

WABCO Master Supply Agreement Terms & Conditions

Version dated April 2012

1. Application - Variation

1.1. These terms and conditions ("these Conditions") shall apply to all orders or requests for Products ("Order") issued by WABCO in response to which the Supplier provides Products to WABCO. Other terms and conditions (including Supplier's standard printed terms and conditions) shall not apply to Orders unless expressly set forth herein or in another duly executed written agreement between the parties.

1.2. The Supplier's execution or commencement of work or delivery pursuant to the Order shall constitute acceptance of the Order and these Conditions and a waiver by the Supplier of its own general terms and conditions of sale contained in its quotation, acknowledgement or acceptance of the Order or similar documents.

1.3. No addition to or variation or exclusion of these Conditions shall be binding on WABCO unless expressly agreed in writing by an authorised signatory of WABCO.

2. Quality Procedures - Inspection - Samples

2.1. The Supplier shall maintain quality, specification control, testing and inspection procedures ("Procedures") to enable the Supplier to consistently comply with its obligations under the Order and these Conditions and, at the request of WABCO, the Supplier shall supply WABCO with full details in connection with such Procedures or with any planned changes in such Procedures.

2.2. Upon reasonable notice prior to the delivery of the Products, WABCO shall have the right to inspect and test the Products and the Procedures.

2.3. If the Supplier is required by WABCO to submit samples of Products for approval, the Supplier shall not carry out any further production until WABCO has approved such samples in writing and has confirmed in writing to the Supplier that such samples have been produced in accordance with the drawing specification.

2.4. No inspection or testing or approval of samples by WABCO shall be construed as acceptance by WABCO of the conformity of the Products with the Order, these Conditions or to any specification supplied or agreed to by WABCO and the Supplier shall remain fully responsible for such conformity.

3. Packaging - Documentation - Information

3.1. The Supplier shall ensure that all Products are correctly packaged and secured to enable them to reach their destination in undamaged condition.

3.2. All Products shall also be accompanied by a delivery note stating, among other details, the delivery number, WABCO part number, delivered quantity and the Order number (or consumption report number for parts on consignment stock) and clearly identifying the Products

including reference to numbers of any parts and drawings which have been supplied by WABCO to the Supplier.

3.3. The Supplier shall give WABCO prior written notice of:

3.3.1. Any delivery of the Products or items accompanying the Products having toxic or other hazards to the safety or health of persons or property and shall provide full details of such hazards and of all precautions which should be taken by the WABCO in respect of the delivery, storage, handling, installation and use of the Products or items and provide WABCO with all information relating to the properties of the Products or items to enable WABCO to comply with all relevant legislation relating to the Products; and

3.3.2. Any delivery of Products which are perishable or of limited lifespan and of any circumstances which may adversely affect the lifespan of such Products.

3.4. In case of failure by the Supplier to comply with the provisions of articles 3.1 to 3.3 hereof, WABCO reserves the right to withhold payment.

3.5. WABCO shall only be obliged to inspect the Products in order to check if the Products sustained obvious damage during transportation, if there is an obvious defect in the Product and if the correct types and volumes of Products were delivered. Such inspection by WABCO shall not relieve Supplier of its obligations with respect to nonconforming Products or as otherwise provided in this Agreement.

4. Delivery

4.1. Unless otherwise expressly stated in the applicable Order, all deliveries of Products shall be made Ex Works (INCOTERMS 2010) to the place of delivery specified in the Order.

4.2. The date for delivery of the Products shall be specified in the relevant delivery schedule, or if no such date is specified, delivery shall take place within fourteen (14) days of the Order.

