

GENERAL TERMS AND CONDITIONS

1. Definitions. The word "Buyer," whenever used herein, shall mean DENSO MANUFACTURING CANADA, INC. The party with which this Purchase Order is placed is referred to herein as "Seller." The goods and/or labor or services covered by this Purchase Order are referred to herein as the "Products," which term includes both goods and services unless the context clearly requires otherwise, and, as to goods, includes all parts, portions, items, attachments, repairs, replacements and substitutions thereof. The terms "Purchase Order," "herein," "hereto," "hereby," "hereof" and "hereunder" refer to and include the face of this document, these General Terms and Conditions and any other document(s) specifically made a part of this Purchase Order. "Buyer's Plant" means the plant of Buyer the address of which appears on the face hereof. "Interest" means interest on the principal amount owed and accruing from demand through the date of repayment at the Prime Rate, as adjusted from time to time, plus one percent (1%) per annum. "Party" means any natural person, corporation, partnership, governmental authority or other legal entity. "Third Party" means any Party other than Buyer or Seller. "Seller Document" means any bill of lading, quotation, acknowledgment, invoice or other document issued by Seller. "Prime Rate" means the commercial lending rate of interest, expressed as an annual rate, which The Royal Bank of Canada quote in Toronto as the reference rate of interest from time to time (commonly known as "prime" for the purpose of determining the rate of interest that it charges to its commercial customers for loans in Canadian funds).
2. Entire Agreement. This is the entire agreement between the parties respecting the Products and no modification of this Purchase Order shall be effective unless in writing and signed by Buyer's authorized representative. Any agreements, negotiations or understandings of the parties prior to the date of this Purchase Order, whether written or oral, are merged herein and superseded hereby. Reference in this Purchase Order to any Seller Document does not imply acceptance of any terms and conditions therein, which, if in addition to or inconsistent with the terms and conditions contained herein, shall not be part of the agreement between the parties.
3. Price. The price on the Purchase Order shall not be increased unless agreed to in writing by the Buyer. The price specified on this Purchase Order includes all subcontracting costs associated with this Purchase Order. Buyer will have no responsibility for any decreased profitability or increased costs incurred by Seller, including in connection with any raw materials or subcontractors, unless such additional costs have been negotiated and agreed to in advance and in writing by Buyer.
4. No Modification; Acceptance. Any Seller Document which contains terms additional to or inconsistent with the terms of this Purchase Order, or a rejection of any term of this Purchase Order, shall be deemed to be a counter offer to Buyer and shall not be binding upon Buyer unless specifically accepted in writing by Buyer. This clause shall constitute a continuing objection to any such terms not specifically accepted by Buyer. However, commencement of performance by Seller, in the absence of written acceptance of such counter offer by Buyer, shall be deemed to be performance in accordance with the terms of this Purchase Order and an acceptance hereof notwithstanding prior dealings or usage of trade.
5. Product Fabrication; Shipping Schedules. Seller shall not fabricate any of the Products or procure any of the materials required in their fabrication, and Buyer shall have no obligation as to the same, except to the extent expressly authorized in this Purchase Order or in written instructions forwarded to the Seller by Buyer. Deliveries are to be made in quantities and at the times specified on the face hereof or in written instructions forwarded to the Seller by Buyer, but Buyer may from time to time change such quantities and times, or direct temporary suspension of the scheduled deliveries, without any liability whatsoever.
6. Delay in Delivery. If Seller, for any reason, does not comply with Buyer's delivery schedule, of which time is of the essence, Buyer at its option may either approve a revised delivery schedule or may terminate this Purchase Order without liability to Buyer on account thereof.
7. Payment Not Acceptance. Payment for Products shall not constitute acceptance, and all Products shall be subject to Buyer's inspection and rejection at Buyer's Plant. Neither payment nor acceptance shall constitute acknowledgment of the absence of breach of warranty or limit any of Buyer's rights hereunder.
