



## USA Terms And Conditions Of Sale

1. General Application, Formation, Acceptance. These Terms and Conditions of Sale (“Sale Terms”) apply to and incorporated in all Offers, as defined below, sent or submitted by Beaver Manufacturing Company Inc. (“Beaver”), to all orders (whether in the form of a purchase order, spot-buy, blanket order, release, or agreement for the purchase of goods) received by Beaver, and to all sales of goods or services (hereinafter, “Product”) sold by Beaver. A written communication issued by Beaver to a purchaser which incorporates these Sales Terms and identifies a Product and the price upon which Beaver will sell the Production (regardless of whether labelled a quotation, proposal, or otherwise, any of which is collectively referred to as an “Offer”) is an offer to sell the Product on the offered terms exclusively. Purchaser shall be deemed to have accepted the Offer, including these Sale Terms, and an Agreement shall be formed, by any of the following: (a) signing and returning to Beaver a copy of any Offer; (b) sending to Beaver a written acknowledgment of the Offer; (c) issuing a purchase order for the Product following receipt of any Offer; (d) accepting delivery of all or any part of the Product; (e) paying for all or any part of the Product; or (f) indicating in some or other manner Purchaser’s acceptance of Beaver’s Offer. All sales by Beaver are subject only to these Sale Terms and the Offer, which, upon acceptance, is the “Agreement.” The Agreement is limited to and conditional upon Purchaser’s acceptance of these terms exclusively. Any additional or different term proposed by Purchaser, whether in a request for proposal, purchase order, or otherwise, are expressly rejected by Beaver. However, additional different term proposed by Purchaser shall not operate as a rejection of the Offer if Purchaser accepts or pays for any Product or otherwise accepts Beaver’s Offer, in which case the Agreement shall be deemed accepted by Beaver without any additional or different terms or variations whatsoever. If the Offer is found to be an acceptance of any offer or proposal by Beaver, such acceptance shall incorporate and be limited to these Sale Terms exclusively.

### 2. Prices, Payment and Risk of Loss.

A. Prices. All prices are EXW Beaver’s production location (INCOTERMS 2020), unless otherwise specified by Beaver. Prices are for the Product only, and do not include any amount for freight, insurance, fees, customs duties or federal, state or local excise, value added, sales, use, service, occupation, gross income, property or any other taxes, all of which shall be paid by Purchaser even if the tax is assessable against Beaver (except for taxes on Beaver’s net income), unless otherwise specifically stated in Beaver’s Offer. Prices contained in the Offer are valid only for the period stated therein and otherwise for 30 days from the date of the Offer, provided that Beaver may equitably adjust the quoted price if based on materially new information subsequent to the date of the Offer. If the Offer is not accepted within 30 days of the Offer date, the offered prices are subject to change. All prices are in United States dollars and must be paid in U.S. dollars at the location specified in Beaver’s invoice. Unless otherwise indicated in the Offer, prices are based on costs as of the date of the Offer. If the Agreement calls for some or all of the Product to be delivered more than 90 days from the Offer date, then after 90 days Beaver may equitably adjust prices to reflect material increases in costs. An increase shall be material if Beaver’s costs, as reasonably determined by Beaver, increase more than 5% from those on which the offered price was based or from the date of the last price adjustment.

B. Payment. Payment is due Net 30 days. If any invoice is not paid on time, Purchaser shall



incur a carrying charge of 1.5% per month to the extent allowed by law and otherwise at the highest written contract rate allowed by law. Purchaser waives any right of offset or recoupment and shall pay all amounts owed to Beaver when due regardless of any claim of Purchaser.

C. Changes. Purchaser may request in writing changes to the specifications, fit, form, function, appearance, or performance of the Product. Beaver may refuse the request if it is unfeasible or would substantially affect Beaver's performance. Otherwise, Beaver shall within a reasonable time advise Purchaser of the expected impact on cost, milestone or deliver timing or other performance obligations. Thereafter, Purchaser and Beaver shall negotiate in good faith on the cost of implementing the change and an adjustment to price, schedule or other terms of performance. If the parties are unable to seasonably agree on an equitable adjustment, Beaver may either: (i) proceed with the change and equitably adjust the price, schedule or other relevant terms to account for the impact of the change; or (ii) decline to proceed with the change and be equitably compensated for costs incurred in expectation of an agreement, such as, by way of example, its engineering costs, and costs of purchased raw materials.

