



## SPHEROS GENERAL TERMS AND CONDITIONS OF PURCHASE - BRAZIL AND MEXICO

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These General Terms and Conditions of Purchase (the “Terms and Conditions”) apply to and are part of all Brazil or Mexico related Purchase Orders and Supply Contracts (together “Purchase Orders” and individually a “Purchase Order”) issued by Spheros. “Spheros” means any Spheros Group company placing the Purchase Order (if the Spheros Group company has its registered office outside Brazil or Mexico, these General Terms and Conditions of Purchase shall apply if the Purchase Order is placed with a seller with its registered office in Brazil or Mexico).

## 1. Offer; Acceptance; Exclusive Terms

A. Each Purchase Order, including these Terms and Conditions, is an offer made by Spheros to the party to which the Purchase Order is addressed and to such party's shareholders, affiliates, and subsidiaries (collectively “Winner”) to enter into a contract for the production, purchase and sale of products (including Tools) and/or services specified in the Purchase Order and any attachments, appendix, statement, requests for quotation, designs and drawings provided to Seller by Spheros ( collectively, “Products”). Each Purchase Order, including these Terms and Conditions, will be deemed accepted by Seller upon shipment of Products, performance of services, commencement of work on Products, written acknowledgment issued by Seller, or any other conduct by Seller that acknowledges the existence of a contract relating to the subject matter of the Purchase Order.

B. Acceptance by the Seller is expressly limited to these Terms and Conditions. Any purported acceptance of any Purchase Order under terms and conditions that purport to modify, supersede, supplement, or otherwise alter these Terms and Conditions shall not be binding on Spheros unless expressly accepted by Spheros in writing.

## 2. Quantity and Duration

A. Unless a Purchase Order specifies otherwise, the initial term of the Purchase Order will be the effective date shown on the Purchase Order (the “Effective Date”), remaining in force during the period specified in said Purchase Order (the “Initial Term”).

B. Spheros, at its discretion and at any time, may determine to extend the term of the Purchase Order for a period of up to 6 (six) months (as determined by Spheros) beyond the end date established in the Initial Term. Said extension will be compulsory for the Seller and this period will be referred to as an “Extension Deadline.” Spheros will provide Seller with written notice of any Extension Term at least 60 (sixty) days before the expiration of the Initial Term. This written notice will specify the length of the Extension Period. Your prices in force at the end of the Initial Term and all other Terms and Conditions, including, without limitation, price reductions, as agreed between the parties, will remain valid during the Extension Term.

C. From time to time, Spheros may provide Seller with estimates, forecasts, or projections of its future volume or quantity demands for the Products and/or the timing of a program (“Projections”). Projections will be provided at Spheros's sole discretion to assist Seller in better defining what might be necessary to satisfy future requirements for Products and are not binding on Spheros and Spheros makes no representations, warranties, or promises with respect to any Projections. Spheros will issue schedules to the Seller, specifying the required quantities, delivery locations and shipment dates of the Products (each a “Schedule” and jointly “Schedules”). Spheros will only be obligated to purchase the quantities of Products specified in a Schedule, provided that the Schedule sets forth a specified date on or around which delivery is requested.

D. The supplier shall deliver the Supplies to meet the needs of the spare parts market for ten years following the sale of the last vehicle of the model or models of the range incorporating the said Supplies or for



15 years if the Supplies are intended for the commercial vehicle market or if such spare parts are intended for at least one market the regulations of which stipulate a guaranteed supply of spare parts for 15 years. To that end, and during

these periods, the supplier shall maintain the production tooling and equipment needed for the Supplies in good working order and keep the technical documentation and manufacturing instructions. During the transition from serial production to spare parts production and in the two (2) years following the start up of spare parts production, the prices applied to spare parts will be the prices applicable at the end of the serial production period, plus specific packaging and transportation costs as agreed upon with Spheros. To ensure price stability during these two years, different batch sizes may be agreed at the supplier's request.

### **3. Price**

A. The Prices charged for the Products will be established in the Purchase Order and, once accepted by the Seller as specified in Clause 1. The above, will not be increased for any reason, including, but not limited to, increases in the cost of components or raw materials, labor costs, or general expenses. All such cost increases will be the sole responsibility of the Seller as part of the normal risk of its activities unless expressly accepted by Spheros. Prices may be subject to mandatory reductions if so established in the Purchase Order. In addition to administrative and manufacturing costs, Seller will be solely responsible for all transportation and unloading costs and expenses, customs costs and expenses, taxes, tariffs, fees, insurance costs and expenses, and any tax contribution related to the Products, unless otherwise expressly outlined in the Purchase Order.

B. Seller represents and warrants that the price charged to Spheros for the Products is at least as low as the price charged by Seller to other purchasers under conditions like those specified in the Purchase Order and that all prices comply with all applicable laws and government regulations and in force at the time of quotation, sale, and delivery. Seller will ensure that the prices charged to Spheros for the Products remain competitive with the price of similar products made available to Spheros by other sellers under similar conditions.

C. Seller will participate in Spheros's productivity and cost savings initiatives and programs and will implement Seller's own productivity and cost savings initiatives and programs to reduce the prices presented to Spheros by Seller.

### **4. Invoices**

A. All invoices and/or advance shipment notifications for Products shipped under each Purchase Order must reference the Purchase Order number, Purchase Order addendum or Schedule number, and part number. ) from Spheros, Seller's part number (if different), the number of parts being shipped, number of boxes or containers, Seller's corporate name, and bill of lading number.

B. All invoices and/or advance shipment notifications for Products shipped under each Purchase Order must include all information contained in the Purchase Order that is necessary for the identification and control of the Products including, without limitation, the information required by any applicable tax authority or under any applicable customs regulation or tax legislation, and any applicable temporary importation program number and/or import declaration number.

C. Seller will provide all invoices and/or advance shipping notices for Products shipped under each Purchase Order to Spheros at the billing address identified in the Purchase Order.

D. No invoice shall reference any term separate from or different from these Terms and Conditions or the terms outlined in the Purchase Order. Spheros reserves the right to return all incorrectly submitted invoices, advance shipping notifications, or related documents. If, because of an incorrect shipment of Products, Spheros incurs any costs, including, without limitation, payments of taxes, customs fees, etc., then Spheros will be entitled to offset said cost against future payments due to the Seller. In such a case, Spheros will highlight and inform the Seller of the amount to be compensated and the invoice from which said cost will be deducted. Any payment made by Spheros of a non-conforming invoice, in whole or in part, will not be an acceptance of any non-conforming term or element of said invoice, which may in the future be returned or rejected by Spheros, in writing, and resolved following the compensation mechanisms described in this clause.

## 5. Payment conditions

A. Unless otherwise established in the Purchase Order, Seller's invoices must be paid on the first Friday following 60 (sixty) days after the date of receipt by Spheros of the (i) Products or (ii) Seller's invoice, whichever occurs last. All billing will be done via electronic data exchange and all payments will be made via electronic funds transfer. If a payment date falls on a non-business day, payment will be made on the first business day following. Seller acknowledges and agrees that no payment shall be due or made by Spheros before Spheros's receipt of (i) the Products specified in the relevant Purchase Order/Schedule corresponding to such payment and (ii) Seller's invoice by the requirements contained therein. In Clauses 4 and 5. Incorrect invoices will be returned/reported to the Seller for correction. During the correction process, Spheros will not be obliged to make the respective payment, which will be postponed for the same number of days necessary for the correction, without incurring any monetary correction, interest, or penalty, and will follow the terms and procedures established in this clause.