8. Taxes. Except as may be otherwise provided on the face of this Purchase Order, the Seller shall pay, out of the purchase price, all federal, provincial and local taxes applicable to any provision of the Products.
9. Infringement. Use of Products Licensed. Seller warrants that the Products and the sale and/or use thereof (before or after incorporation into Products during manufacture) do not and will not infringe any patents or other intellectual property rights, Canadian or foreign. Seller warrants that it is aware of the uses to which the Products are to be put, and grants to Buyer, and each party or entity to which the Products are provided, a free, unrestricted, irrevocable and perpetual license to use, repair and reconstruct the Products in any manner, and warrants that Seller has full right to grant said license.
10. Warranties; Remedies.
 - a) In addition to any other express and implied warranties provided by law or otherwise, Seller warrants that each Product (whether goods or services) shall: (i) be new and conform to this Purchase Order in all respects; (ii) conform to all specifications, drawings, samples and other descriptions furnished and/or specified by Buyer; (iii) be merchantable and fit for the purpose for which intended; and (iv) be free from all defects in design, workmanship and materials and be of highest quality and workmanship. Seller's warranty term for Products shall be coterminous with the warranty extended to Buyer's customers by Buyer. Seller's liability for breach of warranties given herein may be determined by Buyer's analysis of a sample of Product against which claims are made that the Product is defective. Seller may participate in such analysis in accordance with Buyer's procedure.
 - b) Seller also expressly warrants that title to all of the Products shall be vested in Buyer free and clear of any and all liens and encumbrances of whatsoever nature and kind. All warranties of Seller, express and implied, and remedies of Buyer, in this Section or elsewhere, shall survive indefinitely any delivery, inspection, tests, acceptance and payment.
 - c) Upon any breach of warranty, in addition to all other remedies hereunder or under applicable law or in equity, Buyer may (i) cancel all or any portion of this Purchase Order, (ii) require the Seller to repair or replace any or all Products, at Buyer's option and at Seller's sole expense, either at Buyer's Plant or at any other location designated by Buyer, (iii) require the Seller to pay all transportation and other charges arising from delivery, storage and return of Products (iv) purchase replacement Products from a Third Party and charge the same to Seller; and/or

(v) collect from Seller all costs and expenses (including legal fees) incurred by Buyer as a result of Seller's unreasonable denial or enforcement of the warranties provided herein.

11. Default. Seller shall be in default hereunder if (a) Seller does not comply with this Purchase Order in all respects, or (b) Seller makes an assignment for the benefit of creditors, or proceedings in bankruptcy or insolvency are instituted by or against Seller, or (c) Seller fails to provide Buyer with adequate assurance of Seller's ability to perform its obligations under this Purchase Order within five (5) days of written notice by Buyer of Buyer's concern that Seller's financial or other condition or progress on this Purchase Order endangers timely performance. Upon any default hereunder, in addition to all other remedies hereunder at law or in equity, Buyer may cancel all or any part of this Purchase Order without liability except to pay the contract price for Products delivered prior to notice of cancellation, purchase from a Third Party replacement Products ordered hereunder and recover from Seller on demand any and all increased costs or other damages relating thereto, plus Interest and any attorneys' fees incurred by Buyer as a result of said default, costs of suit and other damages.
12. Penalty Clause. In the event of a breach by Seller of any of the provisions of this terms and conditions, Buyer will put Seller on Notice, and Buyer and Seller shall engage in good faith negotiations concerning Seller's breach and the amount of payment due to Buyer to address Seller's breach, and without prejudice to any other rights provided for by law or under this agreement such as the right to specific performance, the right to an injunction.
13. Remedies Cumulative; No Waiver. Buyer's remedies relating hereto shall be cumulative and in addition to any other remedies provided herein or by law or in equity. No delay by Buyer in the enforcement of any provision of this Purchase Order shall constitute a waiver thereof; and no waiver thereof shall constitute a waiver of any other provision.
