



## VALEO PURCHASING TERMS AND CONDITIONS

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**These Purchasing Terms and Conditions (the “Terms and Conditions”) apply to and are a part of all Purchase Orders and Supply Agreements (together, “Purchase Orders” and each a “Purchase Order”) issued by Valeo, Inc. and/or its applicable affiliates, subsidiaries and divisions (together, “Valeo”).**

**1. Offer; Acceptance; Exclusive Terms.**

A. Each Purchase Order, including these Terms and Conditions, is an offer by Valeo to the party to whom the Purchase Order is addressed and that party’s affiliates and subsidiaries (together “**Seller**”) to enter into a contract for the production, purchase and sale of the goods (including Tooling) and/or services specified in the Purchase Order and in any attachments, schedules, exhibits, requests for quotations, designs and drawings provided to Seller by Valeo (collectively, “**Goods**”). Each Purchase Order, including these Terms and Conditions, will be deemed accepted by Seller by Seller’s shipment of Goods, performance of services, commencement of work on Goods, written acknowledgement, or any other conduct of Seller that recognizes the existence of a contract pertaining to the subject matter of the Purchase Order.

B. Seller’s acceptance is expressly limited to these Terms and Conditions. Any purported acceptance of any Purchase Order on terms and conditions which attempt to modify, supersede, supplement or otherwise alter these Terms and Conditions will not be binding upon Valeo.

**2. Quantity and Duration.**

A. Unless a Purchase Order specifies otherwise, the initial term of the Purchase Order begins on the effective date shown on the Purchase Order (the “**Effective Date**”) and continues for twelve (12) consecutive months following the Effective Date (the “**Initial Term**”). Thereafter, the Purchase Order will automatically be renewed for successive terms of twelve (12) months each (each a “**Renewal Term**”) unless Valeo provides Seller with a notice of non-renewal at least sixty (60) days prior to the end of the Initial Term or any Renewal Term.

B. Valeo, at its option, may extend the term of the Purchase Order for a period of up to six (6) months (as determined by Valeo) beyond the scheduled expiration date of the Initial Term or any Renewal Term (as applicable). This period is referred to as an “**Extended Term.**” Valeo will provide Seller with written notice of any Extended Term before the Initial Term or a Renewal Term expires. This written notice will specify the duration of the Extended Term. Prices in effect at the end of the Initial Term or Renewal Term and all other terms and conditions, including but not limited to price decreases as agreed between the parties, will remain in effect during the Extended Term.

C. From time to time, Valeo may provide Seller with estimates, forecasts or projections of its future volume or quantity requirements for the Goods and/or the term of a program (“**Projections**”). Projections are not binding on Valeo and Valeo makes no representation, warranty, guaranty or commitment regarding any Projections. Valeo will issue releases to Seller to specify the quantities needed, delivery locations and shipment dates for the Goods (each a “**Release**” and together “**Releases**”). Valeo will only be obligated to purchase quantities of Goods specified in a Release to the extent the Release provides a definite date on or by which delivery is required.

**3. Price.**

A. Prices charged for Goods will be stated in the Purchase Order and are not subject to increase for any reason including, but not limited to, increases in raw material or component costs, labor costs, or overhead costs. Prices may be subject to mandatory decreases if so provided in the Purchase Order. Seller is solely responsible for any and all transport and unloading charges and costs, customs charges and costs, taxes, tariffs, duties, insurance charges and costs, and any fiscal contribution related to the Goods, unless otherwise expressly stated in the Purchase Order.

B. Seller represents and warrants that the price charged to Valeo for the Goods is at least as low as the price charged by Seller to other buyers under conditions similar to those specified in the Purchase Order and that all prices comply with all applicable governmental laws and regulations in effect at the time of quotation, sale and delivery. Seller will ensure that the prices charged to Valeo for the Goods remains competitive with the price for similar goods available to Valeo from other sellers.

C. Seller will participate in Valeo’s cost savings and productivity programs and initiatives and will implement Seller’s own cost savings and productivity programs and initiatives to reduce Seller’s prices.

**4. Invoices.**

A. All invoices and/or advance shipping notices for Goods shipped pursuant to each Purchase Order must reference the Purchase Order number, Purchase Order amendment or Release number, Valeo’s part number, Seller’s part number (if different), quantity of pieces in the shipment, number of cartons or containers, Seller’s name, and bill of lading number.



B. All invoices and/or advance shipping notices for Goods shipped pursuant to each Purchase Order must include all information appearing in the Purchase Order which is necessary for identification and control of the Goods including, but not limited to, information required by any applicable taxing authority or under any applicable tax law or regulation, and any applicable import declaration number and/or number of any temporary import program.

C. Seller will provide all invoices and/or advance shipping notices for Goods shipped pursuant to each Purchase Order to Valeo at the invoicing address identified in the Purchase Order.

D. No invoice may reference any term separate from or different than these Terms and Conditions or the terms in the Purchase Order. Valeo reserves the right to return all invoices or related documents submitted incorrectly. Any payment by Valeo of a nonconforming invoice is not an acceptance of any non-conforming element or terms on such invoice.

## 5. Payment Terms.

A. Unless otherwise stated in the Purchase Order, Seller's invoices will be payable on the first Friday which is the later of sixty (60) days following the date of Valeo's receipt of the (i) Goods or (ii) Seller's invoice. All invoicing will be made through electronic data interchange and all payments will be made by electronic funds transfers. If a payment date falls on a non-business day, payment will be made on the following business day. No payment will be due from or made by Valeo prior to Valeo's receipt of (i) the Goods corresponding to such payment and (ii) Seller's invoice in accordance with Section 4.

B. Notwithstanding the particular payment terms applicable to a Purchase Order: (i) in no event will Seller have a right to payment for Tooling before Valeo is paid by its customer for such Tooling; (ii) and Valeo may, at its option, upon written notice to Seller, revise its payment terms for Goods to take into account any change in the payment terms of Valeo's customer(s) applicable to the Goods. "**Tooling**" means, collectively, all tooling, dies, test and assembly fixtures, gauges, jigs, patterns, casting patterns, cavities, molds, and documentation (including engineering specifications and test reports) used by Seller in connection with its manufacture and sale to Valeo of the Goods.

