

**PURCHASE ORDER TERMS AND CONDITIONS FOR NON-PRODUCTION  
SERVICES**

**REVISED MARCH 1, 2020**

**1. OFFER/ACCEPTANCE.**

A. Each purchase order, together with these Terms and Conditions and any documents specifically referenced herein (collectively, "Purchase Order") is an offer by the entity identified on the Purchase Orders as the "Buyer" ("Buyer") to the party to whom such Purchase Order is addressed and such party's applicable affiliates and subsidiaries ("Seller") to purchase services described therein, including any ancillary goods, (the "Services") and it shall be the complete and exclusive statement of such offer and agreement. A Purchase Order does not constitute an acceptance by Buyer of any offer or proposal by Seller, whether in Seller's quotation, acknowledgement, invoice or otherwise. In the event that any Seller quotation or proposal is held to be an offer, that offer is expressly rejected and is replaced in its entirety by the offer made up of the Purchase Order.

B. A contract is formed on the date that Seller accepts the offer of Buyer. Each Purchase Order shall be deemed accepted upon the terms and conditions of such Purchase Order by Seller by 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 hereof. Additionally, each Purchase Order shall be deemed accepted five business days after Buyer delivers the Purchase Order to Seller, if Seller fails to object to the Purchase Order. Acceptance is expressly limited to these Terms and Conditions and such terms and conditions as are otherwise expressly referenced on the face of the Purchase Order. No purported acceptance of any Purchase Order on terms and conditions which modify, supersede, supplement or otherwise alter these Terms and Conditions shall be binding upon Buyer and such terms and conditions shall be deemed rejected and replaced by these Terms and Conditions unless Seller's proffered terms or conditions are accepted in a physically signed writing by an authorized representative of Buyer's purchasing department (a "Signed Writing"), notwithstanding Buyer's acceptance of or payment for any Services or similar act of Buyer. In the event of a conflict between the Purchase Order and any prior or contemporaneous agreement or document exchanged between Buyer and Seller, the Purchase Order governs. In order to be valid against the Buyer, all Purchase Orders must be issued on Buyer's official purchase order form and bear a purchase order number.

C. Henniges Automotive may from time to time administer purchasing for its affiliates and subsidiaries and issue Purchase Orders containing the Henniges Automotive logo, but identifying a different Buyer. Seller acknowledges and agrees that no such Purchase Order shall constitute or be interpreted to represent a Purchase Order of Henniges Automotive or a guaranty by Henniges Automotive of any obligations or liabilities of the Buyer identified on the Purchase Order.

**2. ENTIRE AGREEMENT.**

A. The Purchase Order, together with these Terms and Conditions, any Statement of Work, Master Service Agreement and the attachments, manuals, guidelines, requirements, specifications, exhibits and supplements specifically referenced in the Purchase Order or on the Buyer's website at [www.hennigesautomotive.com](http://www.hennigesautomotive.com), constitutes the entire agreement between Seller and Buyer with respect to the matters contained in the Purchase Order and supersede all prior oral or written representations or agreements.

B. Seller periodically shall review the Henniges Automotive website at [www.hennigesautomotive.com](http://www.hennigesautomotive.com) and the manuals located therein. Seller's continued performance under the Purchase Order without providing written notice to Buyer detailing Seller's objection to any modified or new supplier manual prior to the effective date of such modified or new manual will constitute Seller's acceptance of such modified or new manual.

C. Buyer may modify the Terms and Conditions from time to time by posting notice of such modified Terms and Conditions through links provided on the Henniges Automotive website at [www.hennigesautomotive.com](http://www.hennigesautomotive.com) at least ten (10) days prior to the modified Terms and Conditions becoming effective. Seller periodically shall review the Henniges Automotive website and the Terms and Conditions. Seller's continued performance under the Purchase Order without providing written notice to Buyer detailing Seller's objection to any modified Terms and Conditions prior to the effective date of such modified Terms and Conditions will be subject to and will constitute Seller's acceptance of such modified Terms and Conditions. Except as provided in the preceding sentences or as otherwise provided in these Terms and Conditions, the Purchase Order may only be modified by a Signed Writing.

**3. WARRANTY.**

A. In addition to Seller's customer warranties, any express warranties set forth in this Purchase Order, any statutory warranties or any warranties implied by law, Seller expressly warrants that all of the Services provided under this Purchase Order and all other Purchase Orders: (i) shall be performed or provided in a competent, workmanlike manner; (ii) shall be performed or provided in accordance with all applicable federal, state, and local laws, regulations, industry standards or other standards, labeling, transporting, licensing approval or certification requirements in the United States or any other country where the Services will be performed or provided; (iii) shall strictly conform with all statements of work, specifications, descriptions and samples furnished to or by Buyer, or referred to in the Purchase Order, and all industry standards, laws and regulations; (iv) shall be safe, fit and sufficient for the particular purposes intended by Buyer, which purposes Seller acknowledges are known to it; and (v) do not, and are not claimed to, violate any patent, trademark or copyright, and may be properly imported into the United States or any other country.

