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# General Terms and Conditions

## 通用条款

**September 1, 2017**

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## 1. The Contract.

1.1 Offer and Acceptance. Each purchase order Buyer issues ("**Purchase Order**") to the seller identified on the Purchase Order ("**Seller**") is Buyer's offer to purchase the products ("**Products**") and services ("**Services**") identified in that Purchase Order. Buyer will indicate quantity due periodically via a release schedule ("**Release**"). Seller will be deemed to have accepted a Purchase Order as issued (1) if Seller fails to object to the Purchase Order in writing within 3 business days after receipt, or (2) if Seller has begun or later begins performance under the Purchase Order, or (3) if Seller acknowledges to Buyer in writing its acceptance of the Purchase Order. Upon acceptance, the Purchase Order, which includes and is governed by these General Terms and Conditions ("**Terms**") and any other documents specifically incorporated by reference in the Purchase Order or separately agreed to in writing by Buyer and Seller, such as specifications, drawings, requirements of Buyer's customer, or quality requirements, will become a binding contract between Buyer and Seller (collectively, the "**Contract**"). Any proposal for additional or different terms, or any attempt by Seller to vary in any degree any of the terms of the Contract in Seller's acceptance is hereby rejected. Any attempt by Seller to vary in any degree any of the terms of the Contract in the Seller's acceptance of the Purchase Order shall operate as a rejection of the Purchase Order. Additional or different terms or any attempt by Seller to vary in any degree any of the terms of the Purchase Order shall be deemed material and are not effective unless incorporated into a revised Purchase Order issued by the Buyer and accepted by the Seller as prescribed herein. "**Buyer**" is GHSP Shanghai South Automotive Co. Ltd. and/or GHSP (Shanghai) Automotive

Company Ltd., unless otherwise stated on the Purchase Order.

## 1. 合同。

1.1 要约和承诺。 每份由买方发给采购订单 ("**采购订单**") 中指定的卖方 ("**卖方**") 的采购订单即为买方在该采购订单下购买产品 ("**产品**") 和服务 ("**服务**") 的要约。买方将定期通过发货时间表 ("**发货通知**") 指明应可交付的数量。在下列情况下, 卖方将被视为已接受买方发出的采购订单: (1) 如果卖方在收到订单后 3 个工作日内未以书面形式拒绝接受采购订单; 或 (2) 如果卖方已开始或稍后开始履行采购订单下卖方的义务, 或 (3) 如果卖方以书面形式向买方确认已接受采购订单。一经接受, 包括本通用条款和条件 ("**通用条款**") 并受其约束的采购订单、在采购订单中被特别提及而被并入采购订单的其他文件、或买方和卖方另外以书面形式同意的其他文件, 比如规格、图纸、买方客户要求、或质量要求, 将共同成为买卖双方之间具有约束力的合同 (统称为 "**合同**")。任何提出附加或不同条款的提议, 或卖方在承诺中对任何合同条款进行任何程度上改动的尝试, 都一律拒绝接受。卖方在接受采购订单时对任何合同条款进行任何程度改动的尝试, 都将被视为拒绝采购订单。附加或不同条款或卖方对采购订单任何条款进行任何程度上的改动都将被视为实质性改动, 都将是无效的, 除非买方重新发出修改后的采购订单, 并由卖方按照本条所述方式接受。买方" 为上海南格兰海芬汽车零部件有限公司和/或上海格兰海芬汽车零部件有限公司。

## 1.2 Changes.

(a) Buyer may, from time to time and upon notice to Seller, make reasonable changes to the drawings, specifications, materials, packaging, testing, quantity, time or method of delivery or shipment, or similar requirements prescribed in the Contract, including without limitation any changes required by Buyer's customer. Seller may request in writing, together with

appropriate supporting documentation, an equitable adjustment to the Contract prices and times for performance as a result of Buyer's changes. Seller shall provide any additional documentation requested by Buyer in connection with Seller's request for such adjustment. Any proposed adjustment to the Contract price or times for performance shall not be effective unless agreed to in writing by authorized representatives of both Buyer and Seller.

(b) Seller will not make any changes relating to the Products, including, without limitation, to the Product contents, design, specifications, processing, including manufacturing or assembly processes, packing, marking, shipping, price or date or place of delivery, except at Buyer's written instruction or with Buyer's written approval. Examples of such prohibited changes include, without limitation, changing (i) any suppliers of Services, raw materials or goods used by Seller in connection with Seller's performance under a Purchase Order; (ii) the location of Seller's facility, or the location of the facility of any of Seller's suppliers, if such change in location would in any way impact the Products, Services, raw materials or goods used by Seller in connection with Seller's performance under a Purchase Order; (iii) the price of any Products or Services covered by a Purchase Order; (iv) the nature, type or quality of any Services, raw materials or goods used by Seller or its suppliers in connection with a Purchase Order; (v) the fit, form, function, appearance or performance of any Products covered by a Purchase Order; or (vi) the production method, process, software, or any production equipment used in the production or provision of, or as part of, any Products or Services supplied pursuant to a Purchase Order. Any changes by Seller to any Purchase Order, or to the Products or Services covered by the

Purchase Order, without the prior written approval of an authorized representative of Buyer shall constitute a breach of the Purchase Order.

## 1.2 变更。

(a) 买方可经通知卖方后不时对图纸、规格、材料、包装、测试、数量、交付/运输的时间/方式、或合同中规定的类似要求作出合理的变更，包括但不限于买方客户要求的任何变更。基于买方所要求的变更，卖方可向买方发出书面请求并随附适当的支持文件，对合同价格和履约时间作出公平调整。卖方应基于买方要求提供与卖方作出该调整相关的任何补充文件。除非得到买卖双方授权代表的书面同意，否则任何调整合同价格或履约时间的提议均为无效。

(b) 除非经买方书面指示或书面认可，卖方不得对产品作出任何变更，包括但不限于产品内容、设计、规格、加工（包括生产或装配工艺）、包装、标记、装运、价格、交付日期或地点。此类禁止的变更，包括但不限于变更 (i) 卖方使用的与卖方履行采购订单项下义务相关的任何服务、原材料或货物的供应商；(ii) 卖方工厂的位置，或任何卖方供应商工厂的位置，如果该等位置变更将以任何方式影响与卖方履行采购订单相关的产品、服务、或卖方使用的原材料或货物；(iii) 采购订单所涵盖的任何产品或服务的价格；(iv) 卖方或其供应商使用的与采购订单相关的任何服务、原材料或货物的性质、类型或质量；(v) 采购订单所涵盖的任何产品的装配、形状、功能、外观或性能；或 (vi) 生产或提供依据采购订单供应的任何产品/服务或产品/服务的一部分时所使用的生产方法、工艺、软件或任何生产设备。如未经买方授权代表的事先书面同意，卖方对任何采购订单或采购订单所涵盖的产品或服务作出的任何变更将构成对采购订单的违约。

1.3 Other Changes. Except-as described these Terms, neither party may make any change to the Contract during its term (as described in

**Section 12.1)** without the prior written agreement by authorized representatives of both Buyer and Seller.

1.3 **其他变更。**除本通用条款所述的变更外，未经买卖双方授权代表的事先书面同意，在本合同有效期（如**第 12.1 条**所述）内任何一方均不得对合同作出任何变更。

## **2. Products and Services.**

### **2.1 Quantity.**

(a) Quantities and delivery schedules will be specified in the Releases, and will be reasonably determined by Buyer and sent to Seller from time to time. Buyer may return over-shipments to Seller at Seller's expense. Unless otherwise expressly stated in the Purchase Order or Contract, if no quantity is stated on the face of the Purchase Order or if the quantity is blank or states the quantity as zero, "blanket," "see release," "as scheduled," "as directed," "subject to Buyer's production releases" or similar terms, then Seller will supply Buyer's requirements for Products in such quantities as identified by Buyer as firm orders in material authorizations releases, manifests, broadcasts, or similar Releases that are transmitted to Seller during the term of the Purchase Order, and Seller will supply all such Products on such dates and times, at the price and on the other terms specified in the Purchase Order. Releases are part of the Purchase Order, are governed by these Terms, and are not independent contracts.

(b) Seller accepts the risk associated with lead times of various raw materials and/or components if they are beyond those provided in Releases. Seller agrees to 100% on-time delivery of Products in the quantities and at the times specified by the relevant Purchase Order and related Releases. Buyer may change the rate of scheduled shipments or direct temporary suspension of scheduled shipments, neither of which entitles Seller to modify the price for

Products. Buyer is not obligated to accept early deliveries, late deliveries, partial deliveries or excess deliveries.

(c) Unless otherwise agreed to in writing by Buyer, the risk of loss passes from Seller to Buyer upon delivery to Buyer's transportation carrier (or if shipment is by Seller or common carrier, then upon delivery to Buyer's designated facility), but title passes to Buyer only upon acceptance by Buyer at Buyer's facility where the Products are to be used.

(d) To assure the timely delivery of Products meeting Buyer's requirements and to avoid any unforeseen delays, Seller will, upon written request from Buyer, manufacture Products in excess of Buyer's current Purchase Orders to serve as a reserve for shipment, at such inventory reserve levels as may be set by Buyer from time to time. Until such reserve products are purchased by Buyer from Seller, they shall remain the property of Seller, and shall be held by Seller at its sole risk and expense.

## **2. 产品和服务。**

### **2.1 数量。**

(a) 数量和交货安排将由买方合理确定，在发货单中写明，并不时发送给卖方。买方可将多交付的货物退还给卖方，产生的费用由卖方承担。除非采购订单或合同中另有明文规定，如果采购订单正文中没有说明数量，或数量为空白，或列明数量为零、或标注“总括订单”、“参见发货单”、“按照计划”、“按照指示”、“根据买方的生产计划”或类似条款，则卖方将把在采购订单期间收到的材料授权发货单、货单、通知或类似发货单作为确认订单，按照买方在其中确定的数量、日期、时间、价格和采购订单中明确的其他条款供应产品。发货单是采购订单的一部分，受本通用条款约束，并非独立合同。

(b) 卖方接受各种原材料和/或元件的备货时间可能超出发货通知中规定时限的相关风



险。卖方同意按照相关采购订单/发货单中规定的数量和时间100%准时交货。买方可更改安排好的发货频率，或要求暂停安排好的发货，但卖方不可据此修改产品价格。买方没有义务接受提前交货、推迟交货、部分交货或超额交货。

(c) 除非买方另行书面同意，向买方承运人交货时（若由卖方或公共承运人承运，则在买方的指定地点交货时）货损风险会从卖方转移到买方，但仅当买方在其使用产品的场所接受产品时，产品所有权才转移至买方。

(d) 为保证按照买方要求及时交付产品，避免出现任何无法预见的延迟，卖方将在买方的书面请求下，生产超过买方当前采购订单数量的产品用作发货储备，库存储备数量可由买方不时设定。在买方向卖方购买这类储备产品前，该等产品属于卖方的财产，卖方将独自承担产品相关的风险和费用。

## 2.2 Current-Model Service Requirements.

During the term of a Contract, Seller will make Products covered by the Contract available to Buyer for Buyer's current-model service requirements at the then-current production prices under the Contract plus any additional costs for special packaging.