14. Indemnification. Seller agrees to indemnify, defend and hold harmless the Buyer, its affiliates, customers and each other Party to which Products are provided, and each of their shareholders, directors, officers, employees and agents, on demand, from and against any and all claims, demands, actions, causes of action, suits, costs, fees, penalties, damages (consequential and otherwise) legal fees and all other liabilities and obligations whatsoever ("Losses") arising out of or relating to: (a) personal injuries, damages or death to any natural person or damage to any property (including, but specifically not limited to, injuries, death or damages to the Seller, its agents, servants, employees and/or property) or any spill, discharge or emission of Product, material, substances or hazardous wastes which relates to, in whole or in part, (i) any manufacturing, design or other defect, failure to warn, improper handling, improper operating installation instructions or other act or omission, whatsoever, of Seller with respect to any of the Products, or (ii) the performance by Seller of any services, whether on property of Buyer, Seller or any Third Party; (b) any breach of warranty made by or on behalf of Seller with respect to the Products or otherwise and any claim of a Third Party relating to any Products or their quality; (c) any breach of this Purchase Order or any other agreement between Buyer and Seller; (d) any recall campaign in which Buyer or any customer participates in connection with inclusion of Products in goods sold by Buyer; and/or (e) patent or copyright infringement claims against goods or services provided by Seller, even if they are made to Buyer's specifications. To the maximum extent permitted by applicable law, Seller's indemnification shall be applicable even as to Losses caused in whole or in part by an indemnitee's negligence, but shall not apply to the extent that Losses are clearly shown to have resulted solely and directly from the gross negligence or willful misconduct of such indemnitee. In furtherance and not in limitation of the foregoing, Seller agrees that it will pay Interest to Buyer, on demand, on all indemnification amounts owed, and Buyer may at its option participate in the defense of any Third Party claim with its own counsel, at Seller's expense.
15. Change or Cancellation for the Convenience of Buyer. Buyer reserves the right, for any reason, to cancel any undelivered portion of this Purchase Order or make changes in the specifications, amount, type, etc., of the Products. Upon such cancellation or change, and subject to the other provisions hereof; Buyer shall pay to Seller only the following amounts, without duplication, in complete and final satisfaction of any liabilities relating to this Purchase Order: (a) the purchase price for all Products received by Buyer prior to cancellation or change and accepted in accordance with this Purchase Order; (b) the reasonable direct out-of-pocket costs incurred by Seller in connection with Products covered by this Purchase Order and not shipped prior to cancellation or change and a reasonable profit based on such costs; provided that the Seller shall use its best efforts to resell or re-use Products or components not shipped, and the amount set forth in this subsection (b) shall be reduced by the amount received therefor; and (c) an equitable price adjustment for any changes.
16. Transition of Supply. Upon expiration or termination of the Purchase Order *for any reason*, Seller will cooperate with the Buyer to help avoid production disruptions while the production of the Goods is being resourced to another supplier. To the extent requested by the Buyer, and at no cost to Buyer, Seller will: (a) work diligently with the Buyer to identify an alternative source of supply that is acceptable to the Buyer; and (b) promptly provide all requested information and documentation regarding, and access to, Seller's manufacturing process, including identifying Seller's component-part and raw-material suppliers relating to the Goods. In addition, the Supplier will supply the Buyer at the prices and other terms stated in this Order during the transition period to the new supply source. If a transition period longer than 6 months is required, the Buyer and the Supplier will negotiate in good faith on the terms and conditions of any longer transition period.
17. Buyer's Property. Seller shall not purchase for the account of Buyer or charge to Buyer any tools, jigs, molds, dies, fixtures, patterns or other equipment (collectively, "Tools") used or useable for producing Products pursuant to this Purchase Order, unless such Tools have been listed on Seller's invoice and approved by Buyer in writing. Seller acknowledges that all Tools so approved, all Tools otherwise supplied by Buyer, and all Products returned by Buyer for repair or pending replacement (collectively, "Buyer Property") are and shall be owned by Buyer and used only for the production of Products for Buyer. Seller shall have only temporary possession of Buyer Property and shall deliver all or any part thereof to Buyer immediately upon demand or automatically upon any bankruptcy or insolvency filing or other event. Seller at its own expense shall keep all Buyer Property in working condition and fully insured for the benefit of Buyer at all times while in Seller's possession, will keep it segregated from all other assets and labeled as being the property of Buyer, and will immediately sign and file any personal property legislation forms required by Buyer in respect thereof. Seller hereby grants Buyer the option of purchasing, at the lower of book value or current market value, any Tools which are not Buyer Property and have been used exclusively for the manufacture of the Products.