B. Notwithstanding the specific payment terms applicable to a Purchase Order: (i) Seller shall not, under any circumstances, be entitled to payment for Tools before Spheros has been paid by its customer for such Tools; and (ii) Spheros may, at its discretion, upon written notice to Seller, revise its payment terms concerning the Products to incorporate any change in the payment terms of Spheros's customer(s) applicable to the Products. "Tools" means, collectively, all tools, devices, test, and assembly elements, gauges, jigs, patterns, molding patterns, cavities, molds, and documents (including engineering specifications and test reports) used by Seller in connection with the manufacturing and sales of the Products to Spheros.

C. Any amount paid by Spheros for the Products will not be considered or constitute a waiver of rights with any breach of the Purchase Order by Seller or any other amount due to Spheros. Any waiver by Spheros of any breach by Seller at a particular time shall not preclude Spheros from seeking any relief from Seller, whether under contract or law, nor preclude Spheros from terminating the Purchase Order, nor shall it constitute a waiver of any other breach by the Seller later.

D. Under special circumstances, Spheros may, at any time, in its sole discretion, remit payments directly to Seller's subcontractors or suppliers for material, parts, components, and other products and services requested by Seller from such subcontractors or suppliers in connection with production by the Seller of the Products, provided that Spheros provides notification to the Seller of said action. If Spheros makes such direct payments to Seller's subcontractors or suppliers, Spheros will permanently reduce its next payments to Seller relating to the Products, in proportion to the value of all such direct payments. Said payments made to subcontractors or suppliers



will not constitute or create any direct relationship or contract between Spheros and the subcontractor or supplier, or imply any transfer or control, administration, risk, or responsibility from Seller to Spheros.

E. If a customer of Spheros determines, recommends or requests that Seller supply the Products to Spheros: (i) payment by Spheros for the Products will be due to Seller only after, and provided that, Spheros actually receives payment from such customer for the assembled Spheros products, parts or components in which the Products are incorporated; (ii) any extension of payment terms to be made by said customer to Spheros, for

Spheros's assembled products or parts or components in which the Products are incorporated, will automatically extend, for the same period of time, the payment terms agreed between Spheros and the Seller; and (iii) within 3 (three) business days after any price reduction or change of terms, for the Products, negotiated or proposed between the Seller and Spheros's customer, the Seller will notify Spheros, in writing, of the said reduction or change. The Seller will also promptly adjust its invoices to reflect any price reduction. No change of terms (except for price reductions) will be binding on Spheros without Spheros's prior written consent.

F. For Spheros to meet the payment deadline for Seller's invoices under Clause 5.A above, said invoices must be sent to Spheros's contracting department at least twenty (20) days before the due date thereon established.

G. The invoice must list the details of its purpose clearly, and supporting documents, if applicable, must be attached to facilitate verification and payment.

H. No title relating to receivables owed by Spheros to Seller may be withdrawn at any bank or assigned or transferred to any third party, unless previously authorized in writing by Spheros, subject to the termination of this instrument or the Purchase Order, at Spheros's discretion, and the initiation of compensation proceedings against the Seller and a fine in the same amount as the subject of the withdrawal, assignment or transfer made by the Seller.

I. Bank payment receipts must not be registered or contain instructions, and a copy must be kept in the Seller's receivables portfolio.

## **6. Quality**

The Seller will comply with all quality requirements of Spheros and its customers. If there is any doubt regarding the content of said quality requirements, the Seller will require Spheros to provide it with documents establishing said requirements. Seller will ensure that all Products will conform to all specifications, standards, drawings, samples, and descriptions, including, without limitation, those relating to the quality, performance, suitability, form, function, and appearance outlined in the Purchase Order. Seller is responsible for the quality, performance, suitability, form, function, and appearance of all Products, components, and sub-components supplied by any suppliers, subcontractor manufacturers, and sub-suppliers used by Seller. The Seller, at its expense and promptly, will provide, maintain in good condition, and replace, when necessary, all Tools, machinery and equipment, and other items necessary for the production of the Products so as not to give rise to any defect or delay upon delivery of the Products.

## **7. Delivery; Premium Shipping Costs; Risk of Loss**



A. Deliveries will be made in the quantity, time, and location specified in the Purchase Order or Schedules. Delivery time and quantity are essential for each Purchase Order and Request Form. Seller will adhere to

the shipping guidelines specified in the Purchase Order or Schedules. Spheros will not be required to make payments in respect of Products delivered to Spheros that exceed the quantities and delivery schedules specified in Spheros's Schedules or Purchase Order.

B. Premium Shipping expenses and/or other related expenses necessary to meet the delivery schedules outlined in the Schedules will be the sole responsibility of Seller unless: (i) the delay or expense is the result of Spheros's actions that materially breach Spheros's obligations Spheros contained in the Purchase Order (if said the material breach was not caused by the Seller); and (ii) Seller provides Spheros with written notice of any claim against Spheros within ten (10) days after the alleged actions of Spheros giving rise to such claim occurred.

C. Notwithstanding any agreement regarding the payment of freight charges, delivery will not have taken place and risk of loss will not pass to Spheros until the Products have been received at the specified delivery location and accepted by Spheros at that location.

## 8. Intellectual Property

A. Intellectual Property Rights. The term "**Intellectual Property Rights**" means, without implying limitation, inventions, patents (including utility patents and design patents), trade secrets, registered trademarks, service marks, trade dress, industrial designs, new creations, copyright, know-how, software, database rights, and other proprietary rights. The term "**Previous Intellectual Property Rights**" means the Spheros's or Seller's Intellectual Property rights existing before an applicable Purchase Order, as well as any improvements thereto, excluding Subsequent Intellectual Property Rights. The term "**Later Intellectual Property Rights**" means all Intellectual Property Rights developed to be incorporated into the Products that are developed by Spheros independently, by Spheros and Seller jointly, or by Seller independently at the request of Spheros in connection with any Purchase Order. Later Intellectual Property Rights do not include Prior Intellectual Property Rights.

B. Previous Intellectual Property Rights. Each party will be the exclusive owner of its Prior Intellectual Property Rights. Spheros does not transfer to Seller any of its Prior Intellectual Property Rights, and Seller may not use the same except to produce and supply the Products to Spheros under a specific Purchase Order and subject to the Terms and Conditions. Except as outlined in this Section 8.B, Seller does not transfer to Spheros any Seller's Prior Intellectual Property Rights, but Seller grants Spheros and its customers the right to resell the Products or incorporate the Products purchased from Seller into vehicles, components, parts or assemblies and sell the same to Spheros's customers and to Spheros's customers' customers. The right mentioned in this Clause is perpetual, irrevocable, free of any charges, valid in all countries in the world, for an unlimited number of Products, for any type of use, including, without limitation, the right to distribute, sell, transfer, register, use, promote on the market. Upon termination or expiration of a Purchase Order, Seller grants to Spheros a worldwide, non-exclusive, irrevocable license, with the right to grant sublicenses, to use Seller's Prior Intellectual Property Rights concerning the expired Purchase Order or terminated, subject to Clause 40 of these Terms and Conditions, to produce, use, sell and obtain, from alternative sources, products and services similar to the Products (including related systems and components). There will be no payment in consideration for this license.