2.2 现产件服务要求。在合同有效期内，卖方将根据买方的现产件服务要求，以合同项下的当前生产价格，加上特殊包装所产生的任何额外费用，向买方提供合同项下产品。

2.3 Past-Model Service Requirement. During the applicable vehicle program production life, which commences with the Original Equipment Manufacturer ("**OEM**") start of production and ends ~~seven~~**15** years after a vehicle design concludes production or a specific part concludes production ("**Production Price Window**") (unless a different period is agreed in writing by the parties), Seller will supply Buyer's written "replacement parts" and "service parts" orders for the same Products, component parts and materials at the price(s) set forth in the

Purchase Order plus any actual cost differential for special packaging. Seller, after the Production Price Window, will sell Products to Buyer in order to fulfill Buyer's past model service and replacement parts requirements, at price(s) based on the most recent price(s) under the Purchase Order, taking into account actual, documented (by supplier invoice) differences in the cost of materials, packaging, and costs of production after any of Buyer's current model purchases have been completed, as mutually and reasonably agreed by the parties. Unless otherwise expressly agreed to in writing by an authorized representative of Buyer, or Buyer has removed tooling from Seller necessary for the production of service parts, Seller's obligations under this **Section 2** shall survive termination, regardless of the reason for such termination, and expiration of the Purchase Order.

## 2.3 旧产件服务要求。

在适用的汽车项目生产周期内，该周期始于原始设备制造商 ("**OEM**") 开始生产，止于相关型号车辆停产或特定零件停产后的十五年（“生产价格窗口”）（除非双方书面约定其它周期），卖方将根据买方的书面订单，以采购订单内列明的价格加上特殊包装产生的任何实际成本差价，向买方提供用于相同产品、零部件和材料的“替换件”和“维修件”。在生产价格窗口之后，卖方将继续向买方销售产品以满足买方旧型号维修件及替换件的要求，价格依据采购订单的最新价格，并考虑实际的、有书面证明（基于供应商发票）的材料、包装和生产成本差价，由双方共同合理约定。除非买方授权代表另有明确书面同意，或买方移走了卖方生产维修件所必需的模具，否则卖方在本通用条款**第 2 条**项下的义务将在采购订单（无论因任何原因）终止或到期后持续有效。

## 3. Delivery.

3.1 Packing and Shipment. Buyer may specify the method of transportation and the type and

number of packing slips and other documents to be provided with each shipment. Seller will pack and ship Products in accordance with Buyer's instructions, including labeling and hazardous materials instructions. If Buyer has not provided packing or shipping instructions, Seller will pack and ship Products in accordance with sound commercial practices. If Seller is required to use Buyer's returnable packaging, Seller will be responsible for cleaning and returning the returnable packaging. If returnable packaging is not available, Seller may use expendable packaging and Buyer will reimburse Seller for the reasonable costs of expendable packaging.

### 3. 交付。

3.1 包装和运输。买方可指定运输方式、装箱单的类型和数量，以及每次运输随附的其他文件。卖方将根据买方的指示包装及运送产品，包括标签和危险物品说明。如果买方未提供包装或运输说明，卖方将按照合理的商业惯例对产品进行包装和运输。如果卖方被要求使用买方的可回收包装，卖方将负责清洁并退回可回收包装。如果没有可回收包装，卖方将使用消耗性包装，买方将向卖方补偿消耗性包装所产生的合理费用。

3.2 Delivery Schedules. Seller will deliver Products and Services in strict accordance with the Releases. Unless otherwise stated in the Contract, Products will be delivered domestically FOB Buyer's facility, and internationally FCA Free Carrier, named port of export, Incoterms 2010. If Products are not ready for delivery in time to meet Buyer's delivery schedules, the party causing the delay will be responsible for additional costs of any resulting expedited or other special transportation.

3.2 交付计划。卖方将严格按照发货单交付产品及服务。除非合同中另有说明，产品应按照 2010年国际贸易术语解释通则，国内货运将采用FOB买方场所交货，国际货运将在指定出口港货交承运人 (FCA)。如未准备好产

品及时交付，从而未能满足买方的交付计划，造成延误的一方将承担任何导致加急运输或其他特别运输所产生的额外成本。

4. Inspection. Buyer or its direct or indirect customers may, upon reasonable advance notice to Seller, conduct audits, inspections or testing at Seller's production facility for the purpose of verifying Seller's performance under the Contract, including compliance with all quality, cost or delivery requirements. Seller will ensure that the terms of its contracts with its subcontractors provide Buyer and its customers with all of the rights specified in this Section. Buyer is not required to inspect Products delivered or Services performed, and no inspection or failure to inspect will reduce or alter Seller's obligations under the Contract.

4. 检验。在合理提前通知卖方的情况下，买方及其直接或间接客户可在卖方的生产场所进行审核、检验或测试，以便验证卖方履行合同的情况，包括符合所有质量、成本或交付要求。卖方与其分包商的合同条款需确保提供买方及其客户本条款下的所有权利。买方没有检验卖方已交付产品或已履行服务的义务，检验或未能检验都不会减少或更改卖方在本合同项下的义务。

5. Taxes. Unless otherwise stated in the Contract, the Contract price includes all applicable state and local taxes other than sales, value added, or similar turnover taxes or charges, which must be shown separately on Seller's invoice for each shipment. Notwithstanding the foregoing, the Products purchased under the Purchase Order are identified as industrial processing or resale and may be exempt from sales taxes. In such case, the tax identification number and/or other exemption information are stated in the Purchase Order or are otherwise provided by Buyer.

5. **税费。** 除非合同另有约定，合同价格包括所有适用的国家和地方税款，但营业税、增值税或类似营业税费除外，这些税费必须在卖方每次运输的发票中单独说明。尽管有上述规定，根据采购订单购买的产品被认定为工业加工或转售产品，则有可能免征销售税。在此情况下，税务识别号及/或其他免税信息应在采购订单中列明，或由买方另行提供。

6. **Payment.** *Payment terms are net 45 days commencing from the first day of the next month after all Billing Documentations and Information are received by Buyer* or as set forth in the Contract. Seller will promptly submit correct and complete invoices or other agreed billing communications with appropriate supporting documentation and other information reasonably required by Buyer after delivery of Products and performance of Services, and Buyer may withhold payment until a correct and complete invoice or other required information is received and verified. Seller will accept payment by check or other cash equivalent, including electronic funds transfer. Buyer will pay Seller in the currency specified in the Contract or, if none is specified, in the currency of Seller's shipping or service location. Buyer may set off or deduct from sums owed to Seller under the Contract those sums owed by Seller to Buyer in accordance with **Section 22**.

6. **付款。** 付款期限为净 45 天（起算自买方收到全部账单文件和信息后下一个日历月的第一天）或合同约定的期限。卖方将在交付产品及履行服务后及时提交正确完整的发票或其他约定的账单信息及买方合理要求的适当的支持文件和其他信息（“**账单文件和信息**”），在收到并验证正确完整的发票或其他所需信息前，买方可暂不付款。卖方接受支票付款或其它现金等价物，包括电子资金转账。买方将按合同指定的货币向卖方付款，如未指定货币，则按卖方发货或服务提供地的货币付款。按照本通用条款**第 22 条**，

买方可依据合同从要支付给卖方的总额中抵扣或减去卖方欠买方的款项。

## 7. **Product Warranties.**

### 7.1 **Seller's Warranties.**

(a) Seller expressly warrants and guarantees to Buyer, to Buyer's successors, assigns and customers, and to users of Buyer's Products, that all Products delivered or provided to Buyer will: (i) be world-class, competitive Products in terms of price, quality, delivery and technology, and conform to the specifications, standards, drawings, samples, descriptions and revisions as furnished to or by Buyer; (ii) conform to all applicable laws, orders, regulations and standards in countries where the Products or vehicles or other products incorporating the Products are to be sold, including without limitation the National Traffic and Motor Vehicle Safety Act, Standardization Law of the People's Republic of China, Product Quality Law of the People's Republic of China, United States motor vehicle safety standards, European Union Directive 2000/53/EC, and equivalent industry standards; (iii) be merchantable and free of defects, including without limitation defects in design (to the extent designed by Seller or any of its subcontractors, agents or suppliers, even if the design has been approved by Buyer), materials and workmanship; (iv) be selected, designed (to the extent designed by Seller or any of its subcontractors, agents or suppliers, even if the design has been approved by Buyer), manufactured and assembled by Seller based upon Buyer's stated use and be fit and sufficient for the purposes intended by Buyer, and (v) be free of all liens, claims and encumbrances whatsoever. Seller further expressly warrants that, unless otherwise expressly stated in the Purchase Order, the Products are manufactured entirely with new materials, none of the Products are, in whole or in part, governmental or commercial surplus or used, remanufactured,

reconditioned or of such age or condition so as to impair their fitness, usefulness or safety, and the Products are free from latent defects or conditions that would give rise to a defect regardless of whether the defect or condition was known or discoverable during the warranty period. These warranties are intended to provide Buyer with protection from any and all warranty claims brought against Buyer by customers, including customer-required warranties relating to the Products or any products into which such Products are incorporated. Without limiting the warranties provided herein, Seller shall be bound by all such customer-required warranties which are hereby incorporated by reference as if expressly stated herein. The foregoing warranties are in addition to those available to Buyer by law.

(b) The warranty period is the longest of: (i) three years from the date Buyer accepts the Products; (ii) the warranty period provided by applicable law; or (iii) the warranty period offered by Buyer's customer(s) to end-users for Products installed on or as part of vehicles.

(c) For all Services, Seller further warrants that its work will be performed in a professional and workmanlike manner, consistent with all standards and specifications agreed on with Buyer and otherwise consistent with industry standards.

(d) Seller will immediately notify Buyer in writing when it becomes aware of any ingredient, component, design or defect in Products that is or may become harmful to persons or property.

(e) Buyer's approval of any design, drawing, material, process or specifications will not relieve Seller of any of the warranties set forth in this Section.

(f) The following communications shall each constitute notice of a breach of warranty under a Purchase Order: (i) any communication

specifying a defect, default, claim of defect or other problem or quality issue of the Products provided under the Purchase Order; (ii) any communication to Seller claiming that the Products are in breach of any warranty or that Seller is in default under the Purchase Order; and (iii) a termination notice from Buyer. Any such claim by Buyer of breach may only be rescinded in writing by an authorized representative of Buyer.

