

**PROGRESSIVE METAL MANUFACTURING COMPANY**  
**TERMS & CONDITIONS OF SALE**

1. **GENERAL.** THE SALE OF PRODUCTS AND SERVICES (TOGETHER, “PRODUCTS”) BY PROGRESSIVE METAL MANUFACTURING COMPANY (“SELLER”) TO THE BUYER (“BUYER”), AND SELLER'S ACCEPTANCE OF AN ORDER ISSUED BY BUYER, IS EXPRESSLY SUBJECT AND LIMITED TO BUYER’S ACCEPTANCE OF THE TERMS OF SELLER’S QUOTATION AND THE TERMS AND CONDITIONS CONTAINED HEREIN (THE “AGREEMENT”). NO MODIFICATION OR WAIVER OF ANY OF THE TERMS AND CONDITIONS CONTAINED HEREIN AND NO ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS SHALL BE EFFECTIVE UNLESS AGREED TO IN WRITING SIGNED BY BOTH PARTIES. NO ORAL AGREEMENT, COURSE OF PERFORMANCE OR OTHER MEANS OTHER THAN SUCH WRITTEN AGREEMENT SIGNED BY BOTH PARTIES EXPRESSLY PROVIDING FOR SUCH WAIVER SHALL BE DEEMED TO WAIVE ANY THE TERMS OF THIS AGREEMENT. BUYER’S ACCEPTANCE OF THE PRODUCTS SOLD HEREUNDER SHALL CONSTITUTE BUYER’S ACCEPTANCE OF THE TERMS HEREOF.

2. **PRICES AND TAXES.** All prices are subject to the shipping terms defined in Section 4 below. The prices are exclusive of any applicable National, Federal, State, Provincial, Regional or local taxes or assessments. Such taxes and assessments will be included in Seller’s invoice and paid by Buyer. All prices are subject to adjustment, at any time, by Seller for changes in volume forecasts, economics or exchange rates as applicable. Such adjustment shall be retroactive if Buyer’s actual purchases fall short of the volume forecasts the prices were based on. If Buyer's order is for Buyer's requirements, it shall mean 100% of all such requirements.

3. **CHANGES.** Buyer may request in writing changes in the design, drawings, specifications and shipping instructions of Products. As promptly as practicable after receipt of such request, Seller shall advise Buyer in an amendment letter what amendments to the Agreement, if any, may be necessitated by such changes, including, without limitation, amendment of price, specifications and shipment schedule. If such proposed amendments to the Agreement are accepted in writing by Buyer, Seller shall make the requested changes with respect to such Products as may be affected thereby. Seller may at any time make such changes in design and construction of Products as shall constitute an improvement in the judgment of Seller. Seller may furnish suitable substitutes for materials unobtainable because of priorities or regulations established by governmental authority or nonavailability of materials from suppliers. Any such changes in or substitutes of materials or components that were specifically identified in the specifications or Seller's quotation require notice to and the consent of Buyer, which consent shall not be unreasonably withheld or delayed and shall be presumed unless Buyer objects within ten (10) days of notice of the change or substitution. After any engineering review conducted while the Agreement is in force and prior to its completion for purposes other than making changes referred to above, Seller may assume that its recommendations are accepted in the event that Buyer does not provide required decisions or objects within fifteen (15) days after submission of Seller's recommendations to Buyer.

4. **SHIPMENT AND DELIVERY.** All delivery dates are estimates only. Seller’s only obligation with respect to delivery dates shall be to use reasonable efforts to meet same. Delivery terms shall, unless otherwise specified in Seller’s quotation be as follows: (a) U.S. domestic

shipping (i.e., shipments are from a U.S. location to a U.S. location), will be FOB (as commonly understood in U.S. domestic freight movement) the designated Seller facility; and (b) all other shipping will be FCA (as defined in Incoterms 2020) at the designated Seller facility. Title and risk of loss to the Products shall transfer upon completion of delivery of the Products per the applicable delivery term specified above. Unless otherwise instructed, Seller will ship via industry standard means for the applicable Products. Seller will not be liable for any delays, breakage, loss or damage after having made delivery in good order to the first transportation carrier. All claims for loss or damage in transit are to be made by Buyer directly to the transportation carrier and the appropriate insurance carrier retained by Buyer. No deductions of any kind from the invoice amount shall be made. Unless otherwise specified in Seller's quotation, standard packing for domestic shipment is included in the quoted price. When special domestic or export packing is requested, Buyer will be charged for any additional expenses. Shipments shall be deemed accepted by Buyer unless written notice of rejection is received by Seller within ten (10) days after receipt of the Products by Buyer.

