

SUPPLIER / SELLER TERMS AND CONDITIONS OF ORDER (“TERMS”)



1. **Offer and Acceptance.** The purchase order to which these Terms and Conditions are attached ("Order") constitutes Diversified Engineering & Plastics, LLC's ("DEP") offer to purchase from Seller. The offer is not binding on DEP until accepted by Seller. Each Order, including these Terms and Conditions and the requirements as outlined in DEP's Supplier Quality Manual, will be deemed accepted when DEP receives Seller's acceptance in writing of the Order, shipment of the goods, the rendering of services, or the commencement of work on goods for DEP pursuant to the Order, whichever is earliest. The Order is expressly limited to, and expressly made conditional on, Seller's acceptance of the Order and these Terms and Conditions. DEP objects to any Terms different from or additional to those contained in the Order or these Terms and Conditions. In the event of a conflict between these Terms and any specific Terms included in an Order such that it is impossible to comply with provisions of both documents, these Terms will prevail.
2. **Delivery.** Time is of the essence. Delivery must be completed within the time specified in the Order. If Seller fails to make a delivery or perform a service at the agreed upon time then Seller agrees to pay all damages suffered by DEP, premium transportation, and any other costs required to meet the specified delivery schedule.
3. **Packing, Marking, and Shipment.** Seller will pack and mark goods in accordance with DEP's instructions, secure the lowest transportation rates, meet carrier requirements, and assure delivery free of damage and deterioration. Title to the goods and risk of loss will pass from Seller to DEP upon delivery at the designated FOB point, except that title to and risk of loss of any defective or non-conforming goods discovered by DEP will revert back to Seller upon DEP's discovery of such defect or non-conformance and remain with Seller. DEP's discovery of defective or nonconforming goods and reasonable notice to Seller will be deemed a "claim" under Section 6 below. Prices specified include all charges and expenses for containers, packing, and crating, and transportation to the FOB point unless otherwise agreed to in writing. Seller will process shipping documents and route shipment of the goods from the FOB point accordingly. For shipments for which prior written agreement has been made specifying that shipments are made at DEP's expense, Seller will contact DEP to determine DEP's shipping company preference.
4. **Releases.** If delivery dates are not specified in the Order, Seller will procure materials and fabricate, assemble, and ship supplies only as authorized in shipment releases issued to Seller by DEP. DEP may return overshipments to Seller at Seller's expense. DEP from time to time and with reasonable notice may change or temporarily suspend shipping schedules specified in the Order or shipment release.
5. **Inspection and Rejections.** At times and places designated by DEP, DEP may inspect and evaluate all goods and services prior to shipment, whether complete or in-progress, including all tooling and material used in the manufacture of goods. DEP may allow Seller to perform the inspections as designated by DEP and if such an election is made, Seller will make inspection systems, procedures and records available to DEP upon request. Notwithstanding payment or any prior inspection, DEP may reject, require correction or return shipped goods to the Seller (at Seller's expense and risk of loss). Any goods delivered or services rendered that are defective or that do not conform to applicable requirements, without limiting any other remedies DEP may have, after notice to Seller, DEP may either (1) replace or correct any defective or nonconforming goods or services and charge Seller the cost of such replacement or correction, (2) return to Seller the defective or nonconforming goods at Seller's risk and expense for full invoice price plus transportation charges, and Seller shall replace such goods as DEP deems necessary or (3) cancel the Order for default under Section 20 hereof. Seller will reimburse DEP for all reasonable expenses that result from any rejection or correction of nonconforming and defective goods or services.

6. **Payments.** If not otherwise specified in the Order, DEP's payment will be made net 30 days from the later of DEP's receipt of (1) all quantities of the final goods at the final shipment location as described on the Order or (2) the undisputed invoice applicable to such goods. DEP may withhold payment to the extent of any reasonable dispute regarding the amount due under any Order and pending receipt of evidence satisfactory to DEP, of the absence of any liens, encumbrances, or claims on goods provided under the Order.
