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These terms and conditions (these "Terms") apply to and are incorporated as a part of every Autocar, LLC ("Autocar") Purchase Order, Supply Agreement, Request for Proposal or Quotation or similar document issued or executed by Autocar (collectively, "PO"). Except as provided in any executed long-term Supply Agreement, the PO supersedes all prior oral and written agreements between Autocar and the person to whom the PO is issued ("Supplier") with regard to the goods or services covered by the PO (the "Goods") and may only be modified (a) in writing on the face of or on an attachment to the PO, or (b) by a new PO issued by Autocar. Except as specifically set forth on the face of or on an attachment to the PO, all terms and conditions contrary to these Terms are expressly rejected by Autocar and waived by Supplier. By shipping the Goods, Supplier accepts and agrees to be bound by these Terms.

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**No. Term (in alphabetical order)**

1. Allocation
2. Audit Rights; Access
3. Certificate of Origin
4. Changes
5. Charge-Back; Remedy for Non-Compliance
6. Comparable Pricing and Competitive Terms
7. Confidential Information
8. Continuous Improvement
9. Delivery; Production Schedules; Lead Time; Capacity
10. Engineering Support
11. Failure Rate Following Warranty Period
12. Federal Motor Vehicle Standards Certification
13. Field Service Support
14. Global Logistics; INCOTERMS; C-TPAT
15. Indemnification
16. Inspection
17. Insurance
18. Inventions and Innovations
19. Invoicing; Payment Terms

**No. Term (in alphabetical order)**

20. Minority-Owned/Women-Owned/Small Businesses
21. MIS System
22. Modularization Opportunities
23. Non-Solicitation
24. Price
25. Product Launch Support
26. Quality Control; Performance Goals
27. Recall
28. Recycled Content
29. Restricted and Reportable Substances
30. Service Parts – Engineering Requirements
31. Service Parts – General Requirements
32. Service Parts – Pricing
33. Shipping; Logistics; Packaging; Identification; Pallets
34. Termination
35. Tools
36. Warranty
37. General Provisions

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### **1. ALLOCATION**

In the event Supplier is unable to supply the Goods to Autocar due to circumstances which require Supplier to allocate its shipment of the Goods between Supplier's customers, Supplier will use its best efforts to ensure that Supplier allocates the Goods to Autocar on a pro rata basis with other customers, based on prior purchases of the Goods.

### **2. AUDIT RIGHTS; ACCESS**

Supplier will keep accurate books and records reflecting all obligations arising out of this Agreement. Autocar will have the right, upon reasonable notice and during regular business hours, itself and/or through one or more of its authorized representatives, to inspect and audit those specific portions of Supplier' books and records relating to the Goods for the purpose of verifying Supplier' compliance with the PO. Supplier will comply with all reasonable requests made in such inspection, including making its personnel available to answer questions and providing copies of the relevant records. The expense of such audit will be borne by Autocar unless such audit reveals noncompliance with the PO in an amount in excess of \$1,000, in which case in addition to all other remedies that may be available to Autocar, Supplier will pay all costs and expenses of such audit (including reasonable fees and expenses of third party auditors and reasonable related legal fees and expenses).

Autocar will have reasonable access to Supplier's plant during all normal business hours and all other hours of production. In the event that Autocar reasonably requests access to sub-suppliers' facilities, Supplier will make commercially reasonable efforts to communicate and facilitate such requests.

### **3. CERTIFICATE OF ORIGIN**

Supplier will provide a Certificate of Origin for the Goods. Supplier will assist Autocar or its agents in any compilation, verification or review of the documentation supporting the origination status of the Goods.

If the Goods qualify for preferential treatment under the North American Free Trade Agreement ("NAFTA"), Supplier will provide to Autocar a NAFTA Certificate of Origin, United States Customs Form 434, as well as any additional documentation required to certify the origin of the Goods as required by United States customs law, NAFTA, or any other applicable treaty or agreement. In the event the Goods supplied hereunder do not qualify for preferential treatment under NAFTA, Supplier will provide notice of the same to Autocar at the time of the execution of the PO. Supplier will promptly reimburse Autocar for any amounts paid as a duty caused by Supplier's failure to provide to Autocar a NAFTA Certificate of Original as required by this Term.

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#### **4. CHANGES**

Autocar reserves the right at any time to make changes, or direct Supplier to make changes, to drawings and specifications of the Goods or to otherwise change the terms of the PO, and Supplier agrees to promptly make such changes. If any such change affects the cost or timing of Supplier's performance hereunder, the parties will equitably adjust the time for delivery and the price of the Goods to reflect Supplier's documented labor and material cost increases.

#### **5. CHARGE-BACK; REMEDY FOR NON-COMPLIANCE**

Autocar has a charge-back policy for production interruptions that are a result of Supplier non-compliance with production schedules, a PO or these Terms. Supplier non-compliance issues necessitating chassis repair, causing a disruption to production, or downtime will result in charges back to Supplier as set forth below, regardless of the causes of the non-compliance, which causes may include but will not be limited to incomplete or malfunctioning tooling.

As time is of the essence, and the timely delivery of the Goods is integral to the continued operation of the business of Autocar, and the failure of Supplier to timely deliver the Goods meeting the required quality standards would result in significant damage to Autocar beyond the cost of the Goods, in the event of Supplier's failure to deliver the Goods timely or in sufficient quantity or quality:

- If such failure results in production downtime at Autocar, Supplier will pay a downtime penalty equal to \$10,000 per hour of downtime.
- If such failure results in a production disruption at Autocar, but not downtime, Supplier will pay a penalty of \$2,000 per occurrence or Autocar's actual costs, whichever is greater.
- If such failure necessitates repairs to Autocar products, Supplier will be charged a repair fee equal to \$85.00 per hour of repair time.

Autocar may also charge back any costs incurred which are unrelated to production interruptions but otherwise caused by Supplier's failure to deliver the Goods meeting the required quality standards and within the timeframes reasonably agreed to by Autocar and Supplier, including but not limited to the following:

- If Supplier's failure results in Autocar no longer needing the Goods, Supplier will refund the amount paid by Autocar for the Goods plus any related costs incurred by Autocar.
- If Supplier's failure results in Autocar not timely or adequately completing product testing or providing a prototype or other item to a customer or other supplier, Supplier will be charged a late delivery fee to offset the damage sustained by Autocar.