C. Any amount paid by Valeo for Goods will not be deemed to be a waiver of any breach of the Purchase Order by Seller or any amount otherwise due to Valeo. Any waiver by Valeo of any breach by Seller on one occasion will not preclude Valeo from seeking any recovery from Seller, nor will it preclude Valeo from terminating the Purchase Order for, or constitute a waiver of, any other breach at another time.

D. Valeo may, at any time in its sole discretion, remit payments directly to Seller's subcontractors or suppliers for materials, parts, components, and other goods and services ordered by Seller from such subcontractors or suppliers in connection with Seller's production of the Goods. If Valeo makes such direct payments to Seller's subcontractors or suppliers, Valeo will permanently reduce its next payments to Seller for the Goods, dollar-for-dollar, by the amount of all such direct payments.

E. If a customer of Valeo directs, recommends or requests that Seller be Valeo's source for the Goods: (i) payment from Valeo, for the Goods, will be due to Seller only after, to the extent of, and in proportion to Valeo's actual receipt of payment from such customer for Valeo's component parts or assembled goods into which the Goods are incorporated; (ii) any extension of such customer's payment terms to Valeo for Valeo's component parts or assembled goods into which the Goods are incorporated will automatically extend, by the same amount of time, the payment terms between Valeo and Seller; and (iii) within three (3) business days following any reduction in price or change in other terms with respect to the Goods negotiated or proposed between Seller and Valeo's customer, Seller will notify Valeo, in writing, of such reduction or change. Seller will also immediately adjust its invoices to reflect any price reduction. No change in other terms (except price reductions) will be binding on Valeo without Valeo's prior written consent.

6. **Quality.** Seller will meet all quality requirements of Valeo and all quality requirements of Valeo's customer(s). Seller will assure that all Goods conform to all specifications, standards, drawings, samples and descriptions including, without limitation, as to quality, performance, fit, form, function and appearance under the Purchase Order. Seller is responsible for the quality, performance, fit, form, function and appearance of all Goods and components and sub-components provided by any sub-tier and subcontractor manufacturers and suppliers used by Seller. Seller will, at its expense, furnish, keep in good condition, and replace when necessary all Tooling, machinery and equipment and other items necessary for the production of the Goods.

## 7. Delivery; Premium Shipping Costs; Risk of Loss.

A. Deliveries will be made in quantities and at the times specified on the Purchase Order or on Releases. Time and quantity of delivery are of the essence of each Purchase Order and Release. Seller will adhere to shipping directions specified on the Purchase Order or Releases. Valeo will not be required to make payment for Goods delivered to Valeo that are in excess of quantities and delivery schedules specified in Valeo's Releases or in a Purchase Order.

B. Premium shipping expenses and/or other related expenses necessary to meet delivery schedules set forth in Releases will be Seller's sole responsibility unless: (i) the delay or expense was solely the result of actions by Valeo which materially breach Valeo's obligations in the Purchase Order (if such material breach was not caused by Seller); and (ii) Seller provides Valeo with written notice of any claim against Valeo within ten (10) days after the occurrence of the alleged actions of Valeo giving rise to such claim.

C. Notwithstanding any agreement concerning payment of freight expenses, delivery will not have occurred and the risk of loss will not have shifted to Valeo until the Goods have been received at the specified delivery location and have been accepted by Valeo at that location.

## 8. Intellectual Property.

A. Intellectual Property Rights. The term "**Intellectual Property Rights**" means inventions, patents (including utility patents and design patents), trade secrets, trademarks, service marks, trade dress, industrial designs, mask works, copyrights, know-how, software, data base rights and other proprietary rights. The term "**Background Intellectual Property Rights**" means the Intellectual Property Rights of either Valeo or Seller existing prior to an applicable Purchase Order, as well as any improvements thereto, excluding the Foreground Intellectual Property Rights. The term "**Foreground Intellectual Property Rights**" means any and all Intellectual Property Rights developed for incorporation into the Goods that are either developed by Valeo alone, by Valeo and Seller jointly, or by Seller alone as requested by Valeo in connection with any Purchase Order. Foreground Intellectual Property Rights do not include any Background Intellectual Property Rights.

B. Background Intellectual Property Rights. Each party will retain exclusive ownership of its Background Intellectual Property Rights. Valeo does not transfer to Seller any of its Background Intellectual Property Rights, and Seller may not use the same other than to produce and supply Goods to Valeo. Except as stated in this Section 8.B, Seller does not transfer to Valeo any Background Intellectual Property Rights of Seller, other than Seller grants to Valeo and its customers the right to resell Goods or incorporate Goods purchased from Seller in vehicles, component parts or assemblies and to sell the same to Valeo's customers. Upon termination or expiration of a Purchase Order, Seller grants to Valeo an irrevocable, non-exclusive worldwide license, with the right to grant sublicenses, to use Seller's Background Intellectual Property Rights relating to the terminated or expired Purchase Order, subject to Section 40 of these Terms and Conditions, to produce, use, sell and to obtain, from alternate sources, products and services similar to the Goods (including related systems and components). There will be no fee for this license.

C. Foreground Intellectual Property Rights. All Foreground Intellectual Property Rights are owned by Valeo and not by Seller. Seller hereby confirms the same and assigns to Valeo all of Seller's right, title and interest in and to all Foreground Intellectual Property Rights that are developed or created in the course of performing any Purchase Order (separately or as part of any Goods). To the extent that any Foreground Intellectual Property Rights are copyrightable works or works of authorship (including, but not limited to, computer programs, technical specifications, documentation and manuals), the parties 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 Goods to Valeo.