**5. FORCE MAJEURE.** No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations of Buyer to make payments to Seller hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's ("Impacted Party") control, including, without limitation, the following force majeure events ("Force Majeure Event(s)"): (a) acts of God; (b) flood, fire, earthquake, pandemics and epidemics or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or actions; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) labor shortages, strikes, labor stoppages or slowdowns, or other industrial disturbances; (h) shortage of adequate power or transportation facilities; and (i) other events beyond the control of the Impacted Party. The Impacted Party shall give notice of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event of Seller's inability to perform due to a Force Majeure Event, Buyer shall be entitled to reduce its purchase obligations towards Seller by the quantities purchased from other sources (at Buyer's sole cost), but shall not have the right to terminate this Agreement without Seller's prior written consent.

**6. PAYMENT TERMS.** Unless otherwise specified in Seller's quotation, terms of payment are net thirty (30) days from date of shipment, with no discount allowed for early payment. Seller reserves the right to alter or suspend credit terms, require C.O.D. or advance payment, whenever Seller has reasonable doubt as to Buyer's creditworthiness. If Buyer becomes delinquent in payment or refuses to accept C.O.D. shipments, Seller shall have the right, in addition to all other available rights and remedies, to cancel any or all Buyer orders, withhold further deliveries, and declare all unpaid amounts for Products previously delivered immediately due and payable. Amounts past due shall be subject to an interest charge of 1.5% per month. All costs and expenses incurred by Seller as a result of non-payment or delinquent payment by Buyer, including collection costs, interest, and reasonable attorneys' fees, shall be paid by Buyer.

## 7. WARRANTY/RECALL.

7.1 Unless otherwise in Seller's quotation, Seller warrants that the Products will conform to the applicable specifications and will be free of defects in design (but only to the extent that Seller furnishes the design), material and workmanship. Unless otherwise specified in Seller's quotation, the warranty shall be for a period of 12 months of vehicle use or, for commercial vehicles, 30,000 miles, whichever occurs first, commencing with vehicle registration or, in case of service parts, installation into the vehicle, provided, however, that the warranty period shall in no event start later than 6 months after delivery of the Product to Buyer.

7.2 Seller will provide free of charge to Buyer replacement Products or, at Seller's option, credit in a fair amount not to exceed the purchase price for Products which prove to be defective within the warranty period, *provided, however*, that Buyer has returned to Seller 100% or a statistically relevant share, as mutually agreed upon, of any Product claimed to be defective. Seller shall have the right to request reasonable evidence of and impose reasonable requirements for submission of a warranty claim, including by way of example and not as limitation, printouts of diagnostic test results performed at the Buyer's dealer level or Buyer.

7.3 In the event of (a) improper installation or misuse of the Products, (b) use of Products outside of Seller approved applications, specified environments or installation conditions, (c) use of Products for racing or testing applications, (d) failure to maintain Products in accordance with applicable maintenance instructions, or (e) alteration or damage caused to the Product, or similar circumstances, no warranty shall apply and Seller shall not be liable for such products or any damage caused by such products.

7.4 If Buyer reasonably believes a recall is required by law and, in whole or in part, is caused by the Products, Buyer shall give prompt written notice to Seller, keep Seller at all times fully informed and consult with Seller on the actions to be taken. Such prompt written notice is also required in the event of any Product-related incident such as fire, accident, malfunction causing injury, or loss of control of vehicle, and shall be accompanied by all information available to Buyer. Buyer shall not respond to inquiries of any Federal or State agency relating to the Products without prior consultation with Seller. Prior to any recall involving the Products, Seller shall have the right to perform a full investigation including but not limited to inspection and testing (including destructive testing) of the Products involved, vehicle history, scene investigation, and copies of all witness statements, reports, analysis, and tests performed by or on behalf of or in the possession of Buyer. Buyer shall give Seller full support for such investigation. In the event that a recall is determined to be legally required, both parties agree to negotiate a fair and equitable reimbursement of a share of Buyer's direct expenses incurred for such recall. Such allocation shall take into consideration the portion of each party's responsibility, the cost of the Products involved, the other cause(s) of the recall and the strength and the nature of the evidence concerning the defect and its cause(s). In no event shall Seller's liability hereunder exceed 10% of the average yearly net invoiced value of the aggregate sales of the Products concerned, nor shall Seller be liable for mark-ups or profit margins normally accruing to Buyer or its customers in the provision of replacement parts, nor for costs of handling, administration, customer inducement or incentives, nor for incidental, consequential or punitive damages (including but not limited to damages caused by standstill, loss of goodwill, lost profits), whether incurred by Buyer or any of its customers.

