



Spheros North America, Inc. GENERAL TERMS AND CONDITIONS OF SALE

1. General

1.1 The Contract. These General Terms and Conditions of Sale ("**Terms**") govern all Supply Agreements (as defined below) by and between Spheros North America, Inc. or any of its Affiliates selling under a Supply Agreement to Buyer (individually and collectively, "**Spheros**") and the person or entity issuing a Purchase Order (as defined below) to Spheros pursuant to Section 1.2 ("**Buyer**"). For the purposes of these Terms, "Affiliate" means any legal entity directly or indirectly owned or controlled by or owning or controlling or under the same ownership or control as a party, such ownership or control existing through the direct or indirect ownership of more than 50% or more of the voting rights or by the ownership of any other nominal value of the issued equity share capital, or ownership of more than 50% or more of the shares entitling the holders to vote for the election of directors or persons performing similar functions, or the right by any other means to elect or appoint directors, or persons performing similar functions who have a majority vote). Buyer and Spheros may each be referred to herein as a "party," and collectively as the "parties."

1.2 Offer and Acceptance. Each purchase order or purchase order revision Buyer issues to Spheros ("**Purchase Order**") is Buyer's offer to Spheros to purchase, from Spheros, the goods and/or services identified in the Purchase Order ("**Products**"). Each Purchase Order incorporates and is governed by, these Terms. All Purchase Orders are subject to acceptance by Spheros, and may be rejected by Spheros, in whole or in part. A Purchase Order will only be deemed to have been accepted by Spheros when it is accepted by Spheros in writing. The commencement of performance by Spheros under a Purchase Order will not constitute acceptance by Spheros of such Purchase Order. Unless otherwise expressly stated by Spheros in writing, Spheros's acceptance of a Purchase Order is subject to and conditioned upon the incorporation of these Terms.

1.3 Supply Agreement. Each "**Supply Agreement**" includes and incorporates: (a) the Purchase Order(s) accepted by Spheros; (b) these Terms; and (c) any other document or agreement that is (i) executed by Spheros and Buyer and expressly referenced on the face of the Purchase Order or (ii) otherwise agreed to by Spheros in writing (including, without limitation, specifications, drawings, and quality requirements). Each Supply Agreement constitutes a binding contract between Spheros and Buyer and supersedes all prior purchase orders, quotations, proposals and other communications regarding the Products and/or services covered by the Supply Agreement that are not incorporated into the Supply Agreement in accordance with this Section 1.3; provided, however, that a prior non-disclosure or confidentiality agreement between Spheros and Buyer will continue to apply subject to its terms. Any modification of these Terms must be expressly stated in the Supply Agreement (as accepted in writing by Spheros). Any other terms and conditions, including any terms and conditions of purchase of Buyer, are hereby

expressly rejected by Spheros and are not included in or a part of any Supply Agreement. In the event of any direct conflict between any of the contract documents included and incorporated into the Supply Agreement as referenced in subparts (a), (b), or (c) of this Section 1.3, such direct conflict shall be resolved according to the following order of precedence, as applicable: (1) Purchase Order(s) (excluding all of Buyer's terms and conditions) accepted by Spheros in writing; (2) any other document or agreement that is (i) expressly referenced on the face of the accepted Purchase Order and (ii) agreed to by Spheros in writing (including, without limitation, specifications, drawings, and quality requirements); and (3) these Terms.

1.4 No Agency Created. The relationship intended by the parties is a business relationship based entirely upon, and defined by, the express provisions of the Supply Agreement, and except as otherwise agreed upon by the parties in writing, that no partnership, joint venture, agency, fiduciary or employment relationship is intended or created by reason of the Supply Agreement.

2. Changes; Cancellations.

2.1 Changes. None of the terms, provisions, or conditions of a Supply Agreement may be modified, altered, or added to except by written instrument signed by a duly authorized representative of Spheros. Either Buyer or Spheros may, from time to time, by written notice to the other party, request reasonable changes to the Products, including, without limitation, to the drawings, specifications, materials, packaging, testing, quantity, time or method of delivery or shipment of the Products, or similar requirements prescribed in the Supply Agreement (each, a "**Change Request**"). The parties will, each acting reasonably, consider and review each Change Request in good faith and, if approved by each Buyer and Spheros in writing, agree in advance and in writing to an equitable adjustment to the prices and times for performance as a result of such Change Request. Spheros will not be required to commence with the implementation of any Change Request without Buyer's written acknowledgement of any price or delivery date adjustments. Notwithstanding the foregoing, Spheros reserves the right to change designs and specifications for the Products without prior notice to Buyer, except with respect to custom Products that are unique and specifically manufactured by Spheros for Buyer.

2.2 Cancellation. Buyer may only cancel a Supply Agreement with Spheros's prior written consent and upon payment to Spheros of Spheros's cancellation charges, as reasonably determined by Spheros, which will include, among other things, all costs and expenses incurred by Spheros in connection with Spheros's performance of the Supply Agreement (including, without limitation, full payment, without setoff, recoupment or deduction of any kind, (a) the Supply Agreement price for all finished Products in the quantities ordered by Buyer in Purchase Orders and related invoices for which Spheros has not been paid, (b)



Spheros's costs of work-in-process (on a percentage of completion basis) and raw materials and components incurred by Spheros in furnishing Products under the Supply Agreement, (c) unreimbursed tooling and equipment manufactured or procured by Spheros in connection with and dedicated to furnishing Products to Buyer under the Supply Agreement, and (d) other costs incurred by Spheros including, without limitation, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs and rental, unamortized capital or depreciation costs, and general administrative burden charges from termination and a reasonable profit thereon. Spheros's determination of such cancellation charges shall be conclusive and final.

