



**MORGAN  
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**\*\*ATTENTION\*\***

THE FOLLOWING TERMS AND CONDITIONS OF SALE (COLLECTIVELY REFERRED TO AS THE "AGREEMENT") SHALL BE BINDING UPON THE CUSTOMER AND MORGAN OLSON AND THERE SHALL BE NO MODIFICATIONS OR AMENDMENTS TO THIS AGREEMENT WITHOUT THE EXPRESS WRITTEN CONSENT OF BOTH PARTIES.

### **STANDARD SALES AGREEMENT TERMS AND CONDITIONS**

**1. Acceptance.** Acceptance hereof by Customer must be made on the exact terms and conditions hereon. Any additional or different terms proposed by Customer in any document are hereby objected to and rejected. Delivery of a signed copy hereof by Customer, acknowledgement of acceptance by electronic or other means, or acceptance of delivery of the goods, materials and articles covered hereby (the "Goods"), F.O.B. Morgan Olson's plant (unless otherwise provided on the face of this form) shall constitute acceptance of this offer in accordance with the exact terms and conditions set forth herein, absent written assent by Morgan Olson to other proposed terms.

**2. Prices.** Prices stated hereon shall remain firm for a period of ninety days from the date hereof (unless otherwise provided on the face of this form), contingent upon (i) Morgan Olson's receipt of acceptance within thirty days hereof; (ii) receipt of the chassis required to produce the Goods within ninety days hereof; and (iii) receipt of full payment within ninety days hereof. If any of the foregoing three conditions are not timely met, then Morgan Olson may adjust prices upward based upon the increase in prices charged to Morgan Olson by its suppliers as of the date of Morgan Olson's receipt of the chassis necessary to manufacture the Goods.

**3. Release of Goods and Surcharges.** Morgan Olson shall give Customer a notice of release of the Goods (the "Release Notice") and Customer shall remove, or authorize Morgan Olson to remove, the Goods from Morgan Olson's lot within five (5) days of the date thereof. Customer agrees to reimburse Morgan Olson's then current lot lease expenses for every month past fourteen (14) days of the date of the Release Notice that the Goods remain on Morgan Olson's lot. Customer also agrees to pay Morgan Olson for all costs incurred after fourteen (14) days of the date of the Release Notice to maintain the Goods in satisfactory working order.

**4. Payment and Credit Approval.** In addition to the purchase price and surcharges for the Goods stated herein, Customer shall pay to Morgan Olson the amount of any and all excise, sales, privilege or other taxes (whether state or federal) which are payable by reason of the sale or delivery of the Goods. The Customer shall pay for the Goods within thirty days after date of invoice (unless otherwise provided for on the face of this form) in US dollars.

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Should the bank or other depository on which the Customer's check is drawn or any intermediary bank charge a service or other fee with respect to payment due hereunder, the Customer shall pay the full amount of such fee.

If payment is not made within thirty days (unless otherwise provided for on the face of this form) after date of invoice, interest on the outstanding balance will be charged at the rate of 1 1/2% per month, compounded monthly. If the charging, compounding or payment of such amount of interest is illegal under any applicable authority, interest will be charged, compounded and paid at the highest legal rate then in effect.

Shipments and deliveries of goods shall, at all times, be subject to the approval of Morgan Olson's Credit Department. Morgan Olson may at any time decline to make any shipment or delivery or perform any work except upon receipt of payment or security or upon terms and conditions satisfactory to such Department. If payment by check has been approved by Morgan Olson, the obligation represented thereby shall be automatically reinstated if the item is dishonored upon the first presentation for payment in proper form and in time.

**5. Delivery. Title and Risk of Loss.** All Goods sold hereunder are to be shipped F.O.B. Morgan Olson's plant (unless otherwise provided for on the face of this form). Title to the Goods covered hereby shall vest in the Customer upon delivery or tender thereof by Morgan Olson to Customer, Customer's agent, or any carrier for shipment to Customer, whichever occurs first. Risk of loss shall shift with title to the goods.