Autocar may pursue any other remedies to recover its costs or other damages incurred, and Autocar may offset any of the above against any amounts owed to Supplier.

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## **6. COMPARABLE PRICING AND COMPETITIVE TERMS**

Autocar's prices for the Goods will be lower than or equal to those offered to any other customer of Supplier. If Supplier offers any of its other customers pricing which is more favorable than Autocar's, then Autocar's prices for the Goods will automatically be reduced to equal the most favored OEM pricing offered to Supplier's other customer.

Autocar expects that Supplier's terms with respect to the Goods' prices, service, quality and warranty will at all times be competitive with terms offered by other suppliers selling similar goods or services. In the event that Autocar believes in good faith that Supplier's terms are not competitive with those offered by other suppliers, Autocar may notify Supplier so that Supplier may have the opportunity to offer competitive terms for the Goods.

## **7. CONFIDENTIAL INFORMATION**

Supplier will not use or disclose, or authorize anyone else to use or disclose, any of the terms of the PO, including but not limited to the prices, any customer or supplier identities, terms of agreements with any customers, suppliers or assemblers, identities of subassemblers, lists of materials, supplies, parts, assemblies, subassemblies, or equipment, methods, blueprints, assembly and subassembly procedures and techniques, formulas, production plans and layouts, correspondence, files, forms, reports, proposals, systems, marketing plans or strategies, financial, sales or commission information or reports, know-how, Intellectual Property (as defined below), policies, computer stored information, software, databases and programs, or any other secret or confidential information or matter relating to any aspect of the business of Autocar (collectively, "Confidential Information") without the prior consent of Autocar.

Confidential Information will not include information which: (a) is or becomes publicly known through no wrongful act on Supplier's part; (b) is known to Supplier prior to Supplier being notified of any potential confidentiality obligation restricting disclosure, (c) comes into Supplier's possession without any obligation restricting disclosure; (d) is independently developed by Supplier without reference to or use of the Confidential Information; or (e) is disclosed pursuant to an order of a governmental or judicial authority, after prior notice to Autocar and affording Autocar reasonable opportunity and cooperation to object to the disclosure or obtain a protective order, at Autocar's expense.

"Intellectual Property" includes all trade secrets, copyrights, moral rights, author rights, Internet domain names, patents, trademarks (including without limitation registrations and applications, renewals and extensions therefor), continuations, continuations-in-part, divisionals, trade names, rights in trade dress and packaging, goodwill and all divisionals, continuations, reissues, renewals, and extensions thereof, regardless of whether any such rights arise under the laws of the United States or any other state, county or jurisdiction and applicable international laws, treaties and conventions.

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Upon Autocar's request, Supplier will immediately deliver to Autocar all papers, books, manuals, lists, correspondence, documents and other materials relating to Confidential Information, together with all copies and embodiments of all of the foregoing, including, without limitation, electronically stored records, databases, programs, computer disks and computer software, irrespective of whether the parties created the same or were involved with the same, and will neither copy, use nor take any such material.

The restrictions set forth in this Term are reasonable in terms of duration and scope, and, in addition to any other remedy, Autocar may at any time enforce such restrictions by injunction proceedings (without the necessity of posting bond) to preserve the status quo, restrain a violation thereof and to compel specific performance with respect thereto.

This Term does not supersede any previous confidentiality agreements of Supplier to Autocar, but instead supplements any such prior agreements with the intent of providing Autocar with the maximum protection possible. If any of the terms, conditions or other provisions of any such prior agreements are inconsistent with or contrary to this Term, then this Term will control.

## **8. CONTINUOUS IMPROVEMENT**

Supplier will use its best efforts to continually improve and make most efficient and cost-effective Supplier's activities in manufacturing and delivering the Goods. Upon reasonable notice, Autocar may from time to time evaluate the assembly process, perform time studies and audits, review books and records and otherwise review and assess the Supplier's activities in manufacturing and delivering the Goods, and Supplier will cooperate with Autocar in such endeavors.

To the extent Supplier undertakes a continuous improvement project or has a suggestion designed to improve the quality of the Goods or the efficiency or cost-effectiveness of Supplier's activities in manufacturing and delivering the Goods, Autocar and Supplier will work together in good faith to implement such project or suggestion. In the event a change in design, layout, cost structure or other factor affecting the Goods results in a lower cost of labor, overhead, general and administrative costs or other costs which factor into the determination of the price of the Goods, the parties will share such cost savings equally. Autocar's portion of the cost savings will be reflected by an immediate reduction to the prices of the Goods in an amount equal to one half of the total cost savings per unit. Each party will bear its own costs and expenses in carrying out the activities contemplated by this paragraph.

## **9. DELIVERY; PRODUCTION SCHEDULES; LEAD TIME; CAPACITY**

Autocar requires 100% on-time delivery. Deliveries will be made both in quantities and at times specified in Autocar's production schedules. Time of delivery is of the essence with regard to delivery. Supplier will schedule and pay for premium freight if necessary to comply with Autocar's

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production schedules. In the event that any portion of the Goods is not timely delivered, is not delivered to the place specified or is defective, Autocar will, without prejudice to any of its other legal and equitable remedies, be entitled to cancel all or any of the PO and/or, at Autocar's option and Supplier's expense, return to Supplier any part or all of the Goods, and Supplier will pay and reimburse Autocar for any losses or expenses sustained by Autocar as a result thereof. Autocar will not be required to make payment for Goods delivered to Autocar which are in excess of quantities specified in Autocar's production schedules.

Autocar's production schedules are based on a firm four-week schedule and a 16-week forecast. Maximum lead time is four weeks. Autocar may change or reschedule delivery at any time prior to Supplier's lead time at no extra cost to Autocar. Supplier will at all times maintain tooling and production capacity sufficient for production at a minimum 30% above Autocar's current levels.

#### **10. ENGINEERING SUPPORT**

Upon Autocar's reasonable request, Supplier will provide at Supplier's cost on-site engineers at Autocar's production facility to assist with integration or installation of the Goods into Autocar's products, for the purpose of providing general analysis assistance in the review of performance difficulties to determine proper repair and replacement of the Goods or for testing of Goods. Supplier will provide Autocar with such technical data relating to performance of the Goods as it provides other purchasers of the Goods.