4.3. If there is a delay or failure by Supplier in meeting any agreed milestones or in delivering the ordered quantities of Products as specified in the Project Agreement (PA) at the agreed time and place, then (without prejudice to any other rights and remedies WABCO may have) WABCO shall be entitled as a minimum to claim from Supplier by way of liquidated damages 2 percent of the total price due under the relevant Order for every day during which the default continues. Any liquidated damages due under this section shall be paid within thirty (30) days of notice from WABCO. Notwithstanding the aforementioned, if the Supplier at any time has reason to believe that the agreed delivery date will be delayed, it shall promptly notify WABCO and indicate the estimated period of delay. The parties shall in good faith discuss

and agree on the measures to be taken in order to minimize the effects of any delay without changing Supplier's obligation to deliver the Products on the delivery date. In such event, WABCO shall not be responsible for any cancellation charge vis-à-vis Supplier.

4.4 If the Products are delivered in excess of the quantities ordered, WABCO shall not be bound to pay for the excess and any excess will be and will remain at the Supplier's risk and WABCO shall be entitled either to return the same to the Supplier's at the Supplier's risk and expense or require the Supplier to collect the same from WABCO at the Supplier's expense.

5. Ownership and Transfer of risk

5.1 The ownership in Products will pass to WABCO on delivery in accordance with the Order without prejudice to any right of rejection of WABCO.

5.2 Unless otherwise agreed in writing between WABCO and the Supplier, risk in the Products will pass to WABCO on delivery save that the Products delivered in excess of the quantities ordered and the Products which are not in conformity with the Order, these Conditions or the specification supplied or agreed to by WABCO will remain at the Supplier's risk.

6. Supplies

6.1 The Supplier shall, at any time, be able to provide WABCO with evidence of the availability of the Products, including any components incorporated therein. Any discontinuation of a Product must be promptly notified to WABCO by registered letter with return receipt and may not be effected with a phase-out period of less than 24 months after such notification. If the Supplier has notified WABCO of its intention to discontinue a Product and WABCO is unable to procure that Product from another supplier, the Supplier shall be bound to indicate a replacement solution to WABCO which is at least of equivalent specification.

7. Price and terms of payment

7.1 The agreed prices for the Products will be specified in the Project Agreement (PA) and, unless otherwise agreed in writing by WABCO, shall be exclusive of value added tax but inclusive of all other charges.

7.2 The agreed prices are firm and shall not be subject to any increase from the Supplier without WABCO's prior written consent.

7.3 All undisputed payments shall be made within 60 days from the end of the month in which the relevant Products are received or receipt of invoice, whatever occurs later.

7.4 WABCO reserves the right to withhold payment if the Supplier submits an invoice to WABCO for an amount other than the agreed price.

7.5 WABCO reserves the right to deduct from any monies payable to the Supplier such amounts as are due to WABCO from the Supplier on any account whatsoever.

7.6 Payment by WABCO shall not release the Supplier from its liability with regard to the Products delivered performed or the amount invoiced. Under no circumstances shall such payment waive WABCO's right to pursue claims at a later date

7.7 Acceptance and/or payment of any invoice shall not be construed as acceptance by WABCO of the Supplier's terms and conditions printed on the invoice or attached to it.

8. Productivity and Cost Improvement Goals

8.1 Supplier shall make every effort to minimise the total value chain-related purchase costs (inside as well as outside Supplier's company) of the Products delivered. Supplier undertakes to achieve cost reductions throughout the total value chain from raw materials and sub-suppliers to delivered Products.

8.2 Supplier acknowledges and agrees that it shall implement productivity and cost improvements which shall yield a bottom line reduction in the Prices of the Products. Supplier agrees to aggressively seek out, notify and advise WABCO of cost reduction opportunities including, but not limited to, the following areas: up front design coordination, cycle time reduction, manufacturing yield improvement, standardization, paperwork reduction, scrap reduction, material substitution and packaging, and transport and handling. In order to establish an effective system to identify and achieve productivity and cost reduction objectives, Supplier must submit an annual productivity report to WABCO's designated commodity team members.

