

1. ACCEPTANCE OF CONTRACT/TERMS AND CONDITIONS

1.1. This Contract together with its referenced Exhibits, supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof and constitutes the entire agreement between the Parties. Buyer's receipt or acceptance of delivery of any of the Work ordered or purchased hereunder will constitute its acceptance of these terms and conditions.

1.2. Unless expressly accepted in writing by both Parties, additional or differing terms or conditions proposed by either Party or included in the Buyer's acknowledgment, purchase order, requisition or any electronic data exchange system that are in addition to or otherwise not consistent with these terms and conditions shall have no effect and shall not be binding on Prop Shaft Supply. Pre-printed terms and conditions set forth in such documents and other forms exchanged between the Parties shall have no effect and shall not be binding on Prop Shaft Supply.

1.3. Changes in the terms and conditions of this Contract may be made only by written agreement, signed by authorized representatives of the Parties.

2. DEFINITIONS. The following terms shall have the meanings set forth below:

2.1. "Contract" means the instruments of contracting, such as "Purchase Order", "PO", "Subcontract", or other such type designation, these Terms and Conditions of Sale, including all referenced documents and exhibits. If these terms and conditions are incorporated into a "master" agreement that provides for releases, the term "Contract" shall also mean the release document for the Work to be performed.

2.2. "Work" means all required labor, articles, materials, supplies, goods, and services constituting the subject matter of this Contract.

3. PRICE, TAXES, PAYMENTS

3.1. Prices and other information shown in any Prop Shaft Supply publication (including product catalogs and brochures) are subject to change without notice and to confirmation by specific written quotation or order acknowledgment. Prices do not include sales, use, excise, customs, value-added or similar taxes. Buyer will reimburse Prop

Shaft Supply for any taxes which Prop Shaft Supply may be required to pay or collect under any existing or future law arising out of the sale, purchase, manufacture, delivery, storage, processing, use or transportation of any of the work covered by this Contract.

3.2. Unless otherwise provided, terms of payment shall be net 30 days from the date of the Prop Shaft Supply's invoice. The total price of the Work for each shipment or delivery constitutes a separate debt owing to Prop Shaft Supply and shall be paid in full without right of setoff. Buyer agrees to pay a delinquency charge of 1.5% per month on any outstanding balance or if such payment exceeds applicable limits, then the delinquency charge shall be the maximum allowable under applicable law.

3.3. Payment shall be deemed to have been made as of the date of mailing Buyer's payment or electronic funds transfer.

3.4. In the event payment is not made when due, in addition to any other remedies available to it, Prop Shaft Supply reserves the right to cancel or suspend any unshipped portion of an order and Buyer shall remain liable for all unpaid amounts.

4. DELIVERY, INSPECTION AND ACCEPTANCE

4.1. Delivery Terms are Ex Works Prop Shaft Supply's plant or warehouse or as otherwise agreed to by Prop Shaft Supply in writing. The risk of loss transfers to Buyer when the products are placed in the hands of the carrier.

4.2. Buyer may inspect all Work at reasonable times and places, provided reasonable advance notice is provided in writing to Prop Shaft Supply. Unless Buyer provides Prop Shaft Supply with written notice of any claim or shortages of or defects in the Work within 3 business days of receipt of such Work by Buyer, such Work shall be deemed finally inspected, checked and accepted by Buyer.

4.3. If Prop Shaft Supply delivers non-conforming Work, Buyer may, exercise the rights provided it under the Warranty Section in this Contract.

5. **SECURITY INTEREST.** Buyer hereby grants to Prop Shaft Supply a purchase money security interest in the Work shipped, in related goods, and the proceeds thereof to secure payment of the purchase price. A copy of the Contract may be filed by Prop Shaft Supply at any time as a financing statement to protect Prop Shaft Supply's security interest.