C. Later Intellectual Property Rights. All Subsequent Intellectual Property Rights are held by Spheros and not by the Seller. Seller hereby confirms this fact and assigns to Spheros all of Seller's rights, title, and



interest in all Subsequent Intellectual Property Rights that are developed or created in the course of fulfilling any Purchase Order (separately or as part of any Products). To the extent that any Subsequent Intellectual Property Rights are inventions, copyrightable works, and patents or works of authorship (including, but not limited to, computer programs, technical specifications, documentation, and manuals), the parties agree that such works are “works made for hire” as such term is used in connection with the North American Copyright Law and with any similar concept

applied in Brazil in such respect. Seller may only use the Subsequent Intellectual Property Rights to produce and supply the Products to Spheros.

D. Seller represents and warrants to Spheros and Spheros's customers that all Products covered by each Purchase Order do not and will not infringe, violate, or misappropriate the Intellectual Property Rights of any third party. The Seller: (i-a) will defend, exempt, and indemnify Spheros and its customers against all claims, demands, losses, lawsuits, damages, liabilities and expenses (including legal fees, expert and consultant fees, value of settlements and judgments) arising of any suit, claim, demand or action for alleged or actual indirect or contributory or direct infringement, or inducement of infringement, of any Brazilian or foreign Intellectual Property Right due to the manufacture, use, sale, offer for sale, import or distribution of the Products (including such claims when the Seller has supplied only part of the Products); and (ii-a) waives any claim against Spheros and its customers, including any claim for exemption or similar, whether known or unknown, contingent or latent, in any way related to a claim asserted against Seller or Spheros for infringement to any Intellectual Property Rights, including claims arising from compliance with specifications provided by Spheros. Without limiting the above, if an infringement of a third party's Intellectual Property Right is detected at any time, the Seller undertakes to (i-b) obtain a license for Spheros, its customers and customers' customers to use and commercialize the Products free of charge, or (ii-b) cause the Products to no longer infringe such rights so that Spheros can continue to use them in its business.

E. Seller will not, at any time during the term of this instrument or a Purchase Order, and even after termination thereof for any reason, assert or transfer to any third party a right of claim against Spheros or its customers of any Intellectual Property Rights that Seller has or may have that apply to the Products used or supplied under the Purchase Order.

F. Seller will not sell or otherwise dispose of any Products incorporating any Spheros Intellectual Property Rights to any third party other than Spheros, unless specifically authorized by Spheros in advance and writing, expressly waiving the protection mentioned in this provision, and said document, in any case, must be signed by Spheros's authorized representative, which the Seller undertakes to verify promptly.

## **9. Guarantee**

A. Seller represents and warrants to Spheros that all Products covered by each Purchase Order will conform to all specifications, standards, drawings, samples and/or descriptions, quality requirements, performance requirements, and suitability, form, and function provided to Seller by Spheros, and all industry standards, laws and regulations in force in countries where the Products or vehicles equipped with said Products will be sold. Seller warrants that all Products will be merchantable, safe, made with good materials and workmanship, and free from defects. Furthermore, Seller acknowledges that Seller is aware of Spheros's intended use of the Products and expressly warrants that all Products will be suitable and sufficient for the specific purpose intended by Spheros.

B. Seller represents and warrants to Spheros that Seller will transfer full title of ownership of the Products to Spheros, free and clear of any liens, claims, interest, and other encumbrances.



C. All representations and warranties will remain in effect for the longer of (i) the period established by applicable law or (ii) the warranty period granted by Spheros to its customers; provided, however, that if Spheros or its customers, voluntarily or under a governmental mandate, make an offer to owners of vehicles (or other finished products) in which the Products or any parts, components or systems incorporating the Products are installed to provide a claim for damages relating to a defect or condition relating to the safety of the vehicle or the failure of the vehicle to comply with any applicable law, safety standard or guideline, whether in connection with a campaign recall or other corrective action or to customer satisfaction (a "Corrective action"), the warranty will remain in effect for the period established by Spheros's customer or the federal, state, local or foreign government where the Products are used or supplied. Notwithstanding the expiration of a warranty period outlined in this Section 9, Seller shall nevertheless be responsible for costs and expenses associated with any Corrective Action to the extent that such Corrective Action is based on a reasonable determination that the Products are not in compliance with the warranties outlined in the Purchase Order. Where applicable, Seller will pay all reasonable expenses (including external expert fees) associated with determining the need for Corrective Action, as determined by Spheros in its sole discretion.

D. All warranties are intended to provide Spheros with protection against all warranty claims brought against Spheros by its customers, customers of customers, or end users. This includes, without limitation, satisfying any warranties required by customers concerning the Products or products in which the Products are incorporated. All such customer-required warranties are incorporated by reference.

E. The warranties outlined in this Section 9 are in addition to all other warranties, express, implied, or statutory, and will survive inspection, testing, delivery, acceptance, use, and payment by Spheros of the Products, and will inure to the benefit of Spheros, its successors and assignees, and Spheros's customers and users of Spheros's or its customers' products. The warranties outlined in Clause 9 cannot be limited or waived by Seller. Spheros's approval of Seller's designs, materials, processes, drawings, specifications, or the like shall not be construed to release Seller from any warranties nor shall a waiver by Spheros of any required specification for a particular Product constitute a waiver of said requirement concerning the remaining Products to be delivered unless otherwise stated by Spheros in writing.

F. Seller will immediately notify Spheros in writing if Seller becomes aware of any fact, circumstance or condition, the existence of which causes or threatens to cause imminent breach of any warranty or interruption in Seller's production of the Products or subsequent marketing by Spheros of the Products to your customers.

G. To mitigate damages, Spheros may claim in its defense that any Products supplied by the Seller are defective, in breach of warranty, or otherwise do not satisfy applicable contractual or legal requirements, as said customer may attempt to hold Spheros liable Valuable for problems caused in whole or in part by the Seller. Seller acknowledges and agrees that said defense is in the interests of Seller and Spheros and that it has enabled Spheros to act more quickly against said claim. Therefore, the Seller waives the right to claim that the position taken by Spheros in any way limits the right of Spheros to present claims against the Seller for breach of warranty, contribution, indemnity or other claims that may arise from or be related to the questions above.

## **10. Indemnity**

A. Seller agrees and agrees to indemnify and hold harmless Spheros and its respective directors, officers, and agents against any claims, liabilities, damages (including consequential, special, consequential, punitive and exemplary damages), costs and expenses (including attorneys' fees, expert and consultants, settlement amounts and judgments) incurred in connection with any claim (including lawsuits, administrative actions, regulatory actions and other claims for personal injury or death, property damage or economic loss of any kind) relating to or





arising out of the Products, statements by Seller, Seller's performance or failure to comply with its obligations hereunder or any Purchase Order, including claims based on Seller's breach or alleged breach of warranty (whether or not the Products have been incorporated into Spheros products and/or re-sold by Spheros) and claims for any violation of any applicable law, ordinance or regulation or governmental authorization or order. Seller's indemnity obligations will apply even if Spheros provides all or part of the design and specifies all or part of the process used by Seller.

B. If Seller carries out any work on Spheros premises or uses Spheros property, whether on or off Spheros premises, Seller will indemnify and hold harmless Spheros, its affiliates and subsidiaries, and their respective directors, officers, employees, and agents, against all liabilities, claims, demands or expenses (including attorneys', expert's and consultant's fees, settlement amounts and awards) for damage to Spheros's property or injury

(including death) to its employees or any other person and their respective property that arises from or is related to Seller's performance of work or use of Spheros's property, except to the extent that such liability, claim, or demand arises solely from Spheros's gross negligence, as duly evidenced.