**6. Warranty: Exclusion of Other Warranties.** Morgan Olson will furnish a separate written Warranty Statement to Customer at time of delivery. Morgan Olson's responsibility for fulfillment of warranty will be limited to the express terms and conditions of this Warranty Statement. **THE WARRANTY REFERRED TO IN THIS PARAGRAPH SHALL BE IN LIEU OF ANY OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED.** Oral statements made by Morgan Olson's agents do not constitute warranties, shall not be relied upon as such by Customer, and are not part of this sales agreement. If Customer experiences difficulties believed to be covered by Warranty, he should communicate with Morgan Olson immediately. **MORGAN OLSON WILL NOT BE RESPONSIBLE FOR PAYMENT OF ANY CHARGES INCURRED BY CUSTOMER FOR CORRECTION OF DEFICIENCIES COVERED BY WARRANTY UNLESS EXPRESS WRITTEN AUTHORIZATION HAS BEEN GRANTED FOR THE PERFORMANCE OF THIS WORK. IN NO EVENT WILL MORGAN OLSON BE LIABLE FOR ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES ARISING OUT OF ANY BREACH OF THIS WARRANTY.**

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**7. Indemnity.** While the Goods are in Customer's care, custody, and control, Customer shall indemnify, save harmless and defend Morgan Olson from and against any and all claims, losses, damages, costs and expenses, including reasonable attorney fees, arising from or related to any claim for personal injury, death, or property damage resulting from Customer's failure to properly maintain the product pursuant to manufacturer's instructions contained in Morgan Olson's Owner's Manual.

**8. Tolerances.** Goods sold hereunder shall be subject to Morgan Olson's standard manufacturing variations, tolerances, and classifications. Where overall specifications are based on truck specifications supplied by Customer or truck manufacturer, Morgan Olson will not be responsible for deviations in overall specifications if caused by deviation of truck specifications from information supplied.

**9. Supplemental Orders and Additions.** Orders subsequent to and which supplement or add to an original order will become part of the original order upon acceptance by both Customer and Morgan Olson. Prices for additions will be governed by the price of time and materials necessary to effect the additions.

**10. Correction of Errors.** Morgan Olson reserves the right to make corrections in typographical or arithmetical errors.

**11. Force Majeure.** Morgan Olson shall not be liable for any delay in delivery due to fuel or other energy shortage, fires, floods, strikes or other labor disputes, accidents to machinery, equipment breakdown, volume of business, inability to secure raw materials, acts of sabotage, riots, precedents or priorities granted at the request or for the benefit, directly or indirectly, of the federal or any state government or any subdivision or agency thereof, delays in transportation or lack of transportation facilities, restrictions or other controls imposed by federal or state legislation or rules or regulations thereunder, executive proclamations by any authorized federal or state officer, or any other cause beyond Morgan Olson's control.

**12. Merger and Integration.** All proposals, negotiations, and representations, if any, regarding the transaction or series of transactions evidenced hereby and made prior to or on the date hereof are deemed to be merged herein. These standard terms and conditions shall be deemed to embody all of the terms, conditions and other expectations of both Morgan Olson and the Customer with respect to the transaction or series of transactions evidenced hereby. No evidence of any prior or contemporaneous course of dealings or course of performance between Morgan Olson and the Customer shall be admissible to supplement, explain or contradict any term herein.

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**13. Amendment, Modification, Rescission or Waiver.** Neither this writing nor any provision hereof may be amended, modified, waived, discharged, terminated, or rescinded orally or by course of performance, course of dealing or usage of trade, but only an instrument in writing executed by the party against which enforcement of the amendment, modification, waiver, discharge, termination or rescission is sought, may do so. No waiver of any provision hereof or of any right otherwise conferred by law shall affect the waiving party's capacity to respond to any other similar contemporaneous or future breach.

**14. Assignment.** Customer shall not assign any of its rights nor delegate any of its duties hereunder without Morgan Olson's prior written consent, and any such attempt at assignment or delegation shall be void.

**15. Limitation of Liability.** Morgan Olson shall not be liable to the Customer for any loss of profits, indirect, special, and/or consequential damages arising out of any breach of its obligations and/or warranties under this Agreement.

**16. Compliance with Laws.** Any provisions required to be included herein by any applicable and valid law, rule, regulation, or executive proclamation shall be deemed incorporated herein without further action by Morgan Olson and the Customer herein.