B. With respect to any goods provided in connection with the Services, in addition to the foregoing warranties in Subsection A, Seller further warrants that such goods: (i) shall be free from defects in design, material and workmanship; (ii) shall be free and clear of all liens, claims or other encumbrances, and that Seller is conveying good title to Buyer; (iii) shall be merchantable, of good material and workmanship (iv) shall be adequately contained, packaged, marked and labeled.

C. All warranties in this Purchase Order shall survive inspection, test, delivery, acceptance, use and payment by Buyer and shall inure to the benefit of Buyer, its successors, assigns, customers, and the users of Buyer's goods and services. These warranties may not be limited or disclaimed. Seller waives any claim against Buyer 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 Buyer for breach of warranty infringement of any patent, trademark, copyright or other proprietary right, including claims arising out of compliance with specifications furnished by Buyer.

D. If Buyer experiences any breaches of a warranty under this Purchase Order, Buyer shall have the right, in addition to exercising all other rights Buyer may have under applicable statutes or law, to take the following actions, at Buyer's option: (i) retain the results of the defective Services in whole or in part with an appropriate adjustment in the price for the goods; (ii) require Seller to cure the defective Services in whole or in part at Seller's sole expense; or (iii) reject the defective Services.

E. Without limiting the generality of the foregoing, should any Services fail to conform to the warranties set forth herein, Buyer shall notify Seller and Seller shall, if requested by Buyer, reimburse Buyer for any special, incidental and consequential damages caused by nonconforming Services, including, but not limited to, costs, expenses and losses incurred by Buyer (i) in correcting or replacing such nonconforming Services; (ii) resulting from production interruptions, and (iii) in connection with claims for personal injury (including death) or property damage caused by such nonconforming Services. If requested by Buyer, Seller shall, without charge to Buyer, administer and process warranty charge-backs for nonconforming Services in accordance with Buyer's directions.

#### **4. QUALITY.**

A. Seller is obligated to provide all reasonable support requested by Buyer to address immediately and correct concerns regarding the quality of Services provided. Seller shall provide additional resources, as necessary and as identified by Buyer, to support product development, process development, validation, production launch, or any issue that may jeopardize the success of the manufacture or assembly of any Services or of the program.

B. Seller is responsible for all sub-tier providers of goods or services. Seller must maintain adequate development, validation, and ongoing supervision to assure all Services provided to Buyer conform to all requirements under the Purchase Order.

**5. INSPECTION, WORK PROGRESS, AND REJECTIONS.**

Buyer shall have the right (but not the obligation) to inspect, to review work progress and to inspect and test all Services to the extent practicable at all times and places. If any Services are not in conformity with the requirements of any Purchase Order, Buyer shall have the right, notwithstanding payment, any prior inspection or test, custom or usage of trade, either to (i) reject them, or to (ii) require their correction by and/or at the expense of Seller promptly after notice, or to (iii) for Services that are readily available commercially, purchase them from another supplier until Seller makes the necessary corrections. Buyer's inspection or review of the Services shall not be construed as acceptance, nor will it give rise to a waiver or estoppel of any claim or deficiency.

**6. COST.**

A. Prices charged for Services listed on the Purchase Order are not subject to increase, including specifically any increase based upon currency fluctuations, changes in raw material, tariffs, transportation costs or component pricing, labor or overhead, unless specifically agreed to by Buyer in a Signed Writing.

B. Seller represents and warrants that the price charged to Buyer for Services is at least as low as the price charged by Seller to Buyers of a class similar to Buyer 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. If Seller offers a lower price for the same or similar goods or services to any other customer during the term of a Purchase Order, then to the extent permitted by law, Seller will immediately offer Buyer the same price for the Services on the same terms and conditions as was offered to the other customer. Seller shall ensure that the price charged to Buyer for Services remains competitive with the price for similar goods or services available to Buyer from other sellers.

C. Buyer shall have the right to periodically market test the Services by sending out quotation packages to other potential suppliers.

**7. TAXES.**

Unless prohibited by law, the Seller shall pay all federal, state or local tax, transportation tax, or other tax, including but not limited to customs duties and tariffs, which is required to be imposed upon the Services. All Purchase Order prices shall be deemed to have included all such taxes.

**8. INVOICES.**

All invoices for Services provided pursuant to each Purchase Order must reference the Purchase Order number before any payment will be made for Services by Buyer. In addition, no invoice may reference any term separate from or different than these Terms and Conditions or the terms that appear on the face of the Purchase Order. Buyer reserves the right to return all invoices or related documents submitted incorrectly. Payment terms will commence upon the receipt of an invoice, after the receipt of the corresponding Services. Any payment by Buyer of a

nonconforming invoice is not an acceptance of any non-conforming elements or terms on such invoice. Where applicable, Buyer may request proof of performance to support corresponding invoices prior to payment.

**9. PAYMENT TERMS.**

Payment terms will be set for Seller on Buyer's payables system if Seller is included in Buyer's payables system. If Seller is not included in Buyer's payables system, payment terms are net 60 from the date of receipt of the invoice. If a payment date falls on a non-business day, payment will occur on the following business day.

