

Effective July 1, 2004

PORT CITY GROUP
TERMS AND CONDITIONS OF PURCHASE

The order on the reverse side by Port City Group ("Buyer") is subject to the following terms and conditions:

- Contract.** This order constitutes an offer by Buyer and may be revoked or changed at any time before acceptance. BUYER SPECIFICALLY REJECTS AND OBJECTS TO THE INCLUSION OF ANY DIFFERENT OR ADDITIONAL TERMS OR CONDITIONS BY THE SELLER IN ACKNOWLEDGING OR ACCEPTING THIS ORDER EXCEPT TO THE EXTENT THAT AN AUTHORIZED OFFICER OF BUYER EXPRESSLY AGREES TO ACCEPT ANY SUCH PROPOSALS IN WRITING, and neither acceptance of delivery of all or part of the goods or services ordered, nor payment therefor, shall constitute acceptance by Buyer of any such different or additional terms and conditions which may be contained in Seller's acknowledgment, acceptance, confirmation, invoice, or other writing, regardless of whether Seller's acceptance of this order is conditioned upon Buyer's assent to such terms and conditions. If this order is made in response to a written proposal or other form of offer from Seller, and if Seller's proposal or other form of offer contains terms and conditions additional to or different from those contained in this Purchase Order, then BUYER'S ACCEPTANCE OF SELLER'S PROPOSAL OR OFFER IS HEREBY EXPRESSLY CONDITIONED UPON SELLER'S ASSENT TO ALL OF THE TERMS AND CONDITIONS CONTAINED IN THIS PURCHASE ORDER. The signing and return to buyer of the attached acknowledgment, other written indication of acceptance, commencement of any work or the performance of any services purchased hereunder, or the shipment of conforming or non-conforming goods shall constitute acceptance by Seller of this Purchase Order and all of its terms and conditions. Any contract formed pursuant to this order shall be construed according to the laws of Michigan in effect at the time of acceptance.
- Price.** Seller warrants that the prices specified on the face of this order neither exceed the maximum prices nor fail to equal the minimum prices established by federal or state law. Seller further represents that the prices set forth on this order are equal to and not lower than the lowest prices charged by Seller to the class of buyers of similar items or services in comparable quantities and under comparable circumstances as of the time this order is accepted by Seller. If price omitted, Seller agrees that the price shall be the lowest prevailing market price at the time of delivery.
- Shipment.** Unless otherwise specified on the face of this order or authorized in writing by Buyer, all shipments are F.O.B. Buyer's plant and shall be made at Seller's own risk and expense. Seller shall follow Buyer's written instructions as to mode and routing of shipments. Where this order calls for Buyer to pay for any shipping charges, then the goods subject to such shipping charges shall be suitably packed, marked, and shipped in a manner to secure the safety of the goods and minimize transportation costs. Damage

resulting from improper packaging or shipment, except where caused by adherence to Buyer's specifications, shall be charged to Seller. Buyer shall incur no liability for any goods shipped in excess of the quantity specified in this order or for any goods delivered to Buyer in advance of the specified time for delivery. Buyer may refuse delivery of such goods, receive custody of the goods from the carrier for return to Seller at Seller's risk and expense, or accept delivery of the goods as if such goods were part of or in accordance with this original order; provided, that no such goods shall be deemed accepted by Buyer until written notice of Buyer's acceptance is received by Seller. Title to, and the risk of loss of, the goods covered hereby shall not pass to Buyer until delivery of the goods at Buyer's plant and acceptance of the goods by Buyer. Seller shall have all responsibility for and expense of preparing and filing claims against carriers for loss or damage to goods in transit. Seller will properly pack, mark and, ship goods as instructed by Buyer or any carriers and in accordance with any applicable laws or regulations, route shipments as Buyer instructs, not charge for costs relating to handling, packaging, storage or transportation (including duties, taxes, fees, etc.) unless otherwise expressly stated in this Purchase Order, provide packing slips with each shipment that identify Buyer's contract and release number and the date of the shipment, and promptly forward the original bill of lading or other shipping receipt with respect to each shipment as Buyer instructs. Seller will include on bills of lading or other shipping receipts the correct classification identification of the goods shipped as Buyer or the carrier requires. The marks on each package and identification of the goods on packing slips, bills of lading and invoices must enable Buyer to easily identify the goods.