**17. Waiver.** Morgan Olson's forbearance or failure to exercise, at any time, any of its rights and/or remedies herein shall not be deemed a subsequent waiver thereof nor a waiver of any other right or remedy contained herein.

**18. Cancellation.** Customer shall not have the right of cancellation, except upon the written consent of Morgan Olson. When cancellation is accepted, Morgan Olson reserves the right to make a cancellation charge of up to 25% of the price set forth on the face hereof.

**19. Costs.** Customer hereby agrees to reimburse Morgan Olson for all costs and expenses (including reasonable attorney's fees) incurred by Morgan Olson in connection with any legal proceeding commenced hereunder or otherwise arising out of this agreement for recovery of goods sold or for collection of monies due hereunder.

**20. Applicable Law /Dispute Resolution.** This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan ["State"] without giving effect to the choice of law principles of the State. Customer agrees that the courts of the State of Michigan, St. Joseph County and the United States District Court for the Western District of Michigan shall have jurisdiction to hear and determine any claims or disputes pertaining directly or indirectly to this Sales Agreement, any agreement between the parties or otherwise between the parties.

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Customer expressly submits and consents in advance to such jurisdiction in any action or proceeding in such courts, and agrees that venue will be proper in such courts for all such matters. If any action or proceeding is brought by Morgan Olson against Customer hereunder and Customer is not otherwise subject to service of the process in the State of Michigan, Customer agrees to and does hereby irrevocably appoint the Secretary of State of Michigan as Customer's agent for the acceptance of service of process therein and a copy of such process shall be mailed by Morgan Olson to Customer at Customer's last known address.

**21. Severability.** The provisions of this writing shall be severable so that the invalidity, unenforceability or waiver of any of them shall not affect the remaining provisions herein.

**22. Headings.** The headings herein are for convenience only and do not define or limit the provisions hereof.

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### **STANDARD PURCHASE ORDER TERMS AND CONDITIONS**

*The goods (including any parts, components and accessories) and services specified on the Purchase Order (collectively, the "goods") are being purchased subject to the terms and conditions set forth herein. No terms or conditions proposed by seller in its invoice or otherwise other than those that are identical to those contained herein shall be binding on Morgan Olson unless expressly accepted by Morgan Olson in writing.*

**1. Acceptance.** The Purchase Order shall become a binding contract, and the terms and conditions hereof shall be deemed accepted by Seller, upon receipt by Morgan Olson of either a signed copy of the Purchase Order or receipt of the goods by Morgan Olson. Acceptance of this Purchase Order is expressly limited to the Terms and Conditions, and any terms and conditions proposed by Seller in Seller's quotation, invitation, acceptance, acknowledgment, invoice, transmittal or any other document which are different from, conflict with or add to the Terms and Conditions shall be deemed to materially alter the Terms and Conditions and are hereby objected to and rejected by Morgan Olson.

**2. Prices.** Prices stated hereon shall remain firm until the Purchase Order has been filled. Seller agrees that the prices charged on the Purchase Order are not in excess of the maximum prices established under all applicable laws and regulations. The prices set forth in the Purchase Order include all applicable federal, state and local taxes for which Morgan Olson agrees to accept liability. Seller agrees to reimburse Morgan Olson for any tax or contributions, which Morgan Olson by law may be required to pay on behalf of Seller. Morgan Olson shall pay for goods pursuant to the Purchase Order in U.S. dollars (less applicable discounts and allowances, if any).

**3. Delivery.** All goods ordered hereunder are to be shipped F.O.B. the place of destination, unless otherwise provided by Morgan Olson on the Purchase Order. No charge shall be included in the prices of the goods for packing, crating, or freight unless otherwise agreed to and specified on the Purchase Order.

**4. New Product Introduction / First Article Inspection.** Supplier shall comply, as applicable, with Morgan Olson's New Product Introduction and First Article Inspection procedures, attached hereto as Exhibit "C" or forwarded under separate cover.

**5. Risk of Loss.** Notwithstanding anything herein contained to the contrary, Seller shall bear the risk of loss for the goods subject to the Purchase Order and title shall remain with Seller until delivery thereof to Morgan Olson or its duly authorized representative pursuant to Paragraph 3 above.