(g) To mitigate its damages, Buyer may fully defend any claim from any Customer that any Products supplied by Seller are defective, in breach of warranty, or otherwise did not meet applicable legal or contractual requirements. Seller and Buyer agree that this defense is in the interest of both Seller and Buyer. Seller waives the right to argue that the fact that Buyer took any such position in any way limits Buyer's right to assert a claim against Seller by Buyer for breach of warranty, contribution, indemnification or other claim that may arise from or be related to the subject matter of any of the foregoing.

## 7. 产品保证。

### 7.1 卖方保证。

(a) 卖方向买方、买方继承人、受让人和客户，以及买方产品的用户明确保证并担保，向买方交付或提供的所有产品：(i) 在价格、质量、交付和技术方面都属于世界级的有竞争力的产品，并符合提供给买方或由买方提供的规格、标准、图纸、样品、描述和修正；(ii) 符合销售产品或汽车或组成该产品的其他产品所在地的所有适用法律、命令、法规和标准，包括但不限于美国《国家交通与机动车安全法》(National Traffic and Motor Vehicle Safety Act)、《中华人民共和国标准化法》、《中华人民共和国产品质量法》、美国机动车安全标准、欧盟指令 2000/53/EC 及同等行业标准；(iii) 具有适销性且无缺陷，包括但不限于设计缺陷（在由卖方或其任何分包商、

代理或供应商设计的情况下，即使该设计已获得买方批准）、材料及工艺缺陷；(iv) 卖方根据买方说明的用途选择、设计（在由卖方或其任何分包商、代理或供应商设计的情况下，即使该设计已获得买方批准）、制造、组装，且适合并能满足买方的预期用途，以及(v) 不存在任何留置、索赔和权利负担。除非订单中另有明确说明，卖方进一步明确保证，产品全部采用新材料制造，所有产品不论整体或部分均不使用政府或行业定义的尾料或已使用料、改制料、翻新料或存在老化情况的物料，以致损害其适用性、使用性或安全性，且产品不得存在潜在缺陷或引发缺陷的情况，不论该等缺陷或情况是已知的，或是在保修期内发现的。这些保证旨在保护买方，使其免于遭受客户提出的任何质保索赔，包括客户要求的与产品（包括作为其他产品一部分的产品）有关的担保。不限于此处提供的保证，卖方还应受在此引用的由客户要求的所有保证的约束，且视同在此明确列明。上述保证是买方享有的法律保证之外的附加保证。

(b) 保修期以下述情况中最长的为准：(i) 买方接受产品之日起三年内；(ii) 相关法律法规规定的保修期；或(iii) 买方客户针对汽车上已安装的或作为汽车一部分的产品提供给最终用户的保修期。

(c) 对于所有服务，卖方进一步保证将以专业熟练的方式履行其工作，符合与买方约定的所有标准和规范以及行业标准。

(d) 当卖方得知产品的任何组成部分、元件、设计或缺陷将对或可能对人员或财产造成伤害时，卖方应立即书面通知买方。

(e) 买方对任何设计、图纸、材料、工艺或规范的批准不会减免本条款规定的卖方的任何保证责任。

(f) 下列沟通均构成对违反采购订单项下保证的通知：(i) 任何指出采购订单项下产品存在缺陷、瑕疵、缺陷索赔或其它问题、或质量问题的沟通；(ii) 任何声称产品违反任何保证或声称卖方违反采购订单规定的沟通；以

及(iii) 买方发出的终止通知。买方提出的任何此类违规索赔仅可由买方的授权代表以书面形式撤销。

(g) 为降低损失，买方可就任何客户因卖方提供的任何产品存在缺陷、违反保证、不符合适用的法律或合同要求而提出的任何索赔进行全力辩护。卖方及买方一致同意这类辩护是为了买卖双方的利益。因卖方违反保证、承担共同责任、赔偿或前述其他原因，买方仍有权向卖方索赔，卖方不得抗辩说因为买方曾采取了上述为卖方辩护的立场而在任何方面限制了其对卖方索赔的权利。

**7.2 Non-Conforming Products.** Buyer's inspection of the Products, whether during manufacture, prior to delivery, or within a reasonable time after delivery, does not constitute acceptance of any work-in-process or finished goods. Buyer's acceptance, inspection, or failure to inspect does not relieve Seller of any of its responsibilities or warranties. Nothing in the Purchase Order releases Seller from the obligation of testing, inspection and quality control. If defective Supplies are shipped to and rejected by Buyer, the quantities under the Purchase Order will be reduced unless Buyer otherwise notifies Seller. Seller will not replace reduced quantities without Buyer authorization. In addition to other remedies available to Buyer: (i) Seller agrees to accept return of defective or non-conforming Products, at Seller's risk and expense, at full invoice price, plus transportation charges, and to replace defective or non-conforming Products as Buyer deems necessary; (ii) Buyer may have Products that fail to meet the requirements of the Purchase Order corrected, at Seller's expense, at any time prior to shipment from Buyer's plant; and/or (iii) Seller will reimburse Buyer for all expenses that result from any rejection or correction of defective or non-conforming Products. Seller will document corrective actions within a commercially reasonable period after receipt of a defective or

non-conforming sample and will take whatever measures necessary to correct the defect or non-conformance. Payment for defective or non-conforming Products is not an acceptance of such Products, does not limit or impair Buyer's right to assert any legal or equitable remedy, and does not relieve Seller's responsibility for latent defects.

**7.2 不合格产品**。买方对产品的检验，不论是在生产期间、交货前或交货后的合理时间内，都不构成对任何半成品或成品的接受。买方的接受、检验或未能检验都不会免除卖方任何责任或保证。采购订单中的任何内容都不会免除卖方要承担的测试、检验和质量控制责任。如果有缺陷的供应品被运送至买方并被其拒绝，相应数量将从采购订单中扣除，除非买方另行通知卖方。未经买方授权，卖方不得替换已扣减的数量。除了买方可以采取其他补救措施外，(i) 卖方同意以全额发票价加上运输费用接受被退回的缺陷产品或不合格产品，风险和费用由卖方承担，并在买方认为必要的情况下更换缺陷品或不合格产品；(ii) 买方可在卖方从其工厂发货前的任何时间要求修正不符合采购订单要求的产品，费用由卖方承担；及/或 (iii) 卖方将补偿买方任何因拒绝或修正缺陷品或不合格产品产生的所有费用。卖方在收到有缺陷的或不合格的样品后，将在商业上合理的期限内，提出修正方案并采取一切必要措施修正缺陷或不合格产品。对缺陷品或不合格产品的付款不代表接受这类产品，不得限制或削弱买方主张任何法律或公平补救措施的权利，也不得免除卖方对潜在缺陷的责任。

**7.3 Recalls, Alerts, Field Campaigns or other OEM Notification**. This **Section 7.3** applies to any voluntary or government-mandated action by Buyer, or its direct or indirect customers, to conduct any recall or field service campaign, remedy an alleged defect or otherwise take any corrective action that relates to motor vehicle safety or an alleged failure of a vehicle to comply with an applicable motor vehicle safety standard

or guideline (a "**Recall**"). Except as otherwise stated in the Contract, Seller will be liable for any and all costs and damages resulting from a Recall if the Recall results in whole or in part from a failure of the Products to conform to the warranties in **Section 7.1(a)**. If Seller is liable for a Recall, the extent of Seller's liability will be negotiated on a case-by-case basis based on (1) a good faith allocation of responsibility for the Recall, (2) the reasonableness of the costs and damages incurred, and (3) other relevant factors. At the request of Seller, Buyer shall make reasonable efforts to (i) notify Seller as soon as practicable after Buyer learns that a Recall being considered implicates the Products; (ii) provide Seller with reasonable access to available non-privileged documents relating to the potential Recall; (iii) to the extent allowed by Buyer's customer and governmental agencies, provide Seller a reasonable opportunity to participate in inquiries and discussions among Buyer, its customer, and governmental agencies regarding the need for and scope of the Recall; and (iv) consult with Seller about the most cost-effective method of modifying or replacing vehicle systems or component parts, including the Products, in order to remedy the alleged defect or non-compliance.

**7.3 召回、警告、现场活动或其他 OEM 通知**。**第 7.3 条**适用于买方及其直接或间接客户所采取的，任何自愿的或政府强制的行为，以执行任何召回或现场服务活动、补救被投诉的缺陷、或采取与机动车安全或车辆不符合相关机动车安全标准或指南有关的任何纠正措施（“**召回**”）。除非合同另有约定，如果该召回的全部或部分原因是由于产品不符合**第 7.1-(a) 条**中规定的保证，卖方将负责因召回产生的一切成本和损失。如果卖方对召回负有责任，卖方的责任程度将按照具体问题具体分析的原则在以下基础上进行协商：(1) 召回责任的诚信分配；(2) 所产生成本和损失的合理性；以及 (3) 其它相关因素。根据卖



方要求，买方将尽其合理努力：(i) 在得知涉及产品的召回正被考虑后尽早通知卖方；(ii) 允许卖方合理访问与潜在召回有关的无特权性文件；(iii) 在买方客户及政府机构允许的范围内，给卖方提供合理的机会，让卖方参与买方及其客户与政府机构就召回必要性和召回范围进行的咨询和讨论；以及(iv) 与卖方协商有关改装或更换车辆系统或零部件（包括产品）的最经济的方法，以补救被投诉的缺陷或不合格。

## **8. Product Liability.**

8.1 Indemnification. Seller will defend, indemnify and hold harmless Buyer and Buyer's customers, dealers and end-users of the Products sold by Buyer (or the vehicles in which they are incorporated) and all of their respective agents, customers, invitees, subsidiaries, affiliates, successors and assigns ("**Indemnified Parties**"), against any and all damages, losses, claims, liabilities and expenses (including reasonable attorneys' and other professional fees, settlements and judgments) ("**Losses**") incurred or suffered by any of them and arising out of or resulting from any (i) defective design in the Products (if designed by Seller) (ii) defect in the material, workmanship or manufacture of Products or provision of Services; (iii) delivery of non-conforming Products or Services; (iv) negligent or wrongful acts or omissions of Seller or Seller's agents, employees or subcontractors; or (v) breach or failure by Seller to comply with any of Seller's representations or other terms and conditions of a Purchase Order (including any part of Terms). Without limitation of the foregoing, any Indemnified Party shall be entitled to indemnification for any Losses arising out of injury or death to persons, property damage, economic loss, the cost of any Recall campaigns, Customer field service actions or other corrective service actions that, in Buyer's or customer's reasonable

judgment, are required because of nonconformities in some or all of the Products provided by Seller hereunder, and including interim set-offs or charges (such as interim field service action cost recovery debits) by customers attributable to Products. Seller's obligation to defend and indemnify under this Section will apply regardless of whether the claim arises in tort, negligence, contract, warranty, strict liability or otherwise except for claims that arise as a result of the sole negligence of Buyer. Buyer has the right to be represented by and actively participate through its own counsel in the defense and resolution of any indemnification matters, at Seller's expense. The indemnification obligations of Seller set forth in this Contract, including this Section, are independent of and in addition to any insurance and warranty obligations of Seller. If Seller performs any work on Buyer's or customer's premises or utilizes the property of Buyer or customer, whether on or off Buyer's or customer's premises: (i) Seller will examine the premises to determine whether they are safe for the requested work and will advise Buyer promptly of any situation it deems to be unsafe; (ii) Seller's employees, contractors, and agents will comply with all laws and regulations that apply to the premises and may be removed from Buyer's premises at Buyer's discretion; (iii) Seller's employees, contractors, and agents will not possess, use, sell, transfer or be under the influence of alcohol or unauthorized, illegal, or controlled drugs or substances on the premises; and (iv) Seller will indemnify and hold Buyer and customer, and their respective agents, successors and assigns, harmless from and against any liability, claims, demands or expenses (including reasonable attorneys' and other professional fees, settlements and judgments) for damages to the property of or

personal injuries (including death) to Buyer, customers, their respective employees or agents, or any other person or entity to the extent arising from or in connection with Seller's work on the premises or Seller's use of Buyer's or customer's property.