9. Competitiveness

9.1 The parties recognize that a pre-requisite for a successful long term co-operation as envisaged by the parties, is that Supplier shall, at all times, supply the Products to WABCO at competitive prices and conditions, therefore Supplier represents and warrants that Supplier shall be able to and shall at all times supply the Products to WABCO on competitive terms and conditions. It is therefore agreed that should a third party offer similar products under comparable circumstances on more favourable terms and conditions than those provided by Supplier to WABCO under this Agreement, WABCO shall be entitled to notify Supplier, that it wishes to amend the terms and conditions of this Agreement to such an extent that said terms and conditions shall be as favourable as those offered by said third party under comparable circumstances. The terms and conditions referred to above shall include, but are not limited to: price, price discounts, rebates, marketing and promotional incentives, technology, and performance, weight, delivery times and availability, warranty, quality and service.

9.2 Should consultations between WABCO and Supplier with respect to the relevant amendments proposed by WABCO fail to result in a mutually agreed amendment of this Agreement within a period of three (3) months from the date of the notification by WABCO, WABCO shall at its sole discretion be entitled to cancel the PPA or reduce the volumes of the Products, including in the context of a phase out.

10. Aftermarket Requirements

10.1 The parties understand that WABCO customers have aftermarket requirements ("AM Requirements") for parts and/or components to be supplied as replacements beyond the customers' series production needs. The Supplier acknowledges that WABCO is required to fulfil the AM Requirements of its customers for as long as such requirements continue and shall take all necessary measures to ensure that these AM Requirements are met

11. Warranty

11.1 The Supplier warrants that:

11.1.1 All Products shall conform with WABCO's quality and description particulars, shall conform with all drawings, descriptions and specifications furnished, shall conform with any and all performance specifications stated or referred to by WABCO, shall be of satisfactory quality and fit for their intended uses and free from all defects, apparent or hidden, including, but not limited to, defects in design, materials and workmanship and defects resulting in poor performance of the Products.

11.1.2 The Supplier shall comply with all applicable regulations or other legal requirements concerning the manufacture, packaging, packing and delivery of the Products including, but not limited to, all the applicable safety, environmental and export regulations of the United States, European Union and all other applicable countries and regions.

11.1.3 For Supplier's Products to be imported in the United States, Supplier shall accept, implement and comply with all applicable recommendations or requirements of the United States Customs Service's Customs Trade Partnership Against Terrorism ("C-TPAT") initiative. At WABCO's or the Customs Service's request, Supplier shall certify in writing its acceptance, implementation and compliance with the C-TPAT and any accompanying recommendation and guidelines. SUPPLIER SHALL INDEMNIFY AND HOLD WABCO HARMLESS FROM AND AGAINST ANY LIABILITY, CLAIMS, DEMANDS OR EXPENSES (INCLUDING ATTORNEY'S OR OTHER PROFESSIONAL FEES) ARISING FROM OR RELATING TO SUPPLIER'S NOT ACCEPTING, IMPLEMENTING OR COMPLYING WITH C-TPAT.

11.1.4 All services relating to the Products shall be supplied with the highest care and skill, shall be in accordance with all applicable statutory requirements, shall be of good quality and workmanship and shall be performed by properly qualified and experienced persons.

11.1.5 Without limiting its obligations under the agreed terms, Supplier, in its capacity of expert in the development and/or manufacturing of the Products, as the case may be, shall ensure it has obtained all information on the intended use, application and environment according to the specification of the Products.

11.2 The duration of the warranty period shall be of 48 months from delivery to WABCO.

11.3 The warranty provision set out in this article 11 shall apply equally to any replacement, repair or substitute or remedial Products provided by the Supplier with WABCO's consent.

11.4 To the extent permitted by applicable laws, the Supplier waives any plea of delayed notifications of defects

12. Recall Process

12.1 Without limiting the general obligations of Supplier under the agreed terms, Supplier agrees to participate at its own expenses in the process where WABCO decides to carry out a recall due to Products defective in whole or in part. Such process includes but is not limited to:

12.1.1 Upon request, Supplier shall provide a technical solution for the Products, which have caused the recall or which are related to the cause thereof.