D. Seller warrants that all Goods covered by each Purchase Order do not and will not infringe upon, violate or misappropriate the Intellectual Property Rights of any third party. Seller: (i) will defend, hold harmless and indemnify Valeo and its customers against all claims, demands, losses, suits, damages, liability and expenses (including actual fees for attorneys, experts and consultants, settlement costs and judgments) arising out of any lawsuit, claim, demand or action for actual or alleged direct or contributory or vicarious infringement of, or inducement to infringe, any United States or foreign Intellectual Property Right by reason of the manufacture, use, sale, offering for sale, importation or distribution of the Goods (including such claims where Seller has provided only part of the Goods); and (ii) waives any claim against Valeo and its customers, 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 Valeo for infringement of any Intellectual Property Rights, including claims arising out of compliance with specifications furnished by Valeo.

E. Seller will not assert or transfer to any third party a right to assert against Valeo or its customers any Intellectual Property Rights that Seller has or may have that are applicable to the Goods used or furnished under the Purchase Order.

F. Seller will not sell or otherwise dispose of any Goods that incorporate any Intellectual Property Rights of Valeo to any party other than Valeo unless specifically authorized by Valeo in advance and in writing.

## 9. Warranty.

A. Seller warrants that all Goods covered by each Purchase Order will conform to all specifications, standards, drawings, samples and/or descriptions, quality requirements, performance requirements, and fit, form and function requirements furnished to Seller by Valeo, and all industry standards, laws and regulations in force in countries where the Goods or vehicles equipped with such Goods are to be sold. Seller warrants that all Goods will be merchantable, safe, of good material and workmanship

and free from defects. In addition, Seller acknowledges that Seller knows of Valeo's intended use of the Goods and expressly warrants that all Goods will be fit and sufficient for the particular purpose intended by Valeo.

B. Seller warrants that Seller will convey good title to the Goods to Valeo, free and clear of all liens, claims, interests and other encumbrances.

C. All warranties will be effective for the longer of (i) the period provided by applicable law or (ii) the warranty period provided by Valeo to its customer; provided, however, that if Valeo or its customer, voluntarily or pursuant to a government mandate, makes an offer to owners of vehicles (or other finished products) on which the Goods or any parts, components or systems incorporating the Goods are installed to provide remedial action to address a defect or condition that relates to motor vehicle safety or the failure of the vehicle to comply with any applicable law, safety standard or guideline, whether in connection with a recall campaign or other customer satisfaction or corrective service action (a "**Remedial Action**"), the warranty will continue for such time period as may be dictated by Valeo's customer or the federal, state, local or foreign government where the Goods are used or provided. Notwithstanding any expiration of a warranty period set forth in this Section 9, Seller will nonetheless be liable for costs and damages associated with any Remedial Action to the extent that such Remedial Action is based upon a reasonable determination that the Goods fail to conform to the warranties set forth in the Purchase Order. Where applicable, Seller will pay all reasonable expenses associated with determining whether a Remedial Action is necessary.

D. All warranties are intended to provide Valeo with protection from any and all warranty claims brought against Valeo by its customer. This includes, but is not limited to, meeting any customer-required warranties relating to the Goods or products into which the Goods are incorporated. All such customer-required warranties are incorporated by reference.

E. The warranties provided for in this Section 9 are in addition to all other warranties, express, implied or statutory, and will survive Valeo's inspection, test, delivery, acceptance, use and payment of and for the Goods, and inure to the benefit of Valeo, its successors and assigns, and Valeo's customers and the users of Valeo's or its customers' products. The warranties provided for in this Section 9 may not be limited or disclaimed by Seller. Valeo's approval of Seller's designs, materials, processes, drawings, specifications or the like will not be construed to relieve Seller of any warranties, nor will a waiver by Valeo of any required specification as to any particular Goods constitute a waiver of any such requirements for the remaining Goods to be delivered unless so stated by Valeo in writing.

F. Seller will immediately notify Valeo in writing if Seller learns of any facts, circumstances or conditions, the existence of which causes or threatens to cause imminent breach of any warranties or interruption in Seller's production of Goods.

G. To mitigate its damages, Valeo may defend any claim that any Goods supplied by Seller are defective, in breach of warranty, or otherwise do not meet applicable legal or contractual requirements because such customer may attempt to hold Valeo responsible for problems caused in whole or in part by Seller. Such defense is in the interest of both Seller and Valeo. Seller waives the right to argue that the fact that Valeo took any such position in any way limits Valeo's right to assert a claim against Seller by Valeo 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.

## **10. Indemnification.**

A. Seller covenants and agrees to indemnify and hold harmless Valeo and its respective directors, officers, employees and agents from any claims, liabilities, damages (including actual, special, consequential, punitive and exemplary damages), costs and expenses (including actual fees for attorneys, experts and consultants, settlement costs and judgments) incurred in connection with any claims (including lawsuits, administrative claims, regulatory actions and other proceedings to recover for personal injury or death, property damage or economic losses of any kind) that are related in any way to or arise in any way from the Goods, Seller's representations, Seller's performance of or failure to perform obligations under any Purchase Order, including claims based on Seller's breach or alleged breach of warranty (whether or not the Goods have been incorporated into Valeo's products and/or resold by Valeo) and claims for any violation of any applicable law, ordinance or regulation or government authorization or order. Seller's indemnification obligations will apply even if Valeo furnishes all or a portion of the design and specifies all or a portion of the processing used by Seller.

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

C. Valeo will notify Seller after Valeo becomes aware of the basis for a claim against Seller under this Section 10. Seller will immediately begin to work cooperatively with Valeo to determine the root cause of a defect in or failure of the Goods (and related systems and components).

#### **11. Changes.**

A. Valeo reserves the right at any time to direct changes, or cause Seller to make changes, to the Goods under any Purchase Order or Purchase Order amendment including, but not limited to, changes in the design (including drawings and specifications), processing, methods of packing and shipping and the date or place of delivery of the Goods covered by the Purchase Order or to otherwise change the scope of the work covered by the Purchase Order including work with respect to such matters as inspection, testing or quality control, and Seller agrees to promptly make such changes. Price and/or timing for delivery of Goods resulting from changes pursuant to this Section will be equitably adjusted by Valeo following Valeo's receipt from Seller of sufficient documentation regarding Seller's costs and/or production timing resulting from such changes.

