

## TOYOTA TSUSHO AMERICA, INC.

### GENERAL TERMS AND CONDITIONS FOR SALE OF AUTO PARTS

1. **ACCEPTANCE.** The acceptance of Buyers' orders, purchases, releases and contracts (collectively "Orders") for the auto parts sold hereunder (the "Parts") by the Seller, Toyota Tsusho America, Inc. ("Seller" or "TAI") is expressly contingent upon Buyer's assent to the following conditions, which supersede and modify any and all conflicting terms and conditions contained in Buyer's Orders. Any conflicting terms in Buyer's Orders are hereby rejected. No modification shall be binding unless in writing signed by the party to be charged.

2. **VALIDITY.** Prices are valid for ninety (90) days after date of quotation. Thereafter, prices are subject to change.

3. **SHIPMENT MODE.** Shipments will be scheduled by ocean carrier as designated by the monthly order form in accordance with the stated lead times. Unless otherwise specified, if an Incoterm is used in Seller's Sales Confirmation (the "Confirmation"), Incoterms 2020 shall apply to the contract of purchase and sale (the "Contract"). Each shipment or delivery hereunder shall be construed and considered as a separate sale insofar as the Buyer's obligation to accept and pay for the Parts under the terms of the contract, and Buyer agrees to accept and pay for each such shipment or delivery without regard to other shipments or deliveries. If shipments are delayed at the request of the Buyer, payment shall be due based on the day when the Seller was first prepared to make shipment, and Parts shall be held at Buyer's sole risk and expense. Should Buyer fail to accept or to pay for any shipment or delivery, Seller may, without prejudice to any other lawful remedy, defer further shipments or deliveries until acceptance by Buyer or payment by Buyer, or Seller, may, at its option, and without any liability terminate the contract as to any unaccepted or undelivered portion thereof, as well as any other outstanding contract with Buyer, and Buyer shall be responsible for any expenses or losses sustained by Seller as a consequence of such termination.

4. **PRICING / RATE OF EXCHANGE/TAXES** Pricing is based on consolidation of the quoted Parts into one shipment. Orders must be placed by the due date on order form of Month N for delivery approximately 12 weeks later. A forecast for months N+ 4 and N+ 5 shall be provided at that time. The pricing of Parts which Seller procures from sources located outside of the United States is predicated on the rate of exchange at the time the order is placed or accepted at Seller's choice (the "Base Rate"). In the event that rate of exchange between the United States dollar and the currency of the country of origin of the Parts shall differ from the Base Rate on the date of delivery, the price of the Parts shall be increased or decreased accordingly. Pricing is based upon the current government tariffs, duties, assessments, surcharges and other levies now existing and applicable, and any increase that may hereafter be imposed on the Parts, or upon the sale thereof, shall be added to the contract price paid by Buyer. Buyer shall have the benefit of any reduction to the extent that such reduction affects Parts remaining to be delivered and/or paid for after such reduction occurs. For purposes of this section "government" shall mean any country, state, city, municipality or other political subdivision, domestic or foreign.

5. **QUANTITIES.** The minimum order quantity must be met for the price to apply. On orders for special Parts or materials the right is reserved to ship and bill product quantities 10% more than the quoted amount. Firm orders may not deviate in quantity more than twenty percent (20%) from the amount forecast.

6. **PACKAGING.** Standard Export Packaging, unless otherwise specified in a writing executed by Seller.

7. **INSPECTION.** The final inspection shall occur upon receipt of the parts by Buyer at its facility. The bill of lading shall be conclusive as to the condition of the Parts, time and place of shipment.

8. **CLAIMS.** The Buyer must submit all claims to Seller in writing within thirty (30) days of receipt of the parts. Seller will present all claims to the manufacturer for adjustment by the manufacturer, without responsibility or engagement on the part of Seller.

