

PSS General Purchasing Terms and Conditions



Document history

Version	Date	Change / Reason
01	08.01.2019	Release Version October 2017.
02		
03		

1. Definitions

Capitalized terms used in this Agreement have the meanings set forth in this Section 1 or elsewhere in this Agreement.

In this Agreement "include" or "including" means "including but not limited to".

Affiliate(s)	Means any entity which directly or indirectly, controls, is controlled by, or is under common control with a Party, where "control" means ownership of at least fifty percent (50%) of the outstanding shares or securities (representing the right to vote for the election of directors or other managing authority).
Agreement	Means these General Purchasing Terms and Conditions
Audit	Means the auditing of the contractually owed actions of Supplier
Auditor	Means the person or group of persons that is named by PSS or its Customer at its discretion and that undertakes the Audit.
Background IP Rights	Means all Intellectual Property Rights owned or licensed by a Party (i) before commencing any services or development work in connection with the Contract; or (ii) independent of the Contract, as evidenced by contemporaneous, written records.
Contract	Means the entirety of all contractual documents that are listed in Section 3.1.
Cost Recovery Policy	Means a policy that includes cost recovery principles and parameters that will be applied in case PSS suffers costs, expenses, damages or losses arising out of quality or logistics issues that are due to Supplier's acts or omissions.
Customer(s)	Means the automobile manufacturer and/or consumer products manufacturer to which PSS directly or indirectly delivers Customer Products.
Customer Products	Means PSS's products, in which the Products are included
Defect(s)	Means, with respect to the Products, failure to meet: (i) the specifications; or (ii) the warranties and requirements of the Contract
Developed IP Rights	Means any Intellectual Property Rights, except Background IP Rights (i) that are developed in whole or in part by PSS alone, by PSS and Supplier jointly or by Supplier alone, in connection with the Contract or (ii) relating to the Products
Effective Date	Means _____ or, if no date is listed here, the earlier of 16 October 2017 or the issue date of the Purchase Order to which this Agreement is attached.
Force Majeure	Means all events which are beyond the reasonable control of a Party, and which are unforeseen, unavoidable or insurmountable and which were not known at the acceptance of the Purchase Order, including, fires, floods, earthquakes, riots, storms or acts of civil or military authority. For avoidance of doubt, strikes, lock-outs or other industrial actions or disputes solely related to Supplier and/or its subcontractors or Affiliates shall not be deemed as Force Majeure
Intellectual Property Rights	Means collectively all rights in inventions, patents and patent applications (including reissues, divisions, continuations, and continuations-in-part and foreign counterparts), trade secrets, know-how, copyrights, mask-work, and all other intellectual property rights anywhere in the world
Invoice	Means a commercial Invoice that entitles input tax deduction and contains all of the information necessary for identification and checking of the relevant delivery of the Products
Letter of Nomination (LON)	Means a contract issued by PSS that contains substantial contractual content with respect to the delivery of Products by Supplier. Unless explicitly stated in writing by PSS, the LON prevails over any other contractual documents that form the Contract, should any discrepancies arise between the contractual documents.
Other Conditions	Means any terms and conditions, including Supplier Tooling Agreement, PSS's Supplier Requirements Manual and PSS's Supplier Code of Conduct, defined by PSS outside of Letter of Nomination, Purchase Orders, and this Agreement, that govern the Contract and/or the business relationship between PSS and Supplier

Order Confirmation	Means a copy or separate confirmation of the Purchase Order signed by the Supplier
Party/Parties	Means PSS and/or Supplier, together or each individually
Personnel	Means all employees and agents of Supplier and its subcontractors and agents
Premium Sound Solutions	Means PSS BELGIUM NV and all of its subsidiaries and Affiliates
Product(s)	Means all goods, products, services, equipment, or materials specified in a Purchase Order.
PSS	Means PSS BELGIUM NV and all of its subsidiaries and Affiliates
PSS BELGIUM NV	Means the Company incorporated under the laws of Belgium, having its principal place of business at Belgium, 9200 Dendermonde, Hoogveld 50, registered under Companies Register Ghent (section Dendermonde) number 0884.161.532, acting in its own name and in name and on behalf of all its subsidiaries and Affiliates, hereinafter referred to as PSS
Purchase Order	Means documents issued by PSS to Supplier, by means of which PSS orders Products to Supplier
Supplier	Means the Party to the Contract and/or its Affiliates that sells or will sell Products to PSS
Supplier Code of Conduct	Means a set of workplace and business practice standards that PSS requires its Suppliers to strictly comply with under the Contract
Supplier Requirements Manual	Means PSS's manual of quality and logistics principles and requirements that Supplier has to fully comply with under the Contract.
Tooling	Means tooling, jigs, dies, gauges, fixtures, molds, patterns or any other equipment used by Supplier to manufacture, store or transport Products.
Warranty Period	Means the longer of (i) 36 months from the date the Product is delivered by Supplier to PSS or (ii) any warranty period defined by Customer for the applicable Customer Products.

2. Scope

This Agreement applies to the purchase of Products by PSS from Supplier and governs the whole business relationship between PSS and Supplier. Terms in any Invoice, Order Confirmation and any other modifications, counterproposals, or counteroffers proposed by Supplier are expressly rejected.

3. The Contract

3.1 The Contract consists of the following documents: (i) Letter of Nomination, (ii) Purchase Order(s), (iii) Other Conditions, and (iv) this Agreement. In the event of conflicts between aforementioned documents of the Contract, the priority of the documents shall be determined according to the foregoing sequence.