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**6. Time of Performance.** Time is of the essence of this agreement. Seller shall perform all of its obligations for delivery of the goods on or before the date designated herein or approved in writing by Morgan Olson. Upon Seller's failure to make timely delivery of the goods, Morgan Olson shall have all of the rights of a buyer described in Uniform Commercial Code, Article 2 in effect in the State [as defined herein], including, and without limitation, the right to cancel the Purchase Order and the right to obtain cover.

**7. Payment.** Payment by Morgan Olson for goods ordered hereunder shall be made according to the terms set forth on the Purchase Order. Morgan Olson shall not be liable for any interest, service or late charge in connection with the goods ordered hereunder. Discounts will be calculated from the date that an acceptable invoice or acceptable goods are received by Morgan Olson, whichever is later. Seller agrees that payment shall not be due until final acceptance following physical delivery and final inspection.

**8. Inspection.** Morgan Olson or its duly authorized representative shall have the right within a reasonable time after delivery thereof for Morgan Olson to inspect all goods subject to the Purchase Order prior to its obligation to make payment therefor. The inspection by Morgan Olson shall not relieve Seller of any responsibility for latent defects or from warranties set forth in the Purchase Order or in any other document containing warranties in favor of Morgan Olson. It is understood that this Paragraph 8 is not intended to relieve Seller of any liability it would otherwise lawfully bear after Morgan Olson's final inspection and acceptance. Seller shall be responsible for asserting claims for losses or damages in transit against the carrier or carriers. The expenses of the inspection shall be borne by Morgan Olson except that such expenses shall be reimbursed by Seller if the goods do not conform and are rejected.

**9. Rights of Morgan Olson with Respect to Nonconforming Goods.** Notwithstanding any other provision hereof or of any applicable law, acceptance of all or any portion of the goods by Morgan Olson or its fully authorized representative shall not be deemed a waiver of any of Morgan Olson's rights as a buyer, without limitation (a) the right to cancel, reject or return all or any portion of the goods because of (1) failure to conform to purchase order specifications, (2) latent or patent defects, (3) other breach of warranty within a reasonable time after discovery thereof or (b) the right to make a claim for damages, including manufacturing costs, loss of profits or other special or consequential damages incurred by Morgan Olson.

**10. Warranty.** Seller hereby warrants that all goods sold hereunder shall be (a) MERCHANTABLE (AS DEFINED IN UNIFORM COMMERCIAL CODE IN THE STATE), FREE FROM DEFECTS IN MATERIAL OR WORKMANSHIP AND IN ACCORDANCE WITH MORGAN OLSON'S PLANS, SPECIFICATIONS, MODELS OR SAMPLES REMITTED TO SELLER, IF ANY, and (b) FIT FOR THE PARTICULAR PURPOSE PREVIOUSLY DISCLOSED BY MORGAN OLSON TO SELLER (INCLUDING COMPLIANCE WITH ALL APPLICABLE LAWS GOVERNING THE MANUFACTURING AS A COMPONENT OF OTHER PRODUCTS, DISTRIBUTING, OR

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OTHER SELLING OF THE GOODS). Seller acknowledges that it has reason to know that Morgan Olson requires the ordered goods for a particular purpose and that Morgan Olson is relying on Seller's skill and judgment in selecting and furnishing suitable goods. All warranties shall survive delivery, acceptance and payment. Without limiting the foregoing, Seller further represents, warrants and covenants that the goods sold hereunder comply with applicable regulations of the National Highway Traffic Safety Administration and Federal Motor Vehicle Safety Standards. At the request of Morgan Olson, Seller shall provide Morgan Olson with documentation citing the applicable laws and regulations and the test results demonstrating that the goods are in compliance.

**11. Specifications and Tolerances.** Seller agrees that all goods sold hereunder shall comply with all specifications set forth on the Purchase Order, and if not specified on Purchase Order, then all goods sold hereunder shall be subject to Seller's standard manufacturing variations, tolerances and classifications.

**12. Trademark, Patent or Copyright Infringement.** Seller warrants that no goods to be furnished under the Purchase Order will infringe, in their manufacture, use or sale, whether separately, together or in combination with other materials, articles or merchandise or in any process or any or all of them, any United States or foreign patent, trademark, trade name or copyright.