#### **11. FAILURE RATE FOLLOWING WARRANTY PERIOD**

In the event that Autocar experiences a failure rate of 10% or more (a "Latent Defect") on any Goods during any six-month period following the expiration of such Goods' warranty, Autocar may provide Supplier with notice of the Latent Defect (the "Defect Notice"). Supplier will have 60 days following the date of the Defect Notice (the "Defect Cure Period") to conduct a root cause analysis of the Latent Defect, with reasonable assistance from Autocar, and develop an effective, lasting remedy for the Latent Defect that is mutually satisfactory to Autocar and Supplier. If Supplier has not (a) developed an effective and lasting remedy for the Latent Defect that is satisfactory to Autocar, and (b) commenced implementation of same by the end of the Defect Cure Period, then Supplier will either refund Autocar's purchase price of the Goods with the Latent Defect or provide some other resolution acceptable to Autocar.

#### **12. FEDERAL MOTOR VEHICLE STANDARDS CERTIFICATION**

Shipment of the Goods constitutes Supplier's certification as referred to in Section (b)(2) of the National Traffic and Motor Vehicle Safety Act of 1966 (as amended) ("Safety Act"), and each item in such shipment will conform with all applicable Federal Motor Vehicle Safety Standards. Supplier acknowledges that the Goods are to become part of a system covered by federal safety standards

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and that to assure compliance with the Safety Act, the Goods must be produced in accordance with drawings and specifications and under strict quality control procedures and practices. Supplier will label all shipping containers requiring such labeling, whether individual or bulk, with the following wording: CONFORMS TO APPLICABLE FEDERAL MOTOR VEHICLE SAFETY STANDARDS.

### **13. FIELD SERVICE SUPPORT**

Supplier will maintain and provide adequate resources for field service support and communication with Autocar's customers, including but not limited to providing services on-site at the customer's location, dealer shops and repair shops. Such services will include technical assistance and training presentations.

### **14. GLOBAL LOGISTICS; INCOTERMS; C-TPAT**

Price quotations must (a) be in US dollars and (b) provide the exchange rate and date of conversion from Supplier's currency. Supplier will use commercially reasonable efforts to provide price quotations DDP US (delivered duty paid).

The international set of trade terms (INCOTERMS) set forth at <http://www.i-b-t.net/incoterms.html> defines exactly the responsibilities and risks of Autocar and Supplier with regard to the purchase and sale of the Goods.

Autocar requires all of its Suppliers who import to the United States to play an active role in the war against terrorism by participating in the worldwide supply chain security initiative, Customs-Trade Partnership Against Terrorism (C-TPAT). By participating, Suppliers will ensure a more secure and expeditious supply chain for Autocar and other customers.

### **15. INDEMNIFICATION**

Supplier will indemnify and hold harmless Autocar and Autocar's affiliates, managers, members, officers, employees, agents, representatives, successors and assigns (collectively, the "Autocar Indemnified Parties") from and against any and all actions, claims, demands, suits, liabilities, losses, damages, obligations, judgments, settlements, cost and other expenses (including attorneys' fees, paralegals' fees and court costs) incurred or suffered by any Autocar Indemnified Parties which are related to or arise out of any actual or alleged (a) breach by Supplier of any representations, warranties or covenants of Supplier to Autocar, including, without limitation, the timely performance of Supplier's obligations and delivery of conforming Goods; (b) claim or finding that the Goods have caused or contributed to the death, injury or illness of any person or damage to any property to the extent not caused by Autocar; (c) direct or contributory infringement of, or inducement to infringe any state, federal or foreign patent, trademark, copyright or other proprietary right by reason of the manufacture, use or sale of the Goods (other than infringement of propriety marks arising from

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intellectual property supplied by Autocar or a third party at Autocar's direction) or for actual or alleged misuse or misappropriation of a trade secret, resulting from Supplier's actions; (d) the failure of Supplier to comply with and observe any federal, state, or local laws, orders, codes, regulations and ordinances which may be applicable to Supplier, Supplier's business or the Goods, including federal motor vehicle regulations and safety standards; and (e) any product liability of tort claims relating to the Goods. If Supplier performs any work on Autocar's premises or utilizes the property of the Autocar, whether on or off the Autocar's premises, Supplier will indemnify and hold Autocar harmless from and against any liability, claims, demands or expenses (including attorneys' fees, paralegals' fees and court costs) for damages to the property of or injuries or illness (including death) to Supplier, its employees or any other person, in any event arising from or in connection with Supplier's performance of work on or use of Autocar's property.

## **16. INSPECTION**

The Goods are subject to Autocar's reasonable inspection. Final inspection, testing, approval and acceptance by Autocar will be at Autocar's plant and may occur during assembly and after payment of the invoice. Autocar's failure to state a particular defect upon rejection of the Goods will not preclude Autocar from relying on unstated defects to justify such rejection.

Autocar will have the right to enter Supplier's facility at reasonable times to inspect the Goods, materials and any property of Autocar covered by the PO.

## **17. INSURANCE**

Supplier will procure and maintain, with insurers reasonably acceptable to Autocar, the following types of insurance coverage: (a) workers' compensation for statutory obligations imposed by workers' compensation or occupational disease laws; (b) comprehensive general liability including products/completed operations liability insurance with a vendor's endorsement (broad form) with a minimum coverage of \$2,000,000; (c) employer's liability insurance for personal injury and property damage with a minimum liability coverage of \$2,000,000; (d) comprehensive automobile insurance for personal injury and property damage with a minimum liability coverage of \$1,000,000; and (e) excess/umbrella liability insurance coverage with a minimum coverage of \$10,000,000. Upon Autocar's request, Supplier will provide Autocar with a certificate of insurance for all policies of insurance required hereunder, stating that the insurer will provide Autocar with not less than 30 days advance notice of any cancellation, non-renewal or material change in the insurance coverage and naming Autocar as an additional insured thereunder.