3.2 The Contract represents all of the agreements between the Parties and shall have priority over all prior, express or implied, written or verbal, assurances and/or agreements.

3.3 Upon Supplier's acceptance, the terms of the relevant Purchase Order, together with the terms in the other Contract documents, will become a binding Contract between PSS and Supplier. Acceptance is expressly limited to the terms provided by the Contract.

3.4 Amendments of the Contract must be in writing and must be validly signed by the Parties.

4. Ordering

4.1 Requirements

4.1.1 PSS shall from time to time issue Purchase Orders to Supplier. Supplier will respond to PSS within 3 business days from the issue date of a Purchase Order.

4.1.2 Supplier accepts Purchase Orders by sending an Order Confirmation to PSS by e-mail or written confirmation within 3 business days from the issue date of the Purchase Order. If the issue date of the Purchase Order is not determinable, the date mentioned in the Purchase Order will be considered the issue date.

4.1.3 Supplier will fulfill Purchase Orders according to the quantities and delivery dates stated in the Purchase Order. If Supplier cannot meet the terms set forth in a Purchase Order, Supplier will inform PSS and propose alternative terms within 3 business days from the issue date of the Purchase Order. If PSS accepts such alternative terms, PSS shall issue a revised Purchase Order including the alternative terms. Alternative terms, including any terms and conditions on or referenced in such acknowledgement that vary from or add to this

Agreement, the Purchase Order, or any other contractual document, are expressly rejected unless incorporated into a Purchase Order.

4.1.4 If Supplier does not send an Order Confirmation according to this Section 4.1 or if Supplier executes a Purchase Order in whole or in part, Supplier is deemed to have accepted the Purchase Order.

4.2 Rescheduling and Cancellation

PSS shall be entitled to reschedule or cancel Purchase Orders in writing without a statement of grounds and without any liability at any time prior to receipt of an Order Confirmation.

5. Service Parts

5.1 Supply Obligation

Supplier will accept and fulfill Purchase Orders for Products to support PSS's ability to replace or repair Products ("Service Parts") after they have been sold to PSS for at least 15 years after the end of the serial production period of the Products ("End of Life"). If PSS has a legal or contractual obligation to make the Service Parts available for a longer period, PSS will so advise Supplier and Supplier will supply the Service Parts for this longer time period. To ensure that Supplier is able to provide Service Parts for the requested period, Supplier will maintain the Tooling and an adequate stock of materials and supplies needed to produce Service Parts. The terms and conditions of this Agreement will govern all purchases of Service Parts. There will be no minimum order quantities for Service Parts.

5.2 Price

Unless otherwise agreed to by PSS, the price of Service Parts will be identical to the price defined in the last Purchase Order accepted during the serial production period of the applicable Product.

5.3 End of Life

Supplier must give PSS at least 12 months prior written notice to discontinue production of a Product. PSS may place Purchase Orders for discontinued Products until the end of the 12 month notice period and the last delivery date for discontinued Products may be up to 12 months after the end of the 12 month notice period. Supplier will assist PSS to implement a plan for transition of supply to a new Product without disrupting PSS's production and supply processes, including providing samples of the new Product when available.

6. Changes

6.1 Supplier will not make any change to the Products, its manufacturing process, or its suppliers except as requested or instructed by PSS in writing. Supplier is committed to working with PSS to improve quality and reduce costs of the Products. As such, If Supplier learns of a possible change that may reduce costs, improve quality or otherwise be beneficial to PSS, Supplier will inform PSS of the possible change. PSS's prior written consent is required for any change to the cost or timing of Products.

6.2 PSS shall be entitled to demand changes to Products at any time. Supplier shall be required to promptly review the feasibility and the technical and commercial effects of the changes and transmit a written offer to PSS concerning implementation of the changes. The offer must contain a detailed description of the effects of the changes (particularly with respect to the safety and quality of the Products, the costs, and the delivery dates) and the necessary documentation.

6.3 If PSS accepts Supplier's offer, the Parties shall undertake all necessary adjustments in writing prior to implementation of the changes. This shall apply, in particular, to the adjustment of technical specifications, drawings, remuneration, delivery dates and delivery locations.

6.4 If the Parties do not reach an agreement with respect to all requested changes, PSS shall be entitled to either:

- engage a third party to implement the changes. In such case, Supplier promises to deliver to PSS all drawings, technical specifications and other documents that are necessary to the planning and implementation of the changes. If not already compensated within the framework of the remuneration for the Products, Supplier can demand reasonable remuneration for the use of the aforementioned documents following their delivery; or
- terminate the Contract in whole or in part.

7. Delivery

7.1 General

7.1.1 Time is of the essence, and all Product deliveries must be made both in quantities and at times specified in the Contract.

7.1.2 Supplier will strictly comply, in all respects, with PSS's shipping conditions defined in the Contract, including the provisions of PSS's Supplier Requirements Manual, which form an integral part of the Contract and govern this Agreement.

7.2 Delivery Terms

Unless otherwise defined in the applicable Purchase Order, Products shall be delivered per "DDP, designated destination, Incoterms 2010". Time and destination of delivery shall be stated in the applicable Purchase Order.

7.3 Packaging and labeling

Supplier ensures that all Products will be labeled and packaged in suitable containers according to PSS's labeling and packaging specifications, which are defined in PSS's Supplier Requirements Manual, such that the Products are not damaged during transport, loading processes, or storage.