9. **FORCE MAJEURE.** Seller shall not be responsible for failure or delay due to causes beyond its control affecting the delivery of the Parts. These causes shall include, but not be restricted to, fire, storm, flood, earthquake, explosion, accident, acts of any public enemy, war, rebellion, insurrection, sabotage, terrorism, epidemic, quarantine restrictions, labor disputes, or controversies (including disputes or controversies which exist by reason of the refusal of either party to prevent, settle, or resolve such dispute or controversy on terms unacceptable to it), labor shortages, transportation embargoes, or failures or delay in transportation, fuel or energy shortages, power interruptions or failures, acts of God, acts, rules, regulations, orders or directives of any government or political subdivision, agency or instrumentality thereof, or the order of any court, regulatory, or arbitral body of competent jurisdiction ("Force Majeure Events"). In such event, Seller may postpone or cancel delivery without further liability. The imposition (or announcement of a potential future imposition) of a quota, new or higher import tax, tariff, tariff-rate quota, duty or any other surcharge applicable to the Parts (a "Charge") or temporary or permanent measure by the federal or any state government of the United States (or if the United States is not the place of destination then the government of the place of destination), whether promulgated by legislation, policy or other means, which results in: (a) an increase to Seller in the cost of supply; (b) Seller's inability to claim, as a business expense deduction, its cost of imported Parts; or (c) any limitation or restriction on the ability to secure supply, after the acceptance of the Order shall, at Seller's option, be deemed a Force Majeure Event. Seller shall notify Buyer of its intention to exercise the option and cancel the Order without penalty within ten (10) business days of the Charge or measure. Buyer may elect to pay the Charge, or accept for Buyer's account, any costs, additional taxes, limitations or restrictions imposed on Seller and proceed with the Order by notice to Seller no later than five (5) business days after Seller's notice of cancellation. All such notices shall be given by electronic mail, with a confirmation copy by regular mail.

10. **CANCELLATION.** If the Buyer desires to cancel an order, Buyer shall send written notice to Seller. Seller will contact the manufacturer and attempt to negotiate a cancellation. If the manufacturer refuses to cancel, the Buyer will be responsible for: 1) completed production; 2) material in process of fabrication for the order; 3) materials purchased specifically for the order; and/or 4) other costs of cancellation imposed by the manufacturer.

11. **ERRORS.** Clerical errors are subject to correction and Seller shall not be bound by inadvertent mistakes.

12. **PAYMENT TERMS.** Net 25<sup>th</sup> Prox.