C. Spheros will notify Seller upon becoming aware of the basis of a claim brought against Seller under Section 10. Seller will immediately begin work in cooperation with Spheros to determine the cause of origin of a defect or failure in the Products (and components and related systems).

## 11. Changes

A. Spheros reserves the right, at any time, to make changes, or cause Seller to make changes, to the Products under any Purchase Order or Purchase Order amendment including, without limitation, changes to the design (including drawings and specifications), process, packaging and shipping methods, and date or location of delivery of Products covered by the Purchase Order, or otherwise change the scope of work covered by the Purchase Order including work relating to inspection, testing or quality control, and Seller agrees to immediately make said changes. The Price and/or delivery time of the Products resulting from the changes defined in this Clause will be equivalently adjusted by Spheros upon receipt of sufficient documentation sent by the Seller, about the Seller's costs and/or production timeframe concerning said changes.

B. Any change (i) to Seller's subcontractors or Seller's suppliers, or (ii) to the processes or procedures used by Seller in producing the Products, or (iii) to the suitability, form, function, or appearance of the Products, must be approved by Spheros in advance and written. If Seller purchases from suppliers or subcontractors materials, parts, or components used in production by Seller, any change (i) in the processes or procedures used by Seller's suppliers or subcontractors in the production of said materials, parts, or components, or (ii) in the suitability, form, function or appearance of said materials, parts or components must be approved by Spheros in advance and writing. Any request for such changes by Seller or Seller's suppliers and subcontractors may be approved or denied by Spheros, at its sole discretion. In any case, Seller undertakes to provide Spheros, in advance, with a list of subcontractors and suppliers that Seller will use in connection with the Products to be sold to Spheros, without said list implying any reduction in Seller's liability under terms of this instrument, by the sale of the Products to Spheros or assumption by Spheros of any responsibility for said subcontractors and suppliers.

12. **Operating and Financial Condition of the Seller.** The Seller represents and warrants to Spheros as of the date of each Purchase Order that it is not insolvent and that it pays all its debts as they become due; that it complies with all agreements and loans and other obligations; that all financial information provided by Seller to Spheros concerning Seller is true and correct; that said financial information accurately represents the financial

condition of the Seller; and that all of Seller's financial statements have been prepared following generally accepted accounting principles that are uniformly and consistently applied.

13. **Insolvency of the Seller.** Spheros may, upon delivery of a simple written notice to the Seller, immediately terminate this instrument and each Purchase Order, at Spheros's sole discretion, in accordance with its analysis of the adverse impacts of the event, without any liability of Spheros to the Seller upon the occurrence of any of the following events or any other similar or equivalent event: (i) insolvency of the Seller; (ii) Seller's failure to promptly provide Spheros with adequate and reasonable assurance of Seller's operational and financial ability to timely perform any of Seller's obligations hereunder or in accordance with any Purchase Order; (iii) voluntary

bankruptcy request made by the Seller (or equivalent insolvency event); (iv) bankruptcy petition made against the Seller (or equivalent insolvency event); (v) appointment of a judicial depository or liquidator for the Seller or its assets; (vi) execution of any assignment for the benefit of the Seller's creditors; or (vii) initiation of a judicial or extrajudicial recovery process by the Seller.

#### 14. Remedies against Seller Infringement.

A. Without limiting any of Spheros's rights and remedies available at law or in equity (all of which are preserved), if any Products fail to conform to any applicable warranties, Seller will reimburse Spheros for all consequential, special, incidental and consequences caused by non-conforming Products, including, without limitation, costs, expenses and losses incurred by Spheros: (i) in the inspection, classification, testing, repair or replacement of said non-conforming Products; (ii) resulting from interruptions in production; (iii) conducting Corrective Actions; and (iv) in connection with claims brought by Spheros's employees, contractors and subcontractors, Spheros's customers and Spheros's customers' customers and any third party, for personal injury (including death) or property damage caused by nonconforming Products.

B. Seller acknowledges and agrees that monetary damages may not be sufficient to remedy actual, anticipated, or threatened breaches of these Terms and Conditions or any Purchase Order by Seller in connection with Seller's delivery of Products to Spheros and that, in addition to all other rights and remedies that Spheros may have, Spheros shall be entitled to specific performance and injunctive, provisional, and permanent relief and other equitable relief for such breach.

#### 15. Termination

A. Spheros Right to Terminate for Just Cause. A Spheros may immediately terminate these Terms and Conditions and all or any part of each Purchase Order, without any liability to Spheros to Seller, if Seller: (i) repudiates, breaches or threatens to repudiate or breach any of the terms of the Purchase Order Purchase or these Terms and Conditions; (ii) fails to fulfill or deliver the Products as and when specified by Spheros; (iii) fails to provide Spheros with adequate and reasonable assurance of Seller's ability to timely perform any of Seller's obligations under any Purchase Order including, without limitation, timely delivery of Products; or (iv) repudiates, violates or threatens to repudiate or violate any of the terms of any other Purchase Order issued by Spheros to Seller. Spheros may, but shall not be obliged to, provide the Seller with a deadline to remedy the infraction.

#### B. Spheros Right of Termination for Convenience.

(1) In addition to any other rights of Spheros to terminate each Purchase Order for cause, Spheros may, at its discretion, terminate all or any part of the Purchase Order, at any time and for any reason, by delivering notice by writing to the Seller, observing the steps mentioned in Clause 15.B (2) below.

(2) Upon receipt of notice of termination following this Section 15.B, Seller, unless otherwise instructed in writing by Spheros, will: (i) promptly terminate all work subject to the Purchase Order; (ii) upon Spheros's written request, transfer title and deliver to Spheros the marketable and usable finished Products and raw materials/components that Seller has produced or acquired under the quantities defined in the Schedule under the Purchase Order and which the Seller cannot reasonably be used in the production of products for itself or others; (iii) take the measures reasonably necessary to protect the ownership of goods in the possession of the Seller in which Spheros has an interest; and (iv) upon Spheros's request, cooperate with Spheros to effect the reallocation of the Products covered by the Purchase Order to an alternative supplier designated by Spheros.

C. Due to Spheros's commitments to its customers are made based on Seller's commitments under each Purchase Order and these Terms and Conditions, Seller shall not have the right to terminate any Purchase Order accepted following Clause 1.A.

D. Upon expiration or earlier termination of any Purchase Order for any reason, Seller will take such steps as are reasonably required by Spheros to transfer production of Seller's Products to an alternative seller (including any Spheros affiliate) including, without limitation, the actions set forth below:

(1) Seller will provide Spheros with sufficient inventory of the Products covered by the Purchase Order to ensure that the transition to any alternative seller chosen by Spheros occurs smoothly. Unless otherwise specified by Spheros in a Purchase Order, an eight (8) week supply of Products will be considered sufficient to fulfill the transition. The eight (8) week inventory will be calculated using the Purchase Orders and Schedules for the eight (8) weeks immediately preceding the Seller's notice of termination, excluding any temporary interruption, industry or factory shutdown, or other shortened schedules. The Prices in effect immediately before the expiration or cancellation of the Purchase Order will be the prices to be paid by Spheros for eight (8) weeks' inventory of the Products.

(2) Seller will return to Spheros all Leased Property, as defined below, and any other property provided or belonging to Spheros or any of its customers in the condition in which they were received by Seller, except for normal wear and tear.