7.4 Transfer of Ownership

7.4.1 Ownership of Products shall pass to PSS upon acceptance or, as the case may be, delivery of the Products at the designated destination.

7.4.2 If Supplier holds Products in custody for PSS following their creation or purchase, Supplier shall store the Products safely and label them clearly as the property of PSS. Supplier guarantees it shall use the Products solely for the purpose of delivering additional Products to PSS.

7.4.3 Supplier shall not be entitled to reserve ownership of a Product without the express consent of PSS. Supplier shall promptly inform PSS, should any of Supplier's suppliers or subcontractors reserve ownership of Products or components of the Products.

7.5 Transfer of Risk

Unless otherwise agreed between the Parties in writing, the time at which the risk of damage to or loss of the Products shall pass to PSS, shall be in accordance with the agreed delivery term according to the meaning set forth by Incoterms 2010.

7.6 Early Delivery, Excess Contractual Product and Late Delivery

7.6.1 Early delivery of Products shall require prior written approval of PSS. In the absence of such written approval, PSS may refuse any early delivery and Supplier will re-deliver the Products on the correct date at Supplier's expense. PSS may return to Supplier, at Supplier's expense, any quantity of Products in excess of that specified in the applicable Purchase Order.

7.6.2 Supplier will promptly notify PSS in writing of any possible delay in the delivery of Products. If shipment of Products is late, PSS may, at its option: (i) require Supplier to, at Supplier's expense, use best efforts to expedite performance or delivery of the delayed Products; (ii) if PSS concludes in its reasonable discretion that other remedies are insufficient, cancel, without any liability, all Purchase Orders or portions of Purchase Orders for late Products not yet delivered; or (iii) if PSS concludes in its reasonable discretion that other remedies are insufficient, cover for late Products by sourcing products from another supplier, with all substitute purchases counting toward satisfaction of any purchase commitment or volume-based threshold for purposes of volume pricing or other terms or conditions dependent on volume.

7.6.3 If PSS concludes in its reasonable discretion that the remedies in Section 7.6.2 are insufficient for any late delivery, then, upon PSS's request, Supplier will pay PSS an amount equal to the total last transacted price for each Product not delivered. These amounts will be due 30 calendar days from the date of PSS's Invoice. At its option, PSS may elect to exercise all other remedies provided at law, in equity and in the Contract, in lieu of liquidated damages.

7.6.4 Supplier is aware that substantial damage may arise, if the Products are not delivered or, as the case may be, delivered within the defined time periods. Therefore, Supplier shall, in addition to the remedies described in Sections 7.6.1, 7.6.2 and 7.6.3, be liable for and defend, indemnify and hold harmless PSS from and against any and all liabilities, damages, losses, costs, expenses (including reasonable attorneys' fees and other expenses of litigation and arbitration), claims, demands, suits, penalties, judgments or administrative or judicial orders incurred by PSS as a result

of early or late deliveries, or excess Products. Aforementioned liabilities include costs and expenses as defined in PSS'

Cost Recovery Policy, which is included in this Agreement by reference and will be updated from time to time.

8. Quality Assurance

8.1 Supplier acknowledges that quality is of critical importance in Supplier's performance under the Contract and shall therefore strictly comply with all terms and conditions of PSS's Supplier Requirements Manual, including quality management, quality control, complaint handling, and preventive and corrective actions.

8.2 Supplier represents and warrants that: (i) Products will be new and comprised of new materials at the time of delivery; (ii) during the Warranty Period, Products will be free from Defects in materials, workmanship, and design; (iii) during the Warranty Period, Products will perform in accordance with their specifications; (iv) during the Warranty Period, Products will be fit for the purpose for which they are intended and safe for any use that is consistent with the applicable specifications or that is reasonably foreseeable; (v) during the Warranty Period, Products comply with all applicable laws, regulations, and industry standards; and (vi) Products will be free of harmful materials, such as malware, viruses and all other malicious code, disabling code, or code that causes either the Product or any product into which the Product is incorporated to perform in an unintended manner. Supplier will comply with industry standard practices regarding the detection and correction of harmful materials and will promptly notify PSS if Supplier becomes aware of harmful materials. This notice will include a description of the nature of the harmful materials, an analysis of the threats created by the harmful materials and Supplier's proposed mitigation plan.

8.3 Supplier's performance will be measured and monitored according to the principles set forth in PSS's Supplier Requirements Manual.

8.4 Supplier is aware that PSS will apply the escalation model as set forth in PSS's Supplier Requirements Manual in case Supplier fails to meet the requirements of PSS's Supplier Requirements Manual.

8.5 Supplier shall be liable for and defend, indemnify and hold harmless PSS from and against any and all liabilities, damages, losses, costs, expenses (including reasonable attorneys' fees and other expenses of litigation and arbitration), claims, demands, suits, penalties, judgments or administrative or judicial orders incurred by PSS arising out of Product Defects which are due to Supplier's acts or omissions. Aforementioned liabilities include costs and expenses as defined in PSS's Cost Recovery Policy.

9. Audits

9.1 During the Term of the Contract and for a period of one year after termination of the Contract, PSS shall be entitled to perform Audits on Supplier's premises in order to verify compliance with the Contract. PSS shall be permitted to audit and inspect all of Supplier's relevant books, records, accounts, systems, facilities, equipment, data, materials, assembly lines, processes, and procedures (and those of its subcontractors) including Supplier's quality assurance measures.