**TOYOTA TSUSHO AMERICA, INC.**  
GENERAL TERMS AND CONDITIONS FOR SALE OF AUTO PARTS

Page 2 of 3

13. **INTEREST/COLLECTIONS.** All sums due Seller which are paid after the date due shall be subject to an interest rate of eighteen percent (18%) per annum, or the maximum legal rate, whichever is less. Buyer shall be liable for all costs of collection, including, but not limited to, the Seller's reasonable attorneys' fees, court costs and disbursements.
14. **URGENT DELIVERY.** Seller's price calculation is based on standard trucking charges on regular dates of shipment; additional charges for urgent or express delivery will be billed in addition to the quoted prices.
15. **CHANGE IN USAGE.** If Buyer changes the usage of any part supplied hereunder from the usage specified in the Request for Part Quotation Form, or if there is a change in specification or regulation which could cause a change in the applicable rate of Duty, Buyer is responsible for any penalties, past due Duty amounts, and/or fees that may be imposed by Customs or any other instrumentality of government.
16. **WARRANTY. THE SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY PRODUCT NOT MANUFACTURED BY IT.** The Seller will give reasonable assistance to the Buyer in obtaining from the respective manufacturer whatever adjustment is reasonable in light of the manufacturer's own warranty. The Seller shall be released from any and all obligations under any warranty, either express or implied, if any Seller manufactured product covered hereby is repaired or modified by persons other than its own authorized personnel, unless such repair by others is made with the prior written authorization of the Seller. **THE SELLER MAKES NO WARRANTIES WITH RESPECT TO ANY PARTS SOLD HEREBY, WHETHER OR NOT MANUFACTURED BY IT, WHICH EXTEND BEYOND THE DESCRIPTION ON ITS CONFIRMATIONS. THE SELLER EXPRESSLY AND SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTY OF, AND MAKES NO WARRANTY WITH RESPECT TO, MERCHANTABILITY OR THE FITNESS OF ANY PRODUCT SOLD HEREBY FOR ANY PARTICULAR PURPOSE OR USE UNLESS SUCH A WARRANTY IS EXPRESSLY SET FORTH IN THE CONFIRMATION. SINCE DAMAGES, IF ANY, ARE DIFFICULT TO ASCERTAIN OR QUANTIFY THE BUYER OR ANYONE CLAIMING UNDER ANY WARRANTY RELATING TO PARTS SOLD HEREUNDER AND APPLICABLE TO THE SELLER AGREES THAT IF THE SELLER BREACHES ANY SUCH WARRANTY, OR ANY WARRANTY IMPLIED EITHER IN FACT OR BY OPERATION OF LAW, OR IF ANY PRODUCT SOLD HEREUNDER PROVES DEFECTIVE IN ANY MANNER WHATSOEVER, THE SELLER'S SOLE LIABILITY HEREUNDER SHALL NOT EXCEED EITHER (a) REPLACEMENT OF ANY DEFECTIVE PRODUCT OR, AT THE OPTION OF THE SELLER, (b) REFUNDING TO THE BUYER THE PURCHASE PRICE AND TRANSPORTATION COSTS PAID FOR SUCH DEFECTIVE PARTS. IF A PRODUCT WHICH IS OR HAS BEEN SOLD HEREUNDER CAUSES, AT ANY TIME, ANY PROPERTY DAMAGE, PERSONAL INJURY, ECONOMIC LOSS, OR ANY OTHER DAMAGE HOWEVER DEFINED, THE BUYER OR ANYONE CLAIMING THROUGH THAT BUYER OR ANY WARRANTY RELATING TO SUCH PRODUCT SOLD HEREUNDER EXPRESSLY AND SPECIFICALLY AGREES THAT THE SELLER SHALL NOT BE RESPONSIBLE FOR, AND THAT THE BUYER AND ANY OTHER CLAIMANT OR CLAIMANTS SHALL ASSUME ALL LIABILITY FOR, ANY SUCH PROPERTY DAMAGE, PERSONAL INJURY, ECONOMIC LOSS OR OTHER DAMAGE HOWEVER DEFINED AND ANY CLAIM OR CLAIMS FOR SUCH PROPERTY DAMAGE, PERSONAL INJURY, ECONOMIC LOSS OR OTHER DAMAGE.**
17. **SERVICE PARTS.** Seller shall provide service Parts during the life of the vehicle program at the Contract price set forth in the Sales Confirmation. Buyer acknowledges that Seller is not the manufacturer of the Parts and that Buyer's ability to obtain Post-Production Service Parts may be limited by the manufacturer. If Post-Production Service Parts can be provided, Seller will be entitled to a price adjustment based on reduced quantities and any special delivery or packaging requirements.
18. **RETURN.** Parts returned to TAI must be accompanied by an authorization form signed by a TAI Manager. To obtain an authorization form, Buyer may contact its TAI Account representative. TAI may send parts returned to TAI without an authorization form back to the Buyer at Buyer's expense.
19. **AIR SHIPMENTS.** Air shipments will not be made unless the purchase order is accompanied by an AIR SHIPMENT AUTHORIZATION FORM. This authorization form can be obtained from any authorized TAI staff member.
20. **DOMESTIC EXPEDITES.** Buyer must authorize any domestic deliveries to your facility which are out of normal mode of shipment by completing a DOMESTIC FREIGHT AUTHORIZATION FORM and returning it to the Buyer's TAI Account Representative by e-mail or facsimile.
21. **INTELLECTUAL PROPERTY.** Seller does not represent nor warrant that Parts sold hereunder or the purchase or sale hereof by Seller do not and shall not infringe any patent, trademark, design and other intellectual property rights of a third party in any country. Risk of such infringement shall entirely be borne by Buyer.
22. **TIME LIMITATIONS.** No claim of breach of warranty shall be considered unless made in writing within thirty (30) days after the date of the invoice or within fifteen (15) days after the receipt of the parts by Buyer, whichever is sooner. In any event, Seller shall not be liable hereunder, unless a claim is made within one (1) year after the cause of action shall arise.
23. **PAYMENT.** If in Seller's sole judgment the financial responsibility of Buyer shall become impaired or unsatisfactory to Seller, then such terms of payment and such security for payment as shall be satisfactory to Seller may be demanded by Seller and shall be complied with and/or furnished by Buyer. In the event Seller, for any of the reasons aforesaid, requires payment in cash on or before delivery or otherwise alters the terms of payment, Buyer shall not thereby be relieved from the obligation to carry out the balance of the contract, which obligation is expressly assumed by Buyer. By accepting shipment of any parts pursuant to this contract, the Buyer represents and warrants that it has sufficient funds to pay for the parts shipped. If any check, draft or other negotiable instrument tendered by the Buyer to the Seller is not negotiated upon presentation to the Buyer's bank, then any notice of such non-negotiation shall be effective as against Buyer upon actual receipt thereof by Seller.