## 8. 产品责任。

8.1 赔偿。卖方将为买方及其客户、经销商和买方销售之产品（或包含产品的车辆）的最终用户，以及所有他们各自的代理、客户、受邀者、子公司、关联公司、继承人和受让人（“被保障方”）抗辩、向其赔偿并使其免受由于以下任一原因而发生或遭受的一切损害、损失、索赔、责任和费用（包括合理的律师费和其他专业人员费用、和解和判决费用）（“损失”）：(i) 产品设计存在的缺陷（如由卖方设计）；(ii) 产品的材料、工艺、制造、或服务的提供存在缺陷；(iii) 交付的产品或服务不合格；(iv) 卖方或其代理、员工或分包商的疏忽或错误行为；或 (v) 卖方违反或未遵守卖方承诺或采购订单中的其他条款和条件（包括通用条款的任何部分）。不限于上述规定，任何被保障方都有权因遭受以下原因引起的任何损失而获得赔偿：人员受伤或死亡、财产损失、经济损失、召回成本、客户现场服务行动或因卖方提供的产品部分或全部不合格，根据卖方或客户合理判断认为需要采取的其他纠正措施，包括客户为产品支付的临时抵销费用或开支（如临时现场服务行动成本回收借项）。卖方依据本条款的抗辩和赔偿义务将适用于所有索赔，不论索赔是由侵权行为、疏忽、合同、保证、严格责任或其他原因引起，但完全因为买方自身的过失导致的索赔除外。买方有权通过自己的法律顾问代表并积极参与任何赔偿问题的辩护及解决过程，费用由卖方承担。本合同（包括本条款）规定的卖方的赔偿责任，是卖方独立于保险和保证义务之外的附加责任。如果卖方在买方或顾客的生产经营场所执行任何工作，或利用买方或顾客的财产执行任何工作（不论在买方或顾客的生产经营场所之内或之外）：(i) 卖方将检查该生产经

营场所以确定其对于所需开展的工作是否安全，若有任何认为不安全的情况应及时通知买方；(ii) 卖方的员工、承包商和代理将遵守适用于该场所的所有法律法规，买方可决定让其离开买方的生产经营场所；(iii) 卖方的员工、承包商和代理不得在该生产经营场所持有、使用、销售、转让酒精或未经授权的、非法的或管制的药品或物质，或处于该等酒精、药品或物质的影响之下；以及 (iv) 卖方将向买方和顾客及其代理、继承人和受让人赔偿并使其免于遭受因卖方在该生产经营场所工作或使用买方或顾客财产，导致买方、顾客、及他们的员工或代理，或任何其他第三人及实体的财产损失或人身伤害（包括死亡），而引起的任何责任、索赔、要求或费用（包括合理的律师费和其他专业人员费用、和解和判决费用）财产。

8.2 Procedure. Buyer will notify Seller promptly after Buyer becomes aware of the basis for a claim for indemnification under this **Section 8**. At the request of Buyer, Seller will cooperate with Buyer to determine the root cause of a defect in or failure of the Products (and related systems and components). To the extent requested by Seller and allowed by customer, Buyer shall make reasonable efforts to (a) allow Seller to examine and test all available Products and related systems and components that are subject to a third-party claim, and (b) to include Seller in settlement discussions where indemnity has been or will be sought from Seller.

8.2 流程。在知晓第 8 条下的索赔基础后，买方应及时通知卖方。在买方的要求下，卖方应配合买方确定产品（和相关系统及元件）出现缺陷或故障的根本原因。在卖方要求且客户允许的范围之内，买方将尽其合理努力：(a) 允许卖方对第三方提出索赔的所有可获得的产品和相关系统及部件进行检验和测试；以及 (b) 对于已经或将要向卖方提出的索赔，让卖方参与解决方案的讨论。

## 9. Compliance with Laws



(a) Seller, and any Products supplied by Seller, will comply with all applicable laws, including rules, regulations, orders, conventions, ordinances and standards, including without limitation (i) in relation to the manufacture, labeling, transport, import, export, licensing, approval or certification of the Products, and (ii) laws relating to environmental matters, anti-corruption, hiring, wages, hours and conditions of employment, subcontractor selection, discrimination, occupational health or safety, and motor vehicle safety. The Purchase Order incorporates by reference all clauses required by these laws.

(b) All materials used by Seller in the Products or in their manufacture will satisfy current governmental and safety constraints on restricted, toxic and hazardous materials as well as environmental, electrical and electromagnetic considerations that apply to the country of manufacture, sale or destination.

(c) Seller and its employees and contractors will abide by Buyer's Ethics Policy (available at ghsp.com under Supplier Standards Manual) or Seller's own equivalent ethics policy.

(d) Seller agrees that all components obtained by Seller for GHSP Products shall be obtained from sources located in known conflict free zones, and to provide all information requested by Buyer relating to the source of such components.

## 9. 法律合规。

(a) 卖方及其提供的任何产品将遵守所有适用的法律，包括法令、法规、命令、惯例、条令和标准，包括但不限于 (i) 涉及产品制造、标签、运输、进口、出口、许可、批准或证明，以及 (ii) 与环境问题、反腐败、雇佣、工资、工作时间和条件、分包商选择、歧视、职业健康或安全以及机动车安全有关的法律。采购订单通过提及上述法律的方式引入了这些法律要求的所有条款。

(b) 卖方在产品中或在其生产过程中使用的所有材料将符合当前有关限制性、有毒和危险材料的政府和安全禁令，以及适用于生产、销售或目的地所在国家的环境、电气和电磁方面的注意事项。

(c) 卖方及其员工和承包商将遵守买方的道德政策（见 ghsp.com 上的《GHSP 供应商手册》）或卖方自有的同等道德政策。

(d) 卖方承诺用于制造 GHSP 产品的所有元件均来源于已知的无冲突区域，并按 GHSP 的要求提供有关这类元件来源的所有信息。

## 10. Intellectual Property Rights.

10.1 Buyer's Intellectual Property. Buyer does not transfer to Seller any patent, trade secret, trademark, service mark, copyright, mask work, or other intellectual property right ("**Intellectual Property Right**") of Buyer in information, documents, or property that Buyer makes available to Seller under the Contract, other than the right to use Buyer's Intellectual Property Rights to produce and supply Products and Services to Buyer.

## 10. 知识产权。

10.1 买方知识产权。 买方并未将合同项下向卖方提供的信息、文档或财产内的任何买方专利、商业秘密、商标、服务标志、版权、布图设计或其它知识产权（“**知识产权**”）转让给卖方，但使用买方的知识产权进行生产并向买方供应产品和服务的权利除外。

10.2 Seller's Intellectual Property. Except where an existing agreement states otherwise, Seller does not transfer to Buyer any Intellectual Property Rights of Seller related to the Products or Services or incorporated in Buyer's Property, other than the right to incorporate Products purchased from Seller in vehicles and component parts and to sell those vehicles and component parts to the public. If the Contract is terminated by Buyer pursuant to **Section 12** or **Section 13** or by Buyer or Seller pursuant to

**Section 17**, Seller grants to Buyer a non-exclusive right and license to use Seller's Intellectual Property Rights during the Contract term that would have applied had it not been earlier terminated, and subject to **Section 14**, to obtain the Products and Services or similar products and services from alternate sources and to sublicense Seller's Intellectual Property to such alternate sources for such purposes. There will be no fee for this license if (1) Buyer terminates the Contract for Seller's Default, or (2) Seller or Buyer terminates the Contract pursuant to **Section 17**. Otherwise, the parties will negotiate a reasonable fee for use of Seller's Intellectual Property Rights.

10.2 卖方知识产权。除非现有协议另有规定，否则卖方并未将与产品或服务有关的、或并入买方财产内的任何卖方知识产权转让给买方，但将购自卖方的产品并入车辆和零部件并公开销售这些车辆和零部件的权利除外。如买方依据**第 12 条**或**第 13 条**终止合同，或买方、卖方依据**第 17 条**终止合同，卖方同意给予买方非独占的权利和许可，使其在原合同有效期内继续使用卖方的知识产权，并依据**第 14 条**从替代货源获取产品和服务或类似产品和服务，并为该等目的许可该等替代货源使用卖方知识产权。如 (1) 买方因为卖方违约终止合同，或 (2) 卖方或买方依据**第 17 条**终止合同，则该等许可将不会产生费用。否则，双方将就使用卖方知识产权协商确定一个合理的费用。

### 10.3 Infringement.

Subject to **Section 10.3(b)**, Seller will indemnify and defend Buyer and its customers against claims, liabilities, losses, damages, costs, and expenses, including reasonable legal fees, arising out of the actual or alleged infringement by the Products of a third-party Intellectual Property Right. If a claim under this **Section 10.3** results, or is likely to result, in an injunction or other order that would prevent Seller from supplying or Buyer from using Products for their intended purpose, then upon the demand

of Buyer, Seller will, at Seller's expense and Buyer's option, either (i) secure a license of the Intellectual Property Right that permits Seller to continue supplying the Products to Buyer, or (ii) modify the Products so that they become non-infringing, so long as the modification does not materially alter the operation or performance of the Products, or (iii) replace the Products with non-infringing but practically equivalent Products.