9.2 PSS shall be entitled to conduct an Audit on Supplier's premises at any time during normal working hours upon reasonable advance notification. In general, advance notification shall be deemed to be reasonable, if it is made 5 business days prior to the Audit. Audits should not unnecessarily impede Supplier's operational processes. Any cost incurred by Supplier during an Audit shall be borne by Supplier.

9.3 Supplier guarantees it will comply with all product and process Audit requirements and principles defined in PSS's Supplier Requirements Manual.

9.4 Supplier ensures to comprehensively cooperate with and assist the Auditor. In particular, Supplier shall grant the Auditor access to the production facilities and any other relevant premises and provide all requested documents and information. The Auditor shall also be entitled to take Products with him for documentation purposes.

9.5 If the Audit reveals that Supplier is not complying with the required standards, Supplier shall promptly take all necessary and reasonable measures in order to achieve the required standards. In particular, Supplier shall implement the measures defined during the Audit within the agreed upon timeframe and release a deployment action plan within 5 business days to follow up the implementation of such measures.

9.6 If Audits are conducted as a result of Product related problems (quality problems, delivery issues, etc.) for which Supplier is responsible, Supplier shall reimburse PSS for the reasonable documented costs incurred in connection with the Audit within 30 calendar days after receipt of the Invoice.

9.7 Supplier shall, at the request of PSS, actively participate at its own expense in Audits, discussions, and analyses that relate to the Products and are initiated by PSS or the Customer.

9.8 For the sake of clarification, none of PSS's rights, particularly those regarding to warranty and damage claims, shall be affected by the conduct of an Audit or by measures taken during or as a consequence of an Audit. In particular, Supplier shall be required to independently review all measures and to conduct them autonomously. Supplier agrees that PSS shall assist Supplier within the framework of Audits solely with respect to compliance with contractual duties. If Supplier desires additional information or assistance, Supplier will need to enter into a consulting contract with PSS

10. Payment

10.1 Price

The purchase price is: (a) stated in the Purchase Order and, unless expressly agreed otherwise in writing (e.g. in a Letter of Nomination), a firm fixed price for the duration of the Contract which is not subject to increase for any reason, including increased raw material costs, increased labor or other manufacturing costs, increased development costs, or changes in volumes or program length from those estimated or expected; (b) unless otherwise defined in writing, inclusive of those taxes, if any, and any duties applicable to provision of the Products; and (c) inclusive of all storage, handling, packaging, labeling, shipping and all other expenses and charges.

10.2 Invoices

10.2.1 Invoices will only be issued on or after delivery of the Products to the delivery location designated by PSS and payment will be deemed to occur upon wire transfer or commencement of other means of payment to Supplier. All invoices will be issued to PSS in strict compliance with the pricing in the Purchase Order, and in compliance with applicable tax requirements. The Supplier will pay duty if the delivery term specified in the Purchase Order requires the Supplier to pay it. Supplier will, at its expense, comply with PSS's instructions and policies with respect to the form, content and method for submission of Invoices.

10.2.2 PSS shall be entitled to return and not pay Invoices that do not conform to the foregoing requirements.

10.2.3 PSS is not required to pay any Invoice submitted more than 180 days after delivery of the Product.

10.3 Payment terms

Subject to the provisions of Sections 10.1 and 10.2, and except as otherwise provided in the Letter of Nomination or Purchase Order, PSS shall pay Supplier within 90 days end-of-month upon receipt of the Products, the Invoice and any other necessary documentation.

10.4 Right to set off

In addition to any right of setoff or recoupment provided by law or in equity, PSS will be entitled at any time to set off or recoup against sums payable by PSS to Supplier and/or Supplier's Affiliates any amounts for which PSS determines in good faith Supplier and/or Supplier's Affiliates is liable to PSS. PSS may also withhold and set off against its payment obligations under this Agreement, or require Supplier to pay to PSS within 30 calendar days of receipt of PSS's Invoice, any amounts PSS may have overpaid to Supplier in prior periods.

10.5 Taxes

The purchase price will include duty, if applicable, and tax unless otherwise specified in writing. Supplier will pay duty if the delivery term specified in the Purchase Order requires the Supplier to pay it.

11. Tooling

11.1 In the event that PSS intends to provide or has already provided Supplier with Tooling or intends to issue a Purchase Order to have Supplier fabricate and construct such Tooling, in order to assist Supplier in manufacturing Products for PSS, the Parties shall enter into a corresponding Supplier Tooling Agreement prior to the use of such Tooling by Supplier.

11.2 Supplier guarantees it will comply with the terms and conditions of such Supplier Tooling Agreement, including any provisions regarding title, maintenance and property marking of the Tooling.

12. Intellectual Property Rights

12.1 Developed IP Rights

12.1.1 PSS and Supplier will each retain ownership of any Developed IP Rights that are solely created or made by their respective employees, agents or subcontractors. PSS and Supplier will jointly own any Developed IP Rights that are jointly created or made by PSS and Supplier with the ability to grant licenses without consultation and no duty of accounting to each other for any use or purpose

12.1.2 Supplier hereby grants to PSS and causes its Affiliates and Personnel to grant to PSS, under any Developed IP Rights that Supplier and Supplier's Affiliates own or control, an irrevocable, worldwide, nonexclusive, perpetual to the maximum extent permitted by law, royalty free, fully paid-up license including the right to sublicense to make, have made, use, reproduce, modify, repair, improve, prepare derivative works of, distribute, display, perform, offer to sell, sell and import, without limitation, Products containing Supplier's Developed IP Rights.