## **18. INVENTIONS AND INNOVATIONS**

All rights, title and interest in and to any invention, innovation, design, idea, application, process or improvement, related, directly or indirectly, to the business of Autocar, and any written documentation



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thereof, and all Intellectual Property (as defined below) which Supplier develops or creates in whole or in part at any time and at any place related to or usable in connection with the business activities of Autocar or made or conceived using Autocar's Confidential Information (as defined elsewhere in these Terms) are "works made for hire" specifically ordered and commissioned for Autocar, and will be and remain forever the sole and exclusive property of Autocar. Supplier will promptly reveal all information relating to the same to Autocar's officers and will cooperate with Autocar and execute such documents as may be necessary to enable Autocar to obtain any and all copyright, patent, trademark or other intellectual property protection related thereto.

"Intellectual Property" includes all trade secrets, copyrights, moral rights, author rights, Internet domain names, patents, trademarks (including without limitation registrations and applications, renewals and extensions therefor), continuations, continuations-in-part, divisionals, trade names, rights in trade dress and packaging, goodwill and all divisionals, continuations, reissues, renewals, and extensions thereof, regardless of whether any such rights arise under the laws of the United States or any other state, county or jurisdiction and applicable international laws, treaties and conventions.

## **19. INVOICING; PAYMENT TERMS**

Supplier will issue and send to Autocar invoices for the Goods shipped in accordance with Autocar's production schedules. Payment of an invoice will not constitute acceptance, and payment will be subject to appropriate adjustment for failure of Supplier to meet the requirements of the PO. Payment terms are net 60 days from the date of delivery of the Goods. Supplier will not issue an invoice prior to the date the Goods to which such invoice relates are shipped. Time for payment will not begin until invoices are correct and complete, and Supplier's cash discount privileges to Autocar will be extended until such time as payment is due. Autocar may offset against the amount due under an invoice any amounts due from Supplier to Autocar.

## **20. MINORITY-OWNED/WOMEN-OWNED/SMALL BUSINESSES**

Supplier will reasonably support the utilization and development of qualified minority-owned, women-owned and small business enterprises ("W/M/SBEs"). In line with reasonable goals to be agreed upon by Supplier and Autocar, Supplier will encourage the placement of, and will make good faith efforts to engage the services of or purchase supplies from, W/M/SBEs to the greatest extent possible, provided such enterprises exist and provide services or supplies on reasonably competitive terms. Supplier will provide reasonable assistance to Autocar to meet its obligations to third parties with regard to reporting on W/M/SBEs.

For purposes hereof, minorities include, but are not limited to, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans, women and service-disabled veterans. To be a minority-owned or women-owned, a business must be at least majority-owned by a

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minority or group of minorities, and its management and daily business must be controlled by one or more such minority individuals. A small business is defined as an independent business having fewer than 500 employees. Firms designated as small businesses must meet size standards specified by the U.S. Small Business Administration (SBA) Office of Size Standards. These standards vary by industry; see [www.sba.gov/size](http://www.sba.gov/size).

**21. MIS SYSTEM**

Autocar's production schedules and releases will be transmitted to Supplier through a computer-networked materials requirement system. Supplier will obtain any certification and take such other actions necessary to enable it to use and be compatible with such system.

**22. MODULARIZATION OPPORTUNITIES**

Supplier will provide modularization opportunities to Autocar as applicable, subject to Autocar's technical, economical and other requirements.

**23. NON-SOLICITATION**

Supplier will not, and will not permit any of Supplier's affiliates to, directly or indirectly, hire, recruit or otherwise solicit or induce any employee, customer, subscriber or supplier of Autocar to terminate its employment or other arrangement with Autocar, otherwise change its relationship with Autocar or establish any relationship with Supplier or any of Supplier's affiliates for any business purpose deemed competitive with the business of Autocar.

The restrictions set forth in this Term are reasonable in terms of duration and scope, and, in addition to any other remedy, Autocar may at any time enforce such restrictions by injunction proceedings (without the necessity of posting bond) to preserve the status quo, restrain a violation thereof and to compel specific performance with respect thereto.

**24. PRICE**

Supplier will furnish the Goods at the prices set forth on the face or attachment to the PO. If prices are not so stated, then the prices of the Goods will be the lower of the last prices invoiced to Autocar or quoted to Autocar in writing. The prices represent the total amount per item that Autocar will be obligated to pay and are inclusive of all applicable taxes and charges for boxing, packing, loading, unloading, cartage and storage. Supplier will provide its pricing information to Autocar in electronic format.

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## **25. PRODUCT LAUNCH SUPPORT**

Upon Autocar’s request, Supplier will provide an on-site representative at Autocar to ensure Supplier’s compliance with its program milestones.

## **26. QUALITY CONTROL; PERFORMANCE GOALS**

Supplier will establish and maintain quality control to ensure compliance with the PO and will maintain good commercial practices, in compliance with all applicable laws and regulations, including but not limited to environmental laws and regulations, of the jurisdictions in which Supplier does business. Supplier will comply with quality control and inspection policies and procedures prescribed by Autocar. Policies and procedures that are compliant with ISO 9001 (and to the extent applicable, QS 9000 or TS 16949) will be deemed compliant with Autocar’s requirements. The Goods will be produced and delivered to Autocar in full compliance with all applicable international treaties or agreements, federal, state and local laws, orders and regulations.

Autocar has the following expectations, and Supplier has the following goals:

- 100% on-time delivery of the Goods
- 100% invoice accuracy
- 100% freedom from defects in the Goods

Upon Autocar’s request, Supplier will provide Autocar with all data and analysis or evaluation of Supplier’s performance with regard to the above goals.

Upon Autocar’s request, Supplier will provide Autocar with a Level 3 PPAP (3 pieces standard sample) or a first article inspection.

Autocar will notify Supplier if at any time Autocar determines that Supplier is not on a proper path to achieving Supplier’s performance goals. Supplier will then immediately establish and communicate to Autocar a plan to remedy the failure to achieve performance goals, which plan will be subject to Autocar’s review and approval. Supplier will be responsible for all of Supplier’s and Autocar’s costs associated with Supplier’s failure to achieve performance goals, including but not limited to shipping, handling, processing, reworking, inspecting and replacing defective material.

