Vendor Tooling Registration Form for the tooling. Seller shall complete the Buyer’s Vendor Tooling Registration Form for each tool prior to delivery. The form template will be provided by Buyer’s purchasing plant, and must be completed and submitted electronically in the original spreadsheet form. Completed forms must be submitted to the originator of the Buyer’s Order.

All invoices must include Buyer’s order number. Buyer will only make payments on original invoices. All invoices must match Buyer’s order by line item showing the amount due for that specific line item (i.e., if there are five line items on Buyer’s order at a pay point, all five line items should be listed on the invoice at that pay point). Invoices must be submitted to the appropriate Buyer’s purchasing plant and contact in accordance with Buyer’s instructions. All paperwork and

forms must be completed and sent to the Buyer's purchasing plant before the last invoice is submitted.

For capital equipment purchases, Buyer will pay the purchase price on the following payment terms:

5%	After Order release	Net 90 days
30%	Design Approval	Net 90 days
25%	Seller Site Runoff	Net 90 days
40%	Buyer site approval	Net 90 days

For tooling purchases, Buyer will pay 100% of the purchase price at Buyer site acceptance on net 180 days payment terms.

- (b) If, prior to Buyer's final payment of the purchase price, Seller establishes prices for the Products (or substantially similar products) that are less than the purchase price, this Contract shall be deemed amended to provide such lower price for the Products.

3. PROMPT DELIVERY/RISK OF LOSS

- (a) Except as otherwise expressly provided in this Contract, Seller will ship and deliver all Products FCA (Free Carrier Alongside) as designated in this Order (Incoterms 2010). Time is of the essence with respect to delivery of the Products, and all delivery times specified are measured to the time the Products are received at Buyer's designated location. Notwithstanding the applicable delivery terms set forth in this Contract, i.e. FCA, or any other provision of this Contract, Seller will bear the risk of loss with respect to all Products until Buyer has accepted the Products in accordance with this Contract.
- (b) Title to the Products will remain with Seller until delivery and acceptance of the Products to Buyer's facility is completed.
- (c) While Seller has the risk of loss for the Products, Seller will, at its own expense, procure and carry suitable fire, sprinkler leakage and extended-coverage insurance on raw material, work-in-process and any finished goods, which comprise or eventually will comprise the Products (as well as on materials provided by Buyer to Seller or owned by Buyer and in Seller's possession, if any). The amount to be insured will be the actual replacement value of such materials. Such insurance will provide a loss payable clause in favor of Buyer. Upon request, Seller will provide certificates of insurance evidencing such insurance signed by an authorized representative of the insurance company. In the event of any material change in or cancellation of the insurance coverage, Seller will provide at least thirty (30) days' prior written notice to Buyer.
- (d) Buyer reserves the right to refuse delivery, or return to Seller any Products, and to cancel all or any part of this Contract, if the Products fail to meet the capability and productivity requirements set out in this Contract, or if Seller delivers late, or fails to deliver all or any part of the Products in accordance with the terms of this Contract. Any cost incurred by Buyer in maintaining such Products prior to such

return, together with the cost of returning the same, shall be at Seller's expense. Acceptance of any part of the Products supplied under this Contract, or partial or full payment therefore, shall not bind Buyer to accept any future shipments and not deprive Buyer of the right to withdraw acceptance of, and return to Seller, Products already accepted that do not meet the specifications or other requirements of this Contract.

- (e) Seller will provide Buyer with written notice (i) 10 days before shipping the Products, and (ii) at the time of shipment, describing the bill of lading, mode of shipment, carrier and estimated time of delivery. Seller shall provide to Buyer, in a reasonable timeframe required to prepare the installation site, drawings and instructions on how to prepare the installation site.
- (f) Seller will use high security seals or anti-tampering devices on all shipments. Supplier shall be responsible for disassembling (as necessary), packaging and crating and any export clearance. Shipping containers must be designated and constructed to protect Products against dust, moisture, oxidation, vibration, and all other damage during shipment to Buyer. In addition, packaging must meet the Seller's and Buyer's mutually agreed specifications for the Products and the carrier's specifications as published in the Uniform Freight Classification.
- (g) Seller and carrier used by Seller is required to be a member of C-TPAT (Customs Trade Partnership against Terrorism) and to comply with C-TPAT requirements or other mutually recognized security program. Seller must have documented procedures regarding cargo and container processing.
- (h) In addition to any other rights or remedies of Buyer under this Contract, the failure to successfully complete the pre-acceptance runoff at Seller's location on or before the mutually agreed upon date in the program timing chart may subject the Seller to penalties, which will be pre-determined between the Seller and Buyer, unless waived in writing by Buyer. Failure to successfully complete the final acceptance of capital equipment at Buyer's location on or before the mutually agreed upon date in the program timing chart, may subject Seller to withholding by Buyer of one percent (1%) of the purchase price per week. Seller will not be subject to the above penalties to the extent due to delays attributable to Buyer.
- (i) Tooling must be delivered by the delivery date indicated in this Contract. Any deviation requires an acceptance in writing by Buyer. Late delivery beyond seven (7) days will result in a five percent (5%) discount assessed.