12.2 Background IP Rights

12.2.1 PSS and Supplier will each retain ownership of their respective Background IP Rights.

12.2.2 To the extent that any of Supplier's Background IP Rights are incorporated into or embodied within the Products, or otherwise govern the manufacture, use, marketing, sale or distribution of the Products, Supplier hereby grants to PSS and causes its Affiliates and Personnel to grant to PSS an irrevocable, worldwide, nonexclusive, perpetual to the maximum extent permitted by law, royalty free, fully paid-up license including the right to sublicense, to make, have made, use, reproduce, modify, repair, improve, prepare derivative works of, distribute, display, perform, offer to sell, sell and import, without limitation, Products containing Supplier's Background IP Rights, it being understood that PSS may grant such a license with sublicense rights to, or have reproductions made by another supplier only upon written approval from Supplier or in the event of the following: (i) Supplier is unable to supply Products per the agreed delivery dates or quality requirements and is not able to remedy the issues within a commercially reasonable period of time; (ii) Supplier is unable for a period of 30 calendar days to supply Products ; (iii) Supplier becomes insolvent, has a receiver, examiner or administrator appointed over the whole or any part of its assets, enters into voluntary or involuntary bankruptcy or liquidation, ceases to conduct business or, assigns its interests in the Contract to a third-party creditor, or if anything analogous to the foregoing occurs in any applicable jurisdiction; (iv) Supplier experiences a change of control to which PSS did not agree; or (v) Supplier receives a rating below investment grade (for Moody's, below Baa and for Standard & Poor's, below BBB) or receives a Dun & Bradstreet Credit Score Class or Financial Stress Class of 4 or above.

12.3 License to Supplier

PSS hereby grants to Supplier a limited, non-exclusive, non-assignable, non-sublicensable, license to use, copy, modify, make derivative works of, manufacture, import, and distribute any information or technology in which PSS has any Intellectual Property Rights solely to the extent necessary for Supplier to perform its obligations under the Contract. Supplier agrees that it will not engage in, nor will it authorize or allow others to engage in, reverse engineering, disassembly or de-compilation of any information or technology in which PSS has any Intellectual Property Rights. Except as expressly provided in the Contract, no other rights or licenses are granted to Supplier, including by way of implication, waiver, or estoppel.

12.4 Right to Repair

For the avoidance of doubt, PSS will have the right to repair, reconstruct, remanufacture, reflash, or rebuild the specific Products delivered under the Contract without payment of any royalty to Supplier.

12.5 Miscellaneous

Products manufactured based on PSS's drawings, designs, and/or specifications as well as any software code or models provided by PSS may not be used for Supplier's own use or sold to third parties without PSS's express written authorization. Nothing in the Contract is an admission by PSS of the validity of any Intellectual Property Rights claimed by Supplier, including an admission that any license is required by PSS to manufacture the Products or continue the services contracted. Supplier will claim and acquire all rights and waivers of Supplier's Personnel required to enable Supplier to grant PSS the rights and licenses in the Contract. Supplier assumes full and sole responsibility for compensating Supplier's Personnel for such rights and waivers, including the remuneration of employees. Supplier, on behalf of itself and PSS and its Customers will comply with all obligations with respect to software that forms any part of the Products or services contracted, including obligations under any licenses.

13. **General Representations and Warranties**

Supplier represents and warrants that:

- (i) it has full power and authority to enter into and fulfill its obligations under the Contract;
- (ii) Supplier's performance under the Contract is of professional quality and performed with reasonable skill and care and consistent with generally accepted industry standards;
- (iii) PSS will acquire good and clear title to Products free and clear of all liens, security interests, claims, and encumbrances;
- (iv) Supplier has and will retain all necessary rights to grant the licenses under the Contract and PSS's and its Customers', use, sale, offer to sell, import, or distribution of Products will not infringe or misappropriate any Intellectual Proprietary Rights of any third party;

- (v) Supplier has no knowledge of, or has disclosed to PSS in writing, any unresolved claims, demands, or pending litigation alleging that Products are defective or infringe or misappropriate, directly or indirectly, any third party's Intellectual Property Rights;
- (vi) Supplier and its Personnel's fulfillment of their obligations under the Contract will not breach any obligations they have to any third party; and
- (vii) Supplier has complied with and will comply with the PSS Supplier Code of Conduct in its performance under the Contract.

14. Compliance

14.1 Supplier shall:

- to the extent that it accesses PSS's premises, comply with all of PSS's instructions and safety, health, and environmental provisions in effect at the premises and, if necessary, obtain necessary permits;
- comply with all laws and regulations applicable to its business or the performance of its obligations under the Contract, as such laws may be enacted and/or revised from time to time, including all laws pertaining to: (a) manufacture, sale, delivery, and/or use of the Products; (b) occupational safety and health; (c) protection of persons and property from death, injury or damage; (d) labor and employment, including equal employment opportunity and workers' compensation; (e) tax; (f) export control; (g) the environment and the use, handling, storage, labeling, and disposal of toxic or hazardous materials; (h) money laundering, anti-terrorism, trade embargos, and economic sanctions; and (i) anti-bribery and anti-corruption. Upon request, Supplier will provide PSS with evidence of such compliance and all information reasonably required for PSS to comply with any applicable laws. Supplier will provide PSS with accurate material safety data sheets regarding the Products. To the extent not prohibited by law, Supplier will promptly notify PSS in writing of any investigation or inquiry into whether Supplier (or any of its subcontractors) is charged with failing to comply with any laws that will or may impact, or are otherwise applicable to, one or more Products.
- Supplier will promptly provide evidence of its compliance with this Section upon PSS's request.

