



# WABCO TERMS & CONDITIONS OF PURCHASE

(Version dated April 2019)

## 1. APPLICATION, VARIATION AND AGREEMENT

1.1 These WABCO Terms & Conditions of Purchase (“Conditions”) apply to the supply of products and performance of related services between the legal entity of the WABCO group of companies identified as buyer in the Agreement (“WABCO”) and the legal entity identified as seller or service provider in the Agreement (“Supplier”). Supplier acknowledges and agrees that these Conditions are incorporated in, and are a part of, each quotation, purchase order, invoice, release, requisition, work order, shipping instruction, specification and any other document, whether expressed verbally, in written form or electronic commerce, relating to the sale of products and services by Supplier to WABCO (such documents are collectively referred to as the “Agreement”).

1.2 All agreements between WABCO and Supplier will be solely under the terms and conditions of the Agreement and these Conditions. Other terms and conditions different from or in addition to these Conditions or exclusions or other modifications of these Conditions do not apply and are hereby expressly rejected by WABCO and waived by Supplier, unless the agreement incorporating such other terms and conditions is made in writing and signed by an authorized signatory of WABCO. Any execution by WABCO of any other document submitted by Supplier in connection with the purchase of products or services does not constitute acceptance of or agreement to any terms and conditions in addition to or different from those contained in the Agreement and these Conditions, but will constitute only acknowledgment of receipt of such document.

1.3 Supplier's commencement of work on fulfilling its obligations under the Agreement or execution of delivery of products or services constitutes an acceptance of the Agreement and these Conditions

## 2. ORDER OF PRECEDENCE

2.1 In the event of ambiguity or conflict between these Conditions and provisions included in other documents comprising the Agreement between WABCO and Supplier, the document mentioned first has precedence over the document mentioned thereafter: Product & Pricing Agreement (“PPA”), Project Agreement (“PA”), Quality Assurance Agreement (“QAA”), Tooling Agreement (“TA”), Logistics Protocol (“LP”), these Conditions, and any other documents incorporated by reference or referenced in the Agreement.



### **3. SUPPLIER PORTALS**

3.1 Supplier shall use WABCO's supplier portal (WASP) available at <https://equality.wabco-auto.com/portal/wabco/> as may be requested by WABCO, including (without limitation) for claims handling, change request handling and profile data maintenance.

3.2 Supplier shall use WABCO's SupplyOn portal provided by WABCO, as may be requested by WABCO, including (without limitation) to retrieve order dates in accordance to applicable delivery terms, book transport, send advanced shipping notification and create global transportation label.

### **4. PACKAGING - DOCUMENTATION - INFORMATION**

4.1 The Supplier shall ensure that all products are correctly packaged and secured in accordance with applicable law and in a manner to enable the products to reach their destination in an undamaged condition.

4.2 All products shall also be accompanied by appropriate shipping documentation stating, among other details required by the Agreement, 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 Supplier.

4.3 The Supplier shall give WABCO prior written notice of: (a) 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 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 (b) any delivery of products which are perishable or of limited lifespan and of any circumstances which may adversely affect the lifespan of such products.

4.4 WABCO shall only be obliged to inspect delivered products in order to confirm whether (a) the products sustained obvious damage during transportation, (b) there is an obvious defect in any of the products and (c) the correct types and volumes of products were delivered. Such inspection shall not be deemed to be an acceptance of such products by WABCO and shall not relieve Supplier of its obligations with respect to nonconforming products or as otherwise provided in the Agreement.

### **5. DELIVERY**

5.1 Unless otherwise expressly stated in the applicable Agreement, all deliveries of products shall be made FCA (INCOTERMS 2010) to the place of delivery specified in the Agreement.

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5.2 Delivery dates are firm and TIME IS OF THE ESSENCE with respect to delivery of products. 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. If the Supplier at any time has reason to believe that the agreed delivery date will be delayed, Supplier shall, without changing Supplier's obligation to deliver the products on the delivery date, promptly (a) notify WABCO of such delay, (b) indicate the estimated period of delay, (c) take, at Supplier's sole cost and expense, any measures necessary to prevent any delay or to minimize the effects of any delay, including, without limitation, use of an expedited shipping method. Supplier will be responsible for all costs incurred by WABCO as a result of early or late deliveries.

5.3 If there is a delay or failure by Supplier in meeting any agreed upon milestones or in delivering the ordered quantities of products as specified in Agreement at the agreed time and place, then (without prejudice to any other rights and remedies WABCO may have) WABCO shall be entitled to claim from Supplier by way of liquidated damages, two (2) percent of the total price due under the relevant order for every day during which the default continues. The liquidated damages shall not relieve Supplier from any of its other obligations or liabilities under the Agreement. Any liquidated damages due under this section shall be paid within thirty (30) days of notice from WABCO.