7. **Labor Disputes.** Seller will notify DEP immediately of any actual or potential labor dispute delaying or threatening to delay timely performance of the Order, and will provide all relevant information to DEP. Seller will notify DEP in writing six (6) months in advance of the expiration of any current labor contract(s), and if requested by DEP, Seller will deliver a supply of finished goods at least thirty (30) days prior to the expiration of any such labor contract in quantities and for storage at any place or places designated by DEP.
8. **General warranty.** Seller warrants to DEP, its assigns, customers and users of any goods or services, that all goods and services will (1) comply with all specifications, drawings, descriptions or samples furnished and or specified by DEP and all quality control standards, systems and policies of DEP, (2) conform to all applicable laws in countries where the goods or other products incorporating the goods or services are to be sold, (3) be merchantable, and (4) be free from defects in material and workmanship. Seller further warrants that all goods not designed by DEP will be fit and sufficient for the purposes intended by DEP, its customers, and users of the goods sold by DEP. Seller further warrants that upon delivery DEP will receive good title to the goods and services, free and clear of all liens and encumbrances and that all goods and services will be free from any actual or claimed patent, copyright or trademark infringement. The warranties in this Section 8 are independent of and in addition to any warranties implied by law or otherwise made by Seller and will survive acceptance and payment by DEP. The warranty period for the goods or services shall be the longer of (1) any warranty period provided by applicable laws, (2) any warranty period provided by DEP to DEP's customer for goods installed on or as part of DEP's product or services provided, and (3) any warranty period provided by DEP's customer to its customers for goods installed on or as part of such DEP's customer's goods or services.
9. **Price warranty.** Seller warrants that the prices for the goods sold to DEP hereunder are no less favorable than Seller currently extends to any customer for the same or similar goods or services in similar quantities. If Seller reduces its prices to others during the term of the Order, for such goods or services during the term of the Order, Seller will reduce the prices to DEP for such goods or services correspondingly. Seller warrants that prices shown on the Order are complete and that no additional charges of any type will be added without DEP's express written consent.
10. **Property and special tooling.** Unless otherwise provided in the Order, property of every description including intellectual property, specifications, designs, manufacturing data and other information, tools, equipment, material drawings, manufacturing aids and replacements of the foregoing furnished by DEP, either directly or indirectly, or as acquired or manufactured by Seller for use in the performance of the Order for which Seller has been reimbursed by DEP (collectively, "DEP property"), will be (1) the property of DEP, (2) plainly marked or otherwise adequately identified by Seller as the property of DEP, and (3) safely stored separate and apart from Seller's property. Seller will retain and not use or rework DEP's property except for performance of work hereunder or as authorized in writing by DEP. Seller will bear the risk of loss and damage to DEP property, keep such DEP property in its possession and/or control in good condition, fully covered by insurance, free of liens and encumbrances and will replace such DEP property when lost, damaged or destroyed. DEP will not be liable to Seller for any loss, damage, injury (including death) or expense of any kind or nature caused, directly or indirectly, by the DEP property including, without limitation, its use or maintenance, or its repair, service or adjustment, or by any interruption of service or for any loss of business whatsoever or howsoever caused, including, without limitation any anticipatory damages, loss of profits or any other indirect, special or consequential damages, and DEP makes no warranty, either express or implied, with respect to the DEP property. All DEP property will be transferred or returned to DEP as DEP may direct at any time. Seller will provide to DEP, rights of access at any time upon request by DEP to DEP property to inspect the work performed or for such other reasons as DEP deems necessary. Seller hereby waives any lien (including any lien provided by statute or common law right that allows for a lien on or right to possession of the DEP property) that Seller may have or in the future may have upon the DEP property.