(3) Seller will, at Spheros's discretion: (i) assign to Spheros or an alternative Seller all or any orders or contracts for the supply of components or raw materials relating to the Purchase Order; (ii) sell to Spheros, at Seller's price, all or any inventory and/or work in progress in connection with the Purchase Order; and (iii) sell to Spheros, for a price equivalent to the unamortized portion of the cost of said items, less any amount that Spheros has previously paid to Seller for the cost of said items, any or all of Seller's Tools, machinery or equipment used by the Seller in the manufacture of the Products.

## **16. Limitation of Liability.**

Under no circumstances will Spheros be liable to Seller or Seller's subcontractors for anticipated profits or special, incidental, or consequential damages for any reason, including, without limitation, as a result of early termination of a particular Purchase Order following Sections 15 .B(2) and 15.D(3).

## **17. Assignment**

A. Seller may not assign or delegate any of its obligations under this instrument or any Purchase Order without Spheros's prior written consent, which may be withheld at Spheros's sole discretion. Any sale, assignment, or other transfer of Seller's share, security, or other interest that results in a change in Seller's control will be considered a purported assignment of the Purchase Order, concerning which Spheros reserves the right to withhold its consent.

B. Spheros may assign the Purchase Order and/or any of its rights and interests in the Purchase Order, without Seller's consent, to any person or entity including, without limitation, any of Spheros's affiliates (including, without limitation, any parent, subsidiary or division), or to any purchaser or successor of all or any part of Spheros's assets and business.

## 18. Lending

A. All supplies, materials, machines, equipment, Tools (as defined in Clause 5.B above), plants, projects, specifications, drawings, positives and negatives of photographs, artwork, copy layout, electronic data, material consigned for production or repair and other items supplied by Spheros (or Spheros's customers), whether directly or indirectly, to Seller or any sub-supplier of Seller in connection with or in connection with any Order Purchase, or for which Seller has been at least partially reimbursed by Spheros (collectively, "Property Sold in Lease") will be and remain the property of Spheros (or Spheros's customers, as applicable) and will be held by the Seller on an at-will basis.

B. The Seller will bear the risk of loss and damage to the Leased Property and Seller, at its expense, will keep the Leased Property fully insured for the benefit of Spheros, designating Spheros as the beneficiary of the policy and additional insured. The Leased Property will at all times be properly housed and maintained by the Seller, will not be used by the Seller for any purpose other than the fulfillment of the Purchase Order, will be considered as movable property, will be conspicuously marked by the Seller to identify the same as Spheros's property and indicate Spheros's name and address, will not be mixed with the property of the Seller or any third party, and will not be moved from the Seller's premises without the prior written consent of Spheros. Seller will maintain a written inventory of all Leased Property that sets forth a description of the location of all Leased Property and will provide a copy thereof to Spheros promptly upon request. The Seller, at its expense, will maintain, repair, and renovate the Leased Property as if said property were the property of the Seller. All replacement parts, additions, improvements, and accessories for said Leased Property will automatically become the property of Spheros upon incorporation of the same into the Leased Property. Any missing components or inserts in any Leased Property will be replaced by the Seller at its expense.

C. Spheros may, at any time, for any reason and without payment of any kind, notify the Seller and retake possession or request the return of any Property Sold in Lease, without the need to obtain a court order to do so. Upon Spheros's request, the Seller undertakes to take all necessary measures so that the Leased Property is immediately released to Spheros or delivered to Spheros by the Seller in accordance with Spheros's instructions and in the same good condition as the Leased Property. Leasing has been delivered to the Seller, except for natural wear and tear, either (i) by F.O.B. of equipment to Seller's factory, appropriately packaged and marked in accordance with the requirements of the carrier selected by Spheros to transport said good, or (ii) to any location designated by Spheros, in which case Spheros will pay Seller a reasonable cost for the delivery of said Leased Property at said location. Notwithstanding anything to the contrary contained in these Terms and Conditions, Spheros may file an action or proceeding to repossess the Leased Property in any competent court.

D. TO THE EXTENT PERMITTED BY LAW, SELLER WAIVES ANY RIGHTS OF RETENTION, INTEREST, OR OTHER RIGHTS OR INTEREST WHICH SELLER MAY OTHERWISE HAVE IN ANY PROPERTY



LEASED DUE TO WORK PERFORMED ON SUCH PROPERTY AND FOR THE PURCHASE PRICE OF ANY PRODUCTS MANUFACTURED OR PRODUCED ACCORDING TO THE PURCHASE ORDER.

E. The Seller acknowledges and agrees that (i) Spheros is leasing the Leased Property to Seller for Seller's benefit and solely for use in connection with the Products to be sold by Spheros; (ii) the Seller has inspected the Leased Property which the Seller declares to be in good condition and that it is satisfied that the Leased Property is suitable and appropriate for the intended purposes, and (iii) Spheros HAS NOT MADE AND DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE SUITABILITY, CONDITION, MERCHANTABILITY, DESIGN OR OPERATION OF THE LEASED PROPERTY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE. Spheros will not be liable to the Seller for any loss, damage, injury (including death), or expense of any kind or nature caused, directly or indirectly, by the Leased Property including, without implying

limitation, its use or maintenance, or its repair, service or adjustment, or for any interruption of service or any loss of business, including, without limitation, any anticipatory damages, lost profits or any other indirect, special or consequential damages.

F. The Seller authorizes Spheros to register a financial statement or similar document with the appropriate registration authority to notify Spheros's title to the Leased Property. Failure to file a financial statement will not alter or affect Spheros's ownership rights in the Leased Property. Seller will provide Spheros, upon Spheros's request and within 7 (seven) days thereof, a written inventory of all Leased Property.

G. In the event of any dispute between Spheros and the Seller regarding the ownership of the Leased Property to Spheros or the Seller, the Leased Property subject to the dispute will be considered the property of Spheros until the dispute is resolved, and the Spheros will have the right to retake immediate possession of the Leased Property subject to the dispute not yet resolved (and the Seller may not refuse to hand over to Spheros possession of the Leased Property subject to the dispute not yet settled), but will remain subject to any claim or right to payment by the Seller for the amounts in dispute (despite the delivery of possession by the Seller). If Seller refuses to amicably return the Leased Property to Spheros under this paragraph or at any time that Spheros requests the return of the Leased Property, Spheros will charge Seller a daily rent for retaining the Property Lending until the final delivery of the Lending Property to Spheros. Said rent is now agreed at 5% (five percent) of the market value of the Leased Property per day and will be due and payable on the same date on which the Leased Property is returned to Spheros. Such rent will be charged in addition to any losses and damages owed by the Seller to Spheros.

**19. Transfer of Title to Acquired Goods.** A Seller transfers to Spheros the title of all Tools and other Products (including, without limitation, machinery, and equipment) that are the subject of a Purchase Order ("Purchased Goods"). Title to the Purchased Goods will be transferred to Spheros even if the Seller has not been paid (in whole or in part) for the Purchased Goods; provided that Spheros is not released from its obligation to pay for the Purchased Goods under the Purchase Order. Purchased Goods will be identified on the Purchase Order at the time manufacturing or production of the Purchased Goods has commenced. To the extent permitted by law, Seller waives and releases all liens, claims, interests, and encumbrances it has or may have concerning the Purchased Goods, other than Seller's right to be paid for the Purchased Goods following the Order of Purchase. Seller grants Spheros a continuing security interest in any alleged right or interest it may have in the Purchased Goods.