**13. Equipment.** All tooling, material, equipment and other like items furnished to Seller in connection with the Purchase Order ("Equipment") shall be used exclusively by Seller to manufacture the goods subject to this or any subsequent Purchase Order from Morgan Olson covering like goods. Any other use of the Equipment is unauthorized, unless otherwise expressly stated in the Purchase Order or in a separate written agreement between Seller and Morgan Olson. In addition, Seller shall be responsible for maintenance and protection of the Equipment at all times that it is in Seller's possession. Seller shall maintain a record of all such Equipment, and shall permit Morgan Olson to inspect such Equipment and records at any time during normal business hours.

**14. Disclosure of Information.** Seller acknowledges that any information disclosed to it by Morgan Olson or which is otherwise obtained in the performance of its obligations hereunder is confidential in nature; and Seller hereby agrees not to disclose any such information so disclosed or obtained or learned in the performance of its obligations hereunder without first securing the written consent of Morgan Olson. All designs, specifications, patterns and blueprints paid for by or charged to Morgan Olson shall become the property of Morgan Olson immediately upon receipt thereof by Seller, shall so be marked and identified and shall be delivered to Morgan Olson upon demand; and Seller agrees to maintain the same in first-class order in Seller's possession and use.

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Any designs, specifications, patterns, blueprints or other property furnished to Seller by Morgan Olson shall be returned to Morgan Olson upon demand in the same manner as received by Seller, ordinary wear and tear excepted. Seller shall use the same degree of care (but no less than reasonable care) as it uses with respect to its own confidential information and not publish, disseminate or disclose to any third party (except for bona fide subcontractors, provided

they respect all obligations herein defined) any information which is provided to it and which is marked or otherwise identified in writing as being confidential information. However, Seller shall not have any such obligation with respect to confidential information which is:

*A. specifically authorized for release by Morgan Olson in writing from time to time;*

*B. made public by Morgan Olson;*

*C. established to be in the public domain otherwise than as a consequence of a breach of the obligations not to publish, disseminate or disclose the information as set forth herein;*

*D. proved to have been in the possession of Seller prior to its receipt under this Agreement; or*

*E. proved to have been rightfully received from third parties who are not under an obligation of confidentiality to Morgan Olson with respect to the information.*

All information covered by this Section 14 shall remain the exclusive property of Morgan Olson. Except as provided in this Purchase Order, no license whatsoever is implied from Morgan Olson to Seller. Technical documents delivered to Seller hereunder shall be reproducible for the Seller only unless otherwise agreed upon in writing. Technical documents so delivered and in the Seller's possession shall be strictly stored in confidence by the Seller. Upon termination of this Purchase Order for any reason, or upon expiration of this Purchase Order, or upon written request of Morgan Olson, the Seller agrees, at Morgan Olson's option promptly either to return to Morgan Olson, or to destroy, the information and any copies thereof which are in the Seller's possession or under its control. Notwithstanding other provisions this Purchase Order, the provisions of this Section 14 shall remain effective for a period of five years after the termination of this Purchase Order. Due to the nature of the confidential information, the Morgan Olson shall be entitled to an injunction restraining such breach or threatened breach without having to prove actual damages or threatened irreparable harm. Such injunctive relief as Morgan Olson may obtain shall be in addition to all of the rights and remedies available at law and in equity. Such equitable relief may include, but is not limited to, the seeking of a temporary or permanent injunction, restraining order or order for specific performance, and may be sought with or without prior notice, depending on the circumstances.