B. Any change (i) in subcontractors of Seller or suppliers of Seller, or (ii) in the processes or procedures used by Seller in its production of Goods, or (iii) the fit, form, function or appearance of Goods, must be approved by Valeo in advance and in writing. If Seller purchases materials, parts or components used in Seller's production of Goods from any suppliers or subcontractors, any change (i) in the processes or procedures used by Seller's suppliers or subcontractors in the production of such materials, parts or components, or (ii) the fit, form, function or appearance of such materials, parts or components, must be approved by Valeo in advance in writing. Any requests for such changes by Seller or Seller's suppliers or subcontractors may be approved or denied by Valeo in its sole discretion.

**12. Financial and Operational Condition of Seller.** Seller represents and warrants to Valeo as of the date of each Purchase Order that it is not insolvent and is paying all debts as they become due; that it is in compliance with all loan covenants and other obligations; that all financial information provided by Seller to Valeo concerning Seller is true and accurate; that such financial information fairly represents Seller's financial condition; and that all financial statements of Seller have been prepared in accordance with generally accepted accounting principles, uniformly and consistently applied.

**13. Seller's Insolvency.** Valeo may immediately terminate each Purchase Order without any liability of Valeo to Seller upon the occurrence of any of the following or any other similar or comparable event: (i) insolvency of Seller; (ii) Seller's inability to promptly provide Valeo with adequate and reasonable assurance of Seller's financial and operational capability to perform timely any of Seller's obligations under any Purchase Order; (iii) filing of a voluntary petition in bankruptcy by Seller (or a comparable insolvency event); (iv) filing of an involuntary petition in bankruptcy against Seller (or a comparable insolvency event); (v) appointment of a receiver or trustee for Seller/Seller's assets; or (vi) execution of any assignment for the benefit of creditors of Seller.

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

A. Without limiting any of Valeo's rights and remedies at law or in equity (all of which are preserved), should any Goods fail to conform to any applicable warranties, Seller will reimburse Valeo for any and all actual, special, incidental and consequential damages caused by nonconforming Goods including, without limitation, costs, expenses and losses incurred by Valeo: (i) in inspecting, sorting, testing, repairing or replacing such nonconforming Goods; (ii) resulting from production interruptions; (iii) in conducting Remedial Actions; and (iv) in connection with claims for personal injury (including death) or property damage caused by nonconforming Goods.

B. Seller acknowledges and agrees that money damages will not be a sufficient remedy for any actual, anticipatory or threatened breach of any Purchase Order by Seller with respect to Seller's delivery of Goods to Valeo and that, in addition to all other rights and remedies which Valeo may have, Valeo will be entitled to 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.

#### **15. Termination.**

A. Valeo's Right to Terminate for Cause. Valeo may terminate immediately all or any part of each Purchase Order, without any liability of Valeo to Seller, if Seller: (i) repudiates, breaches or threatens to repudiate or breach any of the terms of the Purchase Order including, without limitation, Seller's warranties provided in these Terms and Conditions; (ii) fails to perform or deliver Goods as and when specified by Valeo; (iii) fails to provide Valeo with adequate and reasonable assurance of Seller's ability to perform timely any of Seller's obligations under any Purchase Order including, without limitation, timely delivery of Goods; or (iv) repudiates, breaches or threatens to repudiate or breach any of the terms of any other purchase order issued by Valeo to Seller.

B. Valeo's Right to Terminate for Convenience.

(1) In addition to any other rights of Valeo to terminate each Purchase Order for cause, Valeo may, at its option, terminate all or any part of the Purchase Order at any time and for any reason by giving written notice to Seller.

(2) Upon receipt of notice of termination pursuant to this Section 15.B, Seller, unless otherwise directed in writing by Valeo, will: (i) immediately terminate all work under the Purchase Order; (ii) upon Valeo's written request, transfer title and deliver to Valeo the usable and merchantable finished Goods and raw materials/components that Seller produced or acquired in accordance with Release amounts under the Purchase Order and which Seller cannot reasonably use in producing goods for itself or for others; (iii) take actions reasonably necessary to protect property in Seller's possession which Valeo has an interest; and (iv) upon Valeo's request, cooperate with Valeo in effecting the resourcing of the Goods covered by the Purchase Order to an alternative supplier designated by Valeo.

C. Because Valeo's commitments to its customers are made in reliance on Seller's commitments under each Purchase Order, Seller has no right to terminate any Purchase Order.

D. Upon the expiration or earlier termination of any Purchase Order for any reason, Seller will take such actions as may be reasonably required by Valeo to transition production of the Goods from Seller to an alternative seller (including any Valeo affiliate) including, without limitation, the actions set forth below:

(1) Seller will provide Valeo with a sufficient inventory bank of Goods covered by the Purchase Order to ensure that the transition to any alternative seller chosen by Valeo will proceed smoothly. Unless otherwise specified by Valeo in a Purchase Order, an eight (8) week inventory bank of Goods will be deemed sufficient to accomplish the transition. The eight (8) week inventory bank will be calculated using the Purchase Orders and Releases from the eight (8) weeks immediately prior to Seller's notice of termination excluding any temporary interruptions, plant or industry shutdowns or other reduced schedules. Prices in effect immediately prior to expiration or termination of the Purchase Order will be the prices to be paid by Valeo for the eight (8) week inventory bank of Goods.

(2) Seller will return to Valeo all Bailed Property and any other property furnished by or belonging to Valeo or any of Valeo's customers in as good as condition as when received by Seller, reasonable wear and tear excepted.

(3) Seller will, at Valeo's option: (i) assign to Valeo or an alternative Seller any or all supply contracts or orders for raw material or components relating to the Purchase Order; (ii) sell to Valeo, at Seller's cost, any or all inventory and/or work in process relating to the Purchase Order; and (iii) sell to Valeo, for a price equal to the unamortized portion of the cost of such items less any amounts Valeo previously has paid to Seller for the cost of such items, any or all of Seller's Tooling or machinery or equipment used by Seller to manufacture the Goods.

**16. Limitation of Damages.** In no event will Valeo be liable to Seller or Seller's subcontractors for anticipated profits or for special, incidental or consequential damages.