## **27. RECALL**

If for any reason any Goods are recalled (whether voluntarily or involuntarily) or Autocar takes any action with regard to the Goods which, in Autocar’s reasonable discretion, is necessary or advisable to prevent or mitigate any risk to human health, safety, property damage or damage to the business or reputation of Autocar, and such recall or other action relates to the Goods, Supplier will bear and

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reimburse Autocar for all costs and expenses relating thereto including, but not limited to, the costs and expenses of notifying customers, customer refunds, cost of repairing or returning parts, lost profits, labor charges, handling expenses and costs of replacement (regardless of where procured) and any costs or expenses incurred to satisfy obligations to third parties, including attorneys' fees and costs.

## **28. RECYCLED CONTENT**

Supplier will identify and provide to Autocar on at least a quarterly basis a detailed description and quantity of the recycled content of the Goods. Supplier will continually endeavor to utilize recycled materials in production or procurement of the Goods and will keep Autocar informed of such efforts upon Autocar's reasonable request.

## **29. RESTRICTED AND REPORTABLE SUBSTANCES**

Supplier will report substances whose use in materials and components, in the interests of personnel and environmental safety, are either prohibited or limited, in accordance with the Global Automotive Declarable Substance List (GADSL) (available for download along with additional information at [http://www.gadsl.org/files/2008\\_GADSL\\_Document\\_Ver\\_1.pdf](http://www.gadsl.org/files/2008_GADSL_Document_Ver_1.pdf)).

Supplier will evaluate the hazards of any chemicals used in production of the Goods and will provide labels and material safety data sheets (MSDS) to convey the hazard information to Autocar in accordance with OSHA's Hazard Communication Standard (HCS).

## **30. SERVICE PARTS – ENGINEERING REQUIREMENTS**

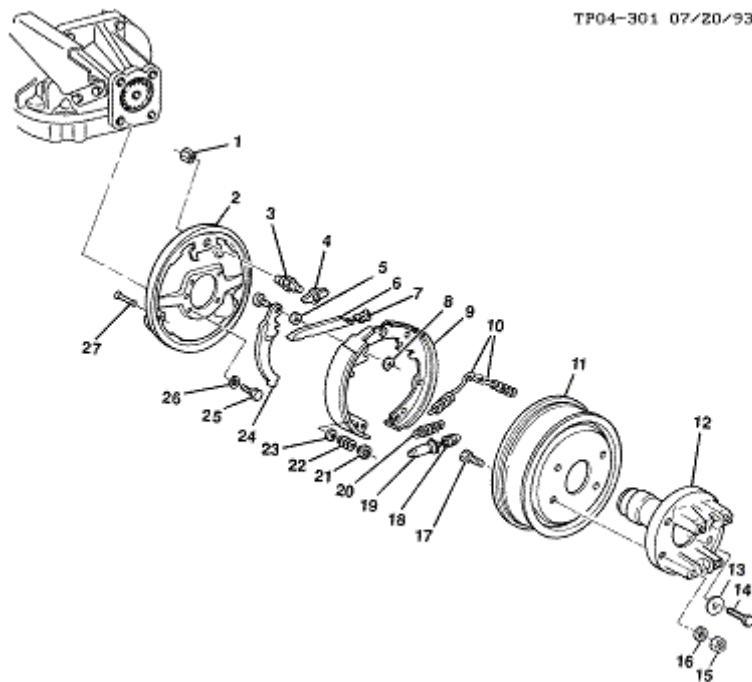
Supplier will provide a bill of material (BOM) and other service literature for production assemblies. The BOM will indicate all the component parts (serviceable and non-serviceable) used to produce the assembly with the following minimum information per component part:

- Level – The number indicating the level of the part in a structured BOM and the relationship to its parent assemblies and subcomponents.
- Part Number – The unique Supplier part number for the component.
- Service status – A code (Yes/No/Only) indicating whether the component or subassembly number is serviced (Yes), not serviced (No), or if it is a part (Only) used in service but only as part of a service kit.
- Part description – The description of the part clearly describing its function in the assembly using standard functional names.
- Quantity – The number of the component parts used in the assembly at the specific BOM level.

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- Illustration reference – The reference number of the component on the assembly illustration or drawing (see below).
- Assembly drawings, preferably in isometric view clearly indicating all the serviceable components in the production assembly (see below).
- Clear digital photographs (with a rule or other means of identifying scale) of each component or assembly with service status of “Yes.”
- Illustrations must be supplied electronically in grayscale TIF file format and must be clear enough to use for identification of the component parts in a service parts catalog.

Supplier will provide the contact name and telephone number of individual(s) within its organization that can assist with technical questions. If Supplier ceases production of a part, Supplier will upon reasonable request from Autocar provide Autocar with all drawings and manufacturing specifications for the part.



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### **31. SERVICE PARTS – GENERAL REQUIREMENTS**

Upon Autocar's request, Supplier will provide the Goods as service parts. Autocar will have access to all product lines, promotional programs and incentives that are made available by Supplier to any competitors in Autocar's market segments.

Autocar will have a one-time inventory clean up within the first twelve months following the date of the PO allowing Autocar a one-for-one replacement of any and all Goods manufactured by Supplier. Supplier will not charge Autocar for restocking. Autocar will pay all associated freight charges.

Supplier will ship the Goods FOB delivery point (unless the shipment is an emergency shipment). In the event Autocar notifies Supplier of a customer with a unit down, Supplier will emergency truck down shipments at Autocar's cost for freight.

Supplier will optimize the serviceability and sale of the Goods by providing service engineering and such other resources as may be necessary or desirable, including but not limited to: breaking down bills of materials into service parts, assigning part numbers, developing packaging and labeling requirements, providing engineering layouts and illustrations and transferring such information to Autocar in an agreed-upon format that facilitates the updating and maintenance of Autocar's database of service parts, service parts literature and electronic parts catalog.

Upon reasonable request from Autocar, Supplier will provide the Goods in the form of kits and subassemblies.

Supplier will provide the Goods to Autocar for 15 years after the date on which the use of a particular part or component in the assembly of Autocar's products was discontinued.

Supplier will support Autocar's marketing efforts to promote and sell the Goods.

### **32. SERVICE PARTS – PRICING**

Supplier will furnish the Goods as service parts at the same prices as the prices for the Goods, as set forth on the face or attachment to the PO, plus the cost to package the service parts, plus the cost to ship the service parts using Autocar's designated shipping company.