### 3. Quantities.

A. Requirements. Unless otherwise stated on the Offer or other document issued or signed by Beaver, Purchaser will purchase and Beaver will supply 100% of its requirements for the Product from Beaver.

B. Releases and Forecasts. Unless quantities are specified in a purchase order, Purchaser will communicate its requirements to Beaver through periodic releases. Releases will be firm releases for the period of 60 days, unless a different period is mutually agreed in writing by the parties.

C. Limitations on Releases and Forecasts. Purchaser acknowledges that Beaver will rely on Purchaser's releases and forecasts to effectively and efficiently provide the Product, including but not limited to procuring materials, arranging labor and scheduling and configuring Beaver's plant. Releases and forecasts shall in all cases be reasonable, as defined below. If releases and forecasts are unreasonable, then Beaver will use best efforts to satisfy Purchaser's firm releases, provided that: (i) Beaver shall have no liability if it is unable to fulfill releases despite best efforts; and (ii) Beaver will be equitably compensated for incremental costs of fulfilling the releases, such as, without limitation, idled labor, overtime labor costs, or expedited shipping of materials. Releases and forecasts are unreasonable if:

i. Quantities exceed 120% of Beaver's capacity, as agreed in writing or, if not agreed, as reasonably determined by Beaver; or

ii. Beaver is not given the required lead times. Minimum lead times are six weeks for production and ten weeks for procurement of materials, unless a longer period is specified in writing.

### 4. Delivery.

A. Timing. All deliveries are EXW Beaver's production location (INCOTERMS 2020),



unless otherwise specified in the Offer. Title to Product shall remain with Beaver until Purchaser pays for the Product in full, but risk of loss or damage shall be Purchaser's upon delivery to the carrier, notwithstanding any incoterm to the contrary. Purchaser waives any claim against Beaver for shortage or damage occurring prior to such delivery unless made in writing within ten (10) days after receipt of shipment and accompanied by original transportation bill signed by carrier noting that carrier received Product from Beaver in the condition claimed.

B. Shipping and Packaging. All Product shall be packed for shipment by Beaver using expendable or returnable packaging in accordance with its standard practices. It is Purchaser's responsibility whether or not Beaver arranges shipping, to determine whether additional or different packaging procedures and materials are appropriate for the shipment of Product, all of which are at Purchaser's expense and subject to Beaver's written agreement. Purchaser shall pay Beaver for additional handling charges for small, expedited or other shipments outside Beaver's normal and ordinary course of business.

C. Delayed or Failed Delivery. Beaver shall not be in default because of its delay or failure to deliver or to otherwise perform under the Agreement resulting, in whole or in part, from:  
(i) any foreign or domestic embargoes, pandemics, seizures, acts of God, insurrections, war, fires, floods, explosions or the adoption or enactment of any law, ordinance, regulation, ruling or order;  
(ii) market shortages of raw materials, labor or transportation; (iii), strikes or other work actions, or any other accidents, contingencies, or events, at Beaver's or its supplier's plant or elsewhere; or  
(iv) Purchaser's failure to perform its responsibilities under the Agreement. If Beaver reasonably incurs extraordinary costs in order to maintain or restore supply as a result of the causes described in this sub-part, Beaver shall be equitably compensated for those costs. If one or more deliveries hereunder is delayed by reason of any one or more of such occurrences for a period of 30 days, Beaver may, at its option, terminate the Agreement as to the undelivered Product or waive such delay and establish a new delivery schedule. If allocation of Product is necessary Beaver may allocate its supply between customers (including for Beaver's internal use) in any reasonable manner.