11. **Insurance and Indemnification.** Seller will furnish evidence acceptable to DEP of adequate worker's compensation, comprehensive general liability, automobile and other public liability and property damage insurance coverage in amounts and coverages to cover all claims hereunder. Seller will defend, indemnify and hold DEP, its affiliates, officers, directors, representatives, and agents harmless against all claims, liabilities, losses, damages, expenses and judgments or settlements (including reasonable attorneys' fees and expenses), arising or resulting from (1) any defective goods or any act, omission, or negligent work of Seller or its employees, agents, or subcontractors in connection with performing the Order either on DEP's property or in the course of their employment (including without limitation those that allegedly or actually result in injury or death of any person and damage or loss of any property) or (2) any breach or failure by Seller to comply with any of its representations, warranties or other Terms and Conditions of the Order. Seller will comply and cooperate with DEP and defend, indemnify and hold DEP harmless with respect to the cost of any voluntary or involuntary recall campaigns that, in DEP's reasonable judgment, are required to rectify nonconformities in the goods that are the result of a breach of Seller's warranties with respect to the goods (or that would have been a breach if the nonconformity had been discovered during the warranty period), whether such recall campaigns are mandated by any governmental agency, DEP's customers or DEP.
12. **Changes.** At any time DEP may change the Order requirements including design specifications, drawing materials, the packing and shipping method, and the place of delivery. DEP will provide Order changes in writing to Seller. If any such change affects the cost or timing DEP will work with Seller to adjust the purchase price and delivery schedules equitably. Seller shall not make any change in design, processing, packing, shipping or place of delivery without DEP's written consent.
13. **Claims Adjustment.** DEP may at any time and without notice deduct or set-off Seller's claims for money due or to become due from DEP against any claims that DEP has or may have arising out of this or any other transaction between DEP and Seller.
14. **Duty Drawback Rights.** The Order includes all related customs duty and import drawback rights, if any (including rights developed by substitutions and rights which may be acquired from Seller's suppliers), which Seller can transfer to DEP. Seller will inform DEP promptly of any such rights and will supply documents as may be required to obtain such drawback. Seller agrees to comply with and satisfy all customs related obligations, labeling requirements, and local content origin requirements. Export licenses or authorizations necessary for the export of goods are Seller's responsibility unless otherwise indicated in the Order, in which case Seller will provide the information necessary to enable DEP to obtain the licenses or authorizations.
15. **Use of DEP's Name.** Seller will not publish the fact that Seller has furnished or contracted to furnish DEP with goods and/or services or allow such information to be disclosed by Seller's agents, assigns, or a third party. Seller will not use the name or trademarks of DEP, DEP's products, or any of DEP's associated companies in Seller's advertising or other publication. If DEP authorizes Seller to place a DEP trademark and/or identifying mark on the goods ordered by DEP, or if the goods specified in the Order are peculiar to DEP's design, they will not bear the trademark or other designation of the mark of Seller, and Seller will not allow similar goods to be sold to anyone other than DEP. DEP may allow Seller an exception under this Section 15. An exception is valid only if it is in writing and signed by an authorized agent of DEP. An exception allowed under this Section 15 is valid only for the specific instance excepted. Seller will otherwise continue to observe Section 15's requirements in every other instance.
16. **Confidentiality, Security, and Breach Notification.** The DEP property is the sole and exclusive property of DEP, and may be covered by one or more DEP patents, patent applications or copyrights. The DEP property is confidential, proprietary and trade secret information of DEP, and Seller shall maintain such DEP property (whether or not marked or identified as confidential) in the strictest confidence. The Seller acknowledges that DEP will provide to Seller information relating to DEP property ("Sensitive Information"). Seller will keep all Sensitive Information confidential and secure, whether printed, electronic, or otherwise held or known by Seller, its agents, or assignees. Only the Seller and DEP, their agents and assignees are authorized to access, use, or acquire the Sensitive Information, as specified in the Order and these Terms. Seller may not provide or allow an unauthorized person or entity to know, access, or use the Sensitive Information. Seller is not authorized to use or display any of the goods for advertising purposes or in any way that may allow an unauthorized person or entity to view or use the Sensitive Information. Seller will secure Sensitive Information through appropriate physical and technical safeguards. Seller will notify DEP within 48 hours after Seller

determines that a breach of this Section 16 (1) has occurred, (2) may have previously occurred, or (3) may occur in the future due to a previous or ongoing act, omission or occurrence. Seller's obligations under this section shall survive termination and completion of the Order and continue indefinitely. Seller may disclose Sensitive Information only if Seller holds a valid copyright, patent, or other indicia of ownership thereon.