The price of the Goods provided by Supplier as services parts after the use of a particular part or component in the assembly of Autocar products is discontinued will be the price on the date of discontinuance plus 15%, plus the cost to package the service parts, plus the cost to ship the service parts using Autocar's designated shipping company.

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### **33. SHIPPING; LOGISTICS; PACKAGING; IDENTIFICATION; PALLETS**

Supplier will (a) property pack, mark, ship and sequence the Goods in accordance with Autocar's production schedules; (b) route shipment in accordance with Autocar's instructions; (c) make no charge for handling, packing, storage, transportation or drayage of the Goods unless specifically authorized in the PO; (d) provide with each shipment packing slips with Autocar's PO number marked thereon; and (e) promptly forward the original bill of lading or other shipping receipt for each shipment in accordance with Autocar's instructions (no more than one bill of lading per shipment; charges for multiple bills of lading for shipments on the same truck will be charged back to Supplier). Goods will be shipped F.O.B. Autocar's plant in Hagerstown, Indiana.

The marks on each package and identification of the Goods on packing slips, bills of lading and invoices will be sufficient to enable Autocar to easily identify the Goods purchased.

Supplier must ship the Goods so that they arrive at the location designated by Autocar on the date set forth in Autocar's PO, delivery schedules or as otherwise instructed by Autocar. Charges for shipments in greater frequency than as authorized by Autocar will be charged back to Supplier.

#### Logistics

For all shipments of 100 pounds or less (for all packages in shipment), Supplier will obtain a UPS shipper number from Supplier's purchasing/planning contact or operations buyer at Autocar (or Autocar's freight auditor at 765-489-6074) and will ship by UPS Ground unless otherwise instructed by Autocar. Autocar's UPS shipper number may not be used by Supplier for extra, late or unauthorized shipments.

For all shipments in excess of 100 pounds (for all packages in shipment), Autocar has a designated shipping company (**Cheesman Trucking, Inc., 800-537-6695**, the "Shipper") that coordinates all inbound shipments. Supplier will arrange all shipping to Autocar through the Shipper by notifying the Shipper no less than 24 hours in advance of shipment of the Goods. Supplier should obtain the Shipper's confirmation number for its reference. The material schedule releases for the Goods reflect Autocar's "in-house" delivery date; therefore, Supplier must schedule adequate transit time which includes the 24-hour notice period to the Shipper. If Supplier fails to arrange shipping of the Goods through the Shipper, Autocar will charge back to Supplier the difference between the rate charged and the Shipper's rate. If Supplier arranges regular pick-ups by Shipper, it is Supplier's responsibility to cancel any unneeded pick-up no less than 24 hours in advance of the scheduled pick-up. Supplier should obtain the Shipper's confirmation number for the cancellation.

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All expedited shipments ship to Autocar’s plant at:

Autocar  
551 S. Washington St.  
Hagerstown, IN 47346

All shipments of the following products also ship to Autocar’s plant at the address set forth above:

- Rails
- Radiators
- Axles
- Power units
- Batteries
- Fasteners

All other shipments ship to Autocar’s warehouse at:

Autocar  
551 E. Main St.  
Hagerstown, IN 47346

#### Packaging Guidelines

- The gross weight of a forklift-handled package may not exceed 4,500 pounds.
- The gross weight of a manually-handled bin/box may not exceed 35 pounds.
- The quantity per standard container/carrier must be a half-day’s supply or one day’s supply of the Goods.
- Consider the ergonomics of accessing the Goods and work with Autocar’s engineers to improve access.
- Use the minimum amount of internal separators/protection necessary to protect the Goods.
- If the container has a drop side, the drop side must be on the narrow side of the container to minimize space needed for line-side storage.
- Packaging must conform to the greatest extent possible with the standard 48” x 45” or 32” x 30” footprints or multiples thereof.
- Each container must be labeled (visible from all sides of the container) showing the name of Supplier, Autocar part number, quantity, date and tare weight. Letters, numbers and barcodes must follow AIAG standards.
- Keep packaging quantities and sizes to a minimum.
- Package the Goods such that they can be used on the production line as they are received.



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#### Identification of the Goods

- Modules, axles, engines, transmissions, steering columns, brake and accelerator pedals and automatic brake systems will be labeled with bar codes.
- Steel fabricated or pressed components, brackets and rails will be stamped, engraved or etched with the Autocar part number.
- Fasteners and rubber mountings and insulators will be labeled with the Autocar number on the package.
- All other parts will have a permanent or temporary label with the Autocar part number and description. Such label must be able to withstand warehouse conditions for no less than one year.

#### Pallets

- Pallets and other packaging must be collapsible, reusable and returnable. Supplier will consult Autocar's material manager to ensure compliance.
- Wood packaging materials (including hardwood pallets), dunnage and lumber used for the import of the Goods to the United States must be sterilized and fumigated in compliance with International Standard for Phytosanitary Measures Publication No. 15 (ISPM 15) and must display the stamp of the IPPC or other authorized heat treatment inspection and certification agency.

### **34. TERMINATION**

Autocar may terminate all or part of the PO at any time by giving written notice to Supplier. Upon such termination, Autocar will pay to Supplier the following: (a) in the case of finished Goods existing as of the date of termination, the order price therefor to the extent not previously paid for, and (b) in the case of raw materials or work-in-process ordered for Autocar's benefit and existing as of the date of termination, the order price for finished Goods made using such raw materials; provided, however, that (i) Supplier will finish and deliver such Goods; and (ii) Autocar's purchase obligations upon such termination will not exceed the number of finished Goods customarily ordered by Autocar for a 30-day period based on the 30-day historical average ordering activity of Autocar. Within 60 days from the effective date of such termination, Supplier will submit a comprehensive termination claim to Autocar with regard to the items set forth above with sufficient supporting data to permit Autocar's review of the same and will thereafter promptly furnish such supplemental and supporting information as Autocar will request. Autocar or its agents will have the right to audit and examine all books, records, facilities, work, material, inventories and other items relating to any termination claim of Supplier. In the event such termination is due at least in part to (a) a work stoppage of Supplier (whether by natural causes or economic concerns), (b) Supplier's inability to provide timely delivery, or (c) Supplier's inability to satisfy any obligation relating to the quality of the Goods, Autocar will not be obligated to pay for finished Goods, work-in-process or raw materials in amounts in excess of those

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authorized in delivery releases nor for any raw materials, work-in-process or undelivered Goods which are in Supplier's standard stock or which are readily marketable.