#### 4. INSPECTION/CHANGES

- (a) All Products are subject to Buyer's inspection and to approval or rejection despite prior payment. Buyer shall have the right to reject, rework or require correction of any defective Products, including with respect to material or workmanship, or that are otherwise not in conformance with the drawings, requirements and specifications contained or incorporated in this Contract, after inspection or test at any time. Any rejected Products will be held by Buyer subject to Seller's instructions, or returned to Seller, in each case at Seller's risk and expense for handling charges and transportation both ways. If prior payment has been made,

Seller shall reimburse Buyer for the full amount paid for such Products together with the costs of storage or return. Buyer's costs of rework or sorting required in respect of such defective Products, in order to meet Buyer's requirements or keep its production lines in operation, shall be at Seller's expense.

- (b) After Seller has received machine or tooling design approval, Seller will obtain Buyer's approval prior to making any changes to its manufacturing process. Buyer reserves the right to require sample approval and testing before approving any process.
- (c) Buyer may make changes to this Order, including with respect to specifications of the Products, performance requirements, time and place of delivery or the scope of work, by providing written notice to Seller signed by an authorized representative of Buyer. Seller will promptly implement such changes and submit any additional costs to Buyer in writing within 10 days after receipt of Buyer's notice.

5. BUYER'S PROPERTY

- (a) Any property provided by Buyer or owned by Buyer and that is in Seller's possession must be maintained in good repair by Seller at its expense as long as it is in Seller's possession and, when surrendered to Buyer, if worn, broken, or damaged, may be repaired by Buyer with all costs charged back to Seller.
- (b) Seller agrees that Buyer has the right, at any time, with or without cause and without payment of any kind, to retake possession of or request return of any of Buyer's property. Seller shall not transfer any interest in, or otherwise deliver possession of, Buyer's property to any person or entity other than to Buyer or such other person or entity as is designated by Buyer in writing. Buyer's property shall at all times be stored in a secure, covered and locked area at the facility to which it is shipped or at such other location as Buyer may approve in writing.
- (c) Seller hereby waives any statutory, equitable or other lien or other rights that Seller may otherwise have on any of Buyer's property, including without limitation tool and toolmaker's, mold and molder's, mechanic's, laborer's, and builder's liens. Seller shall not voluntarily permit any such lien or claim to be filed or otherwise imposed on any part of the Products or Buyer's site. If any such lien or claim is filed and Seller does not promptly cause such lien to be released and discharged, or in lieu thereof file a bond for payment of such lien in form and amount satisfactory to Buyer, Buyer shall have the right to pay all sums necessary to obtain such release and discharge and to recover all amounts so paid from Seller (including through a setoff against the purchase price for the Products).
- (d) Any of Buyer's property that is in Seller's possession must contain labeling that is clearly visible and legible and must contain the following information: a tag or stamp clearly indicating that such property is owned by Buyer and Buyer's order or other identifying number. Seller will apply additional labeling as required in writing by Buyer.

6. INTELLECTUAL PROPERTY

- (a) For purposes of this Contract, the term “**Intellectual Property Rights**” means all inventions, patents (including utility patents and design patents), trade secrets, trademarks, service marks, trade dress, designs, drawings, CAD models, computer programs, documentation, manuals, engineering specifications, test reports, mask works, copyrights, know-how, software, data base rights and other proprietary rights; “**Background Intellectual Property Rights**” means the Intellectual Property Rights of either Buyer or Seller existing before the date of this Contract; and “**Foreground Intellectual Property Rights**” means any and all Intellectual Property Rights developed with respect to, or for incorporation into, the Products, that are either developed by Buyer alone, by Buyer and Seller jointly or by Seller alone in connection with this Contract, but excluding Background Intellectual Property Rights.
- (b) Each party will retain exclusive ownership of its Background Intellectual Property Rights. Seller grants to Buyer an irrevocable, non-exclusive, worldwide, perpetual, royalty-free license, with the right to grant sublicenses, to use Seller’s Background Intellectual Property Rights to produce, use, and sell and to obtain, from alternate sources, products similar to the Products (including related systems and components).
- (c) All Foreground Intellectual Property Rights will be owned by Buyer. Seller confirms the same and assigns to Buyer all of Seller’s right, title and interest in and to all Foreground Intellectual Property Rights. To the extent that any Foreground Intellectual Property Rights are copyrightable works or works of authorship (including computer programs, technical specifications, documentation and manuals), Buyer and Seller agree that they are “works made for hire” as that term is used in connection with the U.S. Copyright Act. Seller may only use the Foreground Intellectual Property Rights to produce and supply Products to Buyer. Seller waives any claim against Buyer, including any hold harmless or similar claim, whether known or unknown, contingent or latent, in any way related to a claim asserted against Seller or Buyer for infringement of any Intellectual Property Rights.
- (d) Unless otherwise agreed to in writing by Buyer, if any Product or part thereof is held to infringe Intellectual Property Rights, Seller will, at its own expense, procure for Buyer the right to continue using the Product or part, as applicable.