3. Supply of Products and Services.

3.1 Quantity.

(a) Open Purchase Orders. Unless otherwise stated in the Supply Agreement, if the quantity in a Purchase Order states the quantity as zero, "as scheduled," "as directed," or something similar, Spheros will supply 100% of Buyer's requirements of the Products. Subject to Section 5.6 herein, Spheros will supply such quantities of Products subject to Spheros's available capacity and required lead-times.

(b) Spot-buy Purchase Orders. If a Purchase Order quantity is a fixed number, then Spheros will use commercially reasonable efforts to deliver such fixed quantity of Products on such dates and times, at the price and on the other terms specified in the Purchase Order, subject to the terms and conditions set forth herein.

(c) Scheduled Shipments; Lead Times. Buyer may not change the rate of agreed scheduled shipments or lead times or direct temporary suspension of scheduled shipments unless and until Spheros and Buyer agree to such a change in writing, which will include an equitable adjustment to the price of Products in accordance with Section 2.1 herein. Spheros will not be responsible for any expedited shipping expenses except to the extent such expenses are reasonable, caused by Spheros's material breach of the Supply Agreement, and agreed to in writing by the parties in advance of being incurred.

3.2 Service Parts Requirements. Except as otherwise expressly agreed by Spheros in writing, and unless the Supply Agreement is terminated by Spheros due to Buyer's breach of the Supply Agreement as permitted under Section 14.3 herein, for a period of ten (10) years after Buyer concludes regular production of the vehicle, system, module or part to which the Product is incorporated (the "**Regular Production Phase**"), Spheros will supply Buyer's reasonable, written orders for "service parts" for the Products at such price(s) and at such time(s) as agreed to by the parties in writing, subject to Spheros's acceptance of Buyer's order according to Section 1.2 herein, and provided that the price for service parts will be not less than (i) the price of the Products that is in effect at the conclusion of the Regular Production Phase, plus (ii) Spheros's set-up, packaging and handling costs.

4. Prices and Payment Conditions.

4.1 Prices. Prices for the Products during the Regular Production Phase are as set forth in the Supply Agreement, and, unless stated otherwise in the Supply Agreement, include all applicable duties and transactional taxes, including any sales, use, excise, services, value added tax, goods and services tax, or similar tax known at the time of the execution of the Supply Agreement, but do not include any additional duties, tariffs, quotas, antidumping or countervailing duties or any other government imposed penalties on the Products after the parties' entry into the Supply Agreement, for which Buyer is solely responsible for payment and with respect to which Buyer will, to the fullest extent permitted by law, indemnify, defend, and hold Spheros harmless (including, without limitation, with respect to Spheros's attorneys' and other professionals' fees and expenses incurred in connection therewith). Prices will be adjusted in January and July of each year to take into account variations in raw material costs incurred by Spheros (including but not limited to, as per the formulae contained in Spheros's offer, for copper, steel, aluminum, rare earth minerals, etc.), component part prices, inflation, and foreign exchange rate variations. Supply Agreements or Purchase Orders will be amended to reflect such price adjustments. Buyer may not modify prices or issue surcharges without Spheros's prior written consent.

4.2 Invoices. Each invoice will reference the applicable Supply Agreement, Buyer's part number, quantity of units in shipment, unit price, extended price, shipment date and bill of lading number. All payments will be made in U.S. Dollars unless otherwise specified in the Supply Agreement. Spheros will separately invoice Buyer for, and Buyer will be responsible for payment of, any sales or value added taxes that Spheros is required by law to pay or collect from Buyer.

4.3 Payment. Buyer will pay the amounts set forth in Spheros's invoices on or before the 30th day after the invoice date, unless otherwise expressly agreed in a written agreement executed by Spheros and Buyer. Buyer will provide Spheros with written notice of any disputed invoice, including reasonable detail as to the nature of, basis for, and extent of the dispute and the actual amounts disputed, within ten (10) days after Buyer's receipt of the applicable invoice, or such dispute shall be deemed waived by Buyer. Notwithstanding any invoicing dispute, Buyer will timely pay Spheros's invoices in full and without set-off, counterclaim, or deduction of any kind; provided, however, that disputed payments will remain subject to any claim identified in Buyer's written notice of such disputed payment that is received by Spheros in accordance with this Section 4.3. Buyer will promptly provide to Spheros any information and documentation reasonably requested by Spheros regarding any such dispute.

4.4 Late Payments. Buyer will be charged and pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer will reimburse Spheros for all costs, fees, and expenses incurred in collecting any late payments from Buyer, including, without limitation, Spheros's attorneys' and other professionals' fees and expenses. In addition to all other remedies available to Spheros (which



Spheros does not waive by the exercise of any rights hereunder), Spheros will be entitled to suspend the delivery of any Products or performance of any services if Buyer fails to pay any amounts owed to Spheros when due.