#### 5. Inspection, Testing and Acceptance. 1

A. Inspection & Testing. Purchaser's inspection and/or testing of the Product, if any, shall be conducted at its own expense, using qualified testing and inspection personnel, and in accordance with agreed practices and, in any event, in a commercially reasonable manner. Beaver will assist or participate in the testing or inspection only if agreed to by Beaver in writing, including agreement on compensation for any non-customary procedures. Purchaser shall provide, at its cost and risk of loss, all labor, materials, fixtures, tooling and other items necessary for any inspection and/or testing required by the Agreement or requested by Beaver.

B. Acceptance. All Product will be deemed accepted unless Purchaser notifies Beaver of rejection within three days of delivery. Purchaser may reject the Product only for material non-conformities to the warranties in Section 6.A. Following rejection: (i) Beaver shall have a reasonable period to cure any agreed non-conformities and thereafter re-tender the Product for acceptance; and (ii) if requested by Beaver, Purchaser shall return rejected Product to Beaver, express, collect, within three days after such request. No Product will be accepted for return unless Beaver has



granted prior written authorization. Purchaser may not revoke acceptance, but will instead be limited to its warranty remedies, if any. If Purchaser properly rejects Product, its remedies are limited to those described in Section 7.A, which remedies are available only if Purchaser has paid the Price for the Product.

6. Warranties.

A. Exclusive Express Warranty. Beaver's only warranties are that the Product shall: (i) be free from material defects in materials and workmanship at the time of delivery; (ii) conform to the specifications agreed to by Beaver in material respect; and (iii) Beaver has good title to the Product at the time of delivery. Purchaser acknowledges that any other statements, samples or descriptions made by Beaver regarding the Product are not part of the basis of the bargain between the Parties and are not express warranties.

B. Root Cause. Purchaser and Beaver reasonably cooperate with each other and exchange information in a good faith to determine root cause or any non-conformity. Beaver shall have no liability for any non-conformity unless it is determined to be at fault Beaver's liability may never exceed the amount of its proportionate fault for the non-conformity.

C. Limitation of Express Warranty. Unless otherwise expressly provided in the Agreement, Beaver does not warrant: (i) the adequacy of the specifications provided by Purchaser; (ii) design; (iii) that Beaver or the Product are certified or approved by any entity or organization or are in compliance with any industry standards, guidelines or procedures; or (iv) the Product will comply with the requirements of any safety or environmental code or regulation of any federal, state, municipality or other jurisdiction. Purchaser affirms that it has not relied upon Beaver's skill nor judgment to select or furnish the Product for any particular purpose beyond the specific express warranties in the Agreement and that any design provided by Beaver is based on information provided by Purchaser. Beaver provides no warranty as to prototype Product or as to Product used by Purchaser in any program or application other than the specific program identified in Beaver's Offer for the Product. Beaver shall not be liable for any breach of warranty arising out of the failure of a directed supplier to provide conforming directed supplies. Beaver's warranties shall apply only if the Product: (i) have been installed, maintained and used in conformity with instructions furnished by Beaver from time to time, if any, and otherwise in conformity with the highest industry practices; (ii) have been subjected only to normal use for the purpose for which the Product was designed; (iii) have not been subjected to misuse, negligence or accident; (iv) have not been altered or repaired by persons other than Beaver in any respect which, in the judgment of Beaver, adversely affects the condition or operation of the Product; and (v) have been fully paid. Beaver's warranties are not assignable and are not for the benefit of any third party.

D. Disclaimer of Implied Warranties. BEAVER DISCLAIMS ALL IMPLIED WARRANTIES AND SIMILAR OBLIGATIONS INCLUDING BUT NOT LIMITED TO THOSE OF NON-INFRINGEMENT FOR PURCHASER PROVIDED DESIGN, FITNESS FOR A PARTICULAR PURPOSE, AND MERCHANTABILITY, WHETHER OTHERWISE ARISING BY LAW, CUSTOM, USAGE, TRADE PRACTICE, COURSE OF DEALING, OR COURSE OF PERFORMANCE