### 10.3 侵权。

根据**第 10.3(b) 条**，卖方将保障并赔偿买方及其客户由于实际发生的或被指控的产品对第三方的知识产权侵权所造成的索赔、责任、损失、损害、开支和费用（包括合理的律师费）。如果本**第 10.3 条**项下的索赔导致或可能导致禁止令或其他命令而使得卖方不能供应产品或买方不能将产品用于既定用途，则在买方的要求下，卖方将承担费用并根据买方的选择：(i) 获得知识产权许可，允许卖方继续向买方供应产品，或 (ii) 更改产品使其不再侵权，只要这种更改不会实质性地改变产品的操作或性能，或 (iii) 将产品替换为不侵权的同等产品。

## 11. Property.

### 11.1 Buyer's Property.

(a) Buyer will own the tooling, jigs, dies, gauges, fixtures, molds, patterns, supplies, materials, and other equipment and property used by Seller to manufacture, store, and transport Products or provide Services ("**Property**") if (1) the Property is so designated in the Contract, or (2) Buyer or its customer has provided or paid for, or agreed to pay for, the Property ("**Buyer's Property**"). Seller will assign to Buyer contract rights or claims in which Seller has an interest with respect to Buyer's Property and execute bills of sale, financing statements, or other documents reasonably requested by Buyer to evidence its or its customer's ownership of Buyer's Property. Seller will indemnify and defend Buyer against claims or liens adverse to Buyer's or its customer's

ownership of Buyer's Property except those that result from the acts or omissions of Buyer or its customer. Seller will hold Buyer's Property on a bailment basis and will be responsible for loss or damage to Buyer's Property while in its possession or control. To the extent permitted by law, Seller waives any lien or similar right it may have with respect to Buyer's Property. Buyer will be responsible for personal property taxes assessed against Buyer's Property.

(b) Seller will (1) at its expense maintain Buyer's Property in good condition and repair, normal wear and tear excepted, throughout the useful life of Buyer's Property, including service life; (2) use Buyer's Property only for the manufacture, storage, and transport of Products for Buyer unless Buyer otherwise approves in advance in writing; (3) at Buyer's request and expense, mark Buyer's Property as belonging to Buyer or its customer; and (4) not remove Buyer's Property (other than shipping containers and the like) from Seller's premises without Buyer's written approval. All replacement parts, additions, improvements, and accessories to Buyer's Property will become part of Buyer's Property unless they can be removed without damaging Buyer's Property.

(c) Buyer will pay for Buyer's Property that it is required to purchase at the amount specified in the Contract or, if no amount is specified in the Contract, at (1) Seller's actual cost of the Buyer's Property, if manufactured by a third party, or (2) Seller's actual cost of purchased materials, components, and services plus Seller's actual cost of labor and overhead allocable to the Buyer's Property, if manufactured by Seller. Unless otherwise stated in the Contract, final payment for Buyer's Property is due Net 45 days after approval by Buyer of the Seller's PPAP (Production Part Approval Process).

(d) Subject to **Section 11.1(e)**, Seller will immediately release to Buyer upon request, and

Buyer may retake immediate possession of, Buyer's Property and other property of Buyer or its customers at any time, with or without cause and without payment of any kind unless otherwise provided in the Contract. Seller will release the requested Property and other property to Buyer, properly packed in a manner that protects Buyer's Property, and marked in accordance with the requirements of Buyer's carrier. If the release or recovery of Buyer's Property or other property renders Seller unable to produce a Product, the release or recovery will be deemed a termination of the Contract with respect to that Product pursuant to **Section 12** or **13**, as applicable.

(e) Seller's relinquishment of possession shall not prejudice any claim or right to payment of Seller for the disputed amounts.

## **11. 财产。**

### 11.1 买方财产。

(a) 买方将拥有卖方用于制造、存储、运输产品或提供服务的模具、夹具、压铸模具、检具、工装、模型、供应品、材料以及其他设备和财产（“**财产**”），如果 (1) 合同中已对该等财产作出如此规定，或 (2) 买方或其客户已提供财产或为财产付款或同意付款（“**买方财产**”）。卖方将其与买方财产有利害关系的合同权利和索赔转让给买方，且将签署买方合理要求的销售账单、融资证明或其他文件，以证明其或其客户对买方财产的所有权。卖方将赔偿并保护买方免于对买方或其客户财产的所有权不利的相关的索赔和留置权，因买方或其顾客的行为或不作为造成的索赔或留置权除外。卖方将在委托保管的基础上持有买方的财产，并将对其拥有或控制的买方财产的损失或损坏负责。在法律允许的范围内，卖方将放弃与买方财产相关的任何留置权或类似权利。买方将承担对其财产征收的个人财产税。

(b) 卖方将 (1) 在买方财产整个使用寿命期限内自费维护买方财产的良好状况并进行维修（正常磨损除外）；(2) 除非获得买方事

先书面许可，买方的财产仅能用于买方产品的生产、储存和运输；(3) 在买方的要求并支付费用的情况下，标明买方的财产属于买方或其顾客，并且(4) 没有买方的书面同意，不得将买方财产（除了运输容器或类似物品）从卖方场所移出。买方财产的所有替换部件、附件、改进和配件均是买方财产的一部分，除非可以在不损害买方财产的情况下被移除。

(c) 买方将以合同规定的价款支付买方财产，如果合同未规定价款，则 (1) 如果由第三方制造，应为卖方对买方财产的实际成本，或 (2) 如果由卖方制造，应为卖方所购买的材料、部件及服务的实际成本，加上卖方劳动力的实际成本以及分摊到买方财产的开销。除非合同另有规定，买方财产的最终付款将在买方批准卖方的 PPAP（生产件批准程序）后 45 天内完成。

(d) 受制于第 11.1(e) 条的规定，如买方要求，卖方应立即按要求将买方财产交还给买方，买方可以在任何时候收回其财产以及买方或其顾客的其他财产，无论出于什么原因，也无需支付任何形式的款项，合同另有规定的除外。卖方应将所要求的财产和其他财产交给买方，并对其进行适当包装以保护买方财产，并根据买方承运人的要求进行标记。如果买方的财产或其他财产的交还或收回使卖方不能生产产品，根据第 12 条或 13 条（适用时）规定该交还或收回将被视为与该产品相关的合同的终止。

(e) 卖方放弃对财产的占有不影响其对争议款项的任何索请和权利。

11.2 Seller's Property. Seller will own all Property that is not Buyer's Property ("**Seller's Property**"). Seller will at its expense furnish, maintain in good condition, and replace when necessary Seller's Property needed to perform the Contract. Seller will insure Seller's Property with full fire and extended coverage insurance for its replacement value. While a Contract for Products remains in effect, Buyer may purchase Seller's Property used exclusively to produce

those Products and not needed by Seller to produce Products or products for other customers, for a purchase price equal to the lesser of fair market value or Seller's unamortized acquisition cost.

11.2 卖方财产. 卖方将拥有买方财产以外的一切财产（“**卖方财产**”）。卖方将自费提供履行合同所需的卖方财产，使其保持良好状态，并在必要时进行更换。卖方将按重置价值对其财产购买全额火灾及附加险。在产品合同有效期间，买方可以购买卖方专门用于生产该产品、并且在为其他顾客生产产品时不需要的卖方财产，购买价格按照公允市场价格或卖方的未摊销购买成本（以较低者为准）。

11.3 Tooling; Capital Equipment. With respect to orders for tooling:

(a) Seller will provide to Buyer, as requested, access to Seller's premises and all documentation relating to the tooling, prior and subsequent to payment, to inspect work performed and to verify charges submitted by Seller against a Purchase Order. For any tooling or parts thereof that Seller obtains from any third party, Seller will provide Buyer with such access and documentation to the ultimate production source. Seller will have ten (10) days from the date Buyer notifies Seller of Buyer's intention to audit Seller to provide the requested access and copies of requested documentation for Buyer's exclusive use and records. Any information submitted following such ten (10) day period will not be considered by Buyer. The price set forth in the Purchase Order will be adjusted to credit Buyer in the amount, if any, by which the price exceeds Seller's actual cost as verified. If Seller's primary business is to fabricate tooling, Seller will be permitted a reasonable profit percentage as indicated by the Purchase Order. In the absence of a mutually-accepted profit percentage Buyer will determine a reasonable profit percentage

following the completion of its audit. Seller will invoice Buyer for (and Buyer will only be obligated to pay) the lower of Seller's actual cost plus such profit percentage or the amount set forth in the Purchase Order. Buyer's audit to verify actual costs will include without limitation, at Buyer's option, copies of Seller's cancelled checks and bank statements and any other information necessary for Buyer to confirm the existence or absence of rebates, credits or discounts provided to Seller by any third party relating to such tooling. If Seller does not provide such access and documentation, Buyer may determine in its reasonable discretion an appropriate adjustment based on information available to Buyer, including estimated costs, and Seller shall be responsible for Buyer's costs in determining such estimated costs. Seller will not disclose to any third party, except for its attorneys and professional advisors who are required to maintain confidentiality, the results of such tooling audits or any adjustments made by Buyer to the prices and amounts payable to Seller as a result of such audit. Seller will retain (and cause its tooling sub-suppliers to retain) all cost records for a period of three years after receiving final payment of the charges. All tools are to be made to Buyer's specifications (or, where directed by Buyer, those of Buyer's customers). Any exception to such specifications must be stated in writing on the Purchase Order or otherwise in a signed writing by Buyer. To the extent the Purchase Order expressly states that it is for "tooling" and unless otherwise stated in the Purchase Order, freight terms are DAP Buyer's facility, Incoterms 2010, and Seller should not prepay or add freight charges.

(b) To the extent permitted by applicable law, any payments made by Buyer for Buyer-owned tooling are expressly intended by Buyer to be held in trust for the benefit of any

subcontractor(s) used by Seller to produce the Buyer-owned tooling that are covered by such payments and Seller agrees to hold such payments as trustee in express trust for such subcontractor(s) until Seller has paid the subcontractor(s) in full for the Buyer-owned tooling. Seller acknowledges and agrees that such subcontractor is an intended third party beneficiary of the terms of this Section relating to the express trust and as such, such tooling subcontractor shall have the right to enforce these terms of this Section directly against Seller in subcontractor's own name. Seller agrees that Buyer has no obligation to Seller or Seller's tooling subcontractor under this Section other than making the payment to Seller in accordance with a tooling Purchase Order. In the event Seller's tooling subcontractor brings an action against Seller in connection with the subject matter of this Section, Seller shall not join Buyer in any such action.