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**15. Research and Development.** Seller and Morgan Olson agree that the goods sold hereunder are unique and require specific molds, dies, etc., in particular instances. Seller agrees to fully and promptly disclose in writing to Morgan Olson all Intellectual Property, work, ideas, inventions, discoveries, processes and improvements, source code, object code, computer programs, specifications, operating instructions, notes, and all other documentation (whether or not patentable) created, conceived or first reduced to practice by Seller, alone or with others, in connection with the Goods or services provided to Morgan Olson hereunder or which derive from information or materials Seller has received from

Morgan Olson (the "Work Product"). Except for Seller Property (as defined herein), Seller also agrees that the Work Product is the exclusive property of Morgan Olson and that Seller will, during the term of this Purchase Order and thereafter, execute all papers and do all things deemed reasonably necessary by Morgan Olson to insure that Morgan Olson obtains full title to such Work Product, including all Intellectual Property embodied therein. As used herein, "Seller Property" means any work, ideas, inventions, discoveries, processes and improvements, computer processes, specifications, operating instructions, notes, and any other documentation (whether or not patentable) created by Seller prior to its engagement with Morgan Olson under this Purchase Order, which Seller uses to satisfy its obligations under this Agreement, and which Seller has clearly identified in writing to Morgan Olson prior to its use to be "Seller Property". All written, graphic, or recorded material generated for Morgan Olson in the past or in connection with this Purchase Order are owned by Morgan Olson and shall be subject to inspection by Morgan Olson and shall be delivered to Morgan Olson or otherwise disposed of by Seller only as directed by Morgan Olson. Upon termination of this Purchase Order, Seller will provide to Morgan Olson all copies of such material and Morgan Olson will have the exclusive right to copyright or patent such Work Product, excluding Seller Property. Seller agrees that if any Work Product or any portion thereof created under this Purchase Order, including any Work Product related to the business of the products or services of Morgan Olson, whether or not such work was created at the direction of Morgan Olson, is copyrightable, it shall be deemed to be a "work made for hire," as such term is defined in the copyright laws of the United States of America. If, for any reason, any such copyrightable work created by Seller is excluded from the definition of a "work made for hire," Seller hereby assigns and conveys to Morgan Olson the entire right, title, and interest in and to such work including work created prior to the date of execution of this Agreement, including the copyright therein and any copyright renewal thereof. Seller shall cooperate with Morgan Olson or its designees and execute documents of assignment, declarations, and other documents which may be prepared by Morgan Olson, and take other necessary actions as reasonably directed by Morgan Olson, to effect the foregoing or to perfect or enforce any proprietary rights resulting from or related to this Purchase Order. Such cooperation and execution shall be performed without additional compensation to Seller; provided, however, Morgan Olson shall reimburse Seller for reasonable out-of-pocket expenses incurred at the specific request of Morgan Olson.

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Seller shall cause each of Seller's employees or its subcontractor's employees charged with performance under this Purchase Order or granted access to confidential information to execute a confidential information and invention disclosure agreement recognizing Morgan Olson's ownership rights and concurring with the obligations of Seller as set forth herein. Seller hereby grants Morgan Olson a non-exclusive, worldwide, royalty-free, fully paid up, perpetual license to use, copy, modify, and distribute (excluding resale) all Seller Property provided to Morgan Olson hereunder.

**16. Assignment.** Seller shall neither assign its rights nor delegate its duties or any portion thereof without the prior written consent of Morgan Olson. In addition, Seller shall not subcontract any portion of the work without the prior written consent of Morgan Olson. Morgan Olson may assign this Purchase Order to an affiliate or successor, or to the acquirer of substantially all of Morgan Olson's business, whether by sale of assets, merger or otherwise.

**17. Cancellation or Termination by Morgan Olson.** Morgan Olson may, with or without cause, suspend and/or terminate the Purchase Order (to the extent delivery or performance has not occurred), in whole or in part effective upon Seller's receipt of written notice from Morgan Olson. Morgan Olson, in addition to any rights set forth elsewhere herein, shall have the right to cancel the Purchase Order in whole or in part without prior notice to Seller, effective upon the happening of any of the following events: (a) if Seller shall become insolvent or make a general assignment for the benefit of creditors; (b) if an order for relief under the Bankruptcy Act shall be filed by or on behalf of Seller; (c) if, at any time, Seller shall default in the performance or shall so fail to make progress in the performance hereof as to endanger complete performance; or (d) if Morgan Olson has good reason to believe that Seller will not make timely delivery of goods. Upon such cancellation, Seller shall transfer title and deliver to Morgan Olson all satisfactorily completed work and such additional work in process (at Supplier's cost) as may be directed by Morgan Olson. In no case shall Morgan Olson be responsible for Seller's work in process that exceeds thirty (30) days, and in no case shall Morgan Olson be responsible for Seller's raw material(s). Seller agrees that Morgan Olson shall not, by reason of the termination of this Agreement, be liable to Seller for compensation, reimbursement or damages on account of the loss of prospective profits on anticipated sales or on account of expenditures, investments, leases or commitments of any kind or nature, occurring in connection with, or arising from or in the performance of this Agreement.