7. Exclusive Remedies. This Section 7 provides Purchaser's exclusive remedy for delivery of non-conforming Product. Provided that Purchaser gives prompt written notification of rejected Product in accordance with Section 5.B or of accepted but non-conforming Product, in no case more than fourteen days from when it knew or should have known of the non-conformity, then Beaver shall, at its sole discretion — (i) repair; (ii) replace; or (iii) refund or credit the purchase price of —the non-conforming Product. Repair or replacement shall be without any additional charge and shipped to Purchaser, FOB Beaver's plant, to Purchaser at its cost, subject to the terms hereof. In addition, Beaver shall also reimburse Purchaser for any reasonable, direct costs incurred in the repair or replacement of non-conforming Product which had been installed during production of a new vehicle or other product in an amount not to exceed three times the price paid by Purchaser for the repaired or replaced Product. The replacement or repair of Product by Beaver does not give rise to any new or extended warranty.

8. Indemnification and Insurance.

A. Third Party Claims.

- i. If Purchaser is subject to a third-party claim under theories of tort, product liability, negligence (ordinary or gross), warranty, contract, statute or otherwise and incurs damages, losses and expenses (including reasonable attorney fees) (collectively, Losses) as a proximate result of Beaver's breach of this Agreement, then Beaver shall indemnify, defend and hold harmless Purchaser from such Losses, subject to Section 13.
- ii. If Beaver is subject to a third-party claim under theories of tort, product liability, negligence (ordinary or gross), warranty, contract, statute or otherwise and incurs damages, losses and expenses (including reasonable attorney fees) (collectively, Losses) arising out of Purchaser's use or resale of the Product that does not arise out of is not subject to Section 8A(i), then Purchaser shall indemnify, defend and hold harmless Beaver from such Losses.

B. No Other Indemnity. Neither Party shall have any indemnity obligation, whether by express or implied contract or implied by law, except as stated in this Section 8.

C. Insurance. Neither Party shall be obligated to maintain any insurance with respect to any liability arising out of this Agreement.

9. Tooling. Beaver owns all Tooling that has not been fully paid for by Purchaser. Tooling will be maintained in good condition for Purchaser's use, reasonable wear and tear excepted, during a normal life expectancy. Purchaser shall be responsible for the cost of refurbishing or replacing any Tooling that is used by Beaver to produce the Product unless due to Beaver's neglect. Tooling includes jigs, dies, gauges, fixtures, molds, patterns, and other equipment used by Beaver to manufacture the Product.

10. Confidentiality. Trade secrets, specifications, drawings, notes, instructions, engineering data



and analyses, compositions of matter, financial data, and other technical and business data which are supplied or disclosed by Purchaser or Beaver to the other in connection with the Agreement, in each case that are marked or otherwise identified as confidential or where their confidential nature is apparent at the time of disclosure (“Confidential Information”), will be deemed confidential and proprietary to, and remain the sole property of, the disclosing party. The receiving party may not disclose or use Confidential Information for any purpose other than in connection with the performance of the Agreement without in each case the written consent of the disclosing party. Confidential Information will not include information that (1) is or becomes generally available to the public other than as a result of a violation of this Section 10 by the receiving party, (2) was obtained by the receiving party on a non-confidential basis from a third party who had the apparent right to disclose it, or (3) is legally required to be disclosed. Purchaser and Beaver will each use the same degree of care to safeguard Confidential Information that it uses to protect its own confidential information from unauthorized access or disclosure (but not less than a reasonable degree of care). Upon request by the disclosing party, the receiving party will promptly return or destroy the original and all copies of Confidential Information received, except that each party may maintain one copy for legal purposes and need not delete or return copies stored through routine backup or archival processes and not accessible in the ordinary course. Notwithstanding the provisions of Section 10, if the Parties have concluded a separate confidentiality agreement, the provisions of the confidentiality agreement shall have priority over this Section 10.

#### 11. Intellectual Property Ownership.

A. Ownership. “Background Intellectual Property” means intellectual property of either Beaver or Purchaser existing prior to the effective date of this Agreement or prior to the date Beaver or Purchaser began any technical cooperation relating to the goods or services contracted, whichever is earlier. “Foreground Intellectual Property” means intellectual property that either Beaver or Purchaser develops after these dates and it is developed in a strictly independent manner without the contribution from the other party. Joint Intellectual Property is intellectual property that is developed jointly between the parties during the term of the Agreement. Background Intellectual Property and Foreground Intellectual Property are each solely owned by the party that developed the intellectual property. Joint Intellectual Property, if any, is jointly owned by both parties. Neither Party has any right in the other Party’s Background Intellectual Property or Foreground Intellectual Property.