7. IDENTIFICATION

For custom-made Products, there will be no visible Seller identification anywhere on the finished product. For equipment identification, an allowable placard size of 4”x 6” located inside the electrical panel is permitted, unless otherwise agreed by Buyer. For off-the-shelf Products, upon request of Buyer, Seller will remove all Seller identification from the finished product, provided that Buyer will be responsible for actual out-of-pocket reasonable costs and expenses incurred by Seller in removing such identification. The identification of the Products must be visible for the life of the Products.

8. QUALITY CRITERIA/WARRANTIES

- (a) Seller warrants to Buyer and, if applicable, Buyer's customers, and each of their successors and assigns, that the Products will: (i) strictly conform, in all respects, to the specifications, standards, drawings, descriptions, quality requirements, performance requirements, statements of work, and fit, form and function requirements furnished, specified or approved by Buyer for the Products; (ii) be merchantable and free from defects, latent or otherwise, in design, materials and workmanship; (iii) be fit and sufficient for the particular purpose intended by Buyer and its customers, of which the Seller is aware; (iv) comply with all applicable Laws; (v) be new and conveyed by Seller to Buyer with good title, and free and clear of all liens, claims, encumbrances, interests or other rights of Seller or third parties; and (vi) do not and will not infringe upon, violate or misappropriate the Intellectual Property Rights of any third-party. Seller's warranties are in addition to all other warranties, express, implied, statutory and common law and may not be limited or disclaimed by Seller.
- (b) Seller's warranties shall also constitute conditions precedent, shall survive inspection, acceptance and payment, and shall remain in effect for 11,520 machine hours of production or two (2) years, whichever is less, beginning at the start of production at Buyer's site.
- (c) Seller agrees to notify Buyer immediately in writing in the event Seller becomes aware that Seller may be incapable of delivering Products that conform to this **Section 8**.
- (d) Seller agrees that all warranties will survive inspection, installation, assembly, acceptance, and payment by Buyer.
- (e) Seller shall transfer and assign to Buyer all of its rights (but not any obligations) under all warranties from equipment or material manufacturers or suppliers, permitted subcontractors, or other third parties. If Seller is unable or fails to provide to Buyer the manufacturers' warranty for acquired Products, Seller hereby warrants to Buyer the Products supplied hereunder will perform in accordance with the manufacturers' warranty.

9. EXCUSABLE DELAYS

Neither Buyer nor Seller will be liable for a delay or failure to perform its obligations under this Contract to the extent the delay or failure was caused by events beyond its control, without its fault or negligence and that by its nature could not have been foreseen or, if it could have been foreseen, was unavoidable (which events may include natural disasters, embargoes, explosions, riots, wars or acts of terrorism) (each an "**Excusable Delay**"). Each party will give prompt notice to the other party of any event or circumstance that is reasonably likely to result in an Excusable Delay, and the anticipated duration of such Excusable Delay. A party claiming an Excusable Delay will use all diligent efforts to end the Excusable Delay, ensure that the effects of the Excusable Delay are minimized and promptly resume full performance under this Contract. During any Excusable Delay claimed by Seller, Buyer may, at its option (a) purchase the Products from other sources; (b) require Seller to deliver to Buyer all finished Products, work in

process or parts and materials produced or acquired for work under this Contract; or (c) require Seller to provide Products from other sources in quantities and at a time requested by Buyer and at the price established by this Contract for the Products, in each case without incurring liability to Seller. Such alternate procurement shall reduce Buyer's requirements or commitments for quantities ordered or to be ordered from Seller. If requested by Buyer, Seller will, within five (5) days, provide adequate assurances that an Excusable Delay claimed by Seller will not exceed thirty (30) days. If an Excusable Delay claimed by Seller lasts more than thirty (30) days, or Seller does not provide the requested adequate assurances, Buyer may immediately terminate this Contract without liability. Seller's financial inability to perform, changes in cost or availability of materials, components or services, market conditions or supplier actions or contract disputes will not excuse performance by Seller under this **Section 9**.