14.2 Supplier acknowledges that the duties listed in Section 14.1 constitute material contractual obligations.

14.3 Supplier shall comply with all requirements and demands of the Customer with respect to ethics, social and environmental sustainability as well as with the PSS Supplier Code of Conduct. Supplier shall ensure that all of its suppliers, subcontractors, and service providers agree to comply with and abide by the requirements of this Section 14.3.

14.4 Supplier shall be liable for and defend, indemnify and hold harmless PSS from and against any and all liabilities, damages, losses, costs, expenses (including reasonable attorneys' fees and other expenses of litigation and arbitration), claims, demands, suits, penalties, judgments or administrative or judicial orders incurred by PSS arising out of Supplier's breach of Sections 14.1 and 14.3.

15. Insurance

15.1 Supplier shall, at its own expense, obtain and maintain a general insurance as well as products liability insurance and a recall insurance with reputable and financially responsible insurance companies which are at an appropriate level in line with the industry standard and which adequately cover Supplier's liability towards PSS and third parties.

15.2 At any time upon PSS's request, Supplier shall promptly provide PSS with certificates or other adequate evidence of the existence and the extent of coverage of such insurances.

15.3 Existence of any insurance contract shall not limit Supplier's obligation under any provision of this Agreement.

15.4 Except to the extent to which Supplier is not obliged to do so pursuant to any applicable delivery term agreed between PSS and Supplier, Supplier will cause any carrier engaged by Supplier to insure this carrier's liability.

16. Confidentiality

16.1 Definition of Confidential Information

16.1.1 Confidential Information includes but is not limited to (i) the know-how, trade secrets, patent applications, engineering specifications, material formulations, product concepts, costs, financial information, computer code, customer information, marketing communication material, and other information related to the business activities of the disclosing Party, regardless of any restrictive markings, which the receiving Party learns or receives from the disclosing Party, its Affiliates or its and their respective officers, directors, employees, consultants, contractors,

suppliers, agents, and legal, financial, or accounting advisors; (ii) any notes, analyses, compilations, studies, interpretations, memoranda or other documents prepared by the receiving Party which contain, reflect or are based on, in whole or in part, any Confidential Information furnished to the receiving Party pursuant hereto; and (iii) the existence and terms of the Contract and the existence or status of, and any information concerning, any business relationship between the Parties.

16.1.2 Confidential Information does not include the disclosing Party's information which (i) the receiving Party knows at the time of disclosure, free of any obligation to keep it confidential, as evidenced by written records; (ii) is or becomes publicly available through authorized disclosure; (iii) is independently developed by the receiving Party without the use of any Confidential Information; or (iv) the receiving Party rightfully obtains from a third party who has the right to transfer or disclose it.

16.2 Confidentiality Obligations

Each Party acknowledges that the other Party claims its Confidential Information as a special, valuable and unique asset. For itself and on behalf of its officers, directors, agents, employees, and affiliates, each Party agrees that it will keep in confidence all Confidential Information and that it will not directly or indirectly disclose to any third party or use for its own benefit, or use for any purpose other than the Contract, any Confidential Information it receives from the other Party. Each Party agrees to use reasonable care to protect the Confidential Information, and in no event less than the same degree of care to protect the Confidential Information as it would employ with respect to its own information of like importance which it does not desire to have published or disseminated.

16.3 Compelled Disclosure

Should the receiving Party be faced with legal action to disclose Confidential Information received under the Contract, the receiving Party shall promptly notify the disclosing Party and, upon the request of the latter, shall cooperate with the disclosing Party in contesting such a disclosure. If the receiving Party is required by any rules or regulations of any governmental authority or any stock exchange to disclose Confidential Information, it may do so but must first provide written notice to the disclosing Party. So long as the both Parties discharge the responsibilities set forth in the preceding sentences, neither Party shall be liable in damages for any disclosures pursuant to this section.

16.4 Return of Confidential Information

The receiving Party agrees to return to the disclosing Party all materials embodying Confidential Information including all copies, or to destroy all such materials, promptly at the request of the disclosing Party unless otherwise required by law. Regardless of the return or destruction of Confidential Information, the receiving Party will continue to be bound by the terms of this Section 16.

16.5 No Rights

Except for the limited rights set forth in the Contract, neither Party acquires any right, title, or interest in and to the other Party's Confidential Information.

16.6 Independent Development

Each Party understands that the receiving Party may currently or in the future be developing information internally or receiving information from other parties that may be similar to the disclosing Party's information. Accordingly, without violation of this Section 16, the receiving Party may develop such products (or have such products developed for it) that would compete with the products contemplated by the disclosing Party to be developed based on the Confidential Information

17. **Liability and Indemnity**

17.1 Supplier Liability

In the event that any Products fail to conform to the warranties or specifications set forth in the Contract, or if Supplier otherwise breaches any of its obligations under the Contract, PSS will be entitled to recover from Supplier any and all damages, losses, costs, expenses and all legal and other professional fees and costs incurred by PSS as a result of such breach or failure, including, without limitation, costs, expenses and losses incurred by PSS (i) in inspecting, sorting, testing, repairing or replacing nonconforming Products or nonconforming deliveries; (ii) resulting from production interruptions; (iii) in participating in recall campaigns or other corrective service actions; (iv) resulting from personal injury, including death, or property damage; (v) resulting from fraud, fraudulent misrepresentation, negligence or willful misconduct; (vi) resulting from Intellectual Property Right infringements; (vii) resulting from breach of Confidentiality; or (viii) resulting from matters for which liability cannot be excluded or limited under applicable law.