**10. SETOFF AND RECOUPMENT.**

A. In addition to any right of setoff or recoupment allowed by law, all amounts due Seller, or any of its subsidiaries or affiliates shall be considered net of indebtedness or obligations of Seller, or any of its subsidiaries or affiliates to Buyer or any of its subsidiaries or affiliates, and Buyer may setoff against or recoup from any amounts due or to become due from Seller, or any of its subsidiaries or affiliates to Buyer or any of its subsidiaries or affiliates however and whenever arising, including but not limited to the Buyer's attorneys' fees and costs of enforcement. In the event that Buyer or any of its subsidiaries or affiliates reasonably feels at risk, Buyer may withhold and recoup a corresponding amount due Seller or any of its subsidiaries or affiliates to protect against such risk.

B. If an obligation of Seller or any of its subsidiaries or affiliates to Buyer or any of its subsidiaries or affiliates is disputed, contingent or unliquidated, Buyer or any of its subsidiaries or affiliates may defer payment of all or any portion of the amount due until such obligation is resolved. 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 Buyer and Seller have not been assumed, then Buyer may defer payment to Seller, via an administrative hold or otherwise, for Services against potential rejection and other damages.

C. In the event of a Seller Insolvency (defined below), Buyer also may setoff, recoup, and/or withhold from amounts due Seller or any of its subsidiaries or affiliates any amounts that Seller is obligated to indemnify Buyer pursuant to this Purchase Order, regardless of whether such amounts become due before or after the filing of a petition for bankruptcy protection by Seller.

**11. DOCUMENTATION.**

To the extent applicable, all export and trade credits related to the Services shall belong to Buyer. Seller shall furnish (i) all documents required to obtain export credits and customs drawbacks; (ii) certificates of origin of the materials and Services provided and the value added in each country; (iii) all NAFTA, AALA and other related documents; (iv) all required export licenses or authorizations; and (v) any other documents requested by Buyer or any of its customers. Seller

warrants that the contents of such documents shall be true and accurate. Seller shall indemnify Buyer for any damages, including but not limited to duties, interest and penalties, arising from a false or inaccurate statement.

## **12. TECHNOLOGY AND LICENSES.**

A. All work product or deliverables created in the course of performing any Purchase Order or the Services, including, but not limited to, any idea, invention, concept, design, prototype, product configuration, process, technique, procedure, system, plan, model, program, software or code, data, specification, drawings, diagram, flow chart, documentation, or the like (collectively, “Work Product”) and any associated intellectual property rights therein, are the sole and exclusive property of Buyer. Seller agrees that all works of authorship created by Seller in connection with each Purchase Order are “works made for hire” on behalf of Buyer as that term is used in connection with the U.S. Copyright Act. The term “intellectual property” as used herein means all patents, patent applications, patentable subject matter, copyrights, copyrightable subject matter, work of authorship, derivative works, trademark, trade name, trade dress, trade secrets, know-how, and any other subject matter, material, or information that is considered by Buyer to be proprietary or confidential and/or that otherwise qualifies for protection under any law providing or creating intellectual property rights, including the Uniform Trade Secrets Act.

B. Seller hereby assigns to Buyer ownership of all right, title, and interest in the Work Product and any associated intellectual property created therein, and further agrees to cooperate with Buyer and to assist in the preparation and execution of all documents relating to any effort by or on behalf of Buyer to apply for, obtain, maintain, transfer, or enforce any intellectual property right related to the Work Product at the request and expense of Buyer.

C. Seller expressly warrants that the Work Product shall not incorporate any intellectual property (including copyright, patent, trade secret, mask work, or trademark rights) of any third party, and further agrees that Seller shall not disclose to Buyer any confidential information, including any trade secrets, of any third party.

D. Seller expressly warrants that all Services and resulting Work Product will not and do not infringe any patent, trademark, copyright or other intellectual property of any third party. Seller (i) agrees to defend, hold harmless and indemnify Buyer 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 suit, claim or action for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark, copyright or other proprietary right by reason of the manufacture, use or sale of the Services, including infringement arising out of compliance with specifications furnished by Buyer or for actual or alleged misuse or misappropriation of a trade secret resulting directly or indirectly from Seller’s actions; and (ii) waives any claim against Buyer 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 Buyer for infringement of any patent, trademark, copyright or other proprietary right, including claims arising out of compliance with specifications furnished by Buyer.

E. Seller shall ensure that any subcontractors to Seller have contracts with Seller in writing consistent with the terms of this Section 12 to ensure that the protections required by Buyer from Seller are also received from subcontractors for the benefit of Buyer and Seller.