**7.5 THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED INCLUDING OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.**

**8. PROTOTYPE WARRANTY.** Notwithstanding anything to the contrary herein, prototype components are for use only in product testing/evaluation by qualified Buyer representatives in an appropriate test environment. Prototype components are provided “AS IS” and all warranties are expressly excluded. Seller shall have no liability for claims related to the prototype components. Buyer shall indemnify and hold Seller harmless from claims related to the prototype components.

**9. SPECIAL TOOLING.** Special tooling which is separately negotiated for and fully paid for by Buyer as a separate item on an order shall become the property of Buyer. During its use at Seller’s facility, such special tooling shall be held for the exclusive use of Buyer (except that Seller may use such special tooling for the supply of Products to the aftermarket organizations of Seller, and its affiliates) and shall be maintained in accordance with Seller’s usual practice. Buyer shall bear the risk of ordinary wear and tear, or loss or damage other than such caused by Seller. At the request of Buyer and to the extent practicable, special tooling shall be identified by appropriate markings. Prices for special tooling do not include transportation costs, storage beyond completion of the purchase order, or costs of marking or packaging. Unless Seller elects to continue to use special tooling for the aftermarket as described above, Seller will not be responsible for special tooling after completion of the purchase order and Buyer shall remove all special tooling within 30 days after such completion. If Buyer fails to do so Seller may, at Buyer’s expense and without any liability towards Buyer, dispose of such in a manner it deems fit. Seller shall have a lien on the special tooling to secure all outstanding obligations of Buyer.

**10. TERMINATION/CANCELLATION.**

10.1 Either party may terminate this Agreement: (a) upon breach of any material term of this Agreement by the other party which is not remedied within 30 days after notice of such breach; or (b) if a party becomes insolvent or makes an assignment for the benefit of creditors, or such party institutes any voluntary proceeding under bankruptcy, reorganization, arrangement, readjustment of debt or insolvency law of any jurisdiction or for the appointment of a receiver or trustee in respect to any of the party’s property, then termination shall be automatic and immediate; *however*, in the event any such proceeding is initiated by a third party against such party, termination shall be automatic if the such proceeding is not dismissed or cured by the party within thirty (30) days after the filing thereof.

10.2 Buyer shall not cancel the Agreement or any part thereof except in the event that the vehicle program for which the Products are provided is canceled prior to the agreed upon end of program duration. In the event Buyer (a) cancels the program after business award but before the agreed

upon end of program duration, or (b) wrongfully terminates the Agreement (in addition to other amounts due and legal remedies available to Seller), then Buyer shall reimburse Seller for its cancellation charges, including but not limited to unrecoverable investment in capital equipment, Seller paid tooling, engineering costs, and material obsolescence. Buyer payment is expected in lump sum by the end of the calendar year of the cancellation.

**11. PATENTS/TRADEMARKS.**

11.1 Seller warrants that the Products shall be delivered free of rightful claims for infringement of any United States patent or trademark, *provided, however*, that this warranty shall not apply to claims for patent infringement to the extent that any Products are (a) manufactured to Buyer's specifications, (b) used in combination with Products not purchased from Seller in a manner which infringes a patent covering the combination, or (c) used in a manner not reasonably anticipated by Seller. Seller's obligation hereunder is conditioned upon Buyer: (i) giving Seller prompt written notice of any infringement claim; (ii) cooperating fully with respect to the defense of such claim; and (iii) upon Seller's request, providing Seller full control of the defense including settlement and/or litigation of such claim.

11.2 Seller shall be entitled, at its option, to obtain a license on Buyer's behalf for the Product which (allegedly) infringes an intellectual property right or to modify the Product in such a way that it does not infringe the intellectual property right or replace the Product by a similar product which does not infringe the intellectual property right.