18. Services Performed on Buyer's Property; Insurance. If Seller's work under this Purchase Order involves operations by Seller on the premises of Buyer or the premises of one or more of its customers, Seller and its employees, agents and subcontractors, shall abide and agree to be bound by all applicable rules and regulations of Buyer. Rules and regulations for contractors and sub-contractors are available for inspection at any time by Seller, its employees, agents and subcontractors at Buyer's security office and such rules and regulations are hereby incorporated by reference and made a part of this Purchaser Order. All Sellers personnel performing tasks must be competent on basis of appropriate education, training or experience. Their records must be made available upon request. Seller shall take all necessary precautions to prevent the occurrence of any injury to person(s) or property during the progress of such work. Seller hereby waives all construction liens and claims and agrees that none shall be filed or maintained against Buyer's property on account of any work performed or materials furnished under this Purchase Order and shall cause all its subcontractors, materialmen and suppliers (and subcontractors of such parties) to provide similar waivers and agreements in form satisfactory to Buyer. Seller shall be responsible for obtaining and maintaining insurance coverage in amounts not less than the following: (a) Workers' Compensation - Statutory Limits for the province or provinces in which this Purchaser Order is to be performed (or evidence of authority to self-insure); (b) Employer's Liability - \$1,000,000 per accident, \$1,000,000 Bodily Injury by Disease Policy Limit and \$1,000,000 Bodily Injury by Disease Per Employee; (c) General Liability (including General Aggregate, Products/Completed Operations, Broad Form Property Damage, and Blanket Contractual Liability) - \$1,000,000 per occurrence; and (d) Automobile Liability (including owned, non-owned, hired, and leased vehicles) - \$1,000,000 combined single limit for Bodily Injury and Property Damage. At Buyer's request, Seller shall promptly furnish to Buyer certificates of insurance setting forth the amount(s) of coverage, policy number(s) and date(s) of expiration for insurance maintained by Seller and such certificates shall name Buyer as an Additional Insured and require the insurer to give Buyer thirty (30) days prior written notice of any termination, reduction in the amount or scope of coverage under any policy. Seller's purchase of appropriate insurance coverage or the furnishing of certificates of insurance shall not release Seller of its obligations or liabilities under this Purchase Order. In the event of Seller's breach of this provision, Buyer shall have the right to cancel the undelivered portion of any Products covered by this Purchase Order and shall not be required to make further payments except for conforming Products delivered or rendered prior to cancellation.
19. Force Majeure. Seller shall not be liable for a reasonable delay or default in furnishing Products hereunder and Buyer shall not be liable for failure to perform any of its obligations hereunder, to the extent that such delays or defaults on the part of Seller or such failure on the part of Buyer, are due to causes beyond their reasonable control including without limitation acts of God, fire, flood, storm, governmental action, war, civil disturbance, sabotage, embargo, or any other unforeseen condition beyond the reasonable control of the party experiencing the event of force majeure, and not due to its negligence; provided that either party has given the other prompt notice of the commencement of the occurrence that caused the delay, default or failure and shall continue to tender partial performance if the same is possible. Notwithstanding the foregoing, in the event any delay in delivery by Seller caused by a force majeure event will, in Buyer's opinion, cause a delay in delivery to Buyer's customers, Buyer shall have the option to terminate all or a portion of this Purchase Order in order to obtain the Products elsewhere, without liability to Buyer on account thereof.