**13. CONFIDENTIALITY.**

A. Seller acknowledges and agrees that it will be obligated to maintain the secrecy and confidentiality of all information disclosed by Buyer to Seller during the course of work under any Purchase Order (“Confidential Information”), including, but not limited to, any information regarding Buyer or its business or its customers, the existence and terms of any Request for Quotation or Purchase Order, and any drawings, specifications, or other documents prepared by either party in connection with any Request for Quotation or Purchase Order, and the features of all parts, equipment, tools, gauges, patterns, and other items furnished or disclosed to Seller by Buyer. Seller agrees that it will not disclose Confidential Information to or use Confidential Information with or for the benefit of itself or any third party without prior written authorization from Buyer. Seller also agrees to adopt measures to protect the secrecy and confidentiality of Confidential Information that are reasonable under the circumstances. Notwithstanding the foregoing, Seller may disclose portions of the Confidential Information to third parties if it is required for Seller to fulfill its obligations under a Purchase Order and if such third parties have agreed to conditions of confidentiality at least as stringent as those contained herein. Confidential Information shall not include any information that (a) was in the possession of Seller before receipt from Buyer; (b) is or becomes available to the public through no fault of Seller; or (c) is received by Seller in good faith from a third party having no duty of confidentiality to Buyer.

B. The obligations of Seller with respect to Confidential Information shall remain in effect during the time that any Confidential Information is considered by Buyer to be secret or confidential or otherwise qualify for protection under the Uniform Trade Secrets Act. At the request of Buyer, Seller will return to Buyer all materials (in any form) that include, incorporate, or otherwise contain Confidential Information of Buyer.

C. Unless otherwise agreed in a Signed Writing, all information provided by Seller to Buyer in connection with each Purchase Order shall be disclosed on a non-confidential basis, and Buyer shall have no duty to maintain the secrecy or confidentiality of such information.

D. The protections for Confidential Information under this Purchase Order shall be in addition to any protections to which Buyer is entitled under any separate nondisclosure and/or confidentiality agreement.

**14. CHANGES.**

A. Buyer reserves the right at any time to direct changes, or cause Seller to make changes, to the Services under any Purchase Order including, but not limited to, changes in the manner, date or place of delivery of the Services covered by the Purchase Order or to otherwise change the scope of the work covered by the Purchase Order, and Seller agrees to promptly make such changes. Any such changes shall be deemed not to affect the time for performance or cost under the Purchase Order unless (i) Seller provides Buyer with written notice of a claim for adjustment to time for performance or cost within ten (10) days after Buyer's notice to Seller of the change and (ii) after auditing such claim, Buyer determines that an adjustment (up or down) is appropriate. Any such claim by Seller for adjustment to time for performance or cost under a Purchase Order must be solely and directly the result of the change directed by Buyer and any notice of such claim shall be effective only if accompanied by all relevant information sufficient for Buyer to verify such claim. In addition, Buyer shall have the right to audit all relevant records, facilities, work or materials of Seller to verify any claim. Seller shall consider and advise Buyer of the impact of a design change on the system in which the Services covered by the Purchase Order are used. Nothing in this Section 14 shall excuse Seller from performing under the Purchase Order as changed pending resolution of any claim by Seller for adjustment to time or cost.

B. Without the prior approval of Buyer on the face of a Purchase Order amendment or in a Signed Writing, Seller shall not make any changes to any Purchase Order or the Services covered by the Purchase Order, including, without limitation, changing (i) any third party supplier to Seller of services, raw materials or goods used by Seller in connection with its performance under the Purchase Order, (ii) the facility from which Seller provides the Services, (iii) the price of any of the Services covered by the Purchase Order, (iv) the nature, type or quality of any services, raw materials or goods used by Seller or its suppliers in connection with the Purchase Order; (v) the performance of any Services covered by the Purchase Order; or (vi) the production method, or any process or software used in the production or provision of any Services under the Purchase Order. Any changes by Seller to any Purchase Order or the Services covered by the Purchase Order without the prior approval by Buyer on the face of a Purchase Order amendment or in a Signed Writing shall constitute a breach of the Purchase Order.

**15. US C-TPAT (U.S. CUSTOMS SERVICE'S CUSTOMS TRADE PARTNERSHIP AGAINST TERRORISM).**

In the case of Services deemed to be imported into the United States, Seller shall accept, implement and comply with all applicable recommendations or requirements of the United States Customs and Board Protection Service's Customs Trade Partnership Against Terrorism ("C-TPAT") initiative (<https://www.cbp.gov/border-security/ports-entry/cargo-security/ctpat>). At Buyer's or the Customs and Board Protection Service's request, Seller shall certify in writing its acceptance, implementation and compliance with the C-TPAT and any accompanying recommendation and guidelines. Seller shall indemnify and hold Buyer harmless from and against any liability, claims,



demands or expenses (including attorney's or other professional fees) arising from or relating to Seller's not accepting, implementing or complying with C-TPAT.

**16. FAIR LABOR STANDARDS.**

Seller hereby agrees to comply with all applicable requirements of Sections 6.7 and 12 of the Fair Labor Standards Act, 29 USC §§ 201 et seq. in the performance of work under any Purchase Order, and with all applicable regulations and orders issued under Section 14 thereof.

**17. FEDERAL ACQUISITION REGULATION FLOWDOWN.**

If this Purchase Order is issued in support of a U.S. Government prime contract or subcontract, the flow down Federal Acquisition Regulation ("FAR") clauses and any applicable agency supplements thereto, as applicable, are incorporated herein by reference. Without limiting the generality of the foregoing, Seller shall comply with the following clauses relating to contracts with the U.S. Government: (i) the Equal Opportunity clause, 41 CFR 60-1.4; (ii) the Affirmative Action for Disabled Veterans & Veterans of the Vietnam Era clause, 41 CFR 60-250.4; (iii) the Affirmative Action for Handicapped Workers clause, 41 CFR 60-741.4; (iv) Executive Order 13201; and (v) FAR regulations.