### 11.3 模具；资本设备。

对于模具订单：

(a) 卖方应在付款前和付款后按买方要求允许买方进入卖方场所并取得与模具相关的一切文件，以检查所进行的工作并核实由卖方根据采购订单提交的费用。对于卖方从任何第三方获得的任何模具或零件，卖方将向买方提供最终生产方有关的文件并允许买方进入最终生产方的场地。从买方告知卖方其计划审计卖方之日起，卖方有十 (10) 天时间，按买方要求安排其进入场地，并提供其要求的文件副本，供买方独家使用和保存。任何于十 (10) 天后提交的信息，买方将不予考虑。采购订单中设定的价格如超过所核实的卖方的实际成本，**该等超出部分（如有）将被调整为卖方应向买方支付的应付账款。**如果卖方的主营业务是制作模具，则允许卖方获得采购订单所规定的合理百分比的利润。如果没有双方认可的利润百分比，买方需在完成审计后决定合理的利润百分比。卖方向买方开具发票的金额（也是买方有义务支付的金额

额)，将是卖方实际成本加该利润百分比或采购订单中所设定金额两者中的较低者。买方为核实成本进行的审计范围由买方决定，包括但不限于卖方取消的支票副本、银行对账单和其他任何必要信息，以便买方确认是否存在任何与该模具作业相关的任何第三方向卖方提供的退款、抵扣额度或折扣。如果卖方未提供该等文件或允许买方进入场地，买方可以根据其掌握的信息自行合理决定并进行适当调整（包括预估成本），买方估算成本的费用由卖方承担。除了对也需要承担保密义务的律师和专业顾问以外，卖方不得向任何第三方透露对该等模具审计的结果或买方根据该等审计结果对应向卖方支付的价格和金额做出的调整。卖方将在收到最终付款后三年内保留（并要求其模具供应商保留）所有成本记录。所有模具应符合买方的规格（或买方顾客的规格，在买方指明时）。任何不符合该等规格的情况必须在采购订单中以书面形式作出陈述，或者经买方的书面签字确认。在采购订单中明示为“模具”的情况下，运费条款为 DAP 买方厂房交货 – 2010 年国际贸易术语，卖方不得要求预付或增加运费，除非采购订单中另有规定。

(b) 在所适用的法律允许的范围内，对于卖方用来生产买方模具的分包商，买方为自己模具所支付的款项由卖方替该款项所覆盖的分包商的利益诚信托管，卖方以明示信托表示同意作为受托人为分包商持有该款项，直到卖方向分包商支付了买方模具的所有款项为止。卖方承认并同意该分包商是预期的第三方，是本节中与明示信托相关的条款的受益人，该模具分包商有权按其名义直接对卖方实施这些条款。卖方同意，除了根据模具采购订单向卖方支付款项以外，买方在本条款中对卖方或卖方的模具分包商没有其他义务。如果卖方的模具分包商对本条款所述事项对卖方提起诉讼，卖方同意不会将买方卷入该等诉讼。

## **12. Term and Termination.**

**12.1 Generally.** Subject to Buyer's termination rights, the Contract formed by the

Purchase Order is binding on the parties for the length of the applicable OEM program production life (including model refreshes or extensions as determined by the applicable OEM customer), and both Buyer and Seller acknowledge the risk of the program production volume being different than estimated or program life being extended or canceled by the OEM. Notwithstanding the foregoing, if an expiration date is stated in the Purchase Order or a Contract, the term of the Purchase Order will continue until that date. Unless specifically waived in writing by an authorized representative of Buyer, Seller's obligations with respect to service and replacement parts will survive the termination or expiration of the Purchase Order.

## **12. 期限及终止。**

**12.1 总则。** 根据买方的终止权利，采购订单所形成的合同在相关的 OEM 项目生产（包括由相关 OEM 客户所决定的车型更新或扩展）期限内对各方具有约束力，买方和卖方均承认，存在项目生产量与预估数量不同的风险，或由 OEM 延迟或取消项目的风险。尽管有前述规定，如果采购订单或合同规定了截止日期，采购订单的期限将持续到该日期。除非买方的授权代表以书面形式明确放弃，与服务 and 替换零件相关的卖方义务应在采购订单终止或到期后继续有效。

**12.2 Termination by Buyer for Convenience.** The Buyer may terminate the Contract, in whole or in part upon 60 days' prior written notice to Seller. The Seller has no right to terminate the Contract except in the event of a Default of Buyer which is not cured prior to such termination.

**12.2 便于买方的终止权利。** 买方在提前 60 天向卖方发出书面通知后可以全部或部分终止本合同。卖方无权终止合同，除非买方违约且在合同终止前该项违约未被纠正。

12.3 Amounts Payable to Supplier. If Buyer terminates a Contract before the end of its specified term (other than for Seller's Default under **Section 13** or following notice from Seller of an Excusable Event under **Section 17**), Buyer agrees to purchase completed Products at the Contract price and work-in-process and raw materials at Seller's actual cost, in each case to the extent consistent with Buyer's current material authorization, including the cost to store the items to be purchased and relocate production to an alternate source. Buyer will not be responsible for any capital equipment purchased by Seller related to the Contract.

12.3 应向供应商支付的款项。 如果买方在合同规定期限到期前终止本合同（除第 13 条规定的卖方违约或卖方根据第 17 条规定就可免除事项发出通知后），买方同意以合同价格购买成品并以卖方的实际成本购买半成品和原材料，两种情况都应该与买方的当前材料授权相吻合，包括储存所购买产品及向替代货源方重新安排生产的成本。买方无需对卖方购买的与本合同相关的任何资本设备负责。

### 13. Default.

13.1 Events of Default. Time is of the essence and, subject to **Section 17**: Seller will be in "**Default**" under the Contract if it (1) delays delivery or fails to deliver Products in strict accordance with the delivery schedules, and such failure is not cured within 24 hours of receipt of written notice of such delay or failure, (2) fails to remain competitive and fails to become competitive within 30 calendar days after receipt of notice from Buyer indicating in reasonable detail those areas of performance, including but not limited to, delivery, quality, technology or pricing, which form the basis for Buyer's assertion that Seller has failed to remain competitive, (3) fails to perform any other obligation under the Contract and, to the extent non-performance can be cured, fails to cure the

non-performance within 15 business days after written notice from Buyer specifying the non-performance, (4) admits in writing its inability to pay its debts as they become due, commences a bankruptcy, insolvency, receivership, or similar proceeding, or makes a general assignment for the benefit of creditors, (5) becomes a debtor in a bankruptcy, insolvency, receivership, or similar proceeding commenced by a third party that is not dismissed within 30 days after commencement, or (6) fails to provide adequate assurance of performance under the Contract within three business days after written demand by Buyer.

Buyer will be in "**Default**" under the Contract if it (1) materially breaches the Contract and fails to cure such material breach within 30 days of Seller's notice to Buyer of such material breach, (2) admits in writing its inability to pay its debts as they become due, commences a bankruptcy, insolvency, receivership, or similar proceeding, or makes a general assignment for the benefit of creditors, or (3) becomes a debtor in a bankruptcy, insolvency, receivership, or similar proceeding commenced by a third party that is not dismissed within 30 days after commencement.

13.1 违约事项。 时间至关重要。根据第 17 条的规定，卖方将被视为合同下“违约”，如果：(1) 卖方延迟发货或未严格按照交付计划进行发货，且未在接到该延迟或失误的书面通知后 24 小时内进行补救，(2) 在接到买方的通知（通知以合理的细节载明使买方认定卖方不具有竞争力的表现领域，包括但不限于发货、质量、技术或定价）后 30 日内未保持竞争力及未变得具有竞争力，使买方认定卖方不再具有竞争力，(3) 未履行合同项下的任何其他义务，在该不履行可进行补救的范围内，未在接到买方指明该项不履行事项通知后 15 个工作日内进行补救，(4) 以书面形式承认其无力支付到期的债务，开始破产、倒

闭、破产清算、或类似程序，或为债权人的利益进行通盘转让，(5) 在第三方发起的破产、倒闭、破产清算或类似程序中成为债务人，且在起始日后 30 日内未消除，或 (6) 在接到买方的书面要求后 3 个工作日内未能提供充分履行合同的保证。

(b) 买方将被视为合同下“违约”，如果

(1) 买方根本性违反合同约定，且在卖方发出指明买方根本性违约的通知 30 日内未纠正该项根本性违约，(2) 书面承认无能力偿还到期债务，开始破产、倒闭、破产清算或类似程序，或为债权人利益作通盘转让，或

(3) 在第三方发起的破产、倒闭、破产清算或类似程序中成为债务人，且在起始日后 30 日内未消除。

### 13.2 Remedies.

(a) The remedies provided in this **Section 13.2** are cumulative and are in addition to all other rights and remedies available elsewhere in the Contract or by law.

(b) Upon the occurrence of a Default and while that Default is continuing, the non-defaulting party may terminate the Contract by notice to the defaulting party. If Seller is in Default, Buyer's damages will include the reasonable costs actually incurred to relocate the work to an alternate source, and Buyer may purchase completed Products at the Contract price and work-in-process and raw materials at Seller's actual cost, and Seller shall be required to provide the Transition Services set forth in **Section 14**, at no cost to Buyer. If Buyer is in Default, Seller's damages will be limited to the Contract price for completed Products and Services and the actual cost of work-in-process and raw materials authorized by Releases (which will become Buyer's property upon payment in full).

(c) If Seller does not release or deliver Buyer's Property or other property of Buyer or its customers in accordance with **Section 11.1(d)**,

Buyer may at Seller's cost (1) obtain an immediate court judgment or ruling for possession, and/or (2) enter Seller's premises, with or without legal process, and take immediate possession of Buyer's Property and the other property. To the extent permitted by law, Seller waives any right to object to Buyer's repossession of Buyer's Property and the other property in a bankruptcy or other proceeding.

**(d) EXCEPT AS OTHERWISE EXPRESSLY AUTHORIZED IN THE CONTRACT, BUYER SHALL HAVE NO LIABILITY TO SELLER FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL (INCLUDING LOST PROFITS OR MARKET SHARE OR DAMAGE TO BRAND VALUE), INCIDENTAL, PUNITIVE, OR EXEMPLARY DAMAGES, WHETHER OR NOT FORESEEABLE.**

### 13.2 救济措施。

(a) **第 13.2 条**规定的救济措施是累积性措施，是本合同或法律另行规定的所有其他权利和救济措施的补充。

(b) 如发生违约事件且该等违约事件仍在持续，守约方可以向违约方发出通知以终止本合同。如果卖方违约，买方的损失包括将工作重新安排到替代货源方而产生的成本，买方可以按合同价格购买成品并以卖方的实际成本购买半成品和原材料，卖方必须向买方提供**第 14 条**所规定的过渡性服务，买方无需支付费用。如果买方违约，卖方的损失将限于成品和服务的合同价格，以及发货单授权的半成品和原材料的实际成本（全额支付后将成为买方的财产）。

(c) 如果卖方未根据**第 11.1(d) 条**交回或交付买方财产或买方及其顾客的其他财产，买方(1)立刻取得法院判决或裁定以立即收回财产，并/或(2)进入卖方的场所，无论是否通过法律程序，立即取得买方财产和其他财产。在法律允许的范围内，卖方放弃在破产或其他程序中拒绝买方收回其财产和其他财产的任何权利。



(d) 除了本合同明确授权的情况外，对于所有间接的、特殊的、后续的（包括损失的利润或市场份额或品牌价值毁损）、偶然的、处罚性的以及惩罚性赔偿（无论是否可预见），买方对卖方概不承担责任。

#### **14. Transition of Supply.**

(a) In connection with Buyer's termination or non-renewal of the Purchase Order, or Buyer's other decision to source the Products and/or the Services from any alternate supplier(s), Seller will cooperate with Buyer in the transition of the supply of Products and/or Services, including the following: (1) Seller will continue the production and delivery of all Products and Services as ordered by Buyer, at the prices and other terms stated in the Purchase Order, without premium or other condition, during the entire period reasonably needed by Buyer to complete the transition to alternate supplier(s), such that Seller's action or inaction causes no interruption in Buyer's ability to obtain the Products and/or Services as needed; (2) at no cost to Buyer, Seller will promptly provide all requested information and documentation regarding and access to Seller's manufacturing process, including on-site inspections, bill-of-material data, tooling and process detail and samples of the Products and/or Services and components; and (3) subject to Seller's reasonable capacity constraints, Seller shall provide special overtime production, storage and/or management of extra inventory of the Products, extraordinary packaging and transportation and other special services (collectively "**Transition Support**") as expressly requested by Buyer in writing.