5.4 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 at the Supplier's risk and expense or require the Supplier to collect the same from WABCO at the Supplier's expense.

## 6. OWNERSHIP AND TRANSFER OF RISK

6.1 The ownership of products purchased by WABCO will pass to WABCO on delivery without prejudice to any right of inspection and/or rejection of WABCO.

6.2 Unless otherwise agreed in writing between WABCO and the Supplier, risk in the products will pass to WABCO on delivery, provided that products delivered in excess of the quantities ordered and products which are not in conformity with the Agreement will remain at the Supplier's risk.

## 7. SUPPLY AVAILABILITY

7.1 The Supplier shall, at any time upon the request of WABCO, provide to WABCO with evidence of the availability of the products, including any components incorporated therein. If the Supplier becomes aware of a risk of non-availability of any of the products as required pursuant to the Agreement, the Supplier must promptly notify WABCO via registered mail, return receipt requested, and no change to the supplied products nor phase-out may occur less than 24 months after such notification. The Supplier shall



offer a last time buy for the component and products and indicate a replacement solution to WABCO which is at least of equivalent specification.

## **8. PRICE AND TERMS OF PAYMENT**

8.1 Notwithstanding anything contained herein, the agreed prices for the products will be specified in the relevant PA or PPA and shall be exclusive of value added tax but shall include any and all federal, provincial, local property, license, sales, use, excise, gross receipts, or other like taxes or custom duties and similar tariffs and fees, which may now or hereafter be applicable to, measured by, or imposed upon the products, the sale of the products, their value, or their use, or any services performed in connection therewith or with respect to the transactions described herein.

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

8.3 All payments shall be made within sixty (60) days following the date of receipt by WABCO of the products. If WABCO receives the invoice or an equivalent request for payment after the date of receipt of the products, the payment period shall commence on the date of receipt by WABCO of the invoice or an equivalent request for payment.

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

8.5 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.

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

8.7 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.

## **9. PRODUCTIVITY AND COST IMPROVEMENT GOALS**

9.1 Supplier shall make every effort to minimize 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.

9.2 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:

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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.

## 10. COMPETITIVENESS

10.1 The parties recognize that a pre-requisite for a successful, long term commercial relationship, Supplier shall, at all times, supply the products to WABCO at competitive prices and conditions. Accordingly, 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 favorable terms and conditions than those provided by Supplier to WABCO under the Agreement, WABCO shall be entitled to notify Supplier that it wishes to amend the Agreement between the parties to such an extent that said terms and conditions shall be as favorable 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.

10.2 Should negotiations between WABCO and Supplier with respect to the relevant amendments proposed by WABCO fail to result in a mutually agreed amendment of the 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 PA and/or PPA, reduce the volumes of the products, including in the context of a phase out, or terminate the Agreement without liability to Supplier.

## 11. AFTERMARKET REQUIREMENTS

11.1 Supplier understands and acknowledges that WABCO's customers have aftermarket requirements for parts and/or components to be supplied as replacements beyond each such customer's series production needs, including (without imitation) the availability of the products and spare parts for at least fifteen (15) years after the end of series production, (collectively, "AM Requirements"). The Supplier acknowledges that WABCO is required to fulfil the AM Requirements of its customers for as long as such requirements continue and Supplier shall take all necessary measures to ensure that these AM Requirements are met.

## 12. WARRANTY

12.1 The Supplier warrants that: 12.1.1 All products shall: (a) conform with WABCO's quality and description particulars, (b) strictly conform with all drawings, descriptions and specifications furnished under the Agreement, (c) conform with any and all performance specifications stated or referred to by

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WABCO, (d) be produced, designed, packaged, marked, labeled, supplied, delivered and maintained in accordance with, and comply with, all applicable laws, (e) be merchantable, 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.

12.1.2 Supplier shall (a) ensure conformance of all products and processes, including service parts and those that are outsourced, to all applicable WABCO requirements and applicable law, (b) document processes to ensure that purchased products, processes, and services conform to applicable law in the country of receipt, the country of shipment, and the identified country of destination provided by WABCO, (c) pass down all applicable contractual and legal requirements and special product and process characteristics to its suppliers and require its suppliers to flow-down all applicable requirements to each third party of the supply chain to the point of manufacture, and (d) confirm and be able to provide evidence that externally provided processes, products, and services conform to applicable law and the latest applicable statutory, regulatory, and other requirements in the countries where they are manufactured and in the identified countries of destination provided by WABCO.