4.5 **Financial Insecurity of Buyer.** If, after Spheros's acceptance of a Purchase Order, Spheros becomes aware of circumstances which indicate that Buyer may be unable to pay Spheros's invoices when due or that there has been any other significant deterioration of Buyer's financial condition, or if Buyer does not provide Spheros with adequate and reasonable assurance of Buyer's financial and operational capability to perform timely any of Buyer's obligations under the Supply Agreement within ten (10) days following Spheros's request, Spheros may, at its sole option, refuse to supply Products under any Supply Agreement, condition continued supply on cash-in-advance payment terms, and/or terminate the Supply Agreement.

5. Shipment and Delivery.

5.1 **Incoterms.** Unless otherwise specified in the Supply Agreement, Spheros will deliver the Products EXW (Incoterms 2020), Spheros's facility.

5.2 **Packing and Shipment.** Spheros will package and ship Products in accordance with reasonable commercial practices and industry standards, including labeling, special handling and hazardous materials instructions. If Buyer provides, and Spheros accepts in an executed Supply Agreement, Buyer's commercially reasonable packaging and shipping instructions, including labeling, special handling and hazardous materials instructions, regarding packaging, labeling, Buyer will be responsible for Spheros's costs and expenses incurred in complying with such instructions (with such costs and expenses to be added to Spheros's invoices and paid by Buyer).

5.3 **Partial Deliveries.** Notwithstanding anything to the contrary set forth herein, Spheros may, at Spheros's sole option, make partial deliveries or deliveries by installment of any Products, which may be invoiced separately. Buyer shall pay for any such partial deliveries in accordance with Section 4 herein.

5.4 **Delivery.** Except as otherwise agreed by Spheros in writing, delivery dates (whether identified in a Purchase Order, or other documents) are approximate and estimates only. Furthermore, Spheros's obligation to comply with any delivery dates agreed to by Spheros in writing is contingent upon the prior written agreement by the parties of all technical and commercial requirements, the availability of required permits and documents, and Buyer's compliance with its duties and obligations hereunder.

5.5 **Inspection; Acceptance.** Buyer will inspect the Products within ten (10) business days of the fixed date identified in Spheros's notice to Buyer that the Products are available for pick up at Spheros's facility (the "**Inspection Period**"). Buyer will be deemed to have accepted the Products unless it notifies Spheros in writing of any dispute during the Inspection Period and promptly furnishes to Spheros all applicable written evidence or other documentation, in reasonable detail, supporting its basis for rejection of the Products.

5.6 **Excusable Delays.** Notwithstanding anything set forth in the Supply Agreement to the contrary, Buyer and Spheros shall not be held liable, or deemed in default, for any failure or delay in fulfilling or performing any of its obligations under a Supply Agreement if such failure or delay is caused by, or results from, causes or actions beyond Buyer's or Spheros's or its suppliers' control, and without its fault or negligence, including, without limitation, fire, flood, pandemics, epidemics, drought, acts of nature, war, hostilities, terrorist threats or acts, cyberterrorism, riot or other civil unrest, labor or employee issues (including strikes, lockouts, slowdowns or other labor unrest), delays in transportation or other issues impacting transportation, shortage of power, unavailability of raw materials or components, market failures, embargo, government action, earthquake, explosion, national or regional emergency. Spheros shall not be held liable, or deemed in default, for any failure or delay in fulfilling or performing any of its obligations under a Supply Agreement if such failure or delay is caused by, or results from, acts or omissions of Buyer, including Buyer's failure to promptly comply with the terms of the Supply Agreement.

5.7 **Pick Up.** Buyer shall be responsible for all transportation and loading costs, and provide equipment and labor reasonably suited for receipt of Products at the delivery point. If, for any reason, Buyer fails to arrange for a carrier to retrieve any of the Products by the fixed date identified in Spheros's notice to Buyer that the Products are available for pick up, notwithstanding anything to the contrary set forth herein: (i) risk of loss to the Products shall immediately pass to Buyer; (ii) the Products shall be deemed to have been delivered in accordance with the Supply Agreement; and, (iii) Spheros, at its option, may store the Products until Buyer picks them up, whereupon Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance) incurred by Spheros in connection with Buyer's failure to pick up Products, and Spheros's storage of the Products, in accordance with Spheros's notice. If Buyer does not retrieve the Products within thirty (30) days of the date identified in Spheros's notice, Spheros may immediately terminate the applicable Supply Agreement without further liability to Buyer, and Spheros's termination will not relieve Buyer of its obligation to pay for the Products.

6. Risk of Loss; Transfer of Title.

6.1 **Risk of Loss.** Except as otherwise agreed to by Spheros in writing, title and risk of loss or damage to the Products will pass to Buyer when the Products have been made available to Buyer (or Buyer's carrier) at Spheros's facility pursuant to Spheros's notice given in accordance with Section 5 herein; provided, however, that Spheros shall retain a purchase-money security interest in the Products and/or any replacements thereof as security for Buyer's performance hereunder until complete and irrevocable payment in full for the Products is received by Spheros, and Buyer hereby authorizes Spheros to file U.C.C. financing statements to perfect Spheros's purchase money security interest in such Products. In addition, Buyer agrees to execute any and all other documentation that Spheros deems useful, necessary, or appropriate to perfect and protect Spheros's purchase money security interest in the Products.