12.1.2 The establishment by the parties of a process to correct or replace all the existing stock of Products concerned, for instance located at production plants (storage and assemblies in process), in the spare parts warehouses, distribution networks and on vehicles (including those awaiting delivery).

12.1.3 The establishment by the parties of a rework process for correction and/or replacement of Products on vehicles delivered to customers.

13. Indemnity

13.1 To the extent permissible under applicable law, THE SUPPLIER SHALL KEEP WABCO INDEMNIFIED IN FULL AGAINST ALL LIABILITIES (WHICH INCLUDE, WITHOUT LIMITATION, LOSS OF PROFIT, LOSS OF BUSINESS, DEPLETION OF GOODWILL AND LIKE LOSS), LOSS, DAMAGE, COSTS AND EXPENSES AWARDED AGAINST OR INCURRED OR PAID BY WABCO as a result of or in connection with :

- (i) The Supplier's failure to perform its warranty obligations as defined in articles 11.1 to 11.3;
- (ii) Any infringement or alleged infringement of any intellectual property rights caused by any kind of uses, including, but not limited to, the offer, manufacture or supply of the Products;
- (iii) Any claim made against WABCO in respect of any liability, loss, damage, injury, cost or expense sustained by WABCO's employees or agents or by any customer or third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the delivered Products as a consequence of a direct or indirect breach or negligent performance or failure or delay in performance of the Supplier's obligations under the Order or these Conditions (e.g. any claim against WABCO in connection with a recall campaign caused by defective Products or the replacement of such defective Products or the consequences of defective Products to other parts or to individuals)

13.2 If WABCO shall become the subject of a claim, the Supplier shall render all reasonable assistance as required by WABCO to settle and defend such claim.

14. Force Majeure

14.1 The parties shall not be held liable for any breach of the Order terms and conditions when such breach results from a force majeure event. Force majeure event shall mean: war, flood, fire, earthquake and other natural disasters, riots, changes to applicable legislation, and also power failures that could not reasonably be prevented by either Party, and which prevent the fulfilment of obligations under the Agreement, and which appearance is not the direct result of action or inaction of either Party.

14.2 A force majeure event makes it temporarily or permanently impossible to perform all or any part of a party's obligations. Force majeure does not cover those events which would render performance of the obligations more difficult or more expensive.

14.3 The party affected by a force majeure event shall advise the other party as soon as it has become aware of such event. The party shall describe such event in detail and inform the other party of any relevant element capable of allowing its precise identification, and to determine its effects as to performance of its contractual obligations. The party invoking a force majeure event shall then inform the other party of its termination within the same period as provided for above.

14.4 A party failing in its obligation to inform in compliance with the procedure described in the above paragraph may not invoke a force majeure exemption.

14.5 The obligations of the party invoking force majeure shall be suspended as long as they cannot be performed due to a force majeure event. Nevertheless such party shall, as far as it is possible, remedy the situation with due diligence.

14.6 In the event that performance under the Order is rendered impossible for more than three (3) months, either party may terminate or rescind such Order by written notification to the other party, unless the parties decide to amend the Order to take into account the new circumstances arising from such force majeure event.

14.7 The occurrence of a force majeure event may however not relieve the relevant party from its liability for any negligent conduct or lack of diligence to remedy the situation or to remove its cause in a reasonable and adequate manner.

14.8 A force majeure event may not give rise to a claim for damages. WABCO will only be liable to the Supplier for such part of the Order which was performed before the force majeure event arose. Any pre-paid amount shall be refunded to WABCO.

15. Insurance

15.1 The Supplier shall take out a Products Civil Liability Insurance Policy after delivery for a sufficient amount covering it for the financial consequences of civil liability which may arise in the event of physical injury, material and immaterial damages, whether direct or indirect, sustained by WABCO or third parties as a result of the Products. This insurance shall not constitute a limitation of the Supplier's liability.