12.1.3 All services relating to the products shall be supplied with the highest care and skill, shall be in accordance with applicable law, shall be of good quality and workmanship and shall be performed by properly qualified and experienced persons.

12.1.4 Without limiting its obligations under the Agreement, 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.

12.2 Supplier agrees to replace or correct defects of any product or services not conforming to the foregoing warranties promptly, without expense (including, if applicable, return freight expense) to WABCO, when notified of such defects or nonconformance by WABCO, provided WABCO elects to provide Supplier with the opportunity to make such corrections or replacements. If Supplier fails to correct defects in or replace nonconforming products or services promptly upon request by WABCO, then WABCO, after advance notice to Supplier in a time period which is reasonable under the circumstances, may, in addition to WABCO's other rights or remedies, make such corrections or replacements (or permit a third party to make such corrections or replacements) and charge Supplier for the costs incurred in doing so, and any other costs or damages which WABCO incurs or for which WABCO is responsible as a result of such defects or nonconformance. In the event that a product, which WABCO considers to be defective, is delivered by Supplier, Supplier shall replace the defective product at no additional charge to WABCO and Supplier will pay all return and re-shipment expenses.



12.3 The duration of the warranty period shall be forty-eight (48) months from delivery of the products to WABCO.

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

### **13. RECALL PROCESS**

13.1 Without limiting the general obligations of Supplier under the Agreement, Supplier agrees to participate, at its own expense, in the process where a recall or field campaign is required due or likely to be a result of defective products in whole or in part. Such process includes but is not limited to: (i) Upon request, Supplier shall provide a technical solution for the products which have caused the recall or field campaign or which are related to the cause thereof. (ii) The establishment by the parties of a process to correct or replace all the existing stock of affected products, which shall include, without limitation, those products located at production plants (storage and assemblies in process), in the spare parts warehouses, distribution networks and on vehicles (including those awaiting delivery). (iii) The establishment by the parties of a rework process for correction and/or replacement of products on vehicles delivered to customers.

13.2 Supplier shall, at WABCO's option, either repair or replace the related products, and reimburse WABCO for any costs, expenses or damages.

13.3 Supplier shall provide immediate written notice to WABCO in the event Supplier becomes aware that any products sold to WABCO are or may be defective. To the extent that a recall or field campaign is required or likely to be a result of such defective products, WABCO shall be entitled to participate in all communications involving Supplier in this respect and may, if it so elects, take control of the defense, investigation and settlement of such field campaign or recall.

### **14. INDEMNITY**

14.1 To the extent permissible under applicable law, the Supplier shall fully defend, indemnify, hold harmless and reimburse WABCO, its officers, directors, shareholders, affiliates, subsidiaries, employees, customers, agents and assigns from and against all liabilities (which include, without limitation, loss of profit, loss of business, depletion of goodwill and like loss), losses, damages, claims, suits, actions, proceedings, costs and expenses awarded against or incurred or paid by WABCO as a result of or in connection with: (i) any breach of any representation, warranty, certification, covenant or agreement made by Supplier in the Agreement, including these Conditions; (ii) any violation of law by Supplier, its employees, agents, affiliates, contractors or subcontractors; (iii) 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; and (iii) any claim made against WABCO in respect of any liability,

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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 Agreement or these Conditions (e.g. any claim against WABCO in connection with a recall or field campaign caused by defective products or the replacement of such defective products or the consequences of defective products to other parts or to individuals).

14.2 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.

## 15. FORCE MAJEURE

15.1 Neither party is liable for any breach of the Agreement when such breach results from events such as war, flood, fire, earthquake and other natural disasters, riots, changes to applicable legislation, or power failures, provided such event or breach (a) could not reasonably be prevented by that party, (b) does not simply render performance of that party's obligation more difficult or more expensive, but makes it temporarily or permanently impossible to perform that party's obligations under the Agreement, and (c) is not the direct result of action or inaction of that party (collectively, "Force Majeure Event").

15.2 If a party is or has reason to believe that it will be affected by a Force Majeure Event, that party shall immediately (a) notify the other party (b) describe such Force Majeure Event in detail, (c) inform the other party of any relevant element capable of allowing the precise identification of the Force Majeure Event, and (d) determine and inform the other party about the effects of the Force Majeure Event as to performance of the party's obligations. A party failing to its obligations under this section may not invoke a Force Majeure Event.

15.3 The obligations of the party invoking a Force Majeure Event shall be suspended as long as such obligations 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.

15.4 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.

15.5 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.





