

**TOYOTA TSUSHO CANADA, INC. ("SELLER")
TERMS AND CONDITIONS OF SALE**

1. Taxes:

This Contract is based upon the present government tariffs, duties, assessments and other levies now existing, and any increase therein whether caused by change in duty classification, valuation or otherwise, or any other government tariff, duty, surcharge, border tax, assessment or other levy that may hereafter be imposed upon the products which are the subject of this sale (the "Products") shall be added to and become part of the Contract price and paid by Buyer. Should any such levies be reduced, then Buyer shall have the benefit of such reduction to the extent that the same affects the Products remaining to be delivered and paid for after such reduction occurs. All the above provisions shall apply not only to such levies as are imposed by Canada and/or the United States, but also to such as are imposed by any province, country, any state, county, municipality, or other political subdivision, or other province or public authority. Buyer shall pay all sales, VAT and similar taxes.

2. Shipment and Delivery:

- (a) Unless otherwise stated, sales under this Contract are FCA (Incoterms 2010) Seller's point of production or acquisition. 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 Products is concerned, and Buyer shall accept and pay for each such shipment or delivery. If the Buyer delays shipments, payment shall become due on the date when the Seller is prepared to make shipment. Products held for Buyer shall be at the risk and expense of Buyer. Should Buyer fail to accept or pay for each 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 at its option, Seller may, without any liability whatsoever, terminate this 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 and/or losses sustained by Seller by so doing.
- (b) The bill of lading shall be accepted by the Buyer and shall be conclusive as to the quantity, quality, time and place of shipment. The Products shall be delivered by the presentation to the Buyer of the bill of lading or a delivery order. Unless otherwise agreed by the parties, Seller shall have the right to select the carrier and/or routes at its sole discretion.
- (c) Terms and conditions of sale and delivery are set forth herein. TERMS SET FORTH IN ANY ORDER WHICH ARE INCONSISTENT WITH, OR IN ADDITION TO, THE TERMS AND CONDITIONS SET FORTH HEREIN ARE EXPRESSLY REJECTED BY THE SELLER AND ARE NOT BINDING ON THE SELLER. Any additional conditions or specifications applying to the order must be stated in a writing issued by Seller or signed by Seller. No modifications or amendments of this Contract shall be binding on either party unless in writing and signed by the party to be charged. This Contract contains the entire agreement between the parties. No course of performance or conduct by Seller shall be construed to waive, modify or otherwise adversely affect Seller's rights.
- (d) Partial shipment shall be accepted unless otherwise specially agreed in a writing signed by Seller.

3. Warranty:

- (a) 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 PRODUCT SOLD HEREBY, WHETHER OR NOT MANUFACTURED BY IT, WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF WITH RESPECT TO THE PRODUCTS COVERED HEREBY. THERE ARE NO WARRANTIES OR REPRESENTATIONS OTHER THAN AS EXPRESSLY AND SPECIFICALLY PROVIDED

HEREIN. SELLER DISCLAIMS THE IMPLIED WARRANTIES WITH RESPECT TO MERCHANTABILITY OR THE FITNESS OF ANY PRODUCT SOLD HEREBY FOR ANY PARTICULAR PURPOSE OR USE UNLESS SUCH A WARRANTY IS SET FORTH IN A WRITING ISSUED BY SELLER OR SIGNED BY SELLER.

- (b) SINCE DAMAGES, IF ANY, ARE DIFFICULT TO ASCERTAIN OR QUANTIFY, THE BUYER OR ANYONE CLAIMING UNDER ANY WARRANTY RELATING TO PRODUCTS 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 (B) AT SELLER'S OPTION, REFUNDING TO THE BUYER THE PURCHASE PRICE AND TRANSPORTATION COSTS PAID FOR SUCH DEFECTIVE PRODUCT. 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, BUYER OR ANYONE CLAIMING THROUGH THAT BUYER OR ANY WARRANTY RELATING TO SUCH PRODUCTS 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.
- (c) Seller does not represent nor warrant that Products sold hereunder or their purchase and/or sale do not and shall not infringe any patent, trademark, design and other intellectual or industrial property rights of a third party in any country. Risk of such infringement shall entirely be borne by Buyer.
- (d) 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 Products by Buyer, whichever is sooner. In any event, Seller shall not be liable for any claim, unless a claim is filed with the tribunal referenced in this Contract within one (1) year after the delivery of the Products.