Autocar will not be liable for and will not be required to make payments to Supplier, directly or on an account of claims by Supplier's subcontractors, for loss of anticipated profit, unabsorbed overhead, interest, product development or engineering costs, start-up costs or other unrecovered investments, facilities or equipment rearrangement costs or rental, unamortized depreciation costs or general or administrative burden charges.

Supplier may terminate the PO (a) upon 90 days prior written notice to Autocar or (b) upon Autocar's failure to pay any invoice when due (other than an invoice which is contested in good faith by Autocar), provided Supplier provides Autocar 30 days prior written notice of termination and such invoice is not paid or dispute otherwise resolved within such 30-day period.

In the event of any termination of the PO, the parties will cooperate with one another to wind down and/or transition the supply to the Goods to an alternative supplier.

### **35. TOOLS**

All supplies, materials, tools, jigs, dies, gauges, fixtures, molds, patterns, equipment and other items furnished by Autocar either directly or indirectly to Supplier for use in connection with the Goods, or for which Supplier has been reimbursed by Autocar (collectively, the "Tools"), will be and remain the property of Autocar. Supplier will bear the risk of loss of and damage to the Tools. The Tools will at all times be properly housed and maintained by Supplier at Supplier's cost and expense, will be kept in good condition, will not be used by Supplier for any purpose other than in connection with the supply of the Goods to Autocar without Autocar's prior written consent, will be conspicuously marked by Supplier "Property of Autocar, LLC", will not be commingled with the property of Supplier or with that of any third party and will not be moved from Supplier's premises without Autocar's prior written consent. Upon Autocar's request, Supplier will deliver the Tools to any location designated by Autocar, in which event Autocar will pay the reasonable cost of delivery. Autocar will have the right to enter onto Supplier's premises at all reasonable times to inspect the Tools and Supplier's records pertaining thereto. Autocar will pay the cost to make necessary changes to the Tools to accommodate design and specification changes directed or authorized by Autocar. To the extent the Tools must be repaired or replaced, Supplier will immediately notify Autocar, in which case Autocar will pay the repair or replacement cost thereof to the extent not arising from Supplier's negligence or mishandling of the Tools. Supplier will insure the tools with full fire and extended coverage for the replacement value thereof.

Supplier agrees neither to create or allow any liens to exist on the Tools. Neither Supplier nor any other person or entity other than Autocar has any right, title or interest in the Tools other than Supplier's obligation, subject to Autocar's unfettered discretion, to utilize the Tools as a bailee at will

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in connection with the supply of the Goods to Autocar. Supplier waives, to the extent permitted by law: (i) any lien or other rights that Supplier might otherwise have with respect to the Tools; (ii) any objection to Autocar's repossession and removal of the Tools for any or no reason, including bankruptcy or insolvency proceedings of any party; and (iii) any additional notice with respect to the foregoing. In the event of a dispute between Supplier and Autocar over whether any of the Tools have not been fully paid for by Autocar, the Tools subject to the dispute will be presumed to be owned by Autocar pending resolution of the dispute, and Autocar will have the right to immediate possession of the Tools pending resolution of the dispute (and Supplier may not prevent Autocar's possession of the Tools pending such resolution).

Supplier hereby irrevocably authorizes Autocar at any time and from time to time to file in any Uniform Commercial Code jurisdiction any initial financing statements and amendments thereto and to indicate therein (a) that Autocar is the bailor and owner of the Tools, (b) that Supplier is merely a bailee at will of the Tools, (c) that Autocar's commercial lender holds a security interest in the Tools and (d) any other information required, in Autocar's discretion, by the Uniform Commercial Code in any relevant jurisdiction for the sufficiency or filing office acceptance of any financing statement or amendment, including (i) whether Supplier is an organization, the type of organization and any organization identification number issued to such Supplier and, (ii) in the case of a financing statement filed as a fixture filing, a sufficient description of real property to which the Tools relate. Supplier agrees to furnish any information reasonably requested by Autocar to facilitate the objectives of this Term. To the extent applicable, Supplier also ratifies its authorization for Autocar to have filed in any applicable Uniform Commercial Code jurisdiction any like initial financing statements or amendments thereto if filed prior to the date hereof.

If the Tools are located outside of the United States, Supplier hereby authorizes Autocar at any time to complete any filings or take any other actions in any foreign jurisdictions to facilitate the objectives of this Term, and Supplier will cooperate in all such efforts by Autocar.

Upon Autocar's request, Supplier will sell to Autocar any other tooling not owned by Autocar but used in the production of the Goods exclusively for Autocar, at a purchase price equal to the actual cost of the such tooling to Supplier, not to exceed any amount quoted by Supplier. Autocar will have 60 days from the termination of its relationship with Supplier with regard to the Goods in which to exercise this option to purchase such tooling.

### **36. WARRANTY**

Supplier expressly warrants that the Goods will conform to the production schedules, specifications, instructions, drawings, samples, descriptions and designs furnished to Supplier, will be merchantable, will not be defective in design, materials or workmanship, and will not be encumbered by any lien, security interest or other encumbrance following the sale to Autocar. Supplier knows of Autocar's intended use and expressly warrants that the Goods will be fit and sufficient for the particular

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purposes intended by Autocar. Supplier will maintain or establish quality control procedures necessary to ensure compliance with the foregoing warranties and will comply with quality control policies and procedures prescribed by Autocar including quality inspection procedures (ISO 9000 and to the extent acceptable QS 9000). Supplier will accept warranty claims from Autocar either by monthly hard copy mailing or periodic Excel spreadsheet electronic transfer. Supplier will pay warranty claims by check or wire transfer as directed by Autocar, within ten days of Supplier's receipt of such warranty claims. Supplier will establish and maintain quality and control procedures necessary to ensure efficient and proper handling of Autocar's warranty claims. Supplier will designate a single point of contact to review all warranty claims and provide feedback and quality updates. Supplier will provide Autocar with such contact's phone number and e-mail address.