**18. Cancellation by Seller.** Neither the manufacture nor shipment of goods pursuant to the Purchase Order is subject to deferment or cancellation by Seller unless Morgan Olson is indemnified against any and all loss, liability, cost, damage and expense (including reasonable attorneys' fees) resulting therefrom.

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**19. Liens.** Seller warrants and agrees that immediately prior to each sale of goods to Morgan Olson hereunder Seller shall have (and will deliver to Morgan Olson hereunder) good title to the goods, free from any claim, lien or encumbrance. Seller shall promptly pay for all materials, supplies and labor employed by it in manufacturing the goods. Seller shall not subject the goods to any material person's, warehousemen's or mechanics' lien and, if such lien exists, shall cause any such lien to be discharged promptly.

**20. Fair Labor Standards Act.** Seller represents that the goods to be furnished under the Purchase Order were or will be produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended, and unless otherwise agreed in writing, Seller shall insert a certificate on all invoices submitted in connection with the Purchase Order stating that the goods covered by the invoice were produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended.

**21. Equal Employment Opportunity.** The Purchase Order is subject to the requirements of Executive Order 11246, "Equal Employment Opportunity" (30 F.R. 12319) effective October 24, 1965, and any amendments thereto (the "Executive Order"), unless it is expressly stated otherwise on the Purchase Order. Part II, Sub-Part B, Section 202, Paragraphs (1) through (7) inclusive, of said Executive Order, and any amendments thereto, are by this reference thereto incorporated in and made a part of the Purchase Order, and the term "contractor" as used in said Executive Order shall be deemed to include the Seller or any subcontractor furnishing the goods covered by the Purchase Order.

**22. OSHA Compliance.** Seller represents that the goods to be supplied hereunder were or shall be produced and supplied in accordance with The Occupational Safety and Health Act of 1970, all rules, standards and regulations promulgated thereunder and any amendments thereto ("OSHA").

**23. Other Laws.** Seller shall comply with all other applicable federal, state and local laws and all rules and regulations of any governmental authority. Any provisions required to be included in the Purchase Order by such law, rule or regulation shall be deemed to be included herein.

**24. Indemnity.** Seller shall defend, indemnify, exonerate and hold Morgan Olson, its officers, directors, employees and agents, subsidiaries, parent companies and affiliates (collectively, the "Indemnified Parties") free and harmless from and against any and all actions, causes of action, suits, costs, liabilities, losses, damages and expenses, including, without limitation, reasonable counsel fees and disbursements (collectively, the "Indemnified Liabilities"), incurred by the indemnified parties or any of them as a result of, arising out of, relating to, or in connection with: (a) the failure of the goods to conform to the warranties set forth in Paragraph 10; (b) the design (to the extent not designed by Morgan Olson), manufacture, transportation, delivery, purchase or use by Morgan Olson of the goods purchased hereunder, or any part, component or accessory thereof; (c) any unauthorized use of the Equipment;

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(d) any actual or threatened trademark, patent or copyright infringement, or any litigation based thereon, with respect to any goods sold hereunder; (e) any violation of the requirements of the Fair Labor Standards Act of 1938, as amended; (f) any violation of the requirements of the Executive Order; (g) any violation of the requirements of OSHA; (h) any violation of the requirements of any applicable federal, state or local laws or any rules or regulations of any governmental authority, including, but not limited to, the applicable regulations of the National Highway Traffic Safety Administration and Federal Motor Vehicle Safety Standards; or (i) any suit or claim that may be based on any alleged injury to or the death of any person or damage to property that may occur, or that may be alleged to have occurred in the course of or related to, directly or otherwise, the performance of the Purchase Order by Seller (whether such claim be made by a third person and whether or not it shall be claimed that the alleged injury was caused by a negligent act or omission of Morgan Olson, by a breach of contract by Seller, or under the doctrine of strict liability in tort). If and to the extent that the foregoing undertaking may be unenforceable for any reason, Seller hereby agrees to make the maximum contribution to the payment and satisfaction of each of the Indemnified Liabilities, which is permissible under applicable law. The obligation of Seller to indemnify Morgan Olson under this Paragraph 24 shall survive delivery, acceptance and payment thereafter, and such indemnity shall be in addition to any other remedies provided by law.