10. TERMINATION OR CANCELLATION FOR BREACH

In addition to any of its other rights or remedies under this Contract or applicable Law, Buyer may immediately terminate all or any part of this Contract, without liability to Seller, at any time after the occurrence of any one or more of the following events of default (each an "**Event of Default**"):

- (a) Seller repudiates any of its obligations under this Contract.
- (b) Seller materially breaches this Contract and such breach remains uncured for ten (10) days after written notice of such breach is provided by Buyer.
- (c) Seller files, voluntarily or involuntarily, a petition in bankruptcy under any section of the Bankruptcy Code or similar state or federal laws, becomes insolvent, makes any assignment for the benefit of creditors or has a receiver appointed for it and, in the case of an involuntary proceeding only, such involuntary proceeding is not stayed or dismissed within forty-five (45) days from the date the proceeding is initiated.
- (d) A material adverse change occurs in Seller's financial condition based on which Buyer may reasonably conclude that Seller may be unable to perform its obligations hereunder and Seller does not provide, within five (5) days of Buyer's notice to Seller, reasonable evidence of Seller's continued ability to perform.
- (e) Seller fails to maintain the quality standards set forth above or otherwise breaches this Contract and, as a result thereof, Buyer's customer specifies or requires that Buyer obtain another source for the Products.

11. CANCELLATION/REDUCTIONS WITHOUT BREACH

- (a) Buyer may cancel or reduce quantities ordered without cost or charge, if due to a cancellation or reduction in quantities by Buyer's OEM manufacturer or other customer through no fault of Buyer, provided that if Buyer obtains a recovery from its OEM manufacturer or other customer on account of such cancellation or reduction which is allocable to Seller, then Buyer shall pay over to Seller the share of cancellation costs so allocable actually received or recovered by Buyer.
- (b) Buyer may reduce or cancel this Contract for convenience and for any reason by giving thirty (30) days written notice to Seller, in which event Seller, unless

otherwise directed by Buyer, will terminate promptly all work under this Contract and take such other actions as Buyer reasonably requests. Buyer's obligation to Seller for such cancellation or reduction will be (i) the purchase price for finished Products that conform to the requirements of this Contract and that are delivered to Buyer if requested, less amounts received or that could have been received by Seller for disposition or sale of any product or materials not delivered to Buyer; (ii) Seller's actual cost of work in process and parts and materials transferred to Buyer, less any salvage or resale value thereof; and (iii) Seller's actual cost of settling claims with subcontractors, not to exceed actual direct costs that are rendered unrecoverable to such subcontractors by reason of termination or reduction of this Contract.

- (c) In no event shall Buyer have any obligation to make payments or compensate Seller by reason of cancellation for lost profits, lost revenues, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs or rental, non-cash expenses, start-up, unamortized depreciation costs, and general and administrative charges, regardless of whether such charges or costs are incurred by Seller directly or on account of claims by Seller's subcontractors.
- (d) Seller will furnish to Buyer within one (1) month after the effective date of termination or reduction, Seller's claim on account of such reduction or termination, or be barred from any compensation therefor. Buyer may audit Seller's records at any time to verify amounts requested for termination or reduction of this Contract.
- (e) For the avoidance of doubt, Buyer will have no obligation to compensate Seller for a cancellation, termination, or reduction under this Contract due to or during the continuance of a breach by Seller, or as a result of causes beyond Buyer's or Seller's control.

## 12. INDEMNIFICATION

Seller will indemnify, hold harmless and defend Buyer, its parent companies and their affiliates, subsidiaries or divisions (collectively with Buyer, the "**Buyer Group**") and its respective present and future directors, officers, employees, attorneys, agents and other representatives (each an "**Indemnified Party**" and together the "**Indemnified Parties**") from and against any and all claims, demands, losses, damages (including special, consequential, punitive and exemplary damages), liabilities, causes of action, and expenses (including costs of defense, mediation, settlement and reasonable attorneys' and other professionals' fees), including claims for breach of warranty, death of or bodily injury to any person, or injury to or destruction of any property, if and to the extent such claims directly or indirectly relate to or arise out of or in connection with (a) any negligent or willful act or omission of Seller or its subcontractors, agents, employees or other representatives; (b) Seller's, its subcontractors', agents', employees' or other representatives' commission of any Event of Default or other breach of any provision of this Contract; (c) infringement of any Intellectual Property Rights except to the extent the design was mandated by Buyer; or (d) Seller's, its subcontractors', agents' or employees' or representatives' violation of Law. Seller's obligation to indemnify the Indemnified



Parties under this **Section 12** will apply regardless of whether the claim arises in tort, negligence, contract, warranty, strict liability or otherwise. Seller further agrees to hold Buyer harmless from any claim or expense, including reasonable attorneys' fees, on account of any lien, claim, encumbrance, interest or other right filed or asserted by any laborers, materials manufacturer, goods providers or subcontractors used by Seller related to services under this Contract and for any tax claims or liens filed on account of nonpayment of taxes by Seller.

Seller will take such steps as may be reasonably necessary to prevent personal injury or property damage during any work hereunder that may be performed by any employees, agents or subcontractors of Seller at the Buyer's plant or other location. Seller will indemnify, hold harmless and defend the Buyer from and against all loss, liability, liens, claims and damages arising from or caused directly or indirectly by any act or omission of such agents, employees or subcontractors at Buyer's plant or other location. Seller's employees must comply with all of Buyer's safety and work rules that are in force for Buyer's employees at the job site while Seller's employees are on Buyer's property.