6. **ORDERING, RESCHEDULING, CANCELLATION**

6.1. Buyer authorizes Prop Shaft Supply to purchase materials, including long lead time and unique components, to fulfill purchase orders and forecasts, based on material lead times and pricing considerations. Prop Shaft Supply will not be liable for Buyer's commitments or production arrangements which are either in excess of the amounts set forth in Buyer's purchase order(s) and forecasts (which have been accepted by Prop Shaft Supply) or in advance of the delivery dates specified in such purchase order(s).

6.2. Any order scheduled to ship within 30 days cannot be rescheduled. For reschedule of orders scheduled to be shipped outside of 30 days, the order may be rescheduled once from its originally scheduled ship date. Buyer will be responsible for any line stoppage, line restart, expedite, overtime and other reschedule charges.

6.3. Cancellation of Work by Buyer prior to shipment is permitted only by written notice and upon payment to Prop Shaft Supply of reasonable cancellation and restocking charges, including reimbursement for direct costs. Cancellation charges may equal the actual selling price of the Products. No termination by Buyer for cause will be effective unless and until Prop Shaft Supply has failed to correct such alleged cause within 30 days after receipt of Buyer's written notice specifying such cause.

7. **CHANGES AND SUBSTITUTIONS.** Buyer-requested order changes, including those affecting the identity, scope and delivery of the Work, must be documented in writing and are subject to Prop Shaft Supply's prior approval and equitable adjustments in price, scheduling and other affected terms and conditions. In any event, Prop Shaft Supply reserves the right to reject any change that it deems unsafe, technically inadvisable or inconsistent with established

engineering or quality guidelines and standards, or incompatible with Prop Shaft Supply's design or manufacturing capabilities.

8. QUALITY CONTROL SYSTEM

8.1. Prop Shaft Supply shall provide and maintain a quality control system to an industry recognized quality standard and in compliance with any other specific quality requirements identified in this Contract.

8.2. Records of all quality control inspection work by Prop Shaft Supply shall be kept complete and available to Buyer and its customers upon written request and reasonable advance notice.

9. INTELLECTUAL PROPERTY

9.1. Prop Shaft Supply owns the design of the Work including that of the [drive train system/transfer case/axle/....] and all other proprietary rights associated with the Work ("Prop Shaft Supply IP"). Nothing in this Contract shall be construed as granting or conferring any rights upon Buyer, by license or otherwise, expressly, impliedly, or otherwise, in the Prop Shaft Supply IP for any purpose, including but not limited to the Buyer manufacturing or remanufacturing the [drive train/transfer case/axle/....] itself or having the [drive train/transfer case/axle/....] manufactured or remanufactured by an affiliate, a customer or another third party. It is further agreed by Buyer that all inventions or other proprietary know-how developed under this Contract shall be owned by Prop Shaft Supply. Nothing in this Section 9 shall restrict Buyer or its customer from using Prop Shaft Supply IP in the course of normal maintenance and repair of the Work.

10. WARRANTY; RETURNS.

10.1. Prop Shaft Supply warrants all Work in accordance with the warranty terms and conditions contained in Exhibit A, which are hereby incorporated by reference.

10.2. All returns of Work will be pursuant to Prop Shaft Supply's instructions. Non-warranty returns of unused and resalable Work for credit will be subject to Prop Shaft Supply's return policies in effect at the time, including applicable restocking charges and other conditions of return. Work returned under warranty must be properly packed and shipped to Prop Shaft Supply-specified locations. Shipping containers must be clearly marked per Prop Shaft Supply's instruction and

shipped freight prepaid by Buyer.