6.2 Reserved Products. Products that have been made available to Buyer (or Buyer's carrier) at Spheros's facility pursuant to Spheros's notice, but for which complete and irrevocable payment in full has not been received by Spheros, are "**Reserved Products.**" Reserved Products may not be altered, sold, leased, transferred, exchanged, disposed of, modified, processed, combined with or incorporated into any assembly or sub-assembly without Spheros's advance written consent. To the fullest extent permitted by law, Buyer will not allow any lien (consensual or otherwise), security interest, claim, charge, condition, lien, or the like ("**Encumbrances**") to be imposed on Reserved Products through Buyer or as a result of Buyer's actions or inactions. If any Encumbrance of any nature is imposed on Reserved Products through or as a result of Buyer, Buyer will, to the fullest extent permitted by law, immediately take all actions necessary to promptly remove such Encumbrance. TO THE FULLEST EXTENT PERMITTED BY LAW, BUYER WAIVES ANY ENCUMBRANCE OR OTHER RIGHTS OR INTERESTS THAT BUYER HAS OR MIGHT OTHERWISE HAVE OR ACQUIRE IN, OR WITH RESPECT TO, ANY OF THE RESERVED PRODUCTS.

6.3 Assignment of Claims. Buyer hereby transfers and assigns to Spheros all rights, title, and interest in and to all claims or causes of action Buyer has, or may in the future have, against Buyer's customers arising from the resale of the Reserved Products.

6.4 Preservation of Reserved Products. Buyer shall warehouse, hold, and keep the Reserved Products in faultless condition, and maintain adequate insurance to cover the replacement value of the Reserved Products with Spheros named as loss payee to the extent of the replacement value of the Reserved Products. Buyer shall immediately notify Spheros in writing of any attachments, seizures or other measures by third parties which may impair Spheros rights in the Reserved Products and shall inform the third party of Spheros rights.

7. Product Warranty.

Spheros's Warranty.

(a) Subject to Section 7.1(c) and Section 8.2 herein, Spheros warrants its Product(s) as set forth in the applicable Product warranty, as same may be amended from time-to-time. The currently applicable versions of the Product warranty is published at: https://www.spheros.com/us_en/Service/Warranty (individually and collectively, the "Warranty").

(b) Buyer hereby acknowledges and agrees to the terms of the applicable Warranty, as same may be amended from time-to-time. The currently applicable versions of the Product warranty is published at: https://www.spheros.com/us_en/Service/Warranty.

(c) EXCEPT AS OTHERWISE SET FORTH IN THIS SECTION, Spheros DISCLAIMS AND MAKES NO OTHER REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCTS, INCLUDING, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

(d) Spheros will not be liable for a breach of the Warranty if the breach arises because of normal wear and tear on the Products or if Buyer or a vehicle user has: (i)

used the Products in a manner or environment not contemplated by Spheros and Buyer at the time of the parties' entry into a Supply Agreement; (ii) failed to follow Spheros's instructions regarding the storage, installation, commissioning, use or maintenance of the Products; or (iii) made any modification to, damaged, misused, or repaired the Products without Spheros's prior written consent.

7.2 Non-Conforming Products. In the event that Buyer believes that Products do not conform to the Warranty, Buyer and Spheros will carry out a joint root cause analysis to determine if such Products do not in fact conform to the Warranty, and if it is jointly concluded that the Products do not conform to the Warranty, then except as otherwise specifically provided in a given Supply Agreement and subject to Section 7.3 herein, Buyer's sole remedies will be to: (a) reject the nonconforming Products; (b) require Spheros, at Buyer's option and at Spheros's expense (including agreed shipping, administrative and labor costs), to repair or replace the non-conforming Products; and/or (c) require Spheros to implement, at its expense, reasonable containment, inspection, sorting, and other quality assurance procedures if Buyer reasonably determines (through statistical sampling or other quality assessments) that a substantial quantity of incoming Products do not conform to the Warranty. Buyer will provide Spheros with prompt access to any warranty and warranty return data in Buyer's possession related to the Products and all field-returned Products, including any dealer or repairer verbatim related to such returned Products or any repairs.

7.3 Product Liability. Buyer will immediately inform Spheros of any claim for product liability in relation to the Products, and the stipulations relating to root cause analysis contained in Section 7.2 herein shall also apply to this Section 7.3. The parties will cooperate and jointly organize the defense in relation to any such claim. Spheros will be given the opportunity to participate fully in such defense and neither Buyer nor Spheros will enter into any settlement without the prior written agreement of the other party. Buyer and Spheros will jointly determine in good faith the division of liability in relation to such a claim.

8. Limitation of Liability.

8.1 General. IN NO EVENT WILL Spheros BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE OF REVENUE OR PROFIT, LOSS OF GOODWILL, OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, IN TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT Spheros HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT WILL Spheros'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THESE TERMS AND CONDITIONS, OR ANY SUPPLY AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR



OTHERWISE, EXCEED ONE-THIRD OF THE TOTAL AMOUNTS PAID TO Spheros UNDER THE APPLICABLE SUPPLY AGREEMENT FOR THE PRODUCTS SOLD UNDER THE APPLICABLE SUPPLY AGREEMENT DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR.