**25. Insurance.** Seller shall purchase and maintain in force, with financially sound, insurance companies: (a) Commercial general liability insurance and comprehensive automobile liability insurance, each with a minimum liability limit of \$1,000,000 combined single limit per occurrence, covering (1) Seller's properties, (2) goods delivered under the Purchase Order, (3) injury to or death to persons during the performance of the Purchase Order, (4) damage to properties during the performance of the Purchase Order, (5) the Equipment, and (6) contractual liabilities of Seller under the Purchase Order; (b) Workers compensation and employers liability Insurance with a minimum liability limit of \$500,000, or Statutory limits whichever is greater. Each of the insurance policies set forth in clauses (a) and (b) above shall provide that (i) such insurance is primary with respect to any other insurance carried by or available to Morgan Olson; (ii) written notice will be given to Morgan Olson at least thirty (30) days prior to any cancellation thereof, reduction in policy limits, material change therein or lapse without renewal; (iii) insurer will waive any right of subrogation, setoff, counterclaim or other deduction, whether by attachment or otherwise, against Morgan Olson; (iv) the interests of Morgan Olson shall not be invalidated by any act or negligence of Seller or any person having an interest in any of the goods or Equipment; and (v) such policy shall contain a cross-liability clause providing for coverage of Morgan Olson as if separate policies had been issued to Morgan Olson.

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The insurance policies set forth in clause (a) above shall each name Morgan Olson as an Additional Insured and Loss Payee. Seller shall provide to Morgan Olson, prior to the commencement of any work by Seller, insurance certificates, in form and substance satisfactory to Morgan Olson, of a reputable insurance broker evidencing the existence of all insurance policies set forth in clauses (a) and (b) above. No monies for work performed by Seller shall be owed to Seller unless and until such insurance certificates are properly completed and on file with Morgan Olson; provided, that the commencement of work by Seller or any payment for work by Morgan Olson without properly completed insurance certificates shall not constitute a waiver of any rights of Morgan Olson hereunder.

**26. Applicable Law /Dispute Resolution.** This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan ["State"] without giving effect to the choice of law principles of the State. Seller agrees that the courts of the State of Michigan, St. Joseph County and the United States District Court for the Western District of Michigan shall have jurisdiction to hear and determine any claims or disputes pertaining directly or indirectly to this Purchase Order, any agreement between the parties or otherwise between the parties. Seller expressly submits and consents in advance to such jurisdiction in any action or proceeding in such courts, and agrees that venue will be proper in such courts for all such matters. If any action or proceeding is brought by Morgan Olson against Seller hereunder and Seller is not otherwise subject to service of the process in the State of Michigan, Seller agrees to and does hereby irrevocably appoint the Secretary of State of Michigan as Seller's agent for the acceptance of service of process therein and a copy of such process shall be mailed by Morgan Olson to Seller at Seller's last known address.

**27. Entire Agreement.** The Purchase Order and any Master Purchase Agreement executed by Morgan Olson and Seller, sets forth the entire agreement between the parties, and merges all prior discussions and understandings between them. The Purchase Order is not binding upon Morgan Olson unless signed by its duly authorized representative.

**28. Modifications or Waiver.** Any modification or waiver of any provision contained herein must be in writing and be executed by a duly authorized representative of Morgan Olson. The failure of Morgan Olson to enforce any provision hereunder shall not be construed as a waiver of its right subsequently to enforce such provision. Morgan Olson reserves the right under the Purchase Order to make changes at any time in any of the following: (a) drawings, specifications or instructions relating to the Purchase Order; (b) method of packing or shipment; and (c) place of delivery. Morgan Olson shall give written notice of such changes, and in the event that such changes affect the cost of furnishing the goods ordered, the price of such goods affected shall be equitably adjusted by mutual agreement.

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