11. DISCLAIMER AND LIMITATION OF LIABILITY. EXCEPT AS EXPRESSLY SET FORTH IN THE LIMITED WARRANTY, PROP SHAFT SUPPLY MAKES NO OTHER REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, WITH REGARD TO THE PERFORMANCE OF THE SERVICES AND/OR PROVISION OF PRODUCTS, OR THE MERCHANTABILITY OR FITNESS OF ANY OF COMPANY'S PRODUCTS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL PROP SHAFT SUPPLY BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, OR SPECIAL DAMAGES. PROP SHAFT SUPPLY'S MAXIMUM CUMULATIVE LIABILITY RELATIVE TO ALL CLAIMS AND LIABILITIES, INCLUDING OBLIGATIONS UNDER ANY INDEMNITY, WHETHER OR NOT INSURED, WILL NOT EXCEED THE COST OF THE WORK GIVING RISE TO THE CLAIM OR LIABILITY. THESE DISCLAIMERS AND LIMITATIONS OF LIABILITY WILL APPLY REGARDLESS OF ANY OTHER CONTRARY PROVISION HEREOF AND REGARDLESS OF THE FORM OF ACTION.

12. INDEMNIFICATION

12.1. Each Party ("Indemnifying Party") shall indemnify and hold harmless the other Party, its employees, directors, consultants, shareholders, attorneys, agents, affiliates, successors and assigns ("Indemnified Group") from any and all claims, liability, loss, damage, reasonable attorney's fees or expenses arising by reason of the non-performance of any of the terms in this Contract unless such claims, liability, loss, damage, reasonable attorney's fees or expenses arise solely from the negligence or misconduct of the indemnified Party, their officers, employees, agents or sub-contractors. A condition of this obligation is that a member of the Indemnified Group shall: (a) promptly notify the Indemnifying Party of any claim for which indemnification may be sought; (b) cooperate fully in the defense of such claim; and (c) no member of the Indemnified Group shall, except at its own cost, voluntarily make any payment or incur any expenses in connection with any such claim without the prior written consent of the Indemnifying Party.

12.2. Notwithstanding anything contained herein to the contrary, the liability of an Indemnifying Party under this Section 12 shall be limited to any loss or damage in excess of any amount recovered under any insurance policy.

13. INDEPENDENT CONTRACTOR RELATIONSHIP

13.1. Prop Shaft Supply's relationship to Buyer shall be that of an independent contractor and this Contract does not create an agency, partnership, or joint venture relationship between Buyer and Prop Shaft Supply. Personnel supplied by a Party hereunder shall be deemed employees of that Party and shall not for any purposes be considered employees or agents of the other Party. Each Party assumes full responsibility for the actions and supervision of its personnel while performing services under this Contract.

13.2. In the event that either Party, its employees, agents, or subcontractors ("Visiting Party") enter the site(s) of the other Party ("Hosting Party") for any reason in connection with this Contract, then Visiting Party, its agents and subcontractors shall procure and maintain for the performance of this Contract worker's compensation, comprehensive general liability, bodily injury and property damage insurance in reasonable amounts, and such other insurance as Hosting Party may require. In addition, Visiting Party its agents and subcontractors shall comply with all site rules, regulations, requirements or guidelines. Each Party agrees to provide the other, upon written request, a certificate of insurance evidencing that the required coverages are in effect.

14. APPLICABLE LAW; INCORPORATION OF FAR CLAUSES

14.1. This Contract shall be governed by and construed in accordance with the laws of the State of Wisconsin, without regard to its conflicts of laws provisions, except that any provision in this Contract that (a) is incorporated in full text or by reference from the Federal Acquisition Regulation (FAR) or the Defense Federal Acquisition Regulation Supplement (DFARS); or (b) is incorporated in full text or by reference from any agency regulation that implements or supplements the FAR or DFARS shall be construed and interpreted according to the federal common law of government contracts.

14.2. In the event that this is in furtherance of a US Government contract, the following FAR clauses shall be applicable to this Purchase Order: 52.203-13,

Contractor Code of Business Ethics and Conduct (Dec 2008); 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Applies to subcontracts funded under the Act); 52.219-8, Utilization of Small Business Concerns (May 2004); 52.222-26, Equal Opportunity (Mar 2007); 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sept 2006); 52.222-36, Affirmative Action for Workers with Disabilities (June 1998); 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004); 52.222-50, Combating Trafficking in Persons (Feb 2009); 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006).