13. SECURITY INTEREST

To secure all of Seller's debts, obligations and liabilities under and in connection with this Contract, Seller hereby grants to Buyer a security interest in the following property of Seller, whether now owned or hereafter acquired: (a) the Products; (b) all component parts, supplies, machinery, tools, raw materials and other equipment and property of Seller purchased or identified for use in Seller's performance of this Contract or for incorporation into the Products; (c) all of Seller's rights by virtue of down payments and purchase orders and all of Seller's other equipment and property; (d) all drawings (including without limitation proprietary drawings), plans, specifications, blueprints and other documents prepared during or in connection with Seller's performance of this Contract; and (e) all accessions and attachments to and all proceeds and products of any of the foregoing. Seller authorizes Buyer to file such financing statements and other documents, and to take such actions, as Buyer reasonably deems necessary or advisable to protect Buyer's rights in the items described in subclauses (a)-(e) above.

14. COMPLIANCE WITH LAWS

Seller will perform all of its obligations under this Contract in accordance with, and ensure the Products conform fully to, any applicable statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree or other requirement or rule of law of any Governmental Authority (collectively "**Laws**"). For purposes of this Contract, the term "**Governmental Authority**" means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or order of such organization or authority have the force of Law), of any arbitrator, court, or tribunal of competent jurisdiction. Upon Buyer's request, Seller will provide Buyer with: (a) written certification of Seller's compliance with applicable Laws; (b) written certification of the origin of any ingredients or materials in the Products; and (c) any additional information regarding the Products requested by Buyer such that Buyer may comply in a timely

manner with its obligations under Law. Buyer serves from time to time as a contractor for the United States Government. Accordingly the parties hereby incorporate the requirements of 41 C.F.R. §§ 60-1.4(a) (1)-(7), 60-250.5(a) and 60-741.5(a), and 29 C.F.R. Part 471, Appendix A to Subpart A, if applicable, and any statutory or regulatory requirements which may become effective after the date of this Contract until its termination.

15. CERTAIN PROHIBITED PRACTICES

Seller will not, and will cause its representatives not to, seek, accept, offer, promise or give any payments, fees, loans, services or gifts from or to any person (including Buyer's officers, directors, employees, agents or other representatives) or firm (a) as a condition or result of doing business with Buyer or Seller; or (b) with a view toward securing any business from such person or firm or influencing such person or firm with respect to the terms, condition, or performance of any contract. Seller will not, and will cause its representatives not to, make, directly or indirectly, any offer or promise or authorization of a bribe, kickback, payoff or any other payment or gift intended to improperly influence an agent, government official, political party or candidate for public office to exercise their discretionary authority or influence. Seller represents and warrants to Buyer that it has not taken any action prohibited by this **Section 15** in the past.

16. PERMITS, LICENSES AND AUTHORIZATIONS

Unless otherwise provided in this Contract, Seller will obtain all permits, licenses, franchises, approvals, authorizations, registrations, certificates, variances and similar rights obtained, or required to be obtained, from any Governmental Authority (collectively, '**Permits**'), for the performance of Seller's obligations under this Contract, including any Permits required for the import or export of the Products or shipment of hazardous materials.

17. CUSTOMS; ORIGIN

Credits or benefits resulting or arising from this Contract, including trade credits, export credits or the refund of duties, taxes or fees, will belong to Buyer. Seller will timely and accurately provide all information necessary (including written documentation and electronic transaction records) to permit Buyer to receive such benefits or credits and fulfill its obligations under Law. Seller will undertake such arrangements as necessary for the Products to be covered by any duty deferral or free trade zone programs of the country of import.

18. INSPECTION OF PREMISES, BOOKS AND RECORDS

Buyer and, if applicable, Buyer's customer or other designee, will have the right to enter Seller's facility during normal business hours, or outside of normal business hours upon 24 hours' advance written notice, to inspect the facility, goods, materials and any other of Seller's facilities, books and records, Products, inventory or any property of Buyer. Buyer's inspection will not constitute acceptance of any work-in-progress or finished Products. Buyer's acceptance, inspection, or failure to inspect does not relieve Seller of any of its responsibilities or warranties. Buyer's inspection, evaluation or testing before, during or after manufacture, delivery, installation or performance, will not constitute a waiver of the right of subsequent rejection by reason of any latent or otherwise

undiscovered defect. Seller will maintain for at least two (2) years, and make readily available to Buyer or its duly authorized representatives at any time during normal business hours, books, records and accounts prepared in accordance with generally accepted accounting principles which accurately and completely reflect the nature of every transaction related to the performance of Seller's obligations under this Contract. Seller shall maintain test data to substantiate compliance with this Contract. Seller's manufacturing processes and inspection system shall be subject to on-site review and verification by representatives of Buyer or Buyer's customers.