15.2 Furthermore, the Supplier shall ensure that all insurance certificates and associated documents are made available to WABCO.

16. Intellectual property – Confidentiality – Tooling

16.1 All patterns, specifications, drawings, sketches, models, samples, tools, dies, moulds, designs, technical or commercial information, trade secrets, know-how, inventions, processes or initiatives or data or other proprietary information written oral or otherwise, furnished to the Supplier by WABCO or on its behalf or paid for by WABCO, or which are created by the Supplier in performing the Order and any other confidential information concerning the WABCO's business or its products which the Supplier may obtain ("WABCO Proprietary Information")

(i) shall be and remain the property of WABCO unless otherwise agreed in writing by the parties ;
(ii) shall, where in tangible form, be maintained by the Supplier in good condition and returned promptly to WABCO, carriage paid, (together with all copies) at WABCO's request ;
(iii) shall be treated as strictly confidential ;
(iv) shall be kept safely and shall not be used or disclosed by the Supplier except strictly as required in the course of performance of an Order.

16.2 All patterns, tools, dies, mould, jigs and other equipment and materials furnished by WABCO to the Supplier and/or procured by the Supplier but paid for by WABCO and any replacements therefore shall be kept separately from the Supplier's property and clearly identified as the property of WABCO. All such property shall be held at the Supplier's risk and shall be insured by the Supplier at its expense for an amount equal to its replacement cost with loss payable to WABCO.

16.3 Supplier shall restrict disclosure of WABCO Proprietary Information to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the Supplier's obligations to WABCO and shall ensure that such employees, agents or sub-contractors are subject to like obligations of confidentiality as bind the Supplier.

16.4 When a separate non-disclosure agreement is signed between WABCO and the Supplier, the provisions of such agreement shall prevail over these Conditions.

16.5 The Supplier shall use its best efforts to design the tool or any equipment the purpose of which is to produce the Products ("Tool") in such a way as to make such tool function in any standard equipment.

16.6 The Supplier shall use the tool exclusively for WABCO production and shall not be entitled to use it, directly or indirectly, for any third party or move it outside the production plant of the Supplier without first obtaining prior written consent from WABCO. To that effect, the Supplier shall permit WABCO to verify, during normal working hours, the keeping and proper usage of the tool and compliance with the other provisions of this article 16.

16.7 The maintenance and repair of the tool shall be effected promptly by the Supplier and at its costs as long as the guaranteed production quantity as agreed between the parties in the Order has not been reached.

16.8 For a period of 24 months after the Supplier has last used the tool(s) to produce a specific Product, the Supplier shall store and maintain the tool at its costs. The Supplier shall promptly notify WABCO of the expiry of this 24 month period and shall, in no circumstances, destroy or affect the tool to another use without first obtaining prior written consent from WABCO. At WABCO's request, the Supplier shall promptly return to WABCO the tool at the Supplier's own costs.

16.9 The Supplier shall not use WABCO's intellectual property rights, including trademarks, copyrights, patents, designs, ("WABCO IPRs") without the prior written consent of WABCO.

16.10 The Supplier shall (in so far as it becomes aware thereof) notify the WABCO of any unauthorized use of the WABCO Proprietary Information and/or the WABCO IPRs.

17. Termination

17.1 WABCO may have the right, unless otherwise agreed in writing, to terminate the contractual relationship with the Supplier, in whole or in part, by giving the Supplier written notice whereupon all work under the Order shall be discontinued and WABCO shall pay to the Supplier fair and reasonable compensation for work-in-progress at the time of termination but such compensation shall not include loss of anticipated profits or any consequential loss.