4. Force Majeure:

If any shipment or delivery hereunder shall be delayed through any act or neglect of the carrier or any other person, including but not limited to subcontractors and suppliers, or by any embargo, hostilities, war, civil disturbance, strike, fire, accident, government restriction, seizure or requisition, force majeure, or by reason of any other cause whatsoever, whether domestic or foreign, whether direct or indirect, whether similar or dissimilar to any of the foregoing beyond the reasonable control of Seller, Seller shall not be responsible therefor, and shipment and/or delivery may be postponed or cancelled by Seller at its option without liability hereunder. The imposition (or announcement of a potential future imposition) of a new quota or new or higher import tax, tariff, tariff-rate quota, duty or any other surcharge applicable to the Products (a "Charge") or a temporary or permanent measure by the federal or any provincial government of Canada (or if Canada is not the place of destination then the national, state, provincial, or local 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; or (b) any limitation or restriction on Seller's ability to secure supply, after the acceptance of Buyer's order (each, an "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. Seller shall equitably apportion any Products subject to a quota or similar restriction among its customers. All such notices shall be given by electronic mail, with a confirmation copy by regular mail.

5. **Payment:**
If in Seller's sole judgment during the term of this Contract 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. At the time of shipment of any Products pursuant to this invoice, the Buyer represents and warrants that it has sufficient funds to pay for the Products 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.
6. **Applicable Law and Arbitration:**
(a) This Contract shall be construed according to and governed by the internal laws of the Province of Ontario. The parties consent to the jurisdiction of the Ontario courts.
(b) The Seller and Buyer each irrevocably agree and consent that any controversy or claim arising out of or relating to this Contract or the breach thereof, shall be settled without appeal by binding arbitration in Toronto, Ontario in accordance with the International Arbitration Rules of the Centre for International Dispute Resolution and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Each party shall pay its own legal fees and the parties shall share the costs of the forum. Buyer consents to the joinder of such arbitration into any other arbitration arising from a common question of fact and involving Seller.
7. **Rate of Exchange:**
It is understood that the price of any Product ordered under this Contract which is procured by Seller from sources outside the country of delivery is predicated on the rate of exchange in force at the time of the placing of the order, or the time of the acceptance of the order, at Seller's choice. In the event that prior to the delivery of any such Product to the Buyer the rate of exchange between the currency in which the price of the Products is quoted and the currency of the country from which the Products are procured should vary, the price of the Products shall be increased or reduced accordingly to compensate for such variation in the rate of exchange.
8. **Termination:**
(a) This Contract shall continue in effect as hereinabove provided unless sooner terminated in a writing signed by the Seller.
(b) Seller shall have the right to immediately terminate this Contract 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; and/or (4) if a receiver is appointed for any of the Buyer's property.
9. **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, naming itself and the Seller insured as their interests may appear, in the amount of one million dollars (\$1,000,000) per occurrence and five million dollars (\$5,000,000) aggregated annual limit.
10. **Export Compliance:**
Buyer and Seller hereby agree to comply fully with all applicable economic sanctions and export control laws and regulations, including, without limitation, regulations promulgated by the Export and Import Controls Bureau under the Export and Import Permits Act, the Export Controls List and the Area Control List. Without limiting the generality of the foregoing, neither party shall directly or indirectly sell, provide, export, re-export, transfer, divert, loan, lease, consign or otherwise dispose of any equipment, product, services, software, source code, or technology received from Buyer under this Contract to any person, entity or destination, or for any activity or use restricted by the laws or regulations of Canada, the United States or any other applicable jurisdiction without obtaining all required governmental authorizations. Any performance obligation arising under this 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 losses due to Buyer's non-compliance with this provision. This provision shall survive termination of this Contract.

(1.11.2019)