4. **Delivery; Premium Delivery.** Deliveries will be made in the quantities, on the dates, and at the times specified by Buyer in this Purchase Order or any subsequent releases or instructions Buyer issues under this Purchase Order. Time is of the essence with respect to all delivery schedules Buyer establishes. Buyer will not be required to pay for any goods that exceed the quantities specified in Buyer's delivery schedules or to accept goods that are delivered in advance of the delivery date specified in Buyer's delivery schedules. Seller bears the risk of loss of all goods delivered in advance of the delivery date specified in Buyer's delivery schedules. If the requirements of Buyer's customers or market, economic or other conditions require changes in delivery schedules, Buyer may change the rate of scheduled shipments or direct temporary suspension of scheduled shipments without entitling Seller to a price adjustment or other compensation. If Seller fails to have goods ready for shipment in time to meet Buyer's delivery schedules using the method of transportation originally specified by Buyer and, as a result, Buyer requires Seller to ship the goods using a premium (more expeditious) method of transportation, Seller will ship the goods as expeditiously as possible. Seller will pay, and be responsible for, the entire cost of such premium shipment, unless Buyer's actions caused Seller to fail to meet Buyer's delivery schedules, in which case Buyer will pay any costs for premium shipment. Buyer may provide Seller with estimates, forecasts or projections of its future anticipated volume or quantity requirements for goods. Seller acknowledges that any such forecasts are provided for informational purposes only and, like any other forward looking projections, are based on a number of economic and business factors, variables and assumptions, some or all of which may change over time. Buyer makes no representation, warranty, guaranty or commitment of any kind or nature, express or

implied, regarding any such forecasts provided to Seller, including with respect to the accuracy or completeness of such forecasts.

5. **Taxes.** Unless otherwise agreed in writing, Seller shall not collect from, nor shall Buyer be liable for, any privilege, occupation, personal property, sales, excise, use and other taxes applicable to the sale, purchase, storage, erection, use, or ownership of the goods or services covered hereby.
6. **Right of Inspection; Payment.** All goods and services covered hereby are subject to test and inspection by Buyer at all reasonable times and places, including the periods and the places of manufacture, fabrication, or distribution. Seller will permit Buyer and its representatives to enter Seller's facilities at reasonable times to inspect the facilities and any goods, inventories, work-in-process, materials, machinery, equipment, tooling, fixtures, gages, and other items and processes related to Seller's performance of this Purchase Order. No inspection by Buyer will constitute acceptance by Buyer of any work-in-process or finished goods. Buyer has the right to inspect the goods at its plant before final acceptance. Payment of the purchase price shall not be due until Buyer has inspected and accepted the goods or services. Payment for the goods or services covered hereby shall not constitute acceptance thereof. Buyer is not required to perform incoming inspections of any goods or services and Seller waives any right to require Buyer to conduct any such inspections.
7. **Terms and Method of Payment.** Invoices offering cash discounts shall, at Buyer's option, be paid at discounted amount on the 25th of the month for invoices dated from the 1st through the 15th of the month, and paid at discounted amount on the 10th for invoices dated the 16th through the 31st of the preceding month. Buyer's check in payment will be accepted without discount for collecting. All payments shall be deemed to have been made as of date of postmark of the mailed payment. Buyer shall not be obligated to pay any late charge, finance charge, time-price differential, interest or any similar charge by reason of failure to make any payment when due.
8. **Warranties.** All specifications, drawings, and other data submitted by Buyer, including performance data, are incorporated by reference into this order, and Seller expressly warrants that the goods delivered shall conform to such data. Seller warrants to Buyer, its successors, assigns and customers that the goods and services covered by this Purchase Order will (a) conform to the then current release/revision level (based on date Buyer's release is issued to Seller) of Buyer's applicable specifications and drawings, (b) conform to all samples, descriptions, brochures and manuals furnished by Seller or Buyer, (c) be merchantable, (d) be of good material and workmanship, (e) be free from defect, and (f) be fit and sufficient for the particular purposes intended by Buyer and any customer of Buyer. The foregoing warranties are in addition to any other warranties expressed by Seller and any warranties implied by law, all of which are hereby incorporated by reference. All warranties shall extend to future performance of the goods, shall survive inspection, tests, acceptance and payment for the goods, and shall run to Buyer, its employees, successors, assigns and customers and other users for a

period of forty-eight (48) months in the case of automotive parts and in all other cases, for the period specified by applicable law.