**20. Tools Owned by the Seller.** If the Seller must provide or finance any Tools to enable production subject to a Purchase Order ("Seller-Owned Tools"), the following provisions will apply:



A. The Seller acknowledges that the price of Products includes an amount for the Seller to recover the costs of Seller-Owned Tools. Maintenance of Seller-Owned Tools will be appropriately performed by the Seller, at its expense, for the term of the Purchase Order, as well as for the period in which the Seller is obligated to provide service or replacement parts unless otherwise specified in the Purchase Order or another written agreement between Spheros and Seller. If Seller finances any part of the Seller-Owned Tools, Seller will obtain for Spheros the rights granted under this Clause 20 from the entity granting the financing/loan.

B. Unless otherwise agreed to in writing by Spheros, the Seller will not use Seller-Owned Tools to produce products for other customers, including aftermarket customers.

C. In connection with Spheros's Purchase Order for Products to be produced using Seller-Owned Tools, the Seller grants to Spheros an exclusive and irrevocable option to purchase the Seller-Owned Tools for an amount equal to the lesser of (i) the unrecoverable discounted cost outstanding at the time Spheros exercises the option, (ii) the net book value, or (iii) the fair market value of the Seller-Owned Tools to be acquired, less any value that Spheros has previously paid to the Seller for the cost of said items. The term "sunk discounted cost" means the actual cost of Seller-Owned Tools (without profit margin or overhead distribution) any less the total amortization of each of the Products manufactured using the Tools and delivered to Spheros, less the advance payment made based on the remainder of the useful life of the originally quoted product, using a discount rate of twelve percent (12%) per year.

Spheros may exercise its purchase option at any time and not only in the event of termination, expiration, or cancellation of a Purchase Order. Upon Spheros's exercise of its option to acquire Seller-Owned Tools, upon Spheros's request, Seller will cooperate with Spheros in removing the property from Seller's facilities.

**21. Rights of Access, Complaint and Inspection.** A Spheros shall have the right to enter Seller's premises during normal business hours, at reasonable times previously designated by Spheros to inspect the premises, Products, and any Leased Property and, with Seller's assistance (which Seller agrees to provide ) remove property belonging to Spheros or any customer of Spheros including, without limitation, Leased Property and Seller's Products, inventory or property that has been sold to Spheros. Inspection by Spheros of the Products, whether during manufacture, before delivery, or within a reasonable period after delivery, shall not constitute acceptance of any work in progress or the finished Products, or in any way reduce Seller's obligations or liabilities in connection with this instrument and with the Products and Lent Property in any way.

**22. Subcontracting.** A Seller will not subcontract any of its duties or obligations under any Purchase Order without the prior written approval of Spheros. The Seller will ensure that any subcontractor so approved complies with Spheros's entire parts production approval process (PPAP) and customer quality requirements and any other Spheros requirements. Spheros or Spheros's representative shall have the right to verify at any subcontractor's or Seller's establishment whether the subcontracted Products meet the specified requirements.

**23. Unsatisfactory Products.** Spheros, at its discretion, may reject and return, at Seller's expense and risk, Products received under any Purchase Order that fail to comply with the requirements of the Purchase Order even if the nonconformity does not become apparent to Spheros until the manufacturing, processing or assembly stage or even after. To the extent Spheros rejects Products as unsatisfactory, the quantities subject to the Purchase Order will not be reduced by the quantity of unsatisfactory Products unless Spheros notifies Seller in writing. Seller will replace unsatisfactory Products with satisfactory Products within two (2) days after receipt of notice from Spheros, unless otherwise notified in writing by Spheros, including, without limitation, through a notice of termination from Spheros under Clause 15 above. Seller will reimburse Spheros for (i) any amount paid by Spheros in connection with the purchase price of any unsatisfactory and rejected Products, and (ii) any costs incurred by Spheros in connection with the unsatisfactory Products, including, without limitation, inspection, classification, testing, evaluation, storage, and



rework. Payment by Spheros for unsatisfactory Products shall not constitute an acceptance of, limit, or preclude Spheros's right to seek any remedy at law or in equity or release Seller from its liability for latent defects.

**24. Insurance.** Seller will obtain and maintain, at its expense, insurance coverage customary in the automotive supply industry and as otherwise required by law or reasonably requested by Spheros, with such insurers and in the amounts outlined in the Insurance Policy for Suppliers and Subcontractors On site of Spheros, a copy of which will be provided to Spheros upon Spheros's written request. This includes, without limitation, full fire coverage and broad replacement coverage for the value of (i) all of Seller's Property and (ii) any Leased Property, both at their full replacement value. Said insurance coverage will designate Spheros as the beneficiary of the policy and additional insured. Upon request, the Seller will provide Spheros with certificates of insurance setting forth the amount of coverage, policy number, and expiration date of the insurance maintained by the Seller and such certificates must provide that Spheros will receive written notice of at least thirty (30) ) days' notice from the insurer regarding any cancellation or reduction in the amount or scope of coverage. Seller's provision of certificates of insurance or purchase of insurance shall not relieve Seller of its obligations or liabilities under any Purchase Order. If Seller fails to maintain any insurance under any Purchase Order, Spheros shall have the right to obtain such insurance, and Seller shall reimburse Spheros upon request, for all actual costs and expenses incurred in obtaining such insurance.

**25. Customs Requirements and Export Controls.**

A. Seller will promptly provide Spheros with all documents required for customs drawback purposes, appropriately completed following all applicable laws and regulations. Seller will also provide, at Seller's expense, all information (including written documents and electronic transaction records) regarding the Products that are necessary for Spheros to comply with any customs or government agency-related obligations, labeling and marking requirements of origin, and local content reporting and certification requirements, to enable Spheros to claim preferential treatment upon entry of eligible Products into compliance with trade preference systems and to take all necessary steps for Products to be covered by any free trade zone program or deferral of customs duties applicable in the importing country.

B. To the extent Products are imported into the United States of America, Seller will comply with all applicable requirements and recommendations of the Customs and Border Protection Division-Trade Terrorism Partnership ("C-TPAT") initiative. Upon request, the Seller will certify in writing its compliance with the C-TPAT initiative.

C. Export licenses or authorizations necessary for the export of Products will be the responsibility of Seller, unless otherwise expressly outlined in the Purchase Order, in which case Seller will provide, at Seller's expense, all necessary information and documentation or advisable to enable Spheros to obtain the appropriate or necessary licenses or authorizations. The credits or benefits that result or arise from any Purchase Order, including commercial credits, export credits, customs drawbacks, and the refund of charges, taxes, or fees, will belong to Spheros. Seller will indemnify and hold Spheros and Spheros's customers and their respective successors, assigns, representatives, employees, and agents harmless against all costs, expenses, or liabilities arising from incorrect information provided by Seller or its failure to comply with customs regulations.

**26. Certificates of Origin.**

A. Upon request, Seller will promptly provide to Spheros all certificates of origin and domestic value-added and other information regarding the costs and places of origin of the Products and materials contained therein or used in the operation thereof, as may be required by Spheros to fully comply with all applicable customs,



fees, and other government regulations. The Seller will comply with said regulations. Seller will indemnify and hold Spheros, Spheros's customers, and their respective successors, assigns, representatives, employees, and agents harmless from and against all liabilities, demands, claims, losses, costs, damages, and expenses of any kind or nature (including costs and attorneys' fees, fines and penalties) arising or resulting from (i) Seller's delay in providing said certificates or other information to Spheros, (ii) any errors or omissions contained in said certificates, and (iii) any non-compliance by the Seller of the aforementioned regulations.