15.6 A Force Majeure Event may not give rise to a claim for damages.

## 16. INSURANCE

16.1 Supplier shall provide and maintain throughout the term of the Agreement a product civil liability insurance policy in an amount sufficient to cover 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. All insurances required above will be written with insurers rated A or better by the latest "A.M. Best" Guide or an equivalent rating from S&P, Moody's or Fitch. Supplier shall provide to WABCO at least thirty (30) days' notice prior to cancellation or termination of any of the insurances. The insurance coverages under this section shall be independent of the indemnity obligations of these Conditions, and are not designed solely to guarantee payment of Supplier's indemnity obligations. Supplier's insurance coverage will not be WABCO's exclusive remedy; instead WABCO will be entitled to all remedies available to it under equity or the law. No insurance will be deemed to be in effect until satisfactory certificates thereof are delivered to WABCO. Supplier will also require insurance from all of its subcontractors with at least the same coverages and limits.

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

## 17. INTELLECTUAL PROPERTY

17.1 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 WABCO's business or its products which the Supplier may obtain (collectively, "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.

17.2 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.



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

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

17.5 If any product, service, or part thereof is held to constitute an infringement, Supplier will, at its expense, obtain for WABCO a license to use the item or service, or replace or modify the same, in a manner satisfactory to WABCO, so as to avoid the infringement. Supplier shall not assert any of its patents or other intellectual property rights against WABCO or WABCO's affiliates or customers worldwide in connection with any use of products or services provided to WABCO in the production, use, preparation, sale, or delivery of, or other action with respect to, the products or services of WABCO or WABCO's affiliates or customers.

## **18. CONFIDENTIALITY**

18.1 The following provisions of this section apply unless the parties have entered into a separate written agreement with respect to non-disclosure and confidentiality of Confidential Information ("NDA") signed by an authorized signatory of WABCO; in the event of ambiguity or conflict between the following provisions and such NDA the NDA has precedence.

18.2 Supplier shall (a) treat all technical information, samples, documents, ideas, know-how, trade and commercial and other information supplied or made accessible by WABCO or an affiliated company of WABCO, whether disclosed orally, in documentary form, by demonstration or otherwise, (collectively, "Confidential Information") as confidential, (b) keep Confidential Information in safe custody, and prevent unauthorized persons from gaining access to the Confidential Information by taking, at a minimum, such precautions and making such arrangements as Supplier would take and make with regard to the Supplier's own confidential information, including without limitation, inform persons concerned in the use of the Confidential Information of the confidential nature of the Confidential Information, prohibit taking copies of any of it except as reasonably required for performance of Supplier's obligations under the Agreement, (c) not use Confidential Information except for the performance of its obligation under the Agreement, in particular, not to use Confidential Information for its own or for foreign purposes; (d) not disclose Confidential Information to any person who is not directly concerned in the performance of its obligations under the Agreement, (e) not disclose Confidential Information to any third party without WABCO's prior written consent (collectively, "Confidentiality Obligations").

18.3 The Confidentiality Obligations do not apply to any Confidential Information which Supplier can prove (a) is already known to the Supplier at the date it was disclosed by WABCO, (b) is disclosed to the Supplier without restrictions on use or disclosure by a third party whose direct or indirect source is not WABCO, (c) is or becomes generally known or freely available to the public other than through a breach

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by the Supplier of its obligations hereunder, or (d) is independently developed by the Supplier. If only a portion of the Confidential Information falls within any one of these exemptions, the remainder shall continue to be subject to the confidentiality obligations.

18.4 Upon receipt of a written request from WABCO for return of Confidential Information, the Supplier shall promptly return to WABCO or destroy all of WABCO's Confidential Information disclosed to Supplier under this Agreement, including but not limited to all copies, reproductions, summaries, analyses or extracts of the Confidential Information or based thereon. Supplier shall confirm and certify that the Confidential Information were returned or destroyed. Supplier may retain one archival copy of any Confidential Information returned or destroyed under this Agreement in the files of its lawyers or legal department for dispute resolution purposes only.

18.5 The Confidentiality Obligations shall apply for the term of the Agreement and a period of additional five (5) years after the end of the Agreement.

## 19. TOOLING

19.1 All rights, titles and interests in all tooling, and any documentation, drawings or specifications related to such tooling, raw materials and work in progress shall pass to WABCO with payment of the tooling.

19.2 The Supplier shall prominently mark the tooling in a clearly visible manner as the property of WABCO, including the labeling "WABCO", the WABCO asset number and the WABCO part number. Supplier may not omit such markings without WABCO's prior consent in writing.

19.3 Supplier shall store the tooling separate from Supplier's or any third party's property, and ensure that the tooling does not become subject to any liens or other claims. Supplier shall permit WABCO, to verify, during normal working hours, the keeping and proper usage of the tooling.