#### 12. Compliance.

A. Approvals. Upon request by Beaver and not otherwise, Purchaser will apply as appropriate for any necessary government approvals or registration for use or sale of the Product in Purchaser’s country. All such applications shall be subject to Beaver’s prior approval and shall identify the Product as originating with Beaver. The Product shall be registered in the name of Beaver or Beaver’s designee. Any filing fees for such applications shall be borne by Beaver. Unless otherwise agreed, all other expenses in connection with such application shall be borne by the Purchaser.

B. ITAR/EAR Compliance. Purchaser and Beaver warrant that neither intends to, and will not knowingly, ship or transmit any regulated information or the direct product thereof, directly or



indirectly to any country, except to the extent permitted by U.S. or other applicable law. The Parties shall adhere to any applicable U.S. and foreign export control laws and regulations, including but not limited to the International Traffic in Arms Regulation (ITAR) or the Export Administration Regulation (EAR), and shall not export or re-export technical data, products received, or the direct product of such data, except in compliance with this Agreement and the applicable export control laws and regulations of the U. S. and any applicable foreign country. The Parties agree that if they determine that a license or approval is necessary for such export or re- export of any information, it will seek the prior written consent of the other Party prior to seeking any such license or approval.

### 13. Limitations and Exclusion of Damages.

A. EXCLUSION: PURCHASER MAY NOT RECOVER ANY CONSEQUENTIAL, PUNITIVE, EXEMPLARY, MULTIPLE OR INCIDENTAL DAMAGES IN ANY CLAIM ARISING OUT OF OR RELATED TO THE AGREEMENT, WHETHER MADE IN CONTRACT, TORT, STATUTE, OR OTHERWISE.

B. LIMITATION OF LIABILITY. BEAVER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT, WHETHER THE CLAIM IS FOR BREACH OF CONTRACT, TORT, STATUTE OR OTHERWISE, SHALL NOT EXCEED 100% OF THE TOTAL AMOUNT PAID TO BEAVER PURSUANT TO AGREEMENT FOR THE PRODUCT INVOLVED IN THE LIABILITY IN THE ONE YEAR PERIOD PRECEDING THE INITIAL EVENT GIVING RISE TO THE CLAIM. THE FOREGOING LIMITATION SHALL APPLY EVEN IF PURCHASER'S REMEDIES UNDER THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE.

C. Independent Obligations. Each provision which provides for a limitation of liability, disclaimer of warranties, or exclusion or limitation of damages or remedy is severable and independent of each other and to be enforced as such.

14. Termination. Either party may terminate this contract in whole or in part, with or without cause, upon 180 days advance written notice to the other party. If terminated by Purchaser, Beaver shall thereupon, cease work and, upon payment by Purchaser of the Cancellation Charge, as defined below, transfer to Purchaser title to and make available for immediate pick up, at Purchaser's expense, all completed products and to any raw materials or supplies acquired by Beaver especially for the purpose of performing this Agreement, as well as any Purchaser-owned Tooling. Purchaser shall pay Beaver a "Cancellation Charge" equal to: (1) the contract price for all products which have been completed prior to termination; (2) the contract price less 17.5% for Product in the work-in-process stage; (3) the cost (FCA Beaver's plant) of materials, components, and supplies acquired to perform under the Agreement; (4) reasonable charges, if any, paid to third parties by Beaver on account of commitments made in connection herewith; (5) the full remaining balance of any amounts that were amortized into piece price (such as tooling, engineering, capital) which were not paid in full through purchase of Product prior to termination; and (6) reasonable lost profits on the terminated portion of the order.

### 15. Default.



A. Default. Subject to the limitations in this Agreement, in the event of default by a party, the other party shall be entitled to such remedies as are available at law or equity.