17.2 Supplier Indemnity

Supplier shall defend, indemnify and hold harmless PSS and its respective officers, directors, employees and agents from and against any and all liabilities, damages, losses, costs, expenses (including reasonable attorneys' fees and other expenses of litigation and arbitration), claims, demands, suits, penalties, judgments or

administrative or judicial orders incurred by PSS, to the extent arising from (i) Supplier's breach of any representations, warranties or obligations under the Contract; (ii) breach of Confidentiality by Supplier; (iii) personal injury, including death, or property damage attributable to Supplier's acts or omissions; (iv) Defective Products, to the extent the Defect is attributable to Supplier's acts or omissions; (v) fraud, fraudulent misrepresentation, negligence or willful misconduct by Supplier, (vi) Supplier's failure to comply with applicable laws regarding the manufacture or supply of the Products; or (vii) any allegation that the Products, the processes used by Supplier to manufacture the Products, or the marketing, sale or use of the Products infringes or misappropriates any rights in Intellectual Property or any other proprietary rights held by third parties.

17.3 Additional Infringement Remedy

In addition to Supplier's indemnification obligations under Section 17.2 above, if the sale or use of any Product is enjoined due to any actual or alleged infringement or misappropriation of any rights in Intellectual Property or any other proprietary rights held by third parties, Supplier shall, at its expense and option, promptly either (i) procure for PSS the right to continue to use and sell such Product or (ii) replace the infringing Product with a non-infringing product that is functionally equivalent to the infringing Product in all material respects, or (iii) modify such infringing Product so it becomes non-infringing. Any failure by Supplier to act in accordance with this Section 17.3 within 30 calendar days following receipt of notice shall constitute an uncured material breach of the Contract. As a result, Supplier shall promptly refund to PSS the full purchase price paid by PSS for all affected Products and PSS shall have the right to cancel any issued and outstanding Purchase Orders for affected Products. These remedies shall be in addition to any other remedies PSS may have at law or otherwise.

18. Term and Termination of the Contract

18.1 Term

The Contract will come into effect as set forth in Section 3.3 and shall remain in effect until terminated upon mutual written agreement or under this Section 18.

18.2 Termination for Cause

18.2.1 PSS may terminate all or any part of the Contract, without liability to Supplier, if Supplier (i) materially breaches its obligations under the Contract; (ii) states its intention not to perform or otherwise rejects its obligations under the Contract; or (iii) fails to make progress in performance so as to endanger timely and proper delivery of Products under the Contract; provided, however, that if any failure or breach under the foregoing (i) through (iii) is curable, PSS will provide Supplier an opportunity to cure within the shorter of the applicable cure period defined in this Agreement or any other commercially reasonable period of time under the circumstances.

18.2.2 In addition, PSS may terminate the Contract upon giving at least 10 calendar days' notice to Supplier, without liability to Supplier, if Supplier breaches Sections 16. Confidentiality, 19.4 Assignment or 19.5 Change of Control

18.3 Termination for Convenience

18.3.1 In addition to any other rights of PSS to terminate the Contract, PSS may, at its option, terminate all or any part of the Contract before the expiration date set forth in the Contract, at any time and for any reason, by giving written notice to Supplier.

18.3.2 In the event PSS exercises its right to terminate for convenience under this Section 18.3, PSS will pay to Supplier only the following amounts, without duplication: (i) the Contract price for all Products that have been completed in accordance with the Contract and not previously paid for; and (ii) the actual costs of work-in-process and raw materials incurred by Supplier in furnishing the Products under the Contract, to the extent such costs are reasonable in amount and are properly allocable or apportionable under generally accepted accounting principles to the terminated portion of the Contract; less, however, the sum of the reasonable value or cost (whichever is higher) of any Products or materials used or sold by Supplier with PSS's written consent and the cost of any damaged or destroyed Products or material.

18.3.3 Any request for payment submitted to PSS under this Section 18.3 must include sufficient supporting data to permit an Audit by PSS, including, without limitation, such supplemental and supporting information as PSS may request. Any request for payment under this Section 18.3 must be in writing and include, without limitation, a statement setting forth the Contract price for the Products, Invoices reflecting the actual cost of work-in-process and raw materials, the basis for the allocation of such costs to the terminated portion of the Contract, and any other supporting documentation reasonably requested by PSS.

18.3.4 Any amount otherwise due to Supplier pursuant to this Section 18.3 will be reduced by any amount owed by Supplier to PSS under the Contract or otherwise. Any payment under this Section 18.3 will not be deemed a waiver of any of PSS's other rights arising under the Contract or applicable law.

18.3.5 Notwithstanding any other provision of the Contract, PSS will make no payments under this Section 18.3 for finished Products, work-in-process or raw materials fabricated or procured by Supplier in amounts in excess

of those authorized in PSS's Purchase Orders or any undelivered Products that are in Supplier's standard stock or that are readily marketable.

18.3.6 Furthermore, any payments made under this Section 18.3 will not exceed the aggregate price payable by PSS for finished Products that would have been produced or performed by Supplier under PSS's Purchase Orders outstanding at the date of termination. Except as expressly provided in this Section 18.3, PSS will not be liable for and will not be required to make payments to Supplier, directly or on account of claims by Supplier's subcontractors, for loss of anticipated profit, overhead, interest on claims, facilities and equipment rearrangement costs or rental, unamortized depreciation costs, or general and administrative burden charges from termination of the Contract. The payment specified in this Section 18.3 is Supplier sole remedy for termination of this Contract under this Section 18.3.