**18. COMPLIANCE WITH LAWS; TOXIC SUBSTANCES; OSHA.**

A. Seller shall comply with all applicable laws, rules, regulations, orders, conventions, or standards enacted by the United States of America that regulate the performance, provision, licensing, approval or certification of Products or Services, including but not limited to, those relating to environmental matters, data protection and privacy, wages, hours and conditions of employment, subcontractor selection, discrimination, occupational health/safety and motor vehicle safety, and each Purchase Order shall be deemed to incorporate by reference all the clauses required by the provisions of said laws, Purchase Orders, rules, regulations and ordinances. Among other things, Seller agrees to comply with the Occupational Safety & Health Act, 29 U.S.C. §§651 et seq. and the Toxic Substance Control Act, 15 U.S.C. §§2601 et seq.

B. All purchased materials used in performance or provision of the Services shall satisfy current governmental and safety constraints on restricted, toxic and hazardous materials as well as environmental, electrical and electromagnetic considerations applicable to the country of manufacture and sale. Seller further represents and warrants that neither it nor any of its subcontractors will utilize child, slave, prisoner or any other form of forced or involuntary labor, or engage in corrupt business practices, in the performance or provision of the Services under this Purchase Order. At Buyer's request, Seller shall certify in writing its compliance with the foregoing.

C. Seller shall indemnify and hold Buyer harmless from and against any liability claims, demands or expenses (including, without limitation, attorneys' or other professional fees)

arising out of or in connection with Seller's non-compliance with the provisions of this Section 18.

**19. INSURANCE.**

Seller shall maintain insurance in amounts acceptable to Buyer, and covering general liability, public liability, product liability, product recall, completed operations, contractor's liability, automobile liability insurance, Worker's Compensation, and employer's liability insurance as will adequately protect Buyer against such damages, liabilities, claims, losses and expenses (including attorney's fees). Seller agrees to submit certificates of insurance, evidencing its insurance coverage when requested by Buyer.

**20. INDEMNIFICATION.**

A. Seller shall indemnify and hold harmless Buyer and its affiliated companies, their directors, officers, employees, invitees, agents and customers ("Indemnitees") from and against all liability, demands, claims, losses, costs, actions, judgments, fines, penalties, damages and expenses, including reasonable attorney's fees (collectively, "Liabilities") incurred by Indemnitees by reason of or on account of any breach of this Purchase Order, warranty claims, product recall claims, product liability claims, injuries to persons, including death, or damage to property caused by Seller, its employees, agents, subcontractors, or in any way attributable to the performance of Seller, its employees, agents, or invitees; provided, however, that Seller's obligation to indemnify Buyer shall not apply to any Liabilities solely arising from Buyer's negligence. Seller waives the application of the doctrine of comparative negligence and other doctrines that may otherwise allocate the liability covered by Seller's indemnity. This indemnification obligation shall be in addition to Seller's warranty obligations.

B. Within a reasonable time of becoming aware of any actual or potential Liabilities, Buyer shall notify Seller. Seller, at Buyer's option and at Seller's expense, will undertake defense of such actual or potential Liabilities through counsel approved by Buyer. Provided, however, that Seller shall first obtain authorization from Buyer before settlement is made of the actual or potential Liabilities if the terms of such settlement could materially adversely affect Buyer, including any term which admits the existence of a defect in Services or a failure of Buyer to fully and faithfully perform its obligations. In the alternative, Buyer may elect to undertake defense of such Liabilities to the extent it is asserted against Buyer, and Seller shall reimburse Buyer on a monthly basis for all expenses, attorney fees, and other costs incurred by Buyer.

**21. SELLER FINANCIAL AND OPERATIONAL CONDITION.**

A. Seller represents and warrants to Buyer that: (i) it is not insolvent and is paying all debts as they become due; (ii) that it is in compliance with all loan covenants and other obligations; (iii) all financial information provided by Seller to Buyer concerning Seller is true and accurate; (iv) such financial information fairly represents Seller's financial

condition; and (v) all financial statements of Seller have been prepared in accordance with generally accepted accounting principles, uniformly and consistently applied.

B. Upon Buyer's request, Seller shall provide copies of its quarterly and/or annual financial statements. Seller shall permit Buyer and its representatives to review Seller's books and records concerning compliance with each Purchase Order and Seller's overall financial condition, and Seller also shall provide Buyer with full and complete access to all such books and records for such purpose. Seller agrees that, if Buyer provides to Seller any accommodations (financial or otherwise) that are necessary for Seller to fulfill its obligations under any Purchase Order, Seller shall reimburse Buyer for all costs, including attorneys' and other professionals' fees, incurred by Buyer in connection with such accommodations and shall grant a right of access to Buyer to use Seller's premises, machinery, equipment and other property necessary for the production of Services covered by such Purchase Order (and a lien to secure the access right) under an access and security agreement. Additionally, Seller agrees to provide prompt written notice to Buyer of any impending or threatened insolvency of the Seller.