**12. GOVERNMENT CONTRACTS.** If Products are purchased under a government contract or sub-contract, Buyer shall promptly notify Seller of the provisions of any government procurement laws and regulations which are required to be included in the contract covering the Products ordered. If compliance with such provisions increases Seller's costs or liability, Seller shall be entitled, at its option, to adjust the prices accordingly, request separate payment of the additional costs, or terminate this Agreement with Buyer being responsible for all costs incurred by Seller.

**13. CONFIDENTIAL INFORMATION.** Any and all information concerning the Products or the transaction covered hereunder which Seller discloses to Buyer, or which Buyer otherwise obtains knowledge of hereunder, remains the exclusive property of Seller and shall not be disclosed by Buyer to third parties without Seller's express written consent. Buyer shall have no right whatsoever to such information other than to use it for evaluation for the purpose of the transaction covered hereunder. Seller will not disclose information submitted to it by Buyer which is confidential and proprietary to Buyer and clearly designated as such without Buyer's consent.

**14. REMEDIES/LIMITATION OF REMEDIES.** Seller's rights and remedies set forth herein shall be in addition to any legal or equitable right or remedy available to Seller. No waiver of any of Seller's rights or remedies shall be effective without Seller's express written consent. Seller shall not be liable for any incidental, consequential, special or punitive damages arising from the sale or use of any Products or Seller's performance or failure to perform any of its obligations hereunder, whether the claims be in contract or tort, including negligence or strict liability. Buyer's sole and exclusive remedy after acceptance of the Products shall be the remedy available under the warranty provision.

15. **SET-OFF.** Buyer is not entitled to set-off any amounts due or allegedly due from Seller to Buyer from its debts towards Seller.

16. **ASSIGNMENT.** Neither party shall be entitled to assign its rights or obligations hereunder without the other party's prior written consent. A corporate reorganization, which does not result in a change of control or beneficial owner, shall not be deemed an assignment.

17. **RELATIONSHIP OF THE PARTIES.** Buyer and Seller are independent contracting parties. Nothing hereunder or in the course of performance of this agreement shall grant either party the authority to create or assume an obligation on behalf or in the name of the other party or shall be deemed to create the relationship of joint venture, partnership, association or employment between the parties.

18. **SEVERABILITY.** In the event that any provision of this Agreement shall by a court be declared void or unenforceable, the validity of any other provisions and of the entire Agreement shall not be affected thereby.

19. **APPLICABLE LAW; ARBITRATION.** This Agreement and all disputes between the parties arising out of or related to this Agreement shall be governed by the laws of the State of Michigan without giving effect to any choice or conflict of law provision or rule (whether of the State of Michigan or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Michigan. The United Nations Convention on the International Sale of Goods shall not apply. The parties agree to submit all such disputes to binding arbitration which shall be held in the metropolitan area of Detroit, Michigan, in accordance with the rules of the American Arbitration Association ("AAA") pertaining to commercial arbitration. Within 30 days after either party has notified the other in writing that it is submitting a dispute to arbitration, three arbitrators shall be appointed in accordance with said rules. Neither party shall be allowed to object to an arbitrator appointed by the other party. The arbitrators shall have no authority to award punitive damages or any other damages excluded herein. The arbitration award shall be final and binding, and it may be entered in and enforced by any court of competent jurisdiction. The party prevailing in the arbitration or any other legal proceedings shall be entitled to recover its costs including reasonable attorney's fees incurred due to the arbitration or other legal proceedings.

20. **GENERAL.**

20.1 Seller will (without prejudice to any other remedy available to it) have in respect of all unpaid debts due from Buyer a lien on: (i) finished Products delivered to Buyer, (ii) finished Products that have yet to be delivered to Buyer, and (iii) all property of Buyer in the possession of the Company.

20.2 Seller will be entitled to set-off any liability of Buyer under the Agreement or any other contract with Seller and any Seller affiliate, against any liability Seller or any Seller Affiliate to Buyer or any affiliate of Buyer.

20.3 Seller and Buyer are contracting solely on the basis of orders expressly agreed by Seller, including these Terms and Conditions, which contain the entire understanding of the parties and is intended as a final expression of their Agreement and a complete statement of the terms thereof,

and may not be amended, modified or otherwise supplemented unless such amendments, modifications or supplements are in writing and signed by a Seller authorized representative.

**21. VALIDITY OF QUOTATION.** Any quotations issued subject to the terms contained herein shall be valid for 30 days from the date of issuance unless otherwise stated in Seller's quotation.