8.2 Prototypes. If and to the extent Buyer uses or releases prototypes, test models, pilot constructions, sample parts, or similar components provided by Spheros ("**Prototypes**") on the road, commercially, and/or with or in proximity to the general public, it does so at its own risk and all warranties and obligations set forth in the Supply Agreement, including Section 7.1 herein, or any other document, or as may be otherwise implied by law, are expressly disclaimed, are void, and are of no force or effect. To the fullest extent permitted by law, Buyer hereby agrees to indemnify, defend, and hold harmless Spheros and its employees, officers, directors and agents, from any physical damage to property, any injury suffered by third parties, and any claims or causes of action brought against Spheros caused by or relating to Buyer's use of the Prototypes, including any and all, costs and expenses (including attorneys' and professionals' fees) constituting a part of the claim to which such indemnification obligation relates. THE PARTIES ACKNOWLEDGE THAT BUYER'S OBLIGATIONS UNDER THIS PARAGRAPH ARE NOT INTENDED TO LIMIT ANY OTHER RIGHTS OF INDEMNIFICATION OR DEFENSE THAT Spheros MAY HAVE UNDER ANY OTHER AGREEMENT BETWEEN BUYER AND Spheros, OR UNDER APPLICABLE LAW, BUT ARE INSTEAD INTENDED TO EXPAND SUCH RIGHTS.

9. **Export Controls and Regulations.**

The Products may be subject to export controls and regulations of the United States, the country of manufacture, or the country of shipment and such export may require a valid export license. Spheros's acceptance of any Purchase Order and delivery of the Products is conditioned on Buyer's full and timely compliance with applicable export controls and regulations. Spheros will have no obligation to sell or deliver any Products until all required export licenses have been obtained by Buyer, at Buyer's sole expense, and there are no other impediments arising from any applicable export regulations. No Products sold to Buyer may be exported or re-exported unless such export or re-export complies fully with all applicable export regulations.

10. **Tooling.**

Buyer acknowledges and agrees that all tooling, dies, test and assembly fixtures, jigs, gauges, patterns, casting patterns, cavities, molds, and related documentation (including engineering specifications, PPAP books, and test reports), together with any accessions, attachments, parts, accessories, substitutions, replacements, and appurtenances thereto (collectively, "**Tooling**") that is used by Spheros in connection with the manufacture, assembly, or delivery of Products to Buyer is owned by Spheros unless: (a) (i) such Tooling is the subject of a Purchase Order which is part of the Supply Agreement and (ii) Buyer has paid Spheros, in full and in advance of Spheros commencing any work to procure or produce the Tooling, the price agreed to by Buyer and Spheros for

such Tooling; or (b) such Tooling is the subject of a written agreement executed by Spheros and Buyer providing that Tooling is owned by Buyer (or a third party). If there is a dispute over whether any Tooling is owned by Spheros or Buyer, the Tooling subject to the dispute will be treated as owned by Spheros until the dispute has been finally resolved. Spheros may use any Tooling, at its sole option, to produce goods for the independent aftermarket.

11. **Compliance with Spheros Policies.**

If Buyer's performance hereunder involves operations by Buyer on Spheros's premises, Buyer shall take all necessary precautions to prevent the occurrence of any injury or damage to person or property during the progress of such performance. Buyer shall maintain such public liability, property damage and employees' liability and compensation insurance as will protect Spheros from said risk and from any claims under applicable worker's compensation and occupational disease acts. Buyer hereby agrees on behalf of its employees, agents and representatives, to submit to any security requirements of Spheros, and to comply with all rules and regulations established by Spheros. Buyer shall have sole responsibility for all governmental taxes and contributions imposed with respect to all persons compensated by Buyer while such persons are on the premises of Spheros. To the fullest extent permitted by law, Buyer agrees to indemnify, hold harmless, and defend Spheros from and against any and all losses, claims, liabilities, and expenses, including reasonable attorneys' and professionals' fees, for any damages or losses incurred by Spheros, including those relating to or arising from any damage to property, personal injury, or death, in connection with Buyer's performance hereunder on Spheros's premises.

12. **Intellectual Property.**

12.1 General. For each Supply Agreement, a specific "**Background IP and Use Chart**" and a "**Results Intellectual Property Sharing and Exploitation Chart**" shall be established by the parties to determine the ownership and eventual rights of use or exploitation of the Background Intellectual Property and Foreground Intellectual Property, respectively, in relation to each Supply Agreement. If, however, no such charts are established for a given Supply Agreement, the Intellectual Property provisions set forth in Sections 12.2-12.3 herein shall apply in relation to that Supply Agreement.

12.2 Definitions.

(a) "**Intellectual Property**" and "**Intellectual Property Rights**" means, as applicable, any patent, patented articles, patent applications, designs, industrial designs, copyrights, software, source code, database rights, moral rights, inventions whether or not capable of protection by patent or registration, techniques, technical data, trade secrets, know-how, and any other proprietary right, whether registered or unregistered, including applications and registrations thereof, all related and continuing rights, and all similar or equivalent forms of protection anywhere in the world. Intellectual Property Rights excludes all brands, trademarks, trade names, slogans and logos of Spheros and Buyer unless specifically



identified as a deliverable or work product of Spheros pursuant to this Supply Agreement.