20. Set Off. Buyer shall be entitled at any time to set off any sums owing by Seller to Buyer or to any of Buyer's affiliated companies, against sums payable by Buyer in connection with this Purchase Order.
21. Buyer's Liability. In no event shall Buyer be liable for anticipated profits, interest, or penalties or incidental, consequential, punitive, exemplary or other damages or liabilities in connection with this Purchase Order, whether for breach of contract, late payment, property damage, personal injury or death or otherwise, beyond the sum set forth in Section 13 hereof; or, if not applicable, the price for Products accepted by Buyer.
22. Limitation on Assignment. This Purchase Order is issued to the Seller in reliance upon its personal performance of the duties imposed and by accepting same the Seller agrees not to assign this Purchase Order or delegate the performance of its duties hereunder, except for the procurement of raw materials, without prior written consent of the Buyer. Failure to comply with provisions in this Section shall effect, at the option of the Buyer, a cancellation of the Buyer's obligations hereunder without liability.
23. Compliance with Laws.
- Seller agrees to comply with all applicable federal, provincial and local laws, rules, regulations and by-laws in connection with the design, manufacture, sale, delivery and use of the Products, including without limitation obtaining or making all approvals and filings, and, upon request, Seller will submit to Buyer evidence of such compliance.
 - To the extent that any of the Goods are to be used by Buyer in connection with its manufacturing or assembly operations, including any activities incidental thereto. Seller hereby certifies and represents that the Products comply with all applicable rules and regulations issued under the Occupational Health and Safety Act (Ontario).
 - To the extent any of statutory or regulatory provisions cited above are amended supplement or replaced or additional statutory or regulatory provisions are enacted Sellers obligations under this Purchase Order shall be automatically amended to take the same into account and the Seller Documents shall contain all legends and other disclosures required by the same.
24. Product and Chemical Disclosure.
- Buyer reserves the right to request 100% disclosure of material and chemical composition as necessary to meet customer and regulatory reporting requirements.
 - Seller is required to provide product material content reports through the International Material Data System (IMDS) or other means identified by Buyer for all products, parts, components and raw materials sold to Buyer. This reporting includes, but is not limited to, 100% material composition and substances of concern (SoC) as defined by Buyer. For additional information refer to the DENSO Environmental and Safety Statement of Requirements and the DENSO SoC Reporting Guide, which are separate documents.
 - Seller is required to provide Buyer with Material Safety Data Sheets (MSDS) for all supplied hazardous substances or products containing hazardous substances, as defined under 29 CFR 1910.1200 and other applicable regulations.

25. C-TPAT / Partners In Protection(PIP) Requirements. For Seller's goods to be imported into Canada, Seller shall accept, implement, and comply with all applications, recommendations or requirements of the United States Customs and Border Protection (CBP) Customs-Trade Partnership Against Terrorism (C-TPAT) initiative and Canada Border Services Agency (CBSA) Partners in Protection (PIP) Program. At Buyer's or the Customs Service's request, Seller shall certify in writing its acceptance, implementation, and compliance with the C-TPAT and any accompanying recommendations and guidelines. Seller shall indemnify and hold Buyer harmless from and against any liability, claims, demands or expenses (including attorney's fees or other professional fees) arising from or relating to Seller's failure to accept, implement or comply with C-TPAT and PIP. (For further information please visit the CBP website at www.cbp.gov or the CBSA website at www.cbsa-asfc.gc.ca).
26. Governing Law, Arbitration. The laws of the Province of Ontario (and Canada where applicable) in force on the date of this Purchase Order shall govern the validity, interpretation and enforcement of this Purchase Order. This Purchase Order shall be treated in all respects as an Ontario Contract. All claims, disputes or differences arising out of, or in any way relating to this Purchase Order or its validity, shall be referred to a single arbitrator under the Arbitration Act, 1991 (Ontario), and the arbitration shall be held in Guelph, Ontario. The arbitrator shall be appointed by mutual agreement of the Buyer and Seller. In the event that the Buyer and the Seller fail to agree on the appointment of an arbitrator within three (3) business days, the arbitrator shall be a retired judge or lawyer appointed by the Alternate Dispute Resolutions Chambers located in Toronto, Ontario or, if such no longer exists, the Treasurer of the Law Society of Upper Canada. The decision of the arbitrator shall be final, conclusive and binding upon the parties, without a right of appeal and may be entered in any court of competent jurisdiction. The operation of the International Sale of Goods Act (Ontario) with respect to this Purchase Order is hereby excluded.