18.4 Supplier's Obligations in case of Termination

In the event of termination of the Contract, Supplier will:

- (i) immediately terminate all work under the Contract;
- (ii) transfer title and promptly make available for delivery to PSS, as specified by PSS, any Products completed but not delivered as of the time of termination.
- (iii) if and to the extent requested by PSS, transfer title and deliver to PSS all work in process, and the parts and materials which Supplier produced or acquired, in accordance with the Contract, including Tooling owned by PSS or its Customers;
- (iv) verify and settle all claims by subcontractors for actual costs that are rendered unrecoverable by such termination, provided Supplier has taken possession or is certain it will take possession of the materials for which Supplier has settled such claims;
- (v) take actions reasonably necessary to protect property in Supplier's possession in which PSS has an interest until disposal instructions from PSS have been received;
- (vi) if requested by PSS, Supplier shall transition supply to a successor supplier and fully cooperate in such transition.

19. Miscellaneous

19.1 Force Majeure

19.1.1 Any delay or failure of either Party to perform its obligations under the Contract will be excused to the extent that Supplier is unable to produce, sell or deliver, or PSS is unable to accept delivery, buy or use, the Products covered by the Contract, directly as the result of an event or occurrence beyond the reasonable control of such Party, without such Party's fault or negligence (a "force majeure event"), including, if applicable, actions by any governmental authority (whether valid or invalid), fires, floods, windstorms, explosions, riots, natural disasters, wars and sabotage; provided that written notice of such force majeure event (including the anticipated duration of the delay) must be given by the affected Party to the other Party as soon as possible (but in no event more than one (1) business day after the force majeure event occurs).

19.1.2 During any force majeure event affecting Supplier's performance, PSS may, at its option, purchase Products from other sources and reduce its Purchase Orders by such quantities, without liability to Supplier, or require Supplier to provide Products from other sources in quantities and at times requested by PSS at the price set forth in the Contract.

Supplier will use all diligent efforts to ensure that the effects of any force majeure event are minimized and, as promptly as possible, resume full performance under the Contract. If requested by PSS in writing, Supplier will, within 3 business days after PSS's request, provide adequate assurances that the delay in Supplier's performance resulting from such event will not exceed 30 calendar days. If the delay lasts more than 30 calendar days or Supplier does not provide such adequate assurances, PSS may immediately terminate the Contract without liability to Supplier.

19.2 Publicity

Neither Party shall issue or release any press release, article, advertising or other publicity relating to the contract, its terms or existence, or the business relationship of the Parties. Supplier shall have no right to use the PSS name or corporate logo or any PSS trademarks, service marks, or marks of any similar likeness, without express prior written permission from PSS. Supplier agrees that this restriction applies to, among other things, all presentations, literature or other written materials that it may use to promote its products or services.

19.3 Governing Law, Jurisdiction

All disputes arising out of or in connection with the Contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The place of arbitration will be The Hague (the Netherlands) and the language of arbitration will be English. The Contract is governed by the UN Convention on the International Sale of Goods (CISG). For all issues not dealt with in this UN Convention, French law will apply.

19.4 Assignment

The Contract may not be assigned by a Party without the other Party's written consent, except that PSS may assign, replicate or transfer the Contract in whole or in part, without consent of Supplier, in the case of a merger or sale of all or substantially all of the assets of PSS or to any of its Affiliates.

19.5 Change of Control

If Supplier experiences a change of control (for example, through a stock purchase or sale, merger, or other form of corporate transaction) or sells a significant portion of its assets, then Supplier will give written notice to PSS immediately upon consummation of the change of control or sale and PSS will have the right to terminate the Contract upon receipt of this notice.

19.6 Supplier's Personnel

Supplier shall be responsible for the monitoring, use, and reasonable payment of all Personnel that it uses in connection to its obligations under the Contract. Supplier shall only use qualified and appropriately trained Personnel.

19.7 Subcontracting

Supplier will not subcontract any of its obligations under the Contract without the prior written consent of PSS. Any such consent of PSS will not release Supplier from, or limit, any of Supplier's liability or obligations under the Contract. Supplier warrants and guarantees that any such subcontractor's performance will satisfy all requirements applicable to Supplier under the Contract.

19.8 Severability

If a court of competent jurisdiction finds any provision of the Contract to be unenforceable for any reason, such provision shall be deemed automatically adjusted to conform to the requirements for enforceability so as to effect the intent of the Parties. If the provision is of such a nature that it cannot be so adjusted, the provision shall be deemed deleted from the Contract. In any event, the unenforceability of any provision of the Contract shall not affect any other provision hereof, and shall not render such provision unenforceable in any other jurisdiction.

19.9 Amendments; Waivers

The Contract may only be amended by an express writing signed by authorized representatives of both Parties. The failure of either Party to enforce any provision of the Contract shall not constitute a waiver of future enforcement of that or any other provision in the Contract.

19.10 Notices

All notices must be in English, in writing, and addressed to the other Party's primary contact. Notice can be by email and will be treated as given on receipt, as verified by written or automated receipt or by electronic log (as applicable).

SIGNATURE AND COMPANY STAMP

Place Date Title Name
Supplier name