19. CONFIDENTIALITY

Seller will consider all information furnished by Buyer (or obtained from Buyer during site visits) to be confidential and will not disclose any such information to any other person, or use such information itself for any other purpose other than performing its obligations hereunder. Seller will not in any manner advertise or publish the fact that it has furnished, or contracted to furnish, the Products ordered by Buyer, without the prior written consent of Buyer. For clarity, any non-public information that the Seller learns of in connection with its business dealings with Buyer is confidential and may not be disclosed or used in any manner that is not expressly agreed to in writing by Buyer. Examples of this type of confidential information include Buyer's: business plans; financial information; matters pertaining to Buyer's customers or suppliers; costs; prices; personnel; uses and applications of products, raw materials, components or equipment; results of investigations or experiments; and all apparatus, products, processes, compositions, samples, formulas, computer programs and manufacturing methods at any time used, developed, investigated, made, or sold by Buyer. Seller agrees to protect Buyer's confidential information using the same degree of care with which it protects its own confidential information, but in no event less than reasonable care. Any developments, devices, or technical information furnished in connection with the Products or resulting from development of the Products shall not be disclosed to anyone other than authorized personnel of Buyer. No drawings, images, publications or photographs concerning the Products will be made without the written permission of Buyer. Information, design or specifications furnished by Buyer shall not be used for purposes outside the scope of this Contract including use by Seller for any third party or other party contracting with Seller. Seller shall make all necessary and reasonable efforts to isolate and protect Buyer's confidential information located at Seller's facilities, including limiting access to Buyer's confidential information by any third parties visiting or otherwise present at Seller's facilities.

20. DUTY TO ADVISE

Seller will promptly notify Buyer in writing of any of the following events or occurrences, or any facts or circumstances reasonably likely to give rise to any of the following events or occurrences: (a) any failure by Seller to perform any of its obligations under this Contract; (b) any delay in delivery of Products under this Contract; (c) any defects or quality problems relating to the Products; (d) any changes in Seller's corporate structure or organization (including any direct or indirect change in control or ownership of Seller); (e) any deficiency in Buyer's specifications, samples, prototypes or test results relating to this Contract; or (f) any failure by Seller, or its subcontractors or common carriers, to comply with Law, including with respect to transportation of Products.

Further, Seller will promptly notify Buyer in writing of any change in Seller's authorized representatives, insurance coverage or professional certifications.

21. INSURANCE

Seller will, at its sole cost and expense, subscribe for, maintain, and provide: (a) Commercial General Liability (including Public, Products and Contractual Liability and Property Damage Liability) insurance coverage, (b) Workers' Compensation, Occupational Disease and Employers' Liability Insurance, and (c) Automobile Liability for Bodily Injury and Property Damage insurance coverage, in each case in a form that is reasonably acceptable to Buyer and with a minimum single limit of liability per occurrence of at least USD\$1,000,000 and supplemental Umbrella Liability coverage in the amount of USD\$5,000,000. Buyer will be named as an additional insured on the Commercial General Liability, Automobile Liability and Umbrella Liability policies of insurance. Seller will deliver to Buyer certificates annually evidencing that such insurance coverage is in full force and effect and provide that such insurance coverage may not be cancelled or modified without Buyer first receiving thirty (30) days prior written notice. Such insurance will be provided on a primary and non-contributory basis and Seller's insurers will have no recourse against Buyer in any circumstance, including for premiums, deductibles or otherwise.

22. APPLICABLE LAW; CONSENT TO JURISDICTION; ARBITRATION

- (a) This Contract, all related documents and all matters arising out of or relating to this Contract or such related documents, are governed by, and construed in accordance with, the Laws of the State of Illinois, United States of America, without regard to any otherwise applicable conflict-of-laws provisions and excluding the United Nations Convention on the International Sale of Goods.
- (b) Buyer and Seller each irrevocably and unconditionally agree that the forum and venue for any legal or equitable action or proceeding arising out of, or in connection with, this Contract will lie in the U.S. District Court for the Northern District of Illinois or the courts of the State of Illinois sitting in Cook County.
- (c) If any arbitration or mediation proceeding is pending or threatened by or between Buyer and its customer pertaining to the subject matter of this Contract, Seller agrees that it will consent to and submit to the jurisdiction of and be joined in that arbitration or mediation proceeding upon the request or direction of Buyer, and will agree to be bound by all orders, rules and awards entered in that proceeding, which, in the case of arbitration, will be final and binding on the parties.

23. ENFORCEMENT COSTS

If any suit or action will be brought to enforce or declare any of the terms of this Contract, to terminate this Contract or to recover any damages sustained as a result of a default in the performance of any obligations under this Contract, or a breach of any of the representations and warranties herein contained or otherwise pursuant to this Contract, the party not prevailing in such suit or action will be liable to the prevailing party for the prevailing party's costs and expenses, including court costs and reasonable attorneys' and expert witnesses' fees (including the value of time spent by in-house personnel), the

amount of which will be fixed by the court and will be made a part of any judgment rendered.