9. **Buyer's Remedies.** In the event of Seller's breach of any warranty provided for herein or of any other provision hereof, Buyer may, at its option, cancel this Purchase Order in whole or in part, without liability except as to conforming goods delivered and accepted by Buyer, regardless of whether Seller's breach goes to part or all of the goods covered hereby, return non-conforming goods to Seller at Seller's risk and expense for full credit and without replacement to Buyer, or retain such goods and set off losses against any amounts due Seller, or correct or replace such goods and charge Seller with the expense, or return such goods at Seller's risk and expense and require prompt correction or replacement without additional cost to Buyer. Items shall be replaced or corrected by Seller only as specified by Buyer, and any replacement or correction by Seller shall be deemed subject to the terms and conditions of this original purchase order. If the goods or services are reasonably determined by Buyer to fail to conform to Seller's warranties set forth in this Purchase Order, Seller shall reimburse Buyer for all reasonable losses, costs and damages caused by such nonconforming goods. Such costs and damages may include, without limitation, costs, expenses and losses of Buyer and/or its customers arising from (i) inspection, sorting, repair or replacement of any nonconforming goods or any system or component that incorporates such nonconforming goods, (ii) production interruptions or slowdowns, (iii) offlining of vehicles or component systems, and (iv) field service campaigns and other corrective service actions, including, without limitation, the amounts paid to distributors and/or dealers for materials and replacement parts (including reasonable markup to recover administrative costs or other capital expenses) and the labor costs to perform such work. Notwithstanding the expiration of the warranty period set forth in Section 8, if Buyer and/or the manufacturer of the vehicles (or other finished product) on which the goods, or any parts, components or systems incorporating the goods, are installed, voluntarily or pursuant to a government mandate, makes an offer to owners of such vehicles to provide remedial action to address a defect that relates to motor vehicle safety or the failure of the vehicle to comply with any applicable law, safety standard or guideline (a so-called "recall"), Seller will nonetheless be liable for costs and damages associated with the conduct of such recall to the extent that such recall is based upon a reasonable determination (including by use of statistical analysis or other sampling methodology) that the goods fail to conform to the warranties set forth in this Purchase Order. In addition to the rights and remedies provided to it by the terms of this order, Buyer shall have all of the rights and remedies provided to buyers by law and in equity, and all such rights and remedies shall be cumulative and may be exercised by Buyer from time to time.
10. **Termination.** In addition to any other rights of Buyer to terminate this Purchase Order including but not limited to Seller's breach or insolvency, Buyer may immediately terminate all or any part of this Purchase Order, at any time and for any reason, by notifying Seller in writing or by facsimile. Upon receipt of notice of termination, Seller shall immediately (a) stop work and acquisition of materials related to this Purchase Order, and (b) protect all property in Seller's possession in which Buyer has or may acquire an interest. Upon such termination, Buyer may, at its option, purchase from