19.4 Without prejudice to its other rights, WABCO is entitled to remove the tooling at WABCO's own expense from Supplier's premises at any time without any prior notice.

19.5 The Supplier shall use the tooling exclusively for the manufacture of products to be supplied to WABCO, and shall not be entitled to use such tooling, directly or indirectly, for any third party nor for any other purpose nor move it outside the production plant of the Supplier without first obtaining the prior written consent of WABCO.

19.6 Supplier shall use or handle the tooling with due care and properly store, maintain, repair or replace the tool at Supplier's own expense until the end of the service life defined by the manufacturer of the tooling. Supplier, at its expense, shall insure the tooling against fire damage, theft, and damage.

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19.7 For a period of twenty-four (24) months after the Supplier has last used the tooling to produce a product, the Supplier shall store and maintain the tooling at Supplier's costs. At the end of the period, the Supplier shall promptly notify WABCO of the expiry of storage and maintenance period, and return the tooling to WABCO at Supplier's own cost. Supplier shall not, destroy or otherwise utilize the tooling for other applications without first obtaining prior written consent of WABCO.

## 20. TERMINATION

20.1 WABCO shall have the right to terminate the Agreement, in whole or in part and with or without cause, 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.

20.2 Without prejudice to its rights or remedies under the Agreement, 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: 20.2.1 The Supplier commits a material breach of its obligations under the Agreement, including, without limitation, its obligations under sections 17, 18, 24, 25, 26 of these Conditions; 20.2.2 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. 20.2.3 The Supplier is subject to winding up, bankruptcy proceedings or any other proceedings having a similar effect. 20.2.4 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 the intellectual property and confidentiality provisions contained in these Conditions.

20.3 On completion or termination of the contractual relationship, howsoever arising, the Supplier shall immediately return all Confidential Information and all other records, papers, materials, media and other property of WABCO which is in its possession.

## 21. REMEDIES

21.1 Without prejudice to any right or remedy which WABCO may have pursuant to these Conditions or applicable law, if any products are not supplied in accordance with, or the Supplier otherwise 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: 21.1.1 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; 21.1.2 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; 21.1.3 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; 21.1.4 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 3.2 hereof); 21.1.5 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.

## **22. SUB-CONTRACTING – ASSIGNMENT - CHANGE OF CONTROL**

22.1 The Supplier may not sub-contract its obligations hereunder without the prior written consent of WABCO. In the case of authorized sub-contracting, the Supplier shall remain wholly liable to WABCO.

22.2 The obligations of the Supplier under the Agreement 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.

22.3 Should the equity interests or substantially all of the assets of Supplier be sold or should there be a change in the direct or indirect control of the Supplier, the Supplier undertakes to immediately inform WABCO thereof which may, at the discretion of WABCO, legally terminate the contractual relationship with the Supplier without notice.

## **23. LAW AND JURISDICTION**

The Agreement shall be governed by the laws of Belgium notwithstanding any choice of law provisions. The application of the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is specifically excluded by the parties. Any disputes arising between the parties shall be submitted to the exclusive jurisdiction of the Commercial Court of Brussels, Belgium.

## **24. CONFLICT MINERALS TERMS AND CONDITIONS**

24.1 The Supplier represents and warrants that it is in full compliance with conflict minerals laws, including, without limitation, Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 as it may be amended from time to time and any regulations, rules, decisions or orders relating thereto adopted by the Securities and Exchange Commission or successor governmental agency responsible for adopting regulations relating thereto (collectively, "Dodd-Frank Section 1502").

24.2 The Supplier warrants that all products supplied to WABCO are conflict free, in accordance with the WABCO Conflict Minerals Policy Statement [www.wabco-auto.com/de/suppliers/lieferanteninformation/conflicts-mineral-policy/](http://www.wabco-auto.com/de/suppliers/lieferanteninformation/conflicts-mineral-policy/).



24.3 The Supplier shall disclose to WABCO, upon WABCO's request, the original source of all conflict minerals contained in the products. If the Supplier does not know the original source of the minerals, the Supplier shall cooperate with WABCO and shall disclose from whom it purchased the minerals and urge others to disclose such information, so that the original source of minerals can be accurately determined and reported.

24.4 The Supplier shall complete a conflict minerals disclosure report using the EICC-GeSI template (available at: [www.responsiblemineralsinitiative.org/conflict-minerals-reporting-template/](http://www.responsiblemineralsinitiative.org/conflict-minerals-reporting-template/)) on an annual basis, returning the completed report to WABCO at [conflictminerals@wabco-auto.com](mailto:conflictminerals@wabco-auto.com) by October 31 each year.