B. Security. Purchaser represents that it is and at all times will be solvent and able to pay the price for the Product and that all financial and business information given to Beaver is correct. Beaver may require that Purchaser post security for any or all amounts to be paid if Beaver has a good faith doubt as to Purchaser's ability to make prompt payment. If such security is not posted, Beaver shall have the right to cease performance of its obligations and enforce its remedies for Purchaser's default. Purchaser shall be liable for all Cancellation Charges as defined in Section 14 of this Agreement.

C. Cumulative Rights and Limitations. All rights granted to Beaver and all limitations in favor of Beaver in the Agreement and by law are cumulative, provided Beaver shall be entitled to only a single full recovery. Purchaser shall be liable, *inter alia*, for all Cancellation Charges as defined in Section 14, as well as interest, consequential and incidental damages and costs (such as actual reasonable attorney fees) in any proceeding to enforce its remedies in which it obtains relief or damages or in which it prevails in the defense of any action by Purchaser.

D. Waiver. Beaver's failure or delay in enforcement of any provision shall not constitute a waiver of a default or of the provision itself.

E. Limitations of Actions. A proceeding by Purchaser for breach of the Agreement or any other right against Beaver arising from or in connection with the Agreement cannot be filed nor maintained by Purchaser unless: (i) it is commenced within one year after the cause of action has accrued; (ii) Purchaser has given timely written notice to Beaver of the details of its claim; and (iii) Purchaser pays all amounts due to Beaver or deposits the unpaid portion of the purchase price with the tribunal pending final adjudication. An action for breach of warranty or any other provision of the Agreement shall accrue no later than shipment of the Product to Purchaser whether or not installation or other post shipment services are required by the Agreement.

## 16. Choice of Law , Dispute Resolution and Jurisdiction.

A. Law. The Agreement shall be governed, construed and enforced under the domestic laws of the State of Georgia, excluding its choice of law rules. All sales by Beaver to Purchaser shall be subject to the Uniform Commercial Code as adopted in the State of Georgia, including the sale of services, whether not the services are otherwise ancillary to and part of a sale of goods. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.

B. Dispute, Exclusive Jurisdiction. The state or federal courts presiding in Newton County, Georgia shall have exclusive jurisdiction over the parties and the claims arising under or related to the agreement, unless waived in a writing signed by Beaver.

## 17. Miscellaneous.

A. Complete Integration. The Agreement is a final, complete and exclusive statement of the





Agreement of the parties related to the Product. An order or an amendment submitted by Purchaser orally or in a purchase order or other writing (whether or not it contains terms or conditions modifying, adding to, repugnant to or inconsistent with these Sale Terms ), may be accepted, approved or filled by Beaver, but any resulting contract and the liabilities or obligations of Beaver shall be determined solely by the Agreement, and (unless Beaver otherwise advises Purchaser in writing) notice is hereby given that Beaver objects to any such terms or conditions in Purchaser's purchase order or other document or communication. Beaver shall not be deemed to have in any way enlarged or modified its liabilities or obligations under the Agreement by filling such order or by failing to further object to Purchaser's terms or conditions.

B. Assignment. No right or interest in the Agreement may be assigned by Purchaser without the prior written consent of Beaver. Any assignment attempted by Purchaser shall be void and ineffective for all purposes unless made in conformity with this Section.

C. Severability. Any provision found to be unenforceable by a final unappealed order entered by the court or tribunal shall be severed from this Agreement. Such severance shall be as narrow as possible and shall not affect the remainder of this Agreement in such action and other actions, unless the court or tribunal shall also find, on the request of Beaver that without such provision as originally written, the Agreement is not likely to meet the reasonably commercial expectations of the parties and in such case, the court or tribunal shall enter an equitable judgment of rescission, termination or reformation of this Agreement as necessary to reach an equitable result.

D. Parties. The Agreement is only for the benefit of the parties, except all disclaimers and limitations applicable to Beaver shall be also for the benefit of Beaver's affiliates, agents, employees, contractors, and suppliers. If any other provisions of the Agreement are determined to apply to third parties, all other provisions including limitations, waivers, and disclaimers shall also apply.