**22. SELLER INSOLVENCY.**

Buyer may immediately terminate each Purchase Order without any liability of Buyer to Seller upon the occurrence of any of the following or any other similar or comparable event (each, a "Seller Insolvency"): (i) insolvency of Seller; (ii) Seller's inability to promptly provide Buyer with adequate and reasonable assurance of Seller's financial capability to perform timely any of Seller's obligations under any Purchase Order; (iii) filing of a voluntary petition in bankruptcy by Seller; (iv) filing of an involuntary petition in bankruptcy against Seller; (v) appointment of a receiver or trustee for Seller; or (vi) execution of an assignment for the benefit of creditors of Seller. Seller shall reimburse Buyer for all costs incurred by Buyer in connection with a Seller Insolvency, including, but not limited to, all attorneys' fees and other professional fees.

**23. AUDIT RIGHTS.**

Buyer and its customers shall have the right at any reasonable time to examine all relevant documents, records, materials, and equipment in the possession or under the control of Seller relating to any of Seller's obligations under this Purchase Order or any other Purchase Order. Seller agrees to reasonably cooperate in any such audit request by the Buyer. Seller shall maintain all relevant books and records relating to a Purchase Order for a period of five years after delivery of Services or completion of services hereunder.

**24. TERMINATION FOR DEFAULT.**

Buyer reserves the right to terminate immediately all or any part of each Purchase Order, without any liability of Buyer to Seller, in the event of any default by Seller. The following are causes, among others, allowing Buyer to terminate the Purchase Order: (i) if Seller repudiates, breaches or threatens to breach any of the terms of the Purchase Order, including, without limitation, Seller's warranties; (ii) if Seller fails to perform or deliver Services as specified by Buyer; (iii) if Seller

fails to provide Buyer with adequate and reasonable assurance of Seller's ability to perform timely any of Seller's obligations under any Purchase Order, including, without limitation, delivery of Services; (iv) if Buyer terminates for breach any other Purchase Order issued by Buyer to Seller in accordance with the terms of such Purchase Order (whether or not such other Purchase Order is related to the Purchase Order); or (v) if Seller fails to remain competitive with respect to price, quality, delivery, technology, payment terms, or customer support. In the event of a termination for default, Buyer shall be entitled to recover from Seller, among other things, all costs incurred by Buyer in purchasing substitute Services from an alternative supplier.

**25. TERMINATION FOR CHANGE OF CONTROL.**

In addition to its other remedies, Buyer may, at its option, terminate this Purchase Order without any liability to Seller, except as specified in Section 27, for a change of control of Seller. A change of control of Seller includes: (a) the sale, lease or exchange of a substantial portion of Seller's assets used for the production of Services, or the entrance into an agreement by Seller regarding the same; (b) the sale or exchange of more than 20% of Seller's stock or other ownership interest (or of such other amount as would result in a change of control of Seller), or the entrance into an agreement regarding the same; or (c) the execution of a voting or other agreement providing a person or entity with control of Seller or control of more than 20% of Seller's stock or other ownership interest (or of such other amount as would result in a change of control of Seller). Seller shall notify Buyer promptly in writing in the event of the earlier of (i) the entrance into an agreement, or (ii) the occurrence of an event described above in this Section. In the event of a termination pursuant to this Section 25, Buyer shall give Seller written notice of the termination at least thirty (30) days prior to the effective termination date.

**26. TERMINATION FOR CONVENIENCE.**

In addition to any other right of Buyer to terminate each Purchase Order, Buyer may at its option, immediately terminate all or any part of the Purchase Order at any time and for any reason by giving written notice to Seller.

**27. TERMINATION CLAIMS.**

A. Upon receipt of notice of termination pursuant to Sections 24, 25, or 26, Seller, unless otherwise directed in writing by Buyer, shall (i) terminate immediately all work under the Purchase Order; (ii) at buyer's option, transfer title and provide to Buyer all completed deliverables and other Work Product related to the Services; (iii) take actions reasonably necessary to protect property in Seller's possession in which Buyer has an interest; and (iv) upon Buyer's request, cooperate with Buyer in effecting the resourcing of the Services covered by the Purchase Order to an alternative supplier designated by Buyer.

B. Upon termination of any Purchase Order by Buyer under Sections 25 or 26, Buyer shall pay to Seller the following amounts without duplication: (i) the Purchase Order price for all finished and completed deliverables and Work Product delivered to Buyer that conform to the requirements of the Purchase Order and not previously paid for; (ii) Seller's

reasonable actual cost of settling claims for the obligations Seller would have had to the subcontractors approved by Buyer on the face of a Purchase Order or Purchase Order amendment or in a Signed Writing in the absence of termination; and (iii) Seller's reasonable actual cost of carrying out its obligations under subsections A(iii) and A(iv).