27. Severability. If any provisions of this Purchase Order, or portion of any provision, is declared or found to be unenforceable, the balance of this Purchase Order or such provision shall be interpreted and enforced to the greatest extent possible as if the unenforceable provision or portion had never been a part hereof. In particular, if any interest rate provided for herein is higher than that permitted by applicable law it shall automatically be amended to the highest legal rate.
28. Inventions. All work performed by Seller under this Purchase Order shall be on a "work-for-hire" basis and Buyer shall own the entire right, title and interest in and to all such work. If this Purchase Order involves or results in: (i) any experimental, development or research activities, including engineering related thereto, (ii) any reduction to practice of any patentable or copyrightable subject matter, application or discovery at Buyer's expense, or (iii) any improvement in the design of the Products or any alternative or improved method of accomplishing the objectives of this Purchase Order, all information developed in the course thereof shall be owned by Buyer and be deemed confidential and proprietary property of Buyer, whether patentable or not, and Seller shall cooperate (and cause his employees to cooperate) in executing any documents and taking any other actions necessary or convenient to patent or otherwise perfect or protect for the benefit of Buyer any inventions conceived, developed or reduced to practice in performance of this Purchase Order.
29. Proprietary Information. Any information or knowledge which Buyer may have disclosed or may hereafter disclose to Seller in connection with this Purchase Order shall be deemed confidential and proprietary information of Buyer and shall not be disclosed by Seller without Buyer's prior written approval. All information or knowledge heretofore and hereinafter disclosed by Seller to Buyer in connection with the Products covered by this Purchase Order shall be deemed received on a non-confidential and non-proprietary basis. Seller agrees not to assert any claims (other than a claim for patent infringement) with respect to any such disclosed Seller information or knowledge.
30. Service and Replacement Parts. If this contract is for the sale of direct material or components for Buyer's finished product, then the following section shall apply. During the term of this agreement, Seller will sell to Buyer Products necessary to fulfill Buyer's service and replacement parts requirements to Buyer's customers at the then current production price(s) under this Contract. If the Products are systems or modules, Seller will sell the components or parts that comprise the system or module at price(s) that will not, in the aggregate, exceed the price of the system or module less assembly costs. If this agreement is in effect at the end of the vehicle production program into which the Products covered by the Purchase Order are incorporated, Seller will also sell Products to Buyer to fulfill Buyer's and its customers' service and replacement parts requirements during the longer of (i) the period required by Buyer's customer or (ii) a fifteen (15) year period following the end of such vehicle production program (the longer of (i) or (ii) shall be deemed the "PostProduction Period"), and this Contract will automatically remain in effect during the entire PostProduction Period. During the initial three (3) years of the PostProduction Period, the price(s) for such Products will be the production price(s) that were in effect at the commencement of the PostProduction Period. For the remainder of the PostProduction Period, the price(s) for such service Products will be as reasonably agreed to by the parties. If requested by Buyer, Seller will also make service literature and other materials available at no additional charge to support Buyer's service activities.
31. No Advertising. Seller shall not, without first obtaining the written consent of Buyer, in any manner advertise or publish the fact that Seller has contracted to furnish Buyer the goods or services covered by this contract, or use any trademarks or trade names of Buyer in Seller's advertising or promotional materials.
32. Les parties ont exigé que le présent contrat et tous les documents connexes soient rédigés en anglais. The parties hereto to confirm that they have requested this Agreement and all related documents be drafted in English.