(b) **"Background Intellectual Property"** and **"Background Intellectual Property Rights"** means, as applicable, any Intellectual Property Rights of Spheros or Buyer, respectively, relating to the Products contracted for pursuant to this Supply Agreement, (i) existing prior to the earlier of (A) the effective date of the relevant Supply Agreement under which the Products are purchased and (B) the date Spheros and Buyer commenced any technical cooperation relating to such Products or services, and (ii) that each party acquires or develops after the dates provided in subsection (i) above independently and entirely outside of any work conducted under this Supply Agreement.

(c) **"Foreground Intellectual Property"** and **"Foreground Intellectual Property Rights"** means, as applicable, any Intellectual Property Rights, except Background Intellectual Property Rights (i) that are developed in whole or in part by Spheros or Buyer alone, or by Spheros and Buyer jointly, in connection with this Supply Agreement or (ii) relating to the Products or services contracted for pursuant to this Supply Agreement.

12.3 Intellectual Property Rights. Where no Background IP and Use Chart and/or Results Intellectual Property Sharing and Exploitation Chart has been established:

(a) Background Intellectual Property. Each party retains ownership of its Background Intellectual Property Rights and, except as provided in Section 12.3(c) below, neither party grants any license or rights in or to its Background Intellectual Property to the other party.

(b) Foreground Intellectual Property. Foreground Intellectual Property. Spheros will own any Foreground Intellectual Property Rights that (i) are created or made by its employees, agents or subcontractors/suppliers pursuant to any Supply Agreement, or (ii) are improvements made to Spheros's Background Intellectual Property or are derived from Spheros's Confidential Information ("**Spheros Foreground Intellectual Property**"). To the extent that supplier obtains any rights in or to any Spheros Foreground Intellectual Property, supplier hereby assigns and agrees to assign all such right, title, and interest in and to same to Spheros. For clarity, Foreground Intellectual Property Rights may be exploited by Spheros in connection with its business with its other customers without restriction and will not be exclusive to the performance of a given Supply Agreement.

(c) Limited License. Spheros grants Buyer a non-exclusive license to use Spheros's Background Intellectual Property and Spheros Foreground Intellectual Property that is incorporated into the Products solely to permit Buyer and Buyer's designees to install, use, and sell only those tangible Products purchased from Spheros hereunder ("**Limited License**"). This Limited License does not include the rights to, and Buyer will not, (i) reverse engineer, manufacture or have manufactured the Products, (ii) copy, reproduce, make derivative works of, or otherwise duplicate the Products or any such Intellectual Property Rights, or (iii) use any Intellectual Property Rights owned or controlled by Spheros that are not incorporated into the Products.

(d) Intellectual Property Representations and Warranties. Each of Spheros and Buyer represent and warrant to the other that: (i) it will not knowingly incorporate, in any manner, the Intellectual Property of third parties which is published as of the date of the design freeze of the Product, unless it has the right to do so; (ii) it will not knowingly infringe, misappropriate or otherwise violate the Intellectual Property Rights of any third party which is published as of the date of the design freeze of the Product, in the performance of this Supply Agreement; (iii) it will not knowingly subject the Products to any mortgages, liens, pledges, security interests or encumbrances; and (iv) to its knowledge, as of the effective date of each Supply Agreement, it has the requisite rights and licenses to fully comply with this Section.

13. Confidentiality.

13.1 Confidential Information. During the term of the Supply Agreement and for a period of five (5) years thereafter, each party (a "**Receiving Party**") will retain in confidence the terms of each Supply Agreement, and all other non-public information of the other party (a "**Disclosing Party**"), whether embodied in technology, materials, know-how, or any other format disclosed to or acquired by the Receiving Party pursuant to or in connection with each Supply Agreement that is either designated as proprietary or confidential or, by the nature of the circumstances surrounding disclosure, ought in good faith to be treated as proprietary or confidential ("**Confidential Information**"). A Receiving Party will not use any Confidential Information of the Disclosing Party for any purpose other than to carry out the activities contemplated by the Supply Agreement with respect to which such Confidential Information has been disclosed. A Receiving Party will use commercially reasonable efforts to protect Confidential Information of the Disclosing Party, and in any event, take precautions at least as great as those taken to protect its own confidential information of a similar nature. A Receiving Party will notify the Disclosing Party promptly in writing in the event it learns of any unauthorized use or disclosure of any of the Disclosing Party's Confidential Information, and will cooperate in good faith to remedy such occurrence. Upon request of the Disclosing Party, or upon termination or expiration of the applicable Supply Agreement, the Receiving Party will, within twenty (20) business days, destroy or return to the Disclosing Party all materials, in any medium, that include, contain or reveal all or any part of any of the Disclosing Party's Confidential Information (with such destruction to be certified in writing by an officer of Receiving Party if requested by the Disclosing Party). Notwithstanding the foregoing, each party may disclose the terms and conditions of a Supply Agreement to its Affiliates and consultants in the ordinary course of its business who have agreed to be bound by substantially similar confidentiality provisions; provided that the disclosing party will be responsible for any breach of such confidentiality obligations by its Affiliates and/or consultants.