**17. Assignment.**

A. Seller may not assign or delegate any of its duties or obligations under any Purchase Order without the prior written consent of Valeo, which may be withheld in Valeo's sole discretion. Any sale, assignment or other transfer of stock, securities, or other interests of Seller that would result in a change in control of Seller will be deemed to be a purported assignment of the Purchase Order, with respect to which Valeo reserves the right to withhold its consent.

B. Valeo may assign the Purchase Order and/or any of its rights and interests in the Purchase Order, without Seller's consent, to any person or entity whomsoever or whatsoever including, without limitation, any of Valeo's affiliates (including, without limitation, any parent, subsidiary or division), or to any purchaser of or successor to all or any portion of Valeo's business or assets.

**18. Bailed Property.**

A. All supplies, materials, machinery, equipment, Tooling (as defined in Section 5.B above), blueprints, designs, specifications, drawings, photographic negatives and positives, artwork, copy layout, electronic data, consigned material for production or repair and other items furnished by Valeo (or Valeo's customers), either directly or indirectly, to Seller or to any sub-supplier of Seller in connection with or related to any Purchase Order, or for which Seller has been at least partially reimbursed by Valeo (collectively, "**Bailed Property**") will be and remain the property of Valeo (or Valeo's customers, as applicable) and be held by Seller on a bailment at-will basis.

B. Seller will bear the risk of loss of and damage to Bailed Property and Seller, at its own expense, will keep Bailed Property fully insured for the benefit of Valeo, naming Valeo as the loss payee and an additional insured. The Bailed Property will at all times be property housed and maintained by Seller, will not be used by Seller for any purpose other than the performance of the Purchase Order, will be deemed to be personal property, will be conspicuously marked by Seller to identify it as the property of Valeo and indicate Valeo's name and address, will not be commingled with the property of Seller or with that of a third person, and will not be moved from Seller's premises without the prior written approval by Valeo. Seller will maintain a written inventory of all Bailed Property that sets forth a description of the location of all Bailed Property, and provide a copy of this index to Valeo upon request. Seller, at its expense, will maintain, repair and refurbish Bailed Property. All replacement parts, additions, improvements and accessories for such Bailed Property will automatically become Valeo's property upon their incorporation into or attachment to the Bailed Property. Any missing components of or inserts to any Bailed Property will be replaced by Seller.

C. Valeo may, at any time, for any reason and without payment of any kind, retake possession of or request return of any Bailed Property, without the necessity of obtaining a court order. Upon Valeo's request, the Bailed Property will be immediately released to Valeo or delivered to Valeo by Seller, either (i) F.O.B. transport equipment at Seller's plant, properly packaged and marked in accordance with the requirements of the carrier selected by Valeo to transport such property, or (ii) to any location designated by Valeo, in which event Valeo will pay to Seller the reasonable cost of delivering such Bailed Property to such location. Notwithstanding anything in these Terms and Conditions to the contrary, Valeo may commence an injunctive action or proceeding to obtain possession of the Bailed Property in any federal or state court having competent jurisdiction.

D. TO THE FULLEST EXTENT PERMITTED BY LAW, SELLER WAIVES ANY LIENS, INTERESTS, OR OTHER RIGHTS OR INTERESTS THAT SELLER MIGHT OTHERWISE HAVE ON ANY OF THE BAILED PROPERTY FOR WORK PERFORMED ON SUCH PROPERTY AND FOR THE PURCHASE PRICE OF ANY GOODS MANUFACTURED OR PRODUCED UNDER A PURCHASE ORDER.

E. Seller acknowledges and agrees that (i) Valeo is bailing the Bailed Property to Seller for Seller's benefit; (ii) Seller has inspected the Bailed Property and is satisfied that the Bailed Property is suitable and fit for its intended purposes, and (iii) VALEO HAS NOT MADE AND DOES NOT MAKE ANY WARRANTY OR REPRESENTATION WHATSOEVER, EITHER EXPRESS OR IMPLIED, AS TO THE FITNESS, CONDITION, MERCHANTABILITY, DESIGN OR OPERATION OF THE BAILED PROPERTY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE. Valeo will not be liable to Seller for any loss, damage, injury (including death) or expense of any kind or nature caused, directly or indirectly, by the Bailed Property including, without limitation, its use or maintenance, or its repair, service or adjustment, or by any interruption of service or for any loss of business whatsoever or howsoever caused, including, without limitation any anticipatory damages, loss of profits or any other indirect, special or consequential damages.

F. Seller authorizes Valeo to file a financing statement or similar document with the appropriate filing authority(ies) to give notice of Valeo's ownership interest in the Bailed Property. Failure to file a financing statement will not alter or affect Valeo's ownership rights to the Bailed Property. Seller will provide Valeo, upon Valeo's request, with a written inventory of all Bailed Property.

G. In the event of any dispute between Valeo and Seller regarding whether any Bailed Property is owned by Valeo or Seller, the Bailed Property subject to the dispute will be presumed to be owned by Valeo pending resolution of the dispute, and Valeo will have the right to immediate possession of the Bailed Property pending resolution of the dispute (and Seller may not withhold delivery of possession of the Bailed Property subject to the dispute to Valeo pending such resolution), but will remain subject to any claim or right to payment of Seller for the disputed amounts (despite Seller's relinquishment of possession).