14.3. Application of any other US Government contract regulations and/or FAR or DFARS clauses to the Work or the Contract are subject to the separate review and consent by an authorized representative at Prop Shaft Supply's headquarters. Prop Shaft Supply and Buyer shall negotiate any amendment of this contract to include such additional clauses in good faith. If such amendment causes an increase or decrease in the cost or time required for performance of the work, an equitable adjustment shall be made pursuant to the charges section of this contract.

15. EXPORT CONTROL

15.1. Each party shall comply with all applicable U.S. export control laws and regulations, including, but not limited to, the Arms Export Control Act, including the International Traffic in Arms Regulation (ITAR); and the Export Administration Act, including the Export Administration Regulations; including the requirement for obtaining any export license or agreement, if applicable.

15.2. A Party shall be responsible for all losses, claims, causes for action, damages and expenses (including reasonable attorney's fees) arising from any act or omission of such Party, its employees, agents or subcontractors in the performance of any obligation under this Section.

16. DISPUTES

16.1. The Parties agree to utilize the dispute resolution process set forth herein to resolve any dispute, claim or question between them relating to this Contract ("Dispute") as expeditiously as possible. The Parties shall keep confidential, and shall not disclose to any person except as may be required by law, all aspects of the Dispute and the Dispute resolution process.

16.2. In the event of a Dispute, a Party shall give written notice to the other

Party of the Dispute and request commencement of the Dispute resolution process. The project managers from each Party shall then meet within 5 business days to negotiate and use commercially reasonable efforts to promptly reach a resolution of the Dispute. If the Dispute is not resolved by the project managers, either Party may give notice to the other Party that the Dispute must be escalated to the senior officers of each Party, who will meet within 10 business days of the notice to escalate and use commercially reasonable efforts to resolve the Dispute.

16.3. Any Dispute that cannot be resolved through the Dispute resolution process set forth in 16.1 may then be submitted to the United States District Court for the Eastern District of Wisconsin if it has subject matter jurisdiction, and otherwise in the appropriate Circuit Court in the State of Wisconsin.

17. DEFAULT

17.1. Each Party, by written notice, may terminate this Contract for default, in whole or in part, if the other Party ("Defaulting Party") (a) fails to comply with any material term of this Contract; (b) files or has filed against it a petition in bankruptcy; or (c) becomes insolvent or suffers a material adverse change in financial condition; and, the Defaulting Party fails to cure any such failure within the requisite cure period. Defaulting Party shall have 30 days (or such longer period as the non-Defaulting Party may authorize in writing) to cure any such failure after receipt of notice from the non-Defaulting Party, except for a failure involving bankruptcy or adverse change in financial condition, which shall have no cure period.

17.2. Any failure of Buyer of its payment obligations or to Prop Shaft Supply in accordance with the terms of this Contract shall constitute a material breach of this Contract. In such event, Buyer shall be liable to Prop Shaft Supply for any and all damages suffered or incurred by Prop Shaft Supply as a result of such breach.

17.3. Following a termination of this Contract by Buyer due to the default of Prop Shaft Supply under Subsection 17.1, Prop Shaft Supply shall be compensated only for Work actually delivered and accepted. Buyer may require Prop Shaft Supply to deliver to Buyer any work that Prop Shaft Supply has specifically produced or acquired for the terminated portion of this Contract. Buyer and Prop Shaft Supply shall agree on the amount of payment for these other deliverables.

17.4. Prop Shaft Supply shall continue all Work not terminated or cancelled, provided that Buyer pays to Prop Shaft Supply all amounts due and payable

that are not in dispute and provided further that all disputed amounts are paid by Buyer into escrow pending resolution of the dispute. The escrow account shall be interest bearing, and both the escrow funds and the interest shall be paid to the Party who ultimately prevails in the dispute.