24.5 Without any further consideration, the Supplier shall provide such further cooperation as WABCO may reasonably require in order to meet any obligations it may have under conflict minerals laws, including, without limitation, under Dodd-Frank Section 1502.

## **25. CALIFORNIA'S PROPOSITION 65 (SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT)**

25.1 To the extent any products are manufactured in, or are intended to be imported into, the United States of America, the Supplier represents and warrants that it is in full compliance with California's Proposition 65 (<https://www.p65warnings.ca.gov/>).

25.2 The Supplier warrants that all products supplied to WABCO are properly placed with the applicable warning labels as required in the regulation.

## **26. COMPLIANCE**

26.1 The Supplier shall comply with the WABCO Code of Conduct, a copy of which WABCO has made available for download at <https://www.wabco-auto.com/suppliers/suppliers-information/code-of-conduct/> and which is included herein by reference.

26.2 The Supplier warrants that it has no public, governmental or regulatory authority officials as direct or indirect owners, officers or employees at the date of this Agreement. The Supplier shall immediately notify WABCO in writing if a public, governmental or regulatory authority official becomes an officer or employee of it or a public, governmental or regulatory authority or its official acquires a direct or indirect interest in it.

26.3 The Supplier shall ensure that any third party or entity associated with it who is providing goods or services in connection with any agreement concluded between WABCO and Supplier does so only on the basis of a written contract which imposes on and secures from such third party or entity terms equivalent to terms applicable for Supplier. The Supplier shall be responsible for the observance and performance by such third parties or entities.

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26.4 Each party, when processing personal data under or in connection with the Agreement (collectively, "Personal Data"), determines alone and not jointly with the other party the purposes and the means of such processing. Each party shall therefore act as a separate data controller. When processing Personal Data, each party shall comply with its obligations under applicable data protection legislation. Supplier acknowledges and agrees that WABCO may process Personal Data of Supplier and its representatives, including name, address, telephone number, email address, credit card and transaction details, for account and order processing, communication and payment purposes (collectively, "Purposes"). Supplier warrants and represents that (a) the Personal Data is collected by Supplier and provided to WABCO in accordance with applicable data protection legislation, (b) it will not do or omit to do anything which may cause WABCO to be in breach of applicable data protection legislation when processing Personal Data, and (c) the persons whose Personal Data are provided by or on behalf of Supplier to WABCO have been informed of, and if required, have given valid consent to the processing of their Personal Data by WABCO for the Purposes. Each party shall, in relation to the Personal Data, provide reasonable assistance, information and co-operation to the other Party in respect of data protection matters, including (without limitation) in respect of (a) any claim or exercise of purported exercise of rights by a data subject or any investigation or enforcement activity by a regulator relating to or connected with the other party's processing of Personal Data, and (b) any actual, potential or attempted personal data breach.

## **27. GLOBAL SOURCING C-TPAT.**

To the extent any products are to be imported into the United States of America, Supplier shall comply with all applicable recommendations or requirements of the United States Bureau of Customs and Border Protection's Customers-Trade Partnership Against Terrorism ("C-TPAT") initiative. Upon request, Supplier shall certify in writing its compliance with the C-TPAT initiative.

## **28. SEVERABILITY.**

If any provision of the Agreement is or becomes invalid or unenforceable, that provision (to the extent invalid or unenforceable) shall be deemed amended or reformed to the extent required to render it valid and enforceable, and the remainder of the Agreement shall be unaffected and shall continue in effect.

## **29. REGIONAL PROVISIONS**

29.1 The following provisions in this section apply when WABCO is established in the designated country; in the event of ambiguity or conflict between the following provisions and any other provision of these Conditions the following provisions have precedence.

### **29.2 BRAZIL**

29.2.1 The following provision is intended to replace current Section 23 in its entirety:



**23. LAW AND JURISDICTION.** The Agreement shall be governed by the laws of Brazil notwithstanding any choice of law provisions. Any disputes arising between the parties shall be submitted to the exclusive jurisdiction of the Civil Court of Sumaré/São Paulo, Brazil.

### **29.3 CHINA**

29.3.1 The following provision is intended to replace current Section 23 in its entirety:

#### **23. LAW AND JURISDICTION.**

The Agreement shall be governed by the laws of People's Republic of China notwithstanding any choice of law provisions. The application of the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is specifically excluded by the parties. Any disputes arising between the parties shall be submitted to the exclusive jurisdiction of the China International Economic and Trade Arbitration Commission for arbitration in accordance with its then valid rules. The arbitral decision shall be final and binding on both parties to the dispute. The defeated party shall bear all arbitration fees and reasonable legal fees incurred by the prevailing party.