Seller any or all raw materials, work-in-process and finished goods inventory related to the goods under this Purchase Order which are useable and in a merchantable condition. The purchase price for such finished goods, raw materials and work-in-process, and Seller's sole and exclusive recovery from Buyer (without regard to the legal theory which is the basis for any claim by Seller) on account of such termination, will be (a) the contract price for all goods or services that have been completed in accordance with this Purchase Order as of termination date and delivered and accepted by Buyer and not previously paid for, plus (b) the reasonable actual costs of work-in-process and raw materials reasonably incurred by Seller in furnishing the goods or services under this Purchase Order to the extent such costs are reasonable in amount and are properly allocable or apportionable under generally accepted accounting principles to the terminated portion of this Purchase Order and to the extent the quantities of such work-in-process and raw materials are reasonable, less (c) the reasonable value or cost (which ever is higher) of any goods or materials used or sold by Seller with Buyer's written consent. Seller will immediately deliver to Buyer any finished goods, work-in-process, and raw materials specifically requested in writing by Buyer. In no event will Buyer be required to pay for finished goods, work-in-process or raw materials which Seller fabricates or procures in amounts that exceed those Buyer authorizes in delivery releases nor will Buyer be required to pay for any goods or materials that are in Seller's standard stock or that are readily marketable. Payments made under this Section will not exceed the aggregate price for finished goods that would be produced by Seller under delivery or release schedules outstanding at the date of termination. Buyer shall not be liable for and shall not be required to make payments to Seller, directly or on account of claims by Seller's subcontractors, for loss of anticipated profit, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs or rental, unamortized depreciation costs, or general and administrative burden charges arising out of or in connection with the termination of this Purchase Order. Within thirty (30) days after the effective date of termination, Seller will submit a comprehensive termination claim to Buyer, with sufficient supporting data to permit an audit by Buyer, and will thereafter promptly furnish any supplemental and supporting information Buyer requests and allow Buyer to audit Seller's books, records, material, inventory and other items related to Seller's termination claim.

11. **Seller's Equipment.** Seller, at its expense, will furnish, keep in good condition, and replace when necessary all of its machinery and equipment, including related tooling, jigs, dies, gauges, fixtures, molds, patterns, fixtures and other accessories, required for the production of the products covered by this Purchase Order ("Seller's Equipment"). Seller will insure Seller's Equipment with fire and extended coverage insurance for its full replacement value. Seller grants Buyer an irrevocable option to take possession of, and title to, all or part of Seller's Equipment that is specially designed or outfitted for the production of the goods covered by this Purchase Order upon payment to Seller of the net book value of such Seller's Equipment less any amounts that Buyer has previously paid to Seller for the cost of such Seller's Equipment. This option will not apply to the extent that Seller's Equipment is used to produce goods that are the standard stock of Seller or if a substantial quantity of like goods are being sold by Seller to others. Buyer's right to

exercise this option is not conditioned on Seller's breach or Buyer's termination of this Purchase Order or upon payment of any other amounts due under this Purchase Order.

12. **Force Majeure.** If Seller is unable to produce, sell or deliver any goods or services covered by this Purchase Order, or Buyer is unable to accept delivery, buy or use any goods or services covered by this Purchase Order, as a result of any event or occurrence beyond the reasonable control of the affected party and without such party's fault or negligence, then any delay or failure to perform under this Purchase Order that results from such event or occurrence will be excused for only so long as such event or occurrence continues, provided, however, that the affected party gives written notice of each such delay (including the anticipated duration of the delay) to the other party as soon as possible after the event or occurrence (but in no event more than three (3) days thereafter). Such events and occurrences may include, by way of example and not limitation, natural disasters, fires, floods, windstorms, severe weather, explosions, riots, wars, sabotage, labor problems (including lockouts, strikes and slowdowns), equipment breakdowns and power failures. During any delay or failure to perform by Seller, Buyer may (i) purchase substitute goods from other available sources, in which case the quantities under this Purchase Order will be reduced by the quantities of such substitute goods and Seller will reimburse Buyer for any additional costs to Buyer of obtaining the substitute goods compared to the prices set forth in this Purchase Order and/or (ii) have Seller provide substitute goods from other available sources in quantities and at times Buyer requests and at the prices set forth in this Purchase Order. If Seller fails to provide adequate assurances that any delay will not exceed thirty (30) days or if any delay lasts more than thirty (30) days, Buyer may terminate this Purchase Order without any liability to Seller or obligation to purchase raw materials, work-in-process or finished goods under Section 10. Before any of Seller's labor contracts expire and as soon as Seller anticipates or learns of any impending strike, labor dispute, work stoppage or other disruption at Seller's facilities that might affect the delivery of goods to Buyer, Seller will produce (and locate in an area that will not be affected by any such disruption) a finished inventory of goods in quantities sufficient to ensure the supply of goods to Buyer for at least thirty (30) days after such disruption commences.
13. **Materials and Equipment.** Unless otherwise stated on the face of this order, all materials, equipment, tools, and facilities required to perform this order (hereinafter called "articles") shall be supplied by Seller. All articles either furnished or paid for by Buyer, either expressly or by amortization in the price of the goods, and any replacements thereof or additions thereto, shall be and remain the property of Buyer and be delivered to Buyer or its designee upon demand. Such articles shall only be used to process goods of Buyer, shall be maintained by Seller in good condition and repair, and shall be held by Seller at Seller's sole risk and expense. Buyer does not warrant the accuracy of such articles which it furnishes. Seller shall pay personal property taxes on all articles in its possession. Engineering, consulting or development services ("Development Services") funded under this Purchase Order that result in any idea, invention, concept, discovery, work of authorship, patent, copyright, trademark, trade secret, know-how or other intellectual property ("IP") shall be the sole property of Buyer. Seller agrees to assign all right, title and interest in and to IP that results from Development Services ("Developed