13.2 Exceptions. The restrictions set forth in Section 13.1 herein will not apply to any information, technology, materials or know-how that: (a) was known by the Receiving Party without any obligation of confidentiality



prior to disclosure thereof by the Disclosing Party; (b) was in or entered the public domain through no fault of the Receiving Party; (c) is disclosed to the Receiving Party by a third party legally entitled to make such disclosure without violation of any obligation of confidentiality; (d) is independently developed by the Receiving Party without reference to any Confidential Information of the Disclosing Party; or (e) is authorized for disclosure to a third party upon the written direction of the Disclosing Party, provided that the foregoing exception will only apply to the third party specified by the Disclosing Party in writing for that particular disclosure. In addition, notwithstanding Section 13.1, a Receiving Party may disclose the Disclosing Party's Confidential Information to the extent that such disclosure is required by applicable law or regulation, provided that the Receiving Party give the Disclosing Party prompt, advance written notice of such disclosure (to the extent legally permissible), reasonably cooperates with the Disclosing Party in seeking confidential treatment of such information, and only discloses that portion of information that, based on the advice of counsel, is legally required to be disclosed. Nothing in these Terms limits Spheros's or Buyer's right to disclose, to any person or entity, its own Confidential Information.

13.3 Injunctive Relief. Each party acknowledges that breach of this Section 13 by it would result in irreparable harm to the other party, for which money damages would be an insufficient remedy, and therefore, in addition to all other remedies to which the non-breaching party is entitled, the non-breaching party will be entitled to seek injunctive relief before any competent jurisdiction to enforce the provisions this Section without the necessity of the posting a bond or other surety.

13.4 Other Confidentiality Agreements. For the avoidance of doubt, this Section 13 is not intended to limit the parties' rights, remedies or interests under any other confidentiality or nondisclosure agreement among them, but is instead intended to enhance such rights, remedies and interests

14. Term and Termination.

14.1 Term. The Supply Agreement will remain in effect for the term specified in the Supply Agreement, or until terminated as provided for herein or therein.

14.2 Termination by Buyer. Subject to Section 5.6 herein, Buyer may terminate the Supply Agreement if Spheros breaches any of its material obligations under the Supply Agreement, and such breach is not cured by Spheros within sixty (60) days following Spheros's receipt of Buyer's written, detailed notice of such breach. Notwithstanding Buyer's termination of such Supply Agreement, Buyer will timely pay to Spheros, without setoff, recoupment, or deduction of any kind, all amounts due to Spheros for Products manufactured by Spheros, in accordance with the Supply Agreement, prior to the effective date of termination.

14.3 Termination by Spheros. Spheros may, at its option and without any liability to Buyer, terminate a Supply Agreement prior to the expiration thereof: (i) if there is any sale, assignment or other transfer of stock, securities, or other interests of Buyer that would result in a change in control of Buyer or the formation of any

alliance, partnership, association, or other collaboration, whether formal or informal, and whether involving any equity exchange or other form of investment, whether tangible or intangible, between Buyer and a third party; (ii) for non-payment of the purchase price for Products in accordance with the Supply Agreement, if (A) Spheros first provides Buyer with written notice of the amounts past due and (B) Buyer, within ten (10) days of such notice, does not (1) pay the past due amounts or (2) notify Spheros that the unpaid amounts are disputed by Buyer; (iii) if Buyer is in breach of such Supply Agreement; (iv) upon the occurrence of any of the following or any other similar or comparable event: (A) insolvency of Buyer, (B) Buyer's inability to provide Spheros with adequate and reasonable assurances in accordance with Section 4.5 herein, (C) the filing of a petition in bankruptcy or a comparable insolvency proceeding or event by or against Buyer, (D) the appointment of a liquidator, receiver or trustee for Buyer or substantially all of Buyer's assets, or (E) execution of any assignment for the benefit of creditors of Buyer; (v) if (A) a governmental authority imposes additional duties, tariffs, quotas, antidumping or countervailing duties or other penalties on the Products and (B) Buyer declines to accept full responsibility for the timely payment thereof; or (v) for Spheros's convenience upon sixty days' written notice to Buyer.

14.4 Effect of Termination. Upon termination by Buyer under Section 14.3 herein, Buyer will pay the following amounts to Spheros without setoff, recoupment or deduction of any kind, (i) the Supply Agreement price for all finished Products in the quantities ordered by Buyer for which Spheros has not been paid, (ii) Spheros's costs of work-in-process (on a percentage of completion basis) and raw materials and components incurred by Spheros in furnishing Products under the Supply Agreement, (iii) unreimbursed tooling and equipment manufactured or procured by Spheros in connection with and dedicated to furnishing Products to Buyer under the Supply Agreement, (iv) other costs incurred by Spheros including, without limitation, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs and rental, unamortized capital or depreciation costs, and general administrative burden charges from termination, and (v) a reasonable profit on the items listed in subparts (ii) through (iv) above. For the avoidance of doubt, Spheros may use production lines for purposes other than producing the Products in order to mitigate, if possible, the financial impact of the early termination. Spheros will furnish a written termination claim to Buyer within sixty (60) days after the date of termination. During the thirty (30) day-period following Buyer's receipt of Spheros's termination claim, Buyer may conduct a reasonable audit of Spheros's records to verify Spheros's termination claim. Spheros will reasonably cooperate with any such audit by providing to Buyer such documents as Buyer may reasonably request in support of Spheros's termination claim.