(b) If the transition of supply occurs for reasons other than Buyer's termination of the Purchase Order pursuant to **Section 12.1** or **Section 13**, Buyer shall, at the end of the transition period, pay the reasonable, actual cost of Transition Support as requested by Buyer and incurred by Seller, provided that Buyer has

approved Seller's estimate of such costs prior to Seller incurring such amounts.

#### **14. 供应过渡期。**

(a) 如果买方对采购订单的终止或不续约，或买方决定向其他替代供应商采购产品或服务，卖方应在产品或服务的供应过渡期内配合买方，包括如下内容：(1) 在买方为完成向替代供应商过渡所需的整个合理期限内，卖方将根据买方的订购，按采购订单中规定的价格和其他条款继续生产和交付所有产品和服务，无需额外费用或其他条件，确保卖方的作为或不作为不会阻碍买方获取所需产品及/或服务的能力。(2) 买方无需支付任何费用，卖方将及时提供所有买方要求的、与卖方的生产过程相关的信息和文件，了解卖方的生产过程，包括现场检查、材料数据清单、模具和过程细节、产品及/或服务以及部件的样本；以及(3) 在卖方的合理产能限制内，卖方需根据买方的书面明确要求提供特殊的超时生产、额外产品库存的储存和管理、特殊包装、运输和其他特殊服务（统称为“**过渡期支持**”）。

(b) 如果供应过渡期不是由于买方根据**第 12.1 条**或**13 条**的规定终止采购订单而引发的，买方应在过渡期结束时支付卖方应买方要求而提供过渡期支持的合理实际成本，前提是产生该款项之前，买方已经批准卖方对该成本的预估。

**15. Confidential Information.** Trade secrets, specifications, drawings, notes, instructions, engineering data and analyses, compositions of matter, financial data, and other technical and business data which are supplied or disclosed by Buyer or Seller in connection with the Contract, in each case that are marked or otherwise identified as confidential or where their confidential nature is apparent at the time of disclosure ("**Confidential Information**"), will be deemed confidential and proprietary to, and remain the sole property of, the disclosing party. The receiving party may not disclose Confidential

Information or use Confidential Information for any purpose other than as contemplated under the Contract without, in each case, the prior written consent of the disclosing party. Confidential Information will not include information that (1) is or becomes generally available to the public other than as a result of a violation of this **Section 15** by the receiving party, (2) was obtained by the receiving party on a non-confidential basis from a third party who had the apparent right to disclose it, (3) is known or independently developed by the receiving party prior to disclosure, or (4) is legally required to be disclosed. Buyer and Seller will each use the same degree of care to safeguard Confidential Information that it uses to protect its own confidential information from unauthorized access or disclosure (but not less than a reasonable degree of care). Upon request by the disclosing party, the receiving party will promptly return or destroy the original and all copies of Confidential Information received. Upon request of Buyer, Seller will be required to sign a separate non-disclosure agreement.

**15. 保密信息。** 买方或卖方提供或披露的与合同相关的商业秘密、规格、图纸、注释、说明、工程数据和分析、物质构成、金融数据、以及其他技术和商业数据，如果被标注或指定为保密信息或者其保密性质在披露时就已经显而易见将被视为机密（“**保密信息**”），并为披露方专有和独占的财产。除合同另有约定外，在任何情况下，未经披露方事先书面同意，接收方不得披露保密信息或将保密信息用于任何目的。保密信息不包括 (1) 非因接收方违反**第 15 条**规定而为公众所知的信息，(2) 接收方在非保密基础上从具有披露该等信息的明确权利的第三方获取的信息，(3) 披露前接收方已知晓或由接受方独立开发的信息，或 (4) 法律要求披露的信息。买方和卖方应当用保护各自的保密信息的相同重视程度来保护保密信息（但不得小于合理的重视程度），防止其未经授权被获得或披露。经披露方要

求，接收方应及时交回或销毁收到的保密信息原件或全部复印件。根据买方的要求，卖方将签订一份单独的保密协议。

**16. Assignment and Subcontracting.** Under no circumstances may Seller transfer, assign or delegate, in whole or in part, any of its rights or obligations under the Contract (including, without limitation, any right of payment), whether directly or indirectly, by merger, acquisition or contribution to a joint venture, without Buyer's prior written consent. Unless otherwise stated in the consent, any assignment or subcontracting by Seller, with or without Buyer's consent, will not relieve Seller of its duties or obligations under the Contract or its responsibility for non-performance or Default by its assignee or subcontractor.

**16. 转让和分包。** 在任何情况下，未经买方的事先书面同意，卖方都不得直接或间接通过兼并、收购或向合营企业投资方式转移、转让或委托其在合同下的部分或全部权利和义务，（包括但不限于支付权）。除非在该等同意中已明示，卖方进行的任何转让或分包（无论是否已获得买方的同意）均不会免除卖方在合同项下的责任或义务，也不会免除卖方因受让人或分包商不履行或违约而产生的责任。

**17. Excusable Non-Performance.** A delay or failure by either party to perform its obligations under the Contract will be excused, and will not constitute a Default, only if caused by an Excusable Event. An "**Excusable Event**" is a cause or event beyond the reasonable control of a party that is not attributable to its fault or negligence and includes fire, flood, earthquake, and other extreme natural events, acts of God, riots, civil disorders, and war or acts of terrorism whether or not declared as such by a government. Notwithstanding the forgoing, labor problems or other issues involving Seller's employees or its suppliers employees, availability of raw materials, component parts,

changes in costs of materials, labor or other costs of Seller, or any other changes in commercial markets, commercial environment, the economy or other commercial factors generally shall not constitute an Excusable Event. In each case, the failure to perform must be beyond the reasonable control, and not attributable to the fault or negligence, of the party claiming the Excusable Event. The party unable to perform must give notice of the non-performance (including its anticipated duration) to the other party promptly after becoming aware that it has occurred or is reasonably likely to occur, followed by prompt notices of any material changes in the facts relative to its ability to perform and/or the anticipated duration of the non-performance. Seller and Buyer shall share information, confer, seek agreement and otherwise act cooperatively to avoid or mitigate the effects of the potential or actual excused non-performance. If Seller is unable to perform for any reason, Buyer may purchase Products and Services from other sources and reduce its purchases from Seller accordingly without liability to Seller. Within three business days after written request by the other party, the non-performing party will provide adequate assurances that the non-performance will not exceed seven calendar days. If the non-performing party does not provide those assurances, or if the non-performance exceeds seven calendar days, the other party may terminate the Contract by notice given to the non-performing party before performance resumes.

**17. 可免责的不履行。**如果任何一方延迟或未根据合同履行其义务是由可免责事件引起，将不被追究责任，不构成违约。“**可免责事件**”是指在一方的合理控制范围以外的事件，该事件不可归咎于该方的过失或疏忽，包括火灾、洪灾、地震及其他极端自然事件、天灾、暴动和骚乱、以及战争或恐怖主义活动（无

论政府是否宣布为此类事件）。尽管有上述规定，劳工问题或其他涉及卖方的员工或卖方供应商的员工的问题、原材料的可获得性、组成部件、材料成本的变更、卖方的劳动力或其他成本或商业市场上的任何其他变化、商业环境、经济或其他商业因素一般而言不构成可免责事件。每种情况下，只有在合理控制范围以外以及不可归咎于主张可免责事件一方的过失或疏忽的情况下方可不履行合同。未能履行合同一方必须在其意识到可免责事件已经发生或可能发生时及时通知对方不能履行的情形（包括预计的期限），随后有关其履约能力的事实或预计的不履行时间发生重大变化时也应及时通知对方。卖方和买方应分享信息，商讨并寻求达成一致，或者通过合作避免或降低潜在或实际的可免责不履行造成的影响。如卖方出于任何原因不能履行合同，买方可以从其他渠道购买产品和服务并相应地减少从卖方购买的数量，且无需对卖方承担任何责任。在接到另一方发出的书面要求后 3 个工作日内，不履行方将提供充分的保证，证明不履行不会超过 7 个日历日。如不履行方未提供该等保证，或者不履行行为持续超过 7 个日历日，另一方可以在恢复履行前通知不履行方终止合同。

**18. Customs.** Transferable credits or benefits associated with Products purchased, including trade credits, export credits, or rights to the refund of duties, taxes, or fees, belong to Buyer unless otherwise prohibited by applicable law. Seller will provide Buyer with all information and records relating to the Products necessary for Buyer to (1) receive these benefits, credits, and rights, (2) fulfill any customs obligations, origin marking or labeling requirements, and certification or local content reporting requirements, (3) claim preferential duty treatment under applicable trade preference regimes, and (4) participate in any duty deferral or free trade zone programs of the country of import. Seller will obtain all export licenses and authorizations and pay all export taxes, duties,

and fees unless otherwise stated in the Contract, in which case Seller will provide all information and records necessary to enable Buyer to obtain those export licenses or authorizations. Specific details will be defined and listed in the contract using International Commercial Terms (INCOTERMS) as identified by the International Chamber of Commerce 2010 revisions, referred to herein as “*Incoterms 2010*”, and include the specific “Named Place” where needed.