IP") to Buyer. Seller shall notify Buyer of the existence of Developed IP and assist Buyer in every reasonable way to perfect its right, title and interest in Developed IP, such as by executing and delivering all additional documents reasonably requested by Buyer in order to perfect, register, and/or enforce the same, and Buyer shall reimburse Seller for reasonable costs incurred by Seller in providing such assistance.

14. **Service; Replacement Parts.** If required by Buyer's customer Seller will sell goods to Buyer to fulfill Buyer's and its customers service and replacement parts requirements during the fifteen (15) year period following the end of a vehicle production program and this Purchase Order will automatically remain in effect during the initial five (5) years of such period. The prices for such goods will be the production prices in effect at the end of the vehicle production program and thereafter, the prices will be reasonably agreed to by the parties.
15. **Set-Off.** Payment for the goods purchased under this order shall be subject to set-off or recoupment for any present or future claims which Buyer or Buyer's affiliates may have against Seller or Seller's affiliates.
16. **Changes.** Buyer may at any time require Seller to implement changes to the specifications or design of the goods or to the scope of any services or work covered by this Purchase Order, including work related to inspection, testing or quality control. While Buyer will endeavor to discuss any such changes with Seller as early as practical, Seller will promptly implement such changes. Buyer will equitably determine any adjustment in price or delivery schedules resulting from such changes, including Buyer's payment of reasonable costs of modification to Seller's Equipment (as defined in Section 11) necessary to implement such changes. In order to assist in the determination of any equitable adjustment in price or delivery schedules, Seller will, as requested, provide information to Buyer, including documentation of changes in Seller's cost of production and the time to implement such changes. In the event of any disagreement arising out of such changes, Buyer and Seller will work to resolve the disagreement in good faith, provided, however, that Seller will continue performing under this Purchase Order, including the manufacture and delivery of goods and prompt implementation of changes required by Buyer, while Buyer and Seller resolve any disagreement arising out of such changes. Any claim by Seller for adjustment under this clause must be asserted within thirty (30) days from date of receipt by Seller of the notification of change. Where the cost of property made obsolete or excess as the result of a change is included in Seller's claim for adjustment, Buyer will have the right to take title thereto and to prescribe the manner of disposition of such property.
17. **Indemnification.** Seller will defend, hold harmless and indemnify Buyer and its customers, and their respective successors and assigns, against any claims of infringement (including patent, trademark, copyright, moral, industrial design or other proprietary rights, or misuse or misappropriation of trade secret) and resulting damages and expenses (including, without limitation, attorney and other professional fees and disbursements) relating to the goods or services covered by this Purchase Order, including any claims in circumstances where Seller has provided only part of the goods

or services. Seller waives any claim against Buyer that any such infringement arose out of compliance with Buyer's specifications. Seller will defend, hold harmless, and indemnify Buyer from and against any liability, claims, demands, damages, costs or expenses (including, without limitation, reasonable attorney and other professional fees and disbursements) arising from or in connection with the performance of any service or work by Seller or its employees, agents, representatives and subcontractors on Buyer's or Buyer's customer's premises or the use of the property of Buyer or any customer of Buyer, except to the extent such liability arises out of the negligence or willful misconduct of Buyer or Buyer's customer. Seller will defend, hold harmless, and indemnify Buyer from and against any liability and expenses (including, without limitation, attorney and other professional fees and disbursements) arising from or in connection with any third party claims or demands to recover for personal injury or death, property damage or economic loss caused by any of the goods or services supplied by Seller (regardless of whether such claim or demand arises under tort, negligence, contract, warranty, strict liability or any other legal theories), except to the extent such injury, damage or loss results from Buyer's specifications as to design or materials or from alteration or improper repair, maintenance or installation by any party other than Seller.