**19. Transfer of Title to Purchased Property.** Seller transfers to Valeo title to all Tooling and other Goods (including, without limitation, machinery and equipment) which is subject to the Purchase Order ("**Purchased Property**") upon the earlier to occur of (i) Seller's commencement of manufacture, production, or fabrication of such Purchased Property, or (ii) acquisition of such Purchased Property by Seller from Seller's subcontractor or supplier of the Purchased Property, as applicable. Title to all Purchased Property will transfer to Valeo even if Seller has not been paid (in full or in part) for the Purchased Property; provided that Valeo will not be relieved of its obligation to pay for the Purchased Property pursuant to the Purchase Order. Purchased Property is identified to the Purchase Order at the time that manufacture, production, or fabrication of the Purchased Property is commenced. To the fullest extent permitted by law, Seller waives, releases and discharges all liens, claims, interests and encumbrances it has or may have with respect to Purchased Property, other than Seller's right to be paid for the Purchased Property pursuant to the Purchase Order. Seller authorizes Valeo (in Valeo's discretion) to file any financing statements or other documents on behalf of Seller evidencing that Seller's interest in Purchased Property is strictly a bailment interest in accordance with Section 18 above. Seller grants to Valeo a continuing security interest in any alleged right or interest it may have in the Purchased Property. Any payments made by Valeo for Purchased Property are expressly intended by Valeo to be held in trust for the benefit of any subcontractors or suppliers used by Seller to manufacture, produce, or fabricate the Purchased Property that relate to such payments; and Seller agrees to hold such payments as trustee in express trust for such subcontractors or suppliers until Seller has paid the subcontractors or suppliers in full for the Purchased Property.

**20. Seller-Owned Tooling.** If Tooling required to support production under a Purchase Order is to be funded or provided by Seller ("**Seller-Owned Tooling**"), the following provisions apply:

A. Seller acknowledges that the price for the Goods includes an amount for Seller to recover the cost of Seller-Owned Tooling. Seller-Owned Tooling will be properly maintained by Seller at its own expense for the term of the Purchase Order and any period Seller is obligated to provide service or replacement parts, unless otherwise specified in the Purchase Order or another written agreement between Valeo and Seller. If Seller finances any portion of Seller-Owned Tooling, Seller will obtain for Valeo the rights granted in this Section 20 from its financing source/lender.

B. Unless agreed to in writing by Valeo, Seller will not use Seller-Owned Tooling to produce goods for other customers, including aftermarket customers.

C. In consideration of Valeo's Purchase Order for Goods to be produced using Seller-Owned Tooling, Seller grants Valeo an exclusive, irrevocable option to purchase Seller-Owned Tooling for an amount equal to the outstanding discounted unrecovered cost at the time Valeo exercises the option. The term "**discounted unrecovered cost**" means the actual cost of Seller-Owned Tooling (without mark-up for profit or allocated overhead) minus the aggregate per-part amortization for all Goods manufactured using the tools and delivered to Valeo, discounted for early payment based upon the remaining portion of the originally-quoted program life using a discount rate of twelve percent (12%) per annum. Valeo may exercise this option at any time and not just in the case of termination, expiration or cancellation of a Purchase Order. Upon exercise by Valeo of its option to acquire Seller-Owned Tooling, at Valeo's request, Seller will cooperate with Valeo in its removal of the property from Seller's facility.

D. Seller grants Valeo an exclusive, irrevocable option to purchase any or all Seller-Owned Tooling for an amount equal to the lesser of net book value or fair market value of the Seller-Owned Tooling to be purchased, less any amounts Valeo has previously paid Seller for the cost of such items.

**21. Rights of Entry, Reclamation and Inspection.** Valeo will have the right to enter Seller's facilities during normal business hours at reasonable times to inspect the facilities, Goods, any Bailed Property and, without the necessity of a court order, remove property belonging to Valeo or any customer of Valeo including, without limitation, Bailed Property and Goods, inventory or Seller's property that has been or is agreed to be sold to Valeo. Valeo's inspection of the Goods whether during manufacture, prior to delivery or within a reasonable time after delivery, will not constitute acceptance of any work in process or finished Goods.

**22. Subcontracting.** Seller will not subcontract any of its duties or obligations under any Purchase Order without prior written approval by Valeo. Seller will ensure that any subcontractor so approved complies with all production part approval process (PPAP) requirements of Valeo's customer and any other requirements of Valeo. Valeo or Valeo's representative will be afforded the right to verify at any subcontractor's premises and Seller's premises that subcontracted Goods conform to specified requirements.

**23. Nonconforming Goods.** Valeo, at its option, may reject and return, at Seller's risk and expense, Goods received pursuant to any Purchase Order that fail to conform to the requirements of the Purchase Order even if the nonconformity does not become apparent to Valeo until the manufacturing, processing or assembly stage or later. To the extent Valeo rejects Goods as nonconforming, the quantities under the Purchase Order will not be reduced by the quantity of nonconforming Goods unless Valeo so notifies Seller in writing. Seller will replace nonconforming Goods with conforming Goods, unless otherwise notified in writing by Valeo, including without limitation by way of a termination notice from Valeo under Section 15 above. Seller will reimburse Valeo for (i) any amounts paid by Valeo on account of the purchase price of any rejected nonconforming Goods, and (ii) any costs incurred by Valeo in connection with the nonconforming Goods including, but not limited to, inspection, sorting, testing, evaluations, storage and rework. Payment by Valeo for nonconforming Goods will not constitute an acceptance, limit or impair Valeo's right to seek any legal or equitable remedy, or relieve Seller's responsibility for latent defects.

**24. Insurance.** Seller will obtain and maintain, at its sole expense, insurance coverage customary in the automotive supply industry and as otherwise required by law or reasonably requested by Valeo with such insurance carriers and in such amounts as are set forth in Valeo's Insurance Policy for Suppliers and On-Site Subcontractors, a copy of which will be provided to Supplier upon Supplier's written request. This includes, without limitation, providing full fire and extended coverage insurance for the replacement value of (i) all of Seller's Property and (ii) any Bailed Property, both for their full replacement value. All such insurance coverage will name Valeo as loss payee and additional insured. Upon request, Seller will furnish to Valeo certificates of insurance setting forth the amount of coverage, policy number and date(s) of expiration for insurance maintained by Seller and such certificates must provide that Valeo will receive not less than thirty (30) days prior written notification from the insurer of any termination or reduction in the amount or scope of coverage. Seller's furnishings of certificates of insurance or purchase of insurance will not release Seller of its obligations or liabilities under any Purchase Order. If Seller fails to maintain any insurance under any Purchase Order, Valeo will have the right to procure such insurance and Seller will reimburse Valeo on demand, for all actual costs and expenses of procuring such insurance.