B. The Seller will provide a complete North American Free Trade Agreement (NAFTA) Certificate of Origin for all NAFTA-qualified Products sold to Spheros according to the Purchase Order. For Products not eligible for NAFTA treatment, the Seller will provide Spheros with the correct Country of Origin information for each said item. If Seller fails to correctly provide the required Certificate or Country of Origin information, Spheros may recover from Seller any obligations, penalties, or other liabilities or expenses (including legal fees) charged, imposed, and assessed against Spheros.

## **27. Compliance with Laws.**

A. The Seller will not (i) use forced or involuntary labor, regardless of form, (ii) employ any child except as part of an apprenticeship program, job training, or similar government-approved program, or (iii) engage whether in abusive employment relationships or corrupt business practices in the supply or delivery of Products under any Purchase Order.

B. The Seller shall ensure that the Products to be delivered are produced in accordance with the health, safety and environmental protection laws, regulations and standards and with the labour laws in force in each of the countries involved in their production. In particular, the Seller undertakes to comply with the regulations governing the prohibition of illegal employment and to provide, at Spheros' first request, the documents required under legal and regulatory provisions which certify that the Seller's employees are legally employed. In addition, the Seller will adopt in its business dealings the ethical rules set out in the United Nations Global Compact on human rights, labor standards, the environment and anti-corruption as well as the rules of Spheros Business Partner Code of Conduct (BPCoC). The commitment of the Seller to be familiar with and satisfy the requirements of BPCoC, and to comply with the rules and procedures established to implement the Spheros BPCoC, is a pre-requisite to continued business dealings between Spheros and the Seller. The BPCoC and its implementing rules are available at [www.spheros.com](http://www.spheros.com). Upon request, the Seller shall provide Spheros with evidence of the implementation of and compliance with the requirements arising from the Spheros BPCoC. Any breach of the compliance obligations laid down in the Spheros BPCoC shall entitle Spheros to extraordinary termination in accordance with Section 15. A. of these Terms and Conditions. The Seller shall indemnify Spheros and Spheros' customers against third-party claims arising from any breaches of these compliance obligations and shall bear all costs incurred by Spheros in this connection.

C. If Seller subcontracts any of its duties or obligations under any Purchase Order following Section 22, Seller will ensure that all subcontractors will comply with these requirements of Section 27, and the use of subcontractors will not reduce or limit Seller's liability. Seller and Seller will always remain liable to Spheros for breach of any such requirement.

**28. Product Identification.** All Products supplied according to each Purchase Order that is considered a complete part will permanently bear information such as Spheros's code or name and part number, lot number, Seller's code or name, and/or date of manufacture by Seller as instructed by Spheros in writing.

**29. Packaging and Shipping.** The Seller represents and warrants that it is aware of all Spheros standard packaging requirements and agrees that all packaging will conform to Spheros standard packaging requirements. The Seller will: (i) adequately package, mark and ship the Products in accordance with the requirements of Spheros and the carrier involved in order to guarantee the lowest transportation cost; (ii) ship via the route instructed by Spheros; (iii) not charge for handling, packaging, storage, transportation (including duties, taxes,



fees, etc.), vehicle cost or other transportation expenses unless otherwise approved in advance by Spheros in writing; (iv) provide Spheros with shipping documents demonstrating the Purchase Order number, Requisition number or addendum to the Purchase Order, Spheros part number, Seller part number, where applicable, quantity of parts in the shipment, number of boxes or containers in the shipment, the name of the Seller, the bill of lading number and the name of the country of origin; and (v) promptly forward to Spheros the original bill of lading or other shipping document for each shipped Products shipping identification, bills of lading and invoices, which are sufficient to allow Spheros to easily identify the Products purchased.

### **30. Compensation and Contractual Reimbursement.**

A. In addition to any right of compensation or reimbursement established or permitted hereunder or by law, Spheros and any of its affiliates, subsidiaries, and divisions ("Spheros Group") may offset or reimburse any amounts owed to the Seller or any of its affiliates, subsidiaries and divisions ("Group of Winner") any amount owed to

any member of the Spheros Group by any member of the Seller's Group including, without limitation, damages resulting from breaches by the Seller of its obligations hereunder or any other Purchase Order, including penalties.

B. If an obligation of any member of the Seller's Group is in dispute, contingent or unpaid, payment by any member of the Spheros Group of all or any part of the amount due may be deferred until such disputed contingency is resolved or until the obligation is settled. Without limiting the generality of the foregoing and by way of example only, in the event of Seller's bankruptcy, if all Purchase Orders between Spheros and Seller have not been replaced, then Spheros may withhold payment to Seller for Products previously delivered (through an administrative hold or otherwise) until the risk of potential rejection and other harm is eliminated.

**31. Audit Rights and Financial Information.** If requested by Spheros, Seller will permit Spheros and/or its designees to: (i) review all pertinent documents, data, and other information relating to the Products, Tools, Seller's obligations under the Purchase Order, any payment made by Seller, any claim made by Seller and any quotes, invoices or similar materials from Seller's suppliers or subcontractors; (ii) view any installation or process related to the Products or Purchase Orders, including those related to production quality; and (iii) audit any installation or process to verify compliance with the requirements of the Purchase Order. If requested by Spheros, the Seller will provide Spheros with its updated income statements, balance sheets, cash flow statements, and auxiliary documents and data.

**32. Advertising** The Seller will not refer to Spheros in advertising or public statements without Spheros's prior written approval and will not use Spheros's trademarks or trade names in advertising or promotional materials.

### **33. Force Majeure; Work Interruptions.**

A. Any delay or failure by Spheros or Seller to perform its obligations hereunder or following the Purchase Order will be forgiven if and to the extent that the affected party is unable to perform its obligations specifically due to events or occurrences beyond your reasonable control and without your fault or negligence, such as acts of God; restrictions, prohibitions, priorities or designations imposed or actions taken by government authorities; embargoes; fires; explosions; natural disasters; riots or wars.



B. During any delay or non-compliance by Seller exceeding 3 (three) days, Spheros may, at its discretion: (a) purchase the Products from other sources and reduce its Schedules made to Seller by said amounts without Spheros incurring any liability to Seller, and require Seller to reimburse Spheros for any additional costs incurred by Spheros in obtaining substitute Products compared to the prices outlined in the Purchase Order; (b) require Seller to deliver to Spheros, at Spheros's expense, all finished Products, work in progress and/or parts and materials produced or acquired for the work subject to the Purchase Order; or (c) require Seller to supply Products from other sources in the quantity and at the time requested by Spheros and at the price outlined in the Purchase Order.

C. The Seller's financial inability to make changes in the cost or availability of materials, components, or services based on market conditions, and/or supplier actions or contractual disputes will not waive Seller's performance based on theories of force majeure, commercial impracticability or otherwise, and Seller expressly assumes such risks.

#### **34. Service and Parts Replacement.**

A. From time to time, upon receipt of Schedules made by Spheros for such Products, Seller will sell to Spheros all Products necessary for Spheros to meet the replacement parts and service requirements of Spheros and Spheros's customers for the year and the current model, at the production prices then in effect, in addition to any actual net differential costs for exclusive packaging, provided that sufficient evidence of said packaging costs is made available to Spheros. If the Products are systems, modules, or assemblies, the Seller will sell the components or parts of said systems, modules, or assemblies for prices that will not exceed, in total, the then current production price of the system, module, or assembly, less the costs of labor involved related to the system, module or assembly, plus any actual differentiated net cost for your unique packaging.