### **29.4 INDIA**

29.4.1 The following provision is intended to replace current Section 23 in its entirety:

#### **23. LAW AND JURISDICTION.**

The Agreement shall be governed by the laws of India notwithstanding any choice of law provisions. The application of the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is specifically excluded by the parties. Any disputes arising between the parties shall be submitted to the exclusive jurisdiction of the Commercial Court of Chennai, Tamil Nadu, India.

### **29.5 NORTH AMERICA**

29.5.1 The following provision is intended to replace current Section 4.3 in its entirety: 4.3 The Supplier shall provide WABCO: (a) with all material safety data sheet information for any product containing toxic or other hazardous materials which may impact 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 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 (b) written notice of the description of any products which are perishable or of limited lifespan and of any circumstances which may adversely affect the lifespan of such products.

29.5.2 The following provision is intended to replace current Section 14.1 in its entirety:



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14.1 Supplier shall fully defend, indemnify, hold harmless and reimburse WABCO, its officers, directors, shareholders, affiliates, subsidiaries, employees, customers, agents and assigns from and against all liabilities (which include, without limitation, loss of profit, loss of business, depletion of goodwill and like loss), losses, damages, claims, suits, actions, proceedings, costs and expenses awarded against or incurred or paid by WABCO as a result of or in connection with: (i) any breach of any representation, warranty, certification, covenant or agreement made by Supplier in the Agreement, including these Conditions; (ii) any violation of law by Supplier, its employees, agents, affiliates, contractors or subcontractors; (iii) 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; and (iv) 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 Agreement or these Conditions (e.g. any claim against WABCO in connection with a recall or field campaign caused by defective products or the replacement of such defective products or the consequences of defective products to other parts or to individuals).

29.5.3 The following provision is intended to replace current Section 16.1 in its entirety: 16.1 Supplier shall provide and maintain throughout the term of the Agreement the following insurance: 1) Workers Compensation Insurance or approved self-insurance for statutory requirements in the states of operation; 2) Employers Liability and/or umbrella insurance with limits of not less than \$5,000,000 each accident for bodily injury by accident or disease; 3) Commercial General Liability including products/completed operations, and if necessary, commercial umbrella insurance with a limit of not less than \$5,000,000 each occurrence and general aggregate and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury, advertising injury and liability assumed under contract.; 4) Automobile Liability and if necessary, commercial umbrella insurance with a limit of not less than \$5,000,000 each accident for bodily injury and property damage combined, covering all owned, hired and non-owned automobiles and including contractual liability coverage. All insurance required above will be written with insurers rated A or better by the latest A.M. Best Guide. Where allowable under law, a waiver of subrogation from Supplier (including affiliates, directors and officers) and its insurers will be provided in favor of WABCO. If applicable, all policies, with the exception of Workers Compensation, will identify WABCO as an additional insured and require that the WABCO receive at least thirty (30) days' notice prior to cancellation or termination. Supplier's insurance will be primary and noncontributory to that maintained by WABCO. Such insurance shall not be subject to any self-insured retentions without the prior written consent of WABCO. All self-insured retentions and deductibles for such insurance shall be the responsibility of Supplier. The insurance coverages under this section, including, without limitation,



the additional insured coverage provided to WABCO, shall be independent of the indemnity obligations of these Conditions, and are not designed solely to guarantee payment of Supplier's indemnity obligations. Supplier's insurance coverage will not be WABCO's exclusive remedy; instead WABCO will be entitled to all remedies available to it under equity or the law. No insurance will be deemed to be in effect until satisfactory certificates thereof are delivered to WABCO, containing provisions requiring the insurance carrier to notify WABCO at least thirty (30) days prior to any expiration or termination of, or material change to, the policy. Supplier will also require insurance from all of its subcontractors with the same coverages and limits.

29.5.4 A new subsection shall be added to Section 21.1 to read as follows: 21.1.6 To seek specific performance by, or to obtain injunctive relief against Supplier, without any bond or other security being required and in addition to whatever other remedies are or might be available at law or in equity.

29.5.5 The following provision is intended to replace current Section 23 in its entirety:

### **23. LAW AND JURISDICTION.**

The agreement shall be governed by the laws of the State in which the applicable WABCO entity is located notwithstanding any choice of law provisions. The application of the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is specifically excluded by the parties. Any disputes arising between the parties shall be submitted to the exclusive jurisdiction of the state and federal courts of the State in which the applicable WABCO entity is located.