14.5 Buyer's Acts or Omissions. Notwithstanding anything in the Supply Agreement to the contrary, if Spheros's performance of its obligations is prevented or delayed by any act or omission of Buyer or its agents, subcontractors, consultants or employees, Spheros will



not be deemed in breach of its obligations under this Supply Agreement or otherwise liable for any costs, charges, damages, or losses sustained or incurred, or to be sustained or incurred, by Buyer, in each case, to the extent arising directly or indirectly from such prevention or delay.

15. Compliance.

15.1 Anti-Corruption.

Buyer will comply with all applicable anti-corruption laws, including, without limitation, the U.S. Foreign Corrupt Practices Act, and that neither it nor any of its subcontractors, vendors, agents or other associated third parties will engage in any form of commercial bribery, nor directly or indirectly provide or offer to provide, anything of value to or for the benefit of, any official or employee of a governmental authority or of any government-owned, government-controlled or government-affiliated entity to obtain or retain any contract, business opportunity or other business benefit, or to influence any act or decision of that person in his/her official capacity. Buyer further agrees to comply with the Spheros Code of Ethics, as same may be amended from time-to-time by Spheros, the currently applicable version of which is published at <https://www.spheros.com>, and The Spheros Business Partners Code of Conduct September 2018, the currently applicable version of which is published at <https://www.spheros.com>. At Spheros's request, buyer will certify in writing its compliance with the foregoing. Buyer will indemnify and hold Spheros harmless from and against any liability, claims, demands or expenses (including, without limitation, legal or other professional fees) arising from or relating to Buyer's noncompliance.

15.2 Antitrust/Unfair Competition. Buyer shall not to enter into any agreements or to commit concerted practices with other companies, aiming to or having the effect of a prevention, restriction or distortion of competition under applicable domestic or international antitrust or competition laws, rules or regulations.

15.3 Compliance with Laws. Buyer will comply with all applicable laws, regulations and ordinances and maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under any Supply Agreement, including without limitation the respective statutory provisions governing the treatment of employees, environmental protection and health and safety at work and to work towards reducing the adverse effects of its activities on human beings and the environment. Furthermore, Buyer shall comply with the principles of the UN Global Compact Initiative relating to the protection of international human rights, the abolition of forced and child labor, the elimination of discrimination in hiring and employing personnel and the responsibility for the environment.

15.4 Data Protection and Privacy. Buyer shall protect all personal data in accordance with applicable law. Buyer hereby acknowledges and agrees to the terms of the Spheros Data Protection Statement and Privacy Notice and the Spheros CyberSecurity Annex, as same may be amended from time-to-time. The currently applicable versions of the Spheros Data Protection Statement and Privacy Notice is published at:

<https://www.spheros.com>. The currently applicable version of the Cybersecurity Annex will be provided to Buyer with these Terms.

15.5 Compliance Management System. Buyer shall maintain a professional and effective Compliance Management System comparable to ISO 37001.

15.6 Investigations. In the event of a suspected violation of Buyer's obligations under Sections 15.1-15.5 herein, Buyer shall investigate any such potential violation and immediately inform Spheros of any and all investigatory measures initiated or taken, subject to applicable data protection and privacy laws, and inform Spheros of the corrective and remedial measures that Buyer has taken or will take in order to prevent future violations. In this context, Buyer is also solely responsible to ensure that processes and measures of equivalent effectiveness be implemented and adopted by its subcontractors and sub-suppliers, which it uses in the performance of its obligations towards Spheros.

16. Miscellaneous

16.1 Severability. If one or more provisions of these Terms or parts thereof should be or become invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect the validity and enforceability of the remaining provisions of these Terms or parts thereof in any other jurisdiction.

16.2 Notices. All notices, requests, consents, claims, demands, and waivers hereunder (each, a "**Notice**") will be in writing and addressed to the parties at the addresses set forth in the Supply Agreement or to such other address that may be designated by a party in writing. All Notices will be provided by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided herein, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section and can prove delivery of the Notice.

16.3 Assignment. Buyer will not assign any of its rights or delegate any of its obligations under any Supply Agreement without the prior written consent of Spheros. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under any Supply Agreement.

16.4 Waiver. No waiver by either party of any of the provisions of these Terms or any Supply Agreement is effective unless explicitly set forth in writing and signed by the party charged with the waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from such documents operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

16.5 Applicable Law and Jurisdiction. These Terms, and any Supply Agreement issued under these Terms, will be governed and construed in all respects in accordance with the laws of the State of Michigan, United States of America, excluding the provisions of the United Nations Convention on Contracts for the



International Sale of Goods (Vienna, 1980), as amended, and any conflict of law provisions that would require application of another choice of law. Any action or proceeding arising under or relating to these Terms, or any Supply Agreement, may be brought in any state court(s) having jurisdiction in Oakland County, Michigan or federal court(s) having jurisdiction in Detroit, Michigan, and Spheros and Buyer consent to such jurisdiction and forum.

16.6 Subcontractors. Spheros may, without Buyer's prior written consent delegate (including without limitation by subcontract) its performance obligations under any Supply Agreement to one or more subcontractors chosen by Spheros including, without limitation, to any Affiliate of Spheros.

[INSERT BUYER NAME], THE "BUYER"

By: _____

Its: _____

Date: _____