18. TERMINATION

18.1. Except for the rights and obligations of the Parties set forth in Section 20.2 below, which shall continue in full force and effect until they have been completed or exercised or fulfilled as the case may be, this Contract shall terminate upon the occurrence of any of the following conditions:

18.1.1. To the extent Work is being furnished in furtherance of a prime US Government contract upon the written rejection by the Government of Prop Shaft Supply as a subcontractor, provided Buyer has made a good faith effort to secure approval, and Buyer provides Prop Shaft Supply with written notice of such rejection;

18.1.2. Upon the expiration of [3] months from the date of this Contract, unless renewed for an additional term upon mutual written agreement between the Parties; or

18.1.3. By the mutual written agreement of the Parties.

18.2. To the extent Work is being furnished in furtherance of a prime US Government contract, Buyer may terminate part or all of this Contract for its convenience only to the extent that Buyer's contract with the Government is terminated, by giving written notice to Prop Shaft Supply.

18.3. Upon termination under subsection 18.2, in accordance with Buyer's written direction, Prop Shaft Supply will immediately: (a) Cease work; (b) Prepare and submit to Buyer an itemization of all completed and partially completed deliverables and services; (c) Deliver to Buyer any and all Work completed up to the date of termination at the agreed upon prices; and (d) Deliver upon Buyer's request any Work in process. In the event Buyer terminates for its convenience after performance has commenced, Buyer will compensate Prop Shaft Supply for the actual, allowable, and reasonable expenses incurred by Prop Shaft Supply for Work in process up to and including the date of termination, provided Prop Shaft Supply uses reasonable efforts to mitigate Buyer's liability under this clause.

18.4. Prop Shaft Supply's termination claim shall be submitted within 120 days from the effective date of the termination.

18.5. Prop Shaft Supply shall continue all Work not terminated.

19. **FORCE MAJEURE.** Neither Party shall be responsible for any failure or delay in the performance of this Contract resulting from causes beyond its reasonable control, including, but not limited to, acts of God or of the public enemy; acts of the Government in either its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes; freight embargoes; sabotage;) court order; and unusually severe weather. The delayed Party shall give written notice to the other of any such event and shall use all reasonable efforts to avoid or remove the cause and resume performance with minimum delay. The Parties shall jointly prepare a contingency plan to address the potential impact of any such event.

20. **MISCELLANEOUS**

20.1. Each clause, paragraph and sub-paragraph of this Contract is severable, and if one or more of them are declared invalid, the remaining provisions of this Contract will remain in full force and effect.

20.2. If this Contract expires, is completed, or is terminated, the Parties shall not be relieved of those obligations contained in this Contract for the following clauses: (a) Applicable Laws; (b) Export Control; (c) Independent Contractor Relationship; (d) Confidential Information; (e) Intellectual Property; (f) Warranty

20.3. Failure by either Party to enforce any of the provisions of this Contract or applicable law shall not constitute a waiver of the requirements of such provisions or law, or as a waiver of the right of a Party thereafter to enforce such provision or law. The rights and remedies of either Party in this Contract are cumulative and in addition to any other rights and remedies provided by law or in equity.

20.4. The parties agree that if this Contract is transmitted electronically neither party shall contest the validity of this Contract, or any acknowledgement thereof, on the basis that this Contract or acknowledgement contains an electronic signature.

20.5. Any inconsistencies in this Contract shall be resolved in accordance with the following descending order of precedence: (a) This Contract as revised by mutual agreement of the Parties; (b) the Statement of Work; (c) the Warranty (Exhibit B); (d) the CDA; and (e) the face of the Purchase Order, any release document, or schedule (including any continuation sheets, but excluding all preprinted terms and conditions), as applicable, including any special provisions.

20.6. The Contract shall not be assigned by either Party without the written

consent of the other (which consent will not be unreasonably withheld).
However, consent will not be required for internal transfers and assignments
as between a Party and its parent company, subsidiaries or affiliates.