B. Upon completion of production of the current model of the vehicle model(s) for which the Products are produced, Seller will sell to Spheros the additional Products necessary for Spheros meets the replacement parts and service requirements of Spheros and Spheros's customers concerning past year models at the prices then specified in the last Purchase Order for production of the current model, plus any actual net differential cost relating to proprietary packaging required for the first 5 (five) years of last model service. During the ten (10) years following service of the last model or longer period in which Spheros customers require service parts, prices will be those specified in the last Purchase Order for production of the current model, plus any actual net cost differential for required unique packaging, plus any actual net cost differential for manufacturing costs, as mutually agreed upon by Spheros and Seller.

**35. Individuality of Contractual Provisions.** If any term of the Purchase Order is invalid or unenforceable under any statute, regulation, ordinance, Executive Order, or other form of law, such terms shall be deemed reformed or deleted, as the case may be, but only as necessary to comply with any statute, regulation, ordinance, order or rule, and the remaining provisions of the Purchase Order will remain in full force and effect.

**36. Notifications.** All notices, claims, and other communications to Seller or Spheros required or permitted hereunder or the Purchase Order will be in writing and will be effective only upon receipt by Spheros or Seller, as applicable. The failure of the Seller or Spheros to provide any notice, claim, or other communication to the other party in the manner and within the time specified herein or in the Purchase Order shall constitute a waiver by the Seller or Spheros of all rights and remedies that would otherwise have been made available if such notice, claim or other communication had been made.

**37. Electronic Communications.** The Seller represents and warrants that it is aware of all Spheros requirements regarding electronic communications and agrees that it will comply with Spheros's specified method of electronic communications, including requirements for electronic funds transfers, Purchase Order transmissions, electronic signatures, and other communications. By mutual agreement, and to facilitate the issuance and management of Purchase Orders between Spheros and Seller, Spheros may implement and utilize a process (the "Electronic Purchase Order Program") through which Spheros will electronically transmit to the Seller Purchase Orders, Request Forms, amendments and revisions to Purchase Orders and/or Schedules, via email, without accompanying printed copies. The Electronic Purchase Order Program and any Purchase Orders or Schedules will be governed by these Terms and Conditions and will be binding on Seller. Refusal to participate in the Electronic Purchase Order Program will not result in the cancellation of any Purchase Order or Schedule or otherwise limit the enforceability of such documents, all of which will remain in full force and effect and will be enforceable in accordance with their terms.

**38. Relationship of the Parties.** The Seller and Spheros are independent contractors and nothing contained in these Terms and Conditions and the Purchase Orders shall make either party an agent or legal

representative of the other party for any purpose, nor grant the parties any authority to assume or create any obligation on behalf of other. Furthermore, Spheros and Seller acknowledge and agree that there is no employment relationship between Spheros and Seller's employees for the purposes outlined in ANY Purchase Order, including these Terms and Conditions, together with any specifically mentioned annexes, appendices, or supplements in said Purchase Order. The Seller will be exclusively responsible for the timely payment of all taxes levied on its activities and the sale of Products, including the payment of any labor, insurance, or social security obligations, and other obligations related to the Seller's employees and/or contractors and subcontractors. For said purposes, Seller agrees to provide to Spheros, upon its request, all documents requested by Spheros evidencing Seller's compliance with all federal, state, and local tax obligations, labor, insurance, and social security obligations and other obligations related to employees and subcontractors designated to fulfill the contract agreed under this instrument and any Purchase Order.

A. Notwithstanding the above provisions, the Seller hereby authorizes Spheros to suspend all payments to the Seller until the Seller presents the documents/vouchers mentioned above, and the parties agree that the suspension of payment will not represent delay and consequently will not subject Spheros to any penalty (legal, contractual or otherwise).

B. The Seller hereby releases Spheros from all liability concerning any labor claims or any other claim that its employees or former employees, subcontractors, unions, or third parties may bring against Spheros. If Spheros becomes a party to any such labor claim or any other claims brought by Seller's employees or former employees or subcontractors, unions, or third parties as a result of Seller's failure to comply with any tax, labor, insurance, or social security and other obligations of its responsibility relating to labor used for these Terms and Conditions and any Purchase Order, Seller hereby indemnifies and holds harmless Spheros against all such amounts and authorizes Spheros to retain any amounts due by Spheros to the Seller under these Terms and Conditions or through a specific Purchase Order, if any, to be used to pay the amounts involved in said legal action, including, without limitation, legal costs, transactions, judgment amounts, deposits appeal, security deposit, legal fees, court costs. If Spheros does not retain such amounts, or if Spheros's retention is not sufficient to cover all amounts paid or incurred by Spheros in such event, then Seller will compensate Spheros for the remaining amounts that it is required to pay in such circumstances within ten (10) days after receipt of Spheros's written request. Spheros's right to set forth herein does not limit any other right or remedy of Spheros under this and any Purchase Order or under any applicable law, and does not exclude Spheros's right to bring a claim against the Seller, to recover the remaining amount that exceeds the amount paid by Spheros to third parties. The Seller acknowledges that the amounts mentioned herein are considered net, certain, and due by the Seller, as required by applicable law.

**39. Confidentiality.** The Seller, as well as its employees, contractors, and subcontractors, must (i-a) maintain the confidentiality of all Spheros information and disclose such information only to its employees who need to know such information for Seller to provide the Products, Tools, and equipment to Spheros hereunder or under the Purchase Order and (ii-a) use Spheros information solely to provide the Products to Spheros. "Spheros information" means all information provided to Seller by Spheros or its representatives or subcontractors regarding the business, programs, and Product data, formulas, compositions, designs, projects, photographs, samples, prototypes, test vehicles, manufacturing, packaging or methods and shipping processes and computer programs and software (including source code and object code), including the quality processes of Spheros and Spheros's customers. Spheros information also includes any materials or information that contains or is based on, any Spheros information, whether prepared by Spheros, the Seller, Spheros's customers, or any other person. The Seller's failure to comply with the obligations assumed herein will subject the Seller to (i-b) the payment of a fine equivalent to the total amount paid by Spheros to the Seller during the previous 3 (three) months, and (ii-b) to Spheros's compensation for all losses and damages suffered directly or indirectly (through its customers).

**40. Completeness of the Agreement; Modification.** A Purchase Order, including these Terms and Conditions, as they may be modified, together with attachments, appendices, or supplements specifically referenced in the Purchase Order, constitutes the entire agreement between Seller and Spheros concerning the matters

contained in the Purchase Order and prevails over all prior declarations and agreements, oral or written, for its subject matter. Spheros may modify the Terms and Conditions at any time by posting the modified Terms and Conditions through links on the following Spheros website <http://www.Spheros.com> and said modifications will only become valid 30 (thirty) days after delivery of written notification to Seller under Clause 36.

**41. Applicable Legislation; Jurisdiction; Forum.** These Terms and Conditions and each Purchase Order will be governed by the laws of Brazil. Spheros and the Seller agree that all disputes between them will be resolved exclusively by the courts of the city of São Paulo, State of São Paulo, including through legal actions seeking monetary and equitable relief (subject to the provisions of Clause 18.C of these Terms and conditions). Seller specifically waives all objections to the jurisdiction of such court.

**42. Ongoing Obligations.** These Terms and Conditions will survive the termination, non-renewal, or cancellation of the purchasing relationship between Spheros and the Seller to the extent that the obligations assumed herein shall remain valid, especially the Confidentiality, Intellectual Property, Warranty and Employee Liability Clauses.

**43. Registration of Terms and Conditions.** These Terms and Conditions are registered with the Titles and Documents Registration and Notary's Officer of the District of Caxias do Sul – Rio Grande do Sul.

[End of Spheros Terms and Conditions of Purchase]