**18. 海关。**与购买的产品相关的可转让信用额度或利益（包括贸易信用额度、出口信用额度、退关税、退税或退费的权利）属于买方，除非适用的法律另有禁止性规定。卖方将向买方提供与产品相关的，且系买方完成以下事项所需的全部信息和报告：(1) 接收上述利益、信用额度和权利，(2) 履行任何海关义务、原产地标识、标签要求、认证和当地内容报告要求，(3) 根据贸易优惠政策申请关税优惠待遇，以及(4)参与进口国的任何关税延期或自由贸易区项目。除合同另有约定外，卖方将获得所有出口许可和授权并支付所有出口税、关税和费用。在上述情况下，卖方将提供让买方获取这些出口许可或授权的所有信息和报告。具体细节将在合同中通过国际贸易术语（INCOTERMS）进行定义和列示，该等国际贸易术语在国际商会 2010 年修订版中确定，此处被称为“*INCOTERMS 2010*”，必要时包括具体的“指定地点”。

**19. Insurance.** Seller will maintain and upon request furnish to Buyer a copy of insurance policies including (1) general liability insurance coverage listed below or additional coverage limits reasonably acceptable to Buyer and naming Buyer as an additional insured, (2) all risk property perils insurance covering the full replacement value of Buyer’s Property while in Seller’s care, custody, or control and naming Buyer as loss payee, (3) product recall insurance, (4) employer’s liability insurance, (5) commercial automobile liability insurance, and (6) business interruption insurance. Seller will provide

certificates evidencing the coverage required by this Section and shall, upon request, supply Buyer with all or part of the full insurance policies. The existence of insurance does not release Seller of its obligations or liabilities under a Purchase Order. Minimum coverage is as follows:

**19. 保险。**卖方应当持有并经要求向买方提供一份保险单的副本，内容包括 (1)含以下责任限额或责任限额可由买方合理接受的附加责任限额且将买方列为附加被保险人的一般责任保险，(2)涵盖由卖方照料、保管或控制的买方财产且将买方列为收益人的所有替换价值的财产损失一切险，(3) 产品召回险，(4) 雇员责任险，(5) 商用车辆责任险，以及 (6) 营业中断险。卖方应提供证明已涵盖本条保险内容的证明，且经要求，应向买方提供部分或全部保险的完整保单。保险的存在不会免除卖方在采购订单中规定的义务或责任。最低保险额度如下：

Coverage	Limits of Liability
保险范围	责任限额
Commercial General Liability Insurance 一般商业责任险	US \$5,000,000 / each occurrence, general aggregate, products & completed operations aggregate 单次发生，一般合计，产品和完工责任合计：500 万美元
Product Recall Insurance 产品召回险	US \$5,000,000 / per recall 每次召回：500 万美元
Employers Liability Insurance 雇主责任险	US \$100,000 for: (1) each accident

	(2) policy limit for bodily injury by disease, and
	(3) bodily injury by disease for each employee
	(1) 单次事故, (2)因病致伤, (3)每一员工因病致伤: 10 万美元
Commercial Automobile Liability Insurance	US\$1,000,000 / each occurrence combined single limit
商用车辆责任险	单次: 100 万美元
Business Interruption Insurance	As specified by Buyer
商业中断险	由买方指定

**20. Dispute Resolution.** Buyer and Seller will first endeavor to resolve through good faith negotiations any dispute arising under the Contract. If a dispute cannot be resolved through good faith negotiations within a reasonable time, such dispute shall be submitted to the China International Economic and Trade Arbitration Commission (“CIETAC”) for arbitration in Shanghai in accordance with its then current arbitration rules. The arbitration award shall be final and binding upon both parties. Nothing contained herein shall act to prohibit, impair or delay Buyer undertaking any legal action to seek immediate injunctive relief as may be available to Buyer.

**20. 争议解决。** 买方和卖方将首先努力通过真诚协商来解决合同下的任何争议。如果争议不能通过真诚协商在合理的时间内解决, 任何一方可将该等争议提交中国国际经济与贸易仲裁委员会 (“CIETAC”) 依据其当时有效的仲裁规则在上海进行仲裁。仲裁裁决为终局性, 对双方

有约束力。该等条款不禁止、损害或延迟买方采取任何法律行为以寻求可能的直接禁令救济。

**21. Miscellaneous.**

21.1 Advertising. During and after the term of the Contract, Seller will not advertise or otherwise disclose its relationship with Buyer or Buyer’s customers without Buyer’s prior written consent, except as may be required to perform the Contract or as required by law.

21.2 Audit Rights. Seller will maintain records as necessary to support amounts charged to Buyer under the Contract in accordance with Seller’s document retention policies. Buyer and its representatives may audit Seller’s records of transactions completed prior to the audit date, to the extent needed to verify the quantities shipped and that the prices charged match the Contract prices. Any audit will be conducted at Buyer’s expense (but will be reimbursed by Seller if the audit uncovers material errors in the amounts charged), and at Seller’s usual place of business.

21.3 Electronic Communication. Seller will comply with the method of electronic communication specified by Buyer in Buyer’s request for quotation and confirmed in the Contract, or as stated in Supplier’s Standards Manual, including requirements for electronic funds transfer, purchase order transmission, electronic signature, and communication.

21.4 Relationship of the Parties. Buyer and Seller are independent contractors, and nothing in the Contract makes either party the agent or legal representative of the other party for any purpose. Neither party has authority to assume or to create any obligation on behalf of the other party.

21.5 Waiver. The failure of either party to enforce any right or remedy provided in the

Contract or by law on a particular occasion will not be deemed a waiver of that right or remedy on a subsequent occasion or a waiver of any other right or remedy.

**21.6 Entire Agreement.** The Contract constitutes the entire agreement between Seller and Buyer with respect to its subject matter, and supersedes all prior oral and written representations and agreements by the parties with respect to the subject matter of the Contract. Except as expressly authorized in **Section 1**, no subsequent terms, conditions, understandings, or agreements purporting to modify the terms of the Contract will be binding unless in writing and signed by both parties.

(a) New purchase orders and purchase order revisions and amendments, once accepted by Seller as provided in **Section 1.1**, will be governed by these Terms (as they may be revised from time to time) that are posted on Buyer's website at: ghsp.com (link is in Supplier Standards Manual), as of the date of acceptance.

(b) Buyer's website may also contain specific additional requirements for certain items covered by the Purchase Order, including labeling, packaging, shipping, delivery and quality specifications, procedures, directions and/or instructions. Any such requirements shall be deemed to form part of the Contract. Buyer may periodically update such requirements by posting revisions thereto on Buyer's website. In the event of any inconsistency between the Contract and Buyer's website, the terms of the Contract shall prevail, unless the requirements specified on Buyer's website expressly provide otherwise.

**21.7 Severability.** A finding that any provision of the Contract is invalid or unenforceable in any jurisdiction will not affect the validity or enforceability of any other provision of the Contract or the validity or enforceability of that provision in any other jurisdiction.

**21.8 Interpretation.** When used in these Terms, "including" means "including without limitation" and terms defined in the singular include the plural and vice versa.

**21.9 Notices.** Any notice or other communication required or permitted in the Contract must be in writing and shall be sent to the email address of the contact person designated by the receiving party in writing in advance, which will become effective on the date of actual receipt if the date of actual receipt is a business day or on the next business day if the date of actual receipt is not a business day.

**21.10 Governing Law.** Unless otherwise agreed in writing, the Contract will be governed by and interpreted according to the laws of the People's Republic of China.

## **21. 其他。**

**21.1 广告。** 在合同期限内或之后，除非因履行本合同或法律规定需要，未经买方事先书面同意，卖方不得对外宣布或披露其与买方或买方顾客之间的关系。

**21.2 审计权利。** 卖方应根据其文件保存政策保留必要的记录作为其根据本合同向买方收取费用的依据。买方及其代表可为核实装船数量和所收取的费用是否符合合同价格而在必要范围内审计卖方在审计日之前完成的交易记录。任何审计费用均由买方承担（但如果审计发现已收取费用有实质性错误，卖方应向买方补偿审计费用），并在卖方的惯常经营地点进行。

**21.3 电子通信。** 卖方将遵守买方在询价单及合同中确认的或在供应商标准手册中明示的电子通信方式，包括电子资金转帐、采购订单传输、电子签名和通信。

**21.4 合同各方关系。** 买方和卖方为独立的订约方，合同未约定令任何一方以任何目的成为另一方的代理人或合法代表。双方均无权代表另一方承担或创设任何义务。

21.5 弃权。合同任何一方未根据合同或法律规定在特定时间行使任何权利或实施任何救济不得被视为在日后放弃该等权利或救济或放弃任何其他权利或救济。

21.6 全部协议 合同在相关业务方面构成了买方和卖方之间的整体协议，并取代之前双方之间与合同事项相关的所有口头和书面陈述和协议。除第 1 条明示授权的情况外，未经双方以书面形式签署，任何旨在修订合同条款的后续条款、条件、谅解或协议均无约束力。

(a) 根据第 1.1 条规定，新的采购订单、采购订单的修订和修改一旦被卖方接受，其将自接受之日起受买方在其网站（ghsp.com，链接在供应商标准手册中）上发布的本通用条款约束（条款可能不时会被修订）。

(b) 买方的网站也可能包含采购订单中所涵盖的特定事项的具体额外要求，包括标签、包装、运输、交付和质量说明、流程、指示和/或操作说明。任何该等要求应被视为合同的组成部分。买方可通过在买方的网站上发布修订版本不定期地更新该等要求。如合同与买方的网站信息之间存在任何不一致，以合同为准，除非买方网站所列的要求明确作出相反规定。

21.7 可分割性。如发现合同的任何规定在任何司法管辖区域内无效或不可执行，其不会影响合同的其他任何规定的有效性或可执行性，也不会影响该规定在任何其他司法管辖区域内的有效性和可执行性。

21.8 解释。当用于本通用条款时，“包括”意味着“包括但不限于”，以单数形式定义的条款包括复数形式，反之亦然。

21.9 通知。任何合同要求或允许的通知或其他通信必须以书面形式作出，并且应发送至接收方事先书面指定的联系人的电子邮箱。如果该等通知的实际收悉日为工作日则收悉日生效，如果实际收悉日不是工作日则于下一个工作日生效。

21.10 管辖法律。除非另有书面协议，合同将受中华人民共和国法律管辖并依据其解释。

**22. Set-Off; Recoupment.** In addition to any right of setoff or recoupment provided by law, all amounts due or to become due to Seller will be considered net of indebtedness of Seller and its affiliates or subsidiaries to Buyer and its affiliates or subsidiaries. Buyer will have the right to set off against or to recoup from any payment or other obligation owed to Seller, in whole or in part, any amounts due to Buyer or its affiliates or subsidiaries from Seller or its affiliates or subsidiaries.

Buyer will provide Seller with a statement describing any offset or recoupment taken by Buyer.

**22. 抵消；扣除**。除法律规定的抵消或扣除的任何权利外，所有到期应付或将要到期支付给卖方的款项将被视为不包含卖方和其关联方或子公司对买方及其关联方或子公司的负债。买方有权全部或部分从买方应向卖方支付的任何款项或其他义务抵消或扣除卖方或其关联方或子公司所欠买方或其关联方或子公司的任何款项。买方将向卖方提供结算单，记载其所进行的任何抵消或扣除的信息。