24. PERFORMANCE BOND

The Seller may be required to purchase a performance bond in an amount determined by Buyer in its reasonable discretion as sufficient to cover Buyer's expenses due to failure of the Seller to provide the Products timely and otherwise in accordance with the requirements of this Contract. This performance bond may also be used to cover any expenses incurred by Buyer due to a breach of contract by the Seller.

25. SETOFF

- (a) All amounts due from Buyer or any other member of Buyer Group to any of Seller or its parent companies or their affiliates, subsidiaries or divisions ("**Seller Group**") will be considered net of indebtedness of any member of Seller Group to any member of Buyer Group. In addition to any right of setoff, deduction or recoupment provided or allowed by law, any member of Buyer Group may, without notice to Seller or any other member of Seller Group, set off against, and deduct and/or recoup from, any amounts due or to become due from any member of Buyer Group to any member of Seller Group, any amounts due or to become due from any member of Seller Group to any member of Buyer Group, including for damages resulting from breaches by Seller of its obligations under this or any other Contract.
- (b) If an obligation of any member of Seller Group is disputed, contingent or unliquidated, payment by any member of Buyer Group of all or any portion of the amount due may be deferred until such dispute contingency is resolved or the obligation is liquidated. In the event of Seller's bankruptcy, if all of the contracts (including this Contract) between Buyer and Seller have not been assumed (under applicable bankruptcy law), then Buyer may withhold payment to Seller for Products previously delivered (via administrative hold or otherwise) until the risk of potential rejection and other losses is eliminated.
- (c) For purposes of this **Section 25**, the term "affiliate" will include any company that controls, is controlled by, or is under common control with the applicable party, and the term "control" means the direct or indirect ownership 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.

26. REMEDIES

- (a) All of Buyer's rights and remedies set forth in this Contract, and any exercise by Buyer thereof, are cumulative, not exclusive, and in addition to all other rights and remedies of Buyer arising under this Contract, applicable Law or in equity, each of which are expressly reserved by Buyer. The exercise by Buyer of any right or remedy does not preclude the Buyer's exercise of any other rights or remedies that may now or subsequently be available at Law, in equity or in any other agreement between the parties or otherwise. Buyer's failure to exercise any remedy set forth in this **Section 26** or otherwise available to Buyer under Law or

in equity will not constitute a waiver of any such remedies and Buyer will thereafter be entitled to exercise its remedies at any time.

- (b) Buyer may, at its election and in addition to any other rights or remedies it may have under this Contract or applicable Law, recover any and all damages (including direct, indirect, incidental and consequential damages), costs (including attorneys' and other professionals' fees and costs), expenses and losses incurred by Buyer as a result of any Event of Default or other breach of this Contract by Seller.
- (c) Seller acknowledges and agrees that money damages will not be a sufficient remedy for any actual, anticipatory or threatened breach of this Contract by Seller with respect to Seller's timely delivery of Products to Buyer and that, in addition to all other rights and remedies that Buyer may have, Buyer will be entitled to seek specific performance and temporary, preliminary and permanent injunctive and other equitable relief as a remedy for any such breach, without proof of actual damages and without bond or other security being required. Seller acknowledges that shutting down or interrupting Buyer's or its customer's operations creates losses for which money damages are not a sufficient remedy, including damage to customer relationships and other loss of goodwill, each of which will cause Buyer irreparable harm.
- (d) Seller will not exercise any right it may have to terminate this Contract or suspend performance under this Contract until the following events have both occurred:
  - (i) Seller has provided written notice to Buyer identifying in reasonable detail the factual and legal basis for the contemplated termination or suspension; and
  - (ii) within a commercially reasonable period of time thereafter (but in all cases not fewer than sixty (60) days), Buyer has not cured, or otherwise compensated Seller, for any breach that is not subject to a good faith dispute by Buyer.NOTWITHSTANDING ANYTHING IN THIS CONTRACT TO THE CONTRARY, UNDER NO CIRCUMSTANCES WILL BUYER BE LIABLE TO SELLER UNDER ANY CONTRACT, TORT, INDEMNITY, STRICT LIABILITY, OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OR LOSS OF PROFITS, IN CONNECTION WITH OR IN ANY WAY RELATED TO THIS CONTRACT, WHETHER OR NOT BUYER IS ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES. THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED HEREIN. Any legal action by Seller against Buyer arising under or relating to this Contract must be commenced within one (1) year after the occurrence of any breach or other event giving rise to such claim, regardless of Seller's lack of knowledge of such breach or event. No action for any such claim may be brought thereafter.