18. **Insurance.** Seller will maintain and carry general liability insurance, including without limitation, public liability, property damage liability, product liability, contractual liability, employees' liability and workers compensation insurance, and any other insurance required by law, in amounts satisfactory to and in companies approved by Buyer, and Seller will, if requested by Buyer at any time, furnish certificates of insurance establishing such insurance coverage. The certificate must provide that Buyer will receive thirty (30) days prior written notice from the insurer of any termination or reduction in the amount or scope of coverage. The furnishing of certificates of insurance and the purchase of insurance will not limit or release Seller from Seller's obligations or liabilities under this Purchase Order.
19. **Compliance with Laws.** Seller warrants, certifies, and agrees that the goods or services purchased hereunder have been or will be manufactured, fabricated, distributed, shipped, packaged, delivered, and performed in compliance with all applicable federal, state, and local laws, regulations, and orders, including, without limitation, all environmental, electrical, electromagnetic and safety laws, the Federal Trade Commission Act and all rules and guidelines promulgated thereunder, the Federal Hazardous Substance Act, the Federal Civil Rights Act of 1964, the Federal Occupational Safety and Health Act of 1970, and executive Order 11246, relating to equal employment opportunity, and Seller agrees to furnish, upon request, further certifications of such compliance, in form satisfactory to Buyer. Without limiting the foregoing, Seller warrants and certifies that all goods covered by this order have been or will be produced in compliance with all applicable requirements of Section 6, 7, and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under Section 14 thereof (29USC 206, 207, 212, and 214), and that such goods conform or will conform to all applicable Federal motor vehicle safety standards under the

National Traffic and Motor Vehicle Safety Act of 1966, and Seller shall include this certification on all invoices sent to Buyer.

20. **Cancellation on Account of Insolvency.** Buyer may immediately cancel any contract formed pursuant hereto or any uncompleted portion thereof without liability in the event of the institution of proceedings relating to insolvency, bankruptcy, reorganization, arrangement or liquidation by Seller or if Seller makes an assignment for the benefit of creditors. Seller will reimburse Buyer for all cost Buyer incurs in connection with any of the foregoing whether or not this Purchase Order is terminated including but not limited to all attorney or other professional fees.
21. **Clerical Errors.** Any clerical errors contained in this order may be corrected by Buyer at any time.
22. **Assignment-Delegation.** No right or interest in any contract formed pursuant hereto shall be as signed, nor any obligation delegated, by Seller without Buyer's written permission.
23. **Limitations.** Any action arising out of any contract formed pursuant hereto by Buyer or Seller shall be commenced within one (1) year from the date the cause of action accrued.
24. **Actions.** Any contract formed pursuant hereto shall be deemed to have been made in Muskegon County, Michigan, and any action arising out of it must be brought in the District Court or the Circuit Court for Muskegon County, Michigan, or in the United States District Court for the Western District of Michigan, and Buyer and Seller consent that such courts shall have exclusive venue and jurisdiction over Buyer and Seller with respect to any such action.
25. **Reservation of Rights.** No failure by Buyer to insist upon or compel compliance by Seller with any of the terms, provisions, or conditions hereof shall be construed as a waiver by Buyer of its right to insist upon compliance therewith in the future.
26. **Complete Agreement.** This Purchase Order embodies the entire agreement of the parties, and no understandings or agreements, verbal or otherwise, in relation thereto exist between the parties except as herein expressly set forth or incorporated by reference. This Purchase Order may only be modified by a written purchase order amendment issued by Buyer. Should any provision of this Purchase Order be held invalid or unenforceable such provision shall be deemed reformed or deleted, as the case may be, to the extent necessary to comply with applicable law, order or ruling, and the remaining provisions of this Purchase Order will remain in full force and effect.