C. Upon termination pursuant to Section 24, Seller shall not be entitled to any further payments by Buyer.

D. Except as expressly set forth in this Section 27 Buyer shall not be liable for and shall not be required to make payments to Seller, directly or on account of claims by Seller's subcontractors, for any other alleged losses or costs, whether denominated as loss of anticipated profit, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs or rental, unamortized depreciation costs, ancillary exit charges (including, but not limited to, costs of riggers, warehousing, premium manufacturing costs, loading of trucks or other standard business procedures related to transitioning production to an alternative supplier), or general and administrative burden charges resulting from termination of the Purchase Order or otherwise. Notwithstanding anything to the contrary, Buyer's obligation to Seller upon termination shall not exceed the obligation Buyer would have had to Seller in the absence of termination.

E. Within thirty (30) days after the effective date of termination, Seller shall furnish to Buyer its termination claim, to the extent allowed under this Section 27, together with all supporting data which shall consist exclusively of the items of Buyer's obligation to Seller that are listed in this Purchase Order. Buyer may audit Seller's records before or after payment to verify amounts requested in Seller's termination claim.

## **28. TRANSITION OF SERVICES.**

Upon the expiration or earlier termination of any Purchase Order for whatever reason, Seller agrees to take all actions necessary in order to ensure that there is no interruption in the supply of Services to Buyer. Among other things, Seller agrees to take such actions as may be reasonably required by Buyer to accomplish the transition from Seller to an alternative seller, including, without limitation the following: (a) Seller shall provide all notices necessary or desirable for Buyer to resource the Purchase Order to an alternative seller; (b) Seller shall provide to Buyer all property furnished by or belonging to Buyer or any of Buyer's customers in as good a condition as when received by Seller, reasonable wear and tear excepted; (c) Buyer and the alternative seller reserve the right to access and actively participate during the disconnect or disassemble process for such property, and the location, time and date of the exit shall be mutually agreeable between the Buyer and Seller; and (d) Seller shall, at Buyer's option: (i) assign to Buyer any or all sub-contracts relating to the Purchase Order; (ii) sell to Buyer, at Seller's cost any or all perishable tooling and Services inventory relating to the Purchase Order; and/or (iii) sell to Buyer any of Seller's property relating to the Purchase Order, at a price equal to the unamortized portion of the cost of such items less any amounts Buyer previously has paid to Seller for the cost of such items. Seller shall provide

documentation supporting the original cost of any unamortized items. The term “alternative seller” expressly includes, but is not limited to, a Buyer-owned facility.

**29. NO TERMINATION RIGHT BY SELLER.**

Because Buyer’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 without the written consent of Buyer.

**30. FORCE MAJEURE.**

A. Any delay or failure of either party to perform its obligations shall be excused if it is caused by an extraordinary and unforeseeable event beyond the control of the nonperforming party and without the nonperforming party's fault or negligence, such as acts of God, fires, floods, windstorms, explosions, riots, natural disasters and wars. Written notice of such delay, including the anticipated duration of the delay, must be given by the nonperforming party within two (2) days of the event. During the period of any delay or failure to perform by Seller, Buyer, at its option, may purchase Services from other sources without liability to Buyer, or cause Seller to provide the Services from other sources in quantities and at times requested by Buyer and at the price set forth in this Purchase Order. If requested by Buyer, Seller shall, within five (5) days of such request, provide adequate assurance that the delay will not exceed such period of time as Buyer deems appropriate. If the delay lasts more than the time period specified by Buyer, or Seller does not provide adequate assurance that the delay will cease within such time period, Buyer may, among its other remedies, immediately cancel this Purchase Order without liability. Additionally, Seller shall reimburse Buyer for any increase in price that Buyer is required to pay to a substitute supplier in order to obtain the Services.

B. If a force majeure event continues for longer than five (5) calendar days, then Buyer, at its sole option, may terminate any Purchase Order affected thereby in whole or in part without any obligation or liability except that Buyer is still responsible for payment for Services that have been delivered to and accepted by Buyer prior to Force Majeure notice receipt. Seller acknowledges and agrees that the following will not excuse performance by Seller under theories of force majeure, commercial impracticability or otherwise and Seller expressly assumes these risks: (i) change in cost or availability of materials, components or services based on market conditions, supplier actions or contract disputes; (ii) failure of Seller’s internal business systems related to the proper processing of date information that results in any defect or failure in products or services, deliveries, or any other aspect of performance by Seller or its subcontractors.

C. Buyer may cancel any Purchase Order at any time prior to delivery or performance if its business is interrupted for reasons beyond Buyer’s reasonable control. Buyer shall give prompt notice of such cancellation to Seller.

**31. REMEDIES FOR BREACH BY SELLER.**

A. The rights and remedies reserved to Buyer in each Purchase Order shall be cumulative with, and additional to, all other or further remedies provided in law or equity.

B. Seller acknowledges and agrees that, if Seller's failure to perform the Services will prevent Buyer from meeting its production obligations to its customers, money damages would not be a sufficient remedy for any actual, anticipatory or threatened breach of any Purchase Order by Seller with respect to its delivery of Services to Buyer and that, in addition to all other rights and remedies which Buyer may have, Buyer shall be entitled to specific performance and temporary, preliminary and permanent injunctive or other equitable relief as a remedy for any such breach.