27. GENERAL TERMS

- (a) *Interpretation.* For purposes of this Contract, (i) whenever the word "including" (or any variation thereof) is used, it is deemed to be followed by the words "without limitation;" (ii) the word "or" is not exclusive; and (iii) section headings

are for convenience or reference only, and do not affect the meaning of this Contract. No provision in this Contract may be construed against the drafting party. Buyer may provide various translated versions of this Contract for informational purposes only; the original English language version of this Contract will apply in the event of any disagreement over the meaning or construction of any provision of this Contract.

- (b) *Entire Agreement; Modification.* This Contract, as may be modified in accordance with these Terms and Conditions, constitutes the entire agreement between Seller and Buyer with respect to the matters contained in this Contract and will be deemed to supersede all prior and contemporaneous oral or written representations, agreements and communications of Buyer or Seller with respect to such subject matter. Buyer may modify these Terms and Conditions at any time by posting notice of such modifications on Buyer's website, <<http://tsp.tenneco.com>>. Except to the extent inconsistent with the terms of this Contract, any applicable statement of work issued by Buyer in connection with the Products is incorporated herein by reference.
- (c) *Survival.* Provisions of this Contract that by their nature should apply beyond the duration of this Contract will remain in force after any termination or expiration of this Contract, including the following provisions: Intellectual Property, Quality Criteria/Warranties, Indemnification, Security Interest, Compliance with Laws, Permits, Licenses and Authorizations, Customs; Origin, Inspection of Premises, Books and Records, Confidentiality, Duty to Advise, Applicable Law; Consent to Jurisdiction; Arbitration, Enforcement Costs, Setoff and Remedies.
- (d) *Relationship of Parties.* Seller and Buyer are independent contracting parties and nothing in this Contract will make either party the agent or legal representative of the other party for any purpose, nor does it grant either party any authority to assume or to create any obligation on behalf of or in the name of the other party. Seller's personnel will in no event be considered employees of Buyer and Seller will remain responsible for all wages, taxes, benefits, payroll deductions, remittances and other obligations with respect to its personnel.
- (e) *Use of Buyer's Name.* Seller agrees that it will not use Buyer's name whether by including reference to Buyer in any list of customers advertising that its services or products are used by Buyer or otherwise, without written authorization by Buyer's authorized representative.
- (f) *Authority; No Conflicts.* Seller represents and warrants that: (i) Seller has full organizational power and authority to enter into this Contract and to carry out its obligations under this Contract; (ii) Seller's entry into this Contract and the performance by Seller of its obligations under this Contract have been duly authorized by all requisite organizational action on the part of Seller; (iii) this Contract constitutes a legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms; and (iv) Seller's acceptance of this Contract, or compliance or performance by Seller with any of the provisions of this Contract will not conflict with, or result in any violation or breach of, or default under (with or without notice or lapse of time, or both) any provision of

the certificate of incorporation and by-laws or comparable organizational documents of Seller, any material contract of Seller, any Governmental Order applicable to Seller, or any applicable Law.

- (g) *Assignment.* Seller may not assign or delegate its obligations under this Contract without Buyer's prior written consent, which consent may be withheld in Buyer's sole discretion. If the Buyer agrees to such an assignment for purposes of subcontracting, the Seller will continue to be liable to Buyer for all of Seller's obligations hereunder.
- (h) *Third-Party Beneficiaries.* This Contract is intended for the benefit of Buyer and each other member of the Buyer Group, each of which is an express third-party beneficiary under this Contract and will have the right to enforce this Contract against Seller. This Contract is not intended to benefit any other third party.
- (i) *Rights Reserved; No Waiver; Severability.* Buyer's failure at any time to require performance by Seller of any provision of this Contract will in no way affect the right to require such performance at any time thereafter, nor will Buyer's waiver of a breach of any provision of this Contract constitute a waiver of any succeeding breach of the same or any other provision. Any waiver of a right or remedy by Buyer under this Contract on any one occasion will not be construed as a bar to any right or remedy that Buyer would otherwise have had on a subsequent occasion. If any term of this Contract is invalid or unenforceable under any Law, such term will be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with such Law, and the remaining provisions of this Contract will remain in full force and effect.
- (j) *Electronic Communications.* Seller will comply with the method of electronic communication specified by Buyer, including requirements for electronic funds transfer, invoice and Contract transmission, electronic signature, and other communications.
- (k) *Notices.* All notices, claims, or other communications to Buyer required or permitted under this Contract will be made in writing and will be effective only upon actual receipt of same by Buyer. Seller's failure to provide any notice, claim or other communication to Buyer in the manner and within the time periods specified in this Contract will constitute a waiver by Seller of any and all rights and remedies that otherwise would have been available to Seller upon making such notice, claim or other communication. Notices to Buyer will be provided at the address set forth on the face of this Contract.
- (l) **JURY TRIAL WAIVER. BUYER AND SELLER ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH OF BUYER AND SELLER, AFTER CONSULTING (OR HAVING THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS CONTRACT OR ANY OTHER DOCUMENT PERTAINING TO THIS CONTRACT.**