In the event that any Goods are not in compliance with any state or federal law or regulation or are not in compliance with Supplier's warranty ("Nonconforming Goods"), Autocar may, at its option, without limitation or exclusion of any other right or remedy, return the Nonconforming Goods to Supplier who will, at Autocar's option (a) credit Autocar the price paid or payable by Autocar plus a labor allowance to repair or replace the Nonconforming Goods at Autocar's standardized labor rate plus all incidental costs incurred by Autocar, including freight for return to and redelivery from Supplier, or (b) repair or replace the Nonconforming Goods at Supplier's cost and expense, including freight for return to and redelivery from Supplier. Supplier will pay to Autocar a \$10.00 administrative and handling fee per claim. Payment for Nonconforming Goods will not constitute acceptance thereof. Supplier will reimburse Autocar for any costs incurred relating to Nonconforming Goods within ten days of Supplier's receipt of an invoice from Autocar for such costs.

### **37. GENERAL PROVISIONS**

- 37.1. REMEDIES:** The rights and remedies reserved to the parties in the PO will be cumulative and in addition to all other rights and remedies provided at law or in equity. All representations, warranties, rights, powers and remedies of the parties will survive the termination of the PO.
- 37.2. DUTY DRAWBACK RIGHT:** Autocar's purchase of the Goods includes all related customs duty and import drawback rights, if any (including rights developed by substitution and rights which may be acquired from Supplier's suppliers) which Supplier can transfer to Autocar. Supplier agrees to inform Autocar of the existence of any such rights and, upon request, to supply such documentation as may be required to obtain such drawback rights.
- 37.3. ADVERTISING:** Supplier will not, without the prior written consent of Autocar, in any manner advertise or publish the fact that Supplier has contracted to furnish Autocar the Goods, or use any trademarks or trade names of Autocar in Supplier's advertising or promotional materials.

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- 37.4. EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION:** Supplier represents that it is an equal opportunity employer and does not discriminate in employment of persons or awarding of subcontracts because of a person's race, sex, age, religion, national origin, veteran or handicap status. Supplier is aware of and fully informed of Supplier's responsibilities and agrees to the provisions under the following: (a) Executive Order 11246, as amended or superseded in whole or in part, and as contained in Section 202 of the Executive Order as found at 41 C.F.R. § 60-1.4(a)(1-7); (b) Section 503 of the Rehabilitation Act of 1973 as contained in 41 C.F.R. § 60-741.4; and (c) The Vietnam Era Veterans' Readjustment Assistance Act of 1974 as contained in 41 C.F.R. § 60-250.4.
- 37.5. NO IMPLIED WAIVER:** Autocar's future at any time to require performance by Supplier of any provision of the PO will in no way affect Autocar's right to require such performance at any time thereafter, nor will Autocar's waiver of Supplier's breach of any provision of the PO constitute a waiver of any succeeding breach of the same or any other provision. Any waiver of any of the terms of the PO must be in writing signed by Autocar.
- 37.6. NON-ASSIGNMENT:** Supplier may not assign or delegate its obligations under the PO without Autocar's prior consent.
- 37.7. RELATIONSHIP OF PARTIES:** Supplier and Autocar are independent contracting parties, and nothing in the PO will 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.
- 37.8. GOVERNING LAW AND DISPUTE RESOLUTION:** The PO will be construed according to the laws of the State of Illinois without regard to its conflicts of laws provisions. All actions or proceedings in any way, manner or respect arising out of or related to the PO will be litigated only in state or federal courts, as appropriate, located in Chicago, Illinois. Supplier consents and submits to jurisdiction in the State of Illinois and waives any right to transfer the venue of any such action or proceeding. Prior to initiating any cause of action, the parties will promptly attempt in good faith to resolve any controversy, claim or dispute of any nature arising out of or relating to the PO by negotiating between executives or managers who have authority to settle such a dispute. The prevailing party in any litigation over such a dispute will be entitled to recover from the non-prevailing party all costs and expenses, including without limitation, reasonable attorneys' fees and costs incurred by such party in connection with such litigation.
- 37.9. SEVERABILITY:** If any term or condition of the PO will be invalid or unenforceable to any extent or in any application, then such term or condition will automatically, and without waiver of any further action, be reformed so as to retain the fullest extent of any restriction therein permitted by law, and the remainder of the PO, and the remainder of such term or condition,

These terms and conditions (these "Terms") apply to and are incorporated as a part of every Autocar, LLC ("Autocar") Purchase Order, Supply Agreement, Request for Proposal or Quotation or similar document issued or executed by Autocar (collectively, "PO"). Except as provided in any executed long-term Supply Agreement, the PO supersedes all prior oral and written agreements between Autocar and the person to whom the PO is issued ("Supplier") with regard to the goods or services covered by the PO (the "Goods") and may only be modified (a) in writing on the face of or on an attachment to the PO, or (b) by a new PO issued by Autocar. Except as specifically set forth on the face of or on an attachment to the PO, all terms and conditions contrary to these Terms are expressly rejected by Autocar and waived by Supplier. By shipping the Goods, Supplier accepts and agrees to be bound by these Terms.

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will not be affected thereby, and each and every term and condition of the PO will be valid and enforced to the fullest extent and in the broadest application permitted by law.

- 37.10. ENTIRE AGREEMENT:** The PO constitutes the entire agreement between Supplier and Autocar with respect to the subject matter contained therein and supersedes all prior oral or written representations and agreements as well as any drafts, other purchase orders, sales confirmations, invoices or other communications issued subsequent to the date of the PO. No terms or conditions contained in any other purchase orders, sales confirmations, invoices or other communications which are contrary with those contained in these Terms will have effect, and these Terms will govern.
- 37.11. NOTICE OF MATTERS AFFECTING WORK FLOWS:** Whenever an actual or potential labor dispute or any other matter delays or threatens to delay Supplier's timely performance under this PO, Supplier will immediately notify Autocar of all relevant information with respect to such event.
- 37.12. NOTICES AND CONSENTS:** All notices and consents will be in writing and will be deemed given when delivered in person or by facsimile, or on the third business day after being deposited in the United States mail, registered or certified mail, or on the first business day after being delivered to an overnight courier.
- 37.13. HEADINGS:** The headings used in these Terms are for convenience of reference only and will not be deemed a part of the PO.