**25. Customs Requirements and Export Controls.**

A. Seller will promptly furnish to Valeo all documents required for customs drawback purposes, properly completed in accordance with all applicable laws and regulations. Seller will also, at Seller's sole expense, provide all information (including written documentation and electronic transaction records) relating to the Goods which is necessary for Valeo to fulfill any customs-related or

other governmental agency-related obligations, origin marking and labeling requirements, and certification and local content reporting requirements, to enable Valeo to claim preferential duty treatment at the time of entry for Goods eligible under trade preference regimes, and to make all arrangements necessary for the Goods to be covered by any applicable duty deferral or free trade zone program(s) of the country of import.

B. To the extent that Goods are to be imported into the United States of America, Seller will comply with all applicable recommendations or requirements of the Bureau of Customs and Border Protection's Customer-Trade Partnership Against Terrorism ("C-TPAT") initiative. Upon request, Seller will certify in writing its compliance with the C-TPAT initiative.

C. Export licenses or authorizations necessary for the export of Goods will be the responsibility of Seller unless otherwise expressly stated in the Purchase Order, in which case Seller will, at Seller's expense, provide all information and documentation necessary or desirable to enable Valeo to obtain necessary or appropriate licenses or authorizations. Credits or benefits resulting or arising from any Purchase Order including trade credits, export credits, customs drawbacks, and the refund of duties, taxes or fees, will belong to Valeo. Seller will indemnify and hold Valeo and Valeo's customers and their respective successors, assigns, representatives, employees and agents harmless from and against any costs, expenses or liabilities arising from Seller's provision of incorrect information or non-compliance with customs regulations.

## **26. Certificates of Origin.**

A. Upon request, Seller will promptly furnish Valeo with all certificates of origin and domestic value-added and other information relating to the costs and places of origin of the Goods and the materials contained therein or used in the performance thereof, as may be required by Valeo to comply fully with all customs, tariffs and other applicable governmental regulations. Seller will comply with all such regulations. Seller will indemnify and hold Valeo, Valeo's customers and their respective successors, assigns, representatives, employees and agents harmless from and against all liabilities, demands, claims, losses, costs, damages and expenses of any kind or nature (including attorneys' fees and costs, fines and penalties) arising or resulting from (i) Seller's delay in furnishing such certificates or other information to Valeo, (ii) any errors or omissions contained in such certificates, and (iii) any non-compliance by Seller with such regulations.

B. Seller will provide a completed North American Free Trade Agreement (NAFTA) Certificate(s) of Origin for all NAFTA qualifying Goods sold to Valeo pursuant to the Purchase Order. For Goods not qualifying for NAFTA treatment, Seller will provide Valeo with correct Country of Origin information for each such item. If Seller does not provide the required Certificate(s) or correct Country of Origin information, Valeo may charge-back to Seller any duties, penalties, or other liabilities or expenses (including reasonable attorneys' fees) charged to or imposed or assessed against Valeo.

**27. Compliance With Laws.** Seller will not (i) utilize forced or involuntary labor, regardless of its form, (ii) employ any child, except as part of a government approved job training, apprenticeship or similar program, or (iii) engage in abusive employment or corrupt business practices in the supply or provision of Goods under any Purchase Order. If Seller subcontracts any of its duties or obligations under any Purchase Order in accordance with Section 22, Seller will ensure that all subcontractors comply with the requirements under this Section 27.

**28. Identification of Goods.** All Goods supplied pursuant to each Purchase Order that are construed as a completed part will permanently bear information such as Valeo's part number and name or code name, lot number, Seller's name or code name, and/or date of manufacture by Seller in a manner directed by Valeo.

**29. Packaging and Shipping.** All packaging must conform to Valeo's standard packaging requirements. Seller will: (i) properly pack, mark and ship Goods in accordance with Valeo's requirements and the involved carrier in a manner to secure the lowest transportation cost; (ii) route shipment in accordance with Valeo's instructions; (iii) make no charge for handling, packaging, storage, transportation (including duties, taxes, fees, etc.), cost of vehicle or other transport expenses unless otherwise approved by Valeo in writing; (iv) provide Valeo with shipment papers showing the Purchase Order number, Purchase Order amendment or Release number, Valeo's part number, Seller's part number where applicable, quantity of pieces in shipment, number of cartons or containers in shipment, Seller's name, the bill of lading number and the country of origin; and (v) promptly forward to Valeo the original bill of lading or other shipment receipt for each shipment identification of the Goods on packing slips, bills of lading and invoices will be sufficient to enable Valeo to easily identify the Goods purchased.

## **30. Setoff and Contractual Recoupment.**

A. In addition to any right of setoff or recoupment provided or allowed by law, Valeo and any of its affiliates, subsidiaries and divisions ("**Valeo Group**") may setoff against or recoup from any amounts owing to Seller or any of its affiliates, subsidiaries and divisions ("**Seller Group**") any amounts owing to any member of the Valeo Group by any member of the Seller Group including, without limitation, for damages resulting from breaches by Seller of its obligations under this or any other Purchase Order.

B. If an obligation of any member of the Seller Group is disputed, contingent or unliquidated, payment by any member of the Valeo Group of all or any portion of the amount due may be deferred until such dispute contingency is resolved or the obligation is liquidated. Without limiting the generality of the foregoing and by way of example only, in the event of a bankruptcy of Seller, if all of the Purchase Orders between Valeo and Seller have not been assumed, then Valeo may withhold payment to Seller for Goods previously delivered (via an administrative hold or otherwise) until the risk of potential rejection and other damages is eliminated.

**31. Audit Rights and Financial Information.** If requested by Valeo, Seller will permit Valeo and/or its designees to: (i) examine all pertinent documents, data and other information relating to the Goods, Tooling, Seller's obligations under the Purchase Order, any payment made to Seller, any claim made by Seller and any quotes, invoices or similar materials from Seller's own suppliers or subcontractors; (ii) view any facility or process relating to the Goods or the Purchase Order, including those relating to production quality; and (iii) audit any facility or process to determine compliance with the requirements of the Purchase Order. If requested by Valeo, Seller will provide to Valeo its most current income statements, balance sheets, cash flow statements and supporting data and schedules.