**TOYOTA TSUSHO AMERICA, INC.**  
GENERAL TERMS AND CONDITIONS FOR SALE OF AUTO PARTS

Page 3 of 3

24. **TITLE TRANSFER.** Unless otherwise expressly agreed in writing by Seller and Buyer, title to the Parts shall be conveyed by Seller to Buyer at the point that the risk of loss of the Parts passes from Seller to Buyer under the applicable provision of Incoterms 2020.

25. **APPLICABLE LAW AND ARBITRATION.**

a) This contract, unless otherwise stipulated or agreed to in writing, shall be construed according to and governed by the internal laws of the State of New York, and without the application of any presumption against a party as draftsman.

b) Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration in the City of New York, New York, in accordance with the rules of the American Arbitration Association and judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof. The award of the Arbitrator(s) shall be rendered in a writing which contains the reasons or grounds therefore. The Arbitrator shall not have the power to award exemplary, punitive or consequential damages.

26. **TERMINATION.** This agreement shall continue in effect as hereinabove provided, unless sooner terminated in writing subscribed to by the Seller. Seller shall have the right to immediately terminate this agreement if Buyer shall: (1) become insolvent, commence or file any voluntary or involuntary proceeding or petition in bankruptcy in any court; (2) make any assignment for the benefit of creditors; (3) enter into any composition with its creditors; or (4) suffer the appointment of a receiver for any of the Buyer's property.

27. **ANTIDUMPING.** In the event that the Parts are imported, Seller shall pay the antidumping duty to which the Parts are subject at the time of importation. If, as a result of an administrative review, an agency of the United States imposes any additional antidumping duties upon the Parts beyond the antidumping duty order to which the Parts are subject at the time of importation, and makes demand upon Seller for payment of such duties, Buyer shall reimburse Seller for such additional duty upon Seller's presentation of the demand for payment thereof to Buyer.

28. **EXPORT COMPLIANCE.** Buyer and Seller hereby agree to comply fully with all applicable economic sanctions and export control laws and regulations, including, without limitation: 1) those regulations maintained by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC"); 2) the U.S. Commerce Department's Bureau of Industry and Security ("BIS"); and 3) the International Traffic in Arms Regulations ("ITAR") and the Export Administration Regulations ("EAR") Without limiting the generality of the foregoing, neither party shall directly or indirectly sell, provide, export, reexport, transfer, divert, loan, lease, consign or otherwise dispose of any equipment, product, services, software, source code, or technology received from the other party under this Contract to any person, entity or destination, or for any activity or use restricted by the laws or regulations of the United States or any other applicable jurisdiction without obtaining all required governmental authorizations. Notwithstanding any other provision of this Contract, neither Buyer nor Seller shall be required to take (or, as the case may be, refrain from taking) any action prohibited or penalized under the laws of the United States or any applicable foreign jurisdiction, including, without limitation, the United States anti-boycott laws administered by BIS and the U.S. Treasury Department's Internal Revenue Service. Any performance obligation arising under the Contract is contingent upon the prior receipt of all necessary governmental authorizations and Seller shall not be liable for any breach, non-performance or delay in performance related to the failure to obtain any such authorization. Buyer's breach of this clause shall constitute cause for the immediate termination of this Contract. Buyer agrees to indemnify and hold harmless Seller for Buyer's non-compliance with this provision. This provision shall survive termination of this Contract.

29. **INSURANCE.** The Buyer further agrees to obtain, at its own cost and expense, insurance against all liability arising from any of its acts or omissions under this contract, including general liability, products liability, completed operations liability and contractual indemnity liability, naming itself and the Seller as insured as the interest may appear in the amount of one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) aggregate annual limit.

30. **CYBERSECURITY** Each Party shall: 1) keep and maintain the other Party's information in such a manner and using such a degree of care as is appropriate to avoid unauthorized access, use or disclosure; 2) implement administrative, physical and technical safeguards to protect its electronic information technology systems ("IT Systems") that are no less rigorous than accepted industry practices and shall ensure that all such safeguards, including the manner in which information is collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws; and 3) limit access to the other Party's identifiers, such as its employer identification number, banking information and account numbers to personnel with a need to know such information. Each party shall timely notify the other Party in the event it suffers a security breach, which for purposes of this Agreement shall mean any act or omission that compromises either the security, confidentiality, or integrity of its IT Systems and/or the physical, technical, or administrative or organizational safeguards put in place by that Party that maintain the security, confidentiality, or integrity of its IT Systems.

Accepted: \_\_\_\_\_ (Buyer)

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_