29.5.6 The following new sections shall be added:

#### **29.5.6.1 ACCESS AND AUDIT.**

In order to assess Supplier's work quality and compliance with the Agreement, Supplier will permit WABCO reasonable access to (i) all locations where work is performed in connection with the products or services provided for in the Agreement, and (ii) Supplier's books and records relating to the Agreement.

29.5.6.2 **COMPLIANCE WITH LAWS.** General. All products supplied to WABCO shall comply with, and Supplier agrees to be bound by, all applicable foreign, United States federal, state and local laws, orders, rules, regulations, guidelines, standards, limitations, controls, prohibitions, or other requirements contained in, issued under, or adopted pursuant to such laws, including, without limitation, product content and labeling, including, without limitation, the U.S. Toxic Substances Control Act, California's Proposition 65 and applicable RoHS and REACH regulations, anti-bribery, and anti-corruption laws. Supplier further agrees that neither it nor any of its subcontractors will utilize child, slave, prisoner or any other form of forced or involuntary labor, or engage in abusive employment or corrupt business practices, in the production or provision of products. Delivery of any products shall constitute Supplier's



representation to WABCO that there has been and will be full compliance with all applicable laws and, at WABCO's request, Supplier shall certify in writing its compliance. Supplier shall also comply with all applicable environmental laws and regulations, and WABCO's corporate responsibility guidelines set forth on WABCO's website at <https://www.wabco-auto.com/suppliers/suppliers-information/>, as it may be amended by WABCO from time to time. THESE COMPLIANCE GUIDELINES ARE INCORPORATED HEREIN BY REFERENCE.

29.5.6.3 Equal Employment Opportunity. If applicable, Supplier shall comply with all Federal equal employment opportunity obligations under 41 CFR 60- 1.4(a), 60-300.5 (a), 60-741.5(a) and federal labor law obligations under 29 CFR part 471, appendix A to subpart A. THE FOLLOWING PROVISIONS ARE INCORPORATED HEREIN BY REFERENCE: Executive Order 11246 and 41 CFR § 60-4.3(a); Executive Order 11701 and 41 CFR §§ 60-250.5(a), 60-300.5; Executive Order 11758 and 41 CFR § 60-741.5(a); U.S. immigration laws, including the L-1 Visa Reform Act of 2004 and the H-1B Visa Reform Act of 2004; and Executive Order 13496.

29.5.6.4 If applicable, Supplier shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

29.5.6.5 If applicable, Supplier represents that, by acceptance of a purchase order, it is and shall continue to be, in full compliance with all applicable Executive Orders, including the Executive Order, Section 503, VEVRAA, federal laws, rules and regulations, all as from time to time amended, relating to nondiscrimination and equal employment opportunity, and that the following laws, orders and regulations are hereby incorporated by reference: The Executive Order, Section 503, VEVRAA,; Minority Business Enterprises Clause requirements of E.O. 11625 (41 CFR Part 1); the Union Dues Clause prescribed by E.O. 13201 (29 CFR Part 470), the Lilly Ledbetter Fair Pay Act of 2009, and the Employee Notice Clause requirements prescribed by E.O. 13496 (24 CFR Part 471, Appendix A to Subpart A).

29.5.6.6 If applicable, Supplier agrees to comply with all applicable rules and regulations of the Federal Acquisition Regulation (including The Federal Acquisition Regulations System, collectively the "FAR"), the Department Of Defense Federal Acquisition Regulation Supplement (collectively "DFARS"), and all other applicable rules and regulations there under, including, without limitation, Clause 252.225-7014, Preference For Domestic Specialty Metals and Its Alternate I, Protection Of Strategic Materials Critical To National Security, 10 USC 2533b and Combating Trafficking In Persons (Feb 2009), Clause 52.222-50, Executive Order 13267. Supplier further covenants and agrees that the materials and all other products,

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services and information it delivers to buyer hereunder, to the extent applicable, will be in compliance with the FAR, DFARS, and all other related rules and regulations in all respects, and the incorporation of such products, services, and/or information into products, services, or information of buyer will not cause such items (or buyer's products, services, or information) to be non-compliant.

**29.5.6.7 CERTIFICATE OF ORIGIN.** Supplier will provide a Certificate of Origin for the products. If the products qualify for preferential treatment under the US–Mexico-Canada Trade Agreement (“USMCA”), Supplier will supply to WABCO a Certificate of Origin, United States Customs Form 434, as well as any additional documentation required to certify the origin of the products as required by United State Customs law, USMCA, or any other applicable treaty or agreement. Supplier will promptly reimburse WABCO for any amounts paid as duty caused by Supplier's failure to provide to WABCO a Certificate of Origin as required by this section.