17.2 Without prejudice to its right to damages, WABCO shall have the right at any time by giving written notice to the Supplier to terminate its contractual relationship with the Supplier immediately if:

17.2.1 The Supplier commits a breach of its obligations under the Order or these Conditions and has not remedied the breach within fifteen (15) days following a formal demand from WABCO requiring remedy thereof;

17.2.2 The Supplier commits a material breach of its obligations hereunder;

17.2.3 The financial position of the Supplier deteriorates to such an extent that in the opinion of WABCO the capability of the Supplier to adequately fulfil its obligations under the Order or these Conditions has been placed in jeopardy.

17.2.4 The Supplier is subject to winding up, bankruptcy proceedings or any other proceedings having a similar effect.

17.3 Termination of the contractual relationship with the Supplier shall not affect any accrued rights or liabilities of WABCO, nor shall it affect any provision of the Order and these Conditions, which is expressly or by implication intended to come into or continue in force on or after such termination, such as intellectual property provisions and confidentiality obligations.

17.4 On completion or termination of the contractual relationship, howsoever arising, the Supplier shall immediately return all records,

papers, materials, media and other property of WABCO which is in its possession.

18. Remedies

18.1 To the extent permissible under applicable law and without prejudice to any right or remedy which WABCO may have pursuant to these Conditions or the applicable law, if any Products are not supplied in accordance with, or the Supplier fails to comply with, any of the terms of these Conditions and of an Order, WABCO shall be entitled to avail itself of any one or more of the following remedies at its discretion, whether or not any part of the Products have been accepted by WABCO:

18.1.1 To reject the Products (in whole or in part) and return them to the Supplier at the risk and cost of the Supplier on the basis that a full refund for the Products so returned shall be paid forthwith by the Supplier;

18.1.2 At WABCO's option to give the Supplier the opportunity at the Supplier's expense either to remedy the non-conformity of the Products or to supply replacement Products and carry out any other necessary work to ensure that the terms of these Conditions and the Order are fulfilled;

18.1.3 To carry out itself or through another supplier at the Supplier's expense any work necessary to make the Products comply with the Order, these Conditions and any specification supplied or agreed to by WABCO;

18.1.4 Recover from the Supplier any expenditure reasonably (directly or indirectly) incurred by WABCO in obtaining the Products in substitution from another supplier (e.g. in case of Supplier's failure to deliver the Products pursuant to Article 4.2 hereof);

18.1.5 To claim such damages, loss, costs or expenses incurred (directly or indirectly) by WABCO as the result of the Supplier's breach of its obligations under the Order and these Conditions.

19. Sub-contracting – Assignment - Change of Control

19.1 The Supplier may not sub-contract its obligations hereunder without the prior written consent of WABCO. In the case of authorised sub-contracting, the Supplier shall remain the sole liable party vis-à-vis WABCO.

19.2 The obligations of the Supplier under the Order and these Conditions may not be transferred or assigned, without WABCO's prior written consent. WABCO may legally terminate the contractual relationship with the Supplier without notice in the event of breach of this obligation.

19.3 Should the shares or assets in the Supplier's be sold or should there be a change in the direct or indirect control of the Supplier's, the Supplier undertakes to immediately inform WABCO

thereof which may legally terminate the contractual relationship with the Supplier without notice.

20. Dispute Resolution - Applicable law – Jurisdiction

20.1 Both Parties agree to put forward their best commercially reasonable efforts to resolve any claim or dispute arising out of their commercial relationship within fourteen (14) days of notice of such claim or dispute.

20.2 If the Parties are unable to resolve the claim or dispute in that time, then either party may refer the matter to court and the provisions under article 17.3. shall apply.

20.3 The contractual relationship between WABCO and the Supplier shall be governed by the laws of the State of Michigan. The application of the provisions of the United Nations Convention on Contracts for the International Sales of Goods (CISG) is specifically excluded by the parties. Any disputes arising between the parties shall be submitted to the exclusive jurisdiction of the appropriate state court in Oakland County, Michigan or, if original jurisdiction can be established, in the federal court in the U.S. District Court for the Eastern District of Michigan, Southern Division.