**32. Advertising.** Seller will not refer to Valeo in advertising or public releases without Valeo's prior written approval and will not use Valeo's trademarks or trade names in advertising or promotional materials.

**33. Force Majeure; Labor Disruptions.**

A. Any delay or failure of Valeo or Seller to perform its obligations under the Purchase Order will be excused if, and to the extent that, the party is unable to perform specifically due to an event or occurrence beyond its reasonable control and without its fault or negligence, such as: acts of God; restrictions, prohibitions, priorities or allocations imposed or actions taken by a governmental authority; embargoes; fires; explosions; natural disasters; riots; or wars. During any delay or failure to perform by Seller, Valeo may, at its option: (a) purchase the Goods from other sources and reduce its Releases to Seller by such quantities without liability of Valeo to Seller, and require Seller to reimburse Valeo for any additional costs to Valeo of obtaining the substitute Goods compared to the prices set forth in the Purchase Order; (b) require Seller to deliver to Valeo, at Valeo's expense, all finished Goods, work in process and/or parts and materials produced or acquired for work under the Purchase Order; or (c) require Seller to provide Goods from other sources in quantities and at a time requested by Valeo and at the price set forth in the Purchase Order.

B. Seller's financial inability to perform, changes in cost or availability of materials, components or services based on market conditions, and/or supplier actions or contract disputes will not excuse performance by Seller under theories of force majeure, commercial impracticability or otherwise, and Seller expressly assumes these risks.

**34. Service and Replacement Parts.**

A. From time to time, upon receipt of Valeo's Release for such Goods, Seller will sell to Valeo all Goods necessary for Valeo to fulfill Valeo's and its customer's service and replacement parts requirements for its current model year at the then current production prices plus any actual net cost differential for required unique packaging, provided that sufficient evidence of such packaging costs is provided to Valeo. If the Goods are systems, modules or assemblies, Seller will sell the components or parts of such systems, modules or assemblies at prices that will not in the aggregate exceed the then current production price of the system, module or assembly less the costs of labor involved in connection with the system, module or assembly plus any actual net cost differential for required unique packaging.

B. After termination of the current model production of the vehicle model(s) for which the Goods are produced, Seller will sell to Valeo additional Goods necessary for Valeo to fulfill Valeo's and its customer's service and replacement parts requirements for past model years at the prices then specified in the last Purchase Order for current model production plus any actual net cost differential for required unique packaging for the first five (5) years of past model service. For the following ten (10) years of past model service or such longer period as Valeo's customer requires service parts, the prices will be as specified in the last Purchase Order for current model production plus any actual net cost differential for required unique packaging plus any actual net cost differential for manufacturing costs as mutually agreed by Valeo and Seller.

**35. Claims from Seller.** Any legal action by Seller against Valeo arising under or relating to any Purchase Order must be commenced within one (1) year after the breach or other event giving rise to such claim.

**36. Severability.** If any terms(s) of the Purchase Order is invalid or unenforceable under any statute, regulation, ordinance, Executive Order or other rule of law, such term(s) will be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule, and the remaining provisions of the Purchase Order will remain in full force and effect.

**37. Notices.** All notices, claims and other communications to Valeo required or permitted under the Purchase Order will be made in writing and will be effective only upon receipt by Valeo. Seller's failure to provide any notice, claim or other communication to Valeo

in the manner and within the time periods specified in the Purchase Order 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.

**38. Electronic Communication.** Seller will comply with the method of electronic communication specified by Valeo, including requirements for electronic funds transfer, purchase order transmission, electronic signature, and other communications.

**39. Relationship of Parties.** Seller and Valeo are independent contracting parties and nothing in these Terms and Conditions will make either party the agent or legal representative of the other 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.

**40. Confidentiality.** Seller will (i) keep all Valeo's information confidential and disclose it only to its employees who need to know such information in order for Seller to supply Goods, Tooling, and equipment to Valeo under the Purchase Order and (ii) use Valeo's information solely for the purpose of supplying Goods to Valeo. "**Valeo's information**" means all information provided to Seller by Valeo or its representatives or subcontractors in connection with the business, programs, and Goods data, formulas, compositions, designs, sketches, photographs, samples, prototypes, test vehicles, manufacturing, packaging or shipping methods and processes and computer software and programs (including object code and source code). Valeo's information also includes any materials or information that contains, or is based on any Valeo's information, whether prepared by Valeo, Seller or any other person.

**41. Entire Agreement; Modification.** A Purchase Order, including these Terms and Conditions, as may hereafter be modified together with the attachments, exhibits or supplements specifically referenced in the Purchase Order, constitutes the entire agreement between Seller and Valeo with respect to the matters contained in the Purchase Order and will be deemed to supersede all prior oral or written representations and agreements. Valeo may modify the Terms and Conditions, at any time, by posting notice of such modified Terms and Conditions through links provided on the Valeo website at <http://www.valeo.com>.

**42. Governing Law; Jurisdiction; Venue.** Each Purchase Order will be governed by the laws of the State of Michigan without regard to any otherwise applicable conflict of laws provisions. The United Nations Convention on the International Sale of Goods is expressly excluded. Valeo and Seller agree that any and all disputes between them will be resolved by, and they each consent to, the exclusive jurisdiction and venue of the Oakland County, Michigan Circuit Court and the United States District Court for the Eastern District of Michigan, Southern Division to resolve any such disputes, including for lawsuits seeking monetary relief or equitable relief (subject to the provisions of Section 18.C of these Terms and Conditions). Seller specifically waives any and all objections to venue in such courts.

**43. Waiver of Jury Trial.** VALEO AND SELLER ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH OF VALEO 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 ANY PURCHASE ORDER OR ANY OTHER DOCUMENT PERTAINING TO ANY PURCHASE ORDER.

**44. Continuing Obligations.** These Terms and Conditions will survive expiration, non-renewal or termination of the purchasing relationship between Valeo and Seller.

**[End of Valeo Purchasing Terms and Conditions]**