C. Notwithstanding anything to the contrary contained in any Purchase Order, Buyer does not release any claim against Seller that is based in whole or in part on any fraud or duress in connection with the Purchase Order or any breach or anticipatory breach of the Purchase Order or any other Purchase Order between Buyer and Seller.

**32. NO WAIVER.**

A waiver by Buyer of any right or remedy shall not affect any rights or remedies subsequently arising under the same or similar clauses. The failure of the Buyer to insist upon the performance of any term or condition of this Purchase Order, or to exercise any right hereunder, shall not be construed as a waiver of the future performance of any such term or condition or the exercise in the future of any such right.

**33. RELATIONSHIP OF PARTIES.**

Seller and Buyer are independent contracting parties and nothing in this Purchase Order shall make either party the agent or legal representative of the other for any purpose whatsoever, nor does it grant either party any authority to assume or to create any obligation on behalf of or in the name of the other party.

**34. ASSIGNMENT.**

This Purchase Order is issued to the Seller in reliance upon Seller's personal performance of the duties imposed. Seller agrees not to, in whole or in part, assign this Purchase Order or delegate the performance of its duties without the written consent of Buyer. Any such assignment or delegation without the previous written consent of Buyer, at the option of Buyer, shall effect a cancellation of this Purchase Order. Any consent by Buyer to an assignment shall not be deemed to waive Buyer's right to recoupment from Seller and/or its assigns for any claim arising out of this Purchase Order. Assignment shall not relieve Seller from its obligations of confidentiality under the Purchase Order. Buyer shall have the right to assign any benefit or obligation under this Purchase Order to any third party upon notice to Seller.

**35. LIMITATIONS ON BUYER'S LIABILITY.**

In no event shall Buyer be liable to Seller for anticipated profits or for special, incidental, or consequential damages. Buyer's liability for a claim of any kind or for any loss or damage arising out of or in connection with or resulting from each Purchase Order, the Services or any other agreement between Buyer and Seller shall be a termination claim, as specified in Section 27 hereof.

**36. SEVERABILITY.**

If any term(s) of the Purchase Order is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such term(s) shall 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 shall remain in full force and effect.

**37. NOTICES.**

All notices, claims and other communications to Buyer required or permitted under the Purchase Order shall be made in writing and sent by certified or registered mail, return receipt requested and proper postage prepaid to the following address and shall be effective only upon receipt by Buyer in the form set forth in this Section 37:

Henniges Automotive Holdings, Inc.  
2750 High Meadow Circle  
Auburn Hills, Michigan 48326  
Attn: General Counsel

Seller's failure to provide any notice, claim or other communication to Buyer in the manner and within the time periods specified in the Purchase Order shall 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 COMMUNICATIONS AND ELECTRONIC SIGNATURES.**

Seller shall comply with any method of electronic communication specified by Buyer, including requirements for electronic funds transfer, Purchase Order transmission, electronic signature, and communication.

**39. DATA SECURITY.**

For purposes of this Section, "Buyer Data" means all data, content, material, confidential information and other information provided by Buyer to Seller or otherwise transmitted to Seller for use in connection with this Purchase Order. Seller will maintain and enforce information and data privacy and security procedures with respect to its access, use and storage of all Buyer Data that: (a) are at least equal to industry standards taking into consideration the sensitivity of the relevant Buyer Data, and the nature and scope of the Services to be provided; (b) are in accordance



with Buyer's reasonable security requirements; (c) comply with all applicable international, foreign, federal, state and local laws, statutes, rules, orders and regulations; and (d) provide reasonably appropriate administrative, technical, and physical safeguards to protect against accidental or unlawful destruction, loss, alteration or unauthorized disclosure, access or use of Buyer Data. Without limiting the generality of the foregoing, Seller will take all reasonable measures to secure and defend its location and equipment against anyone who may seek, without authorization, to modify or access Seller systems or the information found therein without consent. Seller will periodically test its systems for potential areas where security could be breached. Seller will report to Buyer immediately any breaches of security or unauthorized access to Seller systems that Seller detects or becomes aware of. Seller will use diligent efforts to remedy such breach of security or unauthorized access in a timely manner and deliver to Buyer a root cause assessment and future incident mitigation plan with regard to any breach of security or unauthorized access affecting Buyer Data. The requirements of this Section shall apply regardless of whether Seller hosts the Buyer Data itself or through a third party hosting or cloud services provider.

#### **40. CHOICE OF LAW/JURISDICTION.**

The construction, interpretation and performance of this Purchase Order and all transactions thereunder shall be governed by the law of the State of Michigan, without regard to principles of conflicts of law. The United Nations Convention on the International Sale of Goods is expressly excluded. Seller consents to the exclusive jurisdiction of the appropriate state court in Oakland County, Michigan or, if original jurisdiction can be established, in the federal court in the U.S. District Court for the Eastern District of Michigan, Southern Division, for any legal or equitable action or proceeding arising out of, or in connection with, each Purchase Order. Seller specifically waives any and all objections to venue in such courts.