17. **Proprietary Rights.** (a) Seller hereby waives any claim against DEP, including any third-party claim asserted against either party for infringement of any proprietary right (including any patent, trademark, copyright, or other proprietary right or misuse or misappropriation of trade secret), including claims arising from specifications furnished by DEP. (b) Seller agrees that DEP and its direct and indirect customers have the right to repair, reconstruct, or rebuild, and to have repaired, reconstructed or rebuilt, goods delivered under the Order without payment of any royalty or other compensation to Seller. (c) Seller agrees that goods produced based on DEP property may not be used for Seller's own use or sold to third parties without DEP's express written authorization.
18. **Assignment and Delegation.** Seller may not assign or delegate any or all of its rights or obligations under this Agreement without the prior written consent of DEP. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves the assigning or delegating party of any of its obligations under this Agreement. This Agreement is binding on and inures to the benefit of any permitted successors or assigns.
19. **Termination at DEP's Option.** (a) DEP may terminate the Order at any time without cause in whole or in part by written notice, whereupon Seller will stop work on the date and to the extent specified in such notice and terminate all orders and subcontracts that relate to the terminated Order within thirty (30) days after receipt of termination notice. (b) Seller will submit its claims to DEP resulting from such termination, which shall consist exclusively of the items listed in clause (c) below. DEP will have the right to verify such claims by auditing the relevant records, facilities, work or materials of Seller and/or its subcontractors. (c) Upon termination under this Section 19, DEP's obligation to Seller will be to pay Seller for (i) finished work accepted by DEP at the purchase price applicable to the Order, and (ii) the reasonable and documented cost to Seller of work in process and raw material allocable to the terminated work which is not in excess of any prior DEP authorization under the Order and which Seller cannot use in producing goods for itself or for others. Payment made under this Section 19 will constitute DEP's only liability for termination hereunder with title and right of possession to all finished goods and services, work in process and raw materials (purchased in accordance with Subsection 19(c) vesting in DEP immediately upon DEP's tender of such payment. The provisions of this Section 19 will not apply to any cancellation by DEP for default by Seller or for any other cause recognized by law or specified by these Terms. Notwithstanding anything herein to the contrary, unless otherwise expressly agreed to in writing by DEP, DEP will have no payment or other obligation or liability with respect to any claims by Seller's subcontractors, including without limitation, loss of profit, overhead, interest, product development and engineering costs, or equipment rearrangement costs or rental.
20. **Termination for Default.** If Seller (1) fails to deliver goods or perform services at the time specified herein, or (2) fails to perform any other provisions hereof and does not cure such failure within a period of ten (10) days after receipt of written notice from DEP specifying such failure, or (3) becomes insolvent, makes an assignment in favor of creditors, or enters bankruptcy or dissolution procedures, or (4) is merged into another company and/or is expropriated or nationalized, DEP may terminate the whole or any part of the Order without any liability, except for payment due for goods and services delivered and accepted prior to termination. Upon such termination DEP will have the right, upon notice to Seller, to take title to and possession of all or any part of such work performed by Seller under the Order.
21. **Remedies.** DEP's rights and remedies herein are cumulative and in addition to any other rights and remedies available at law or in equity. No waiver of any breach of any provision of the Order will constitute a waiver of any other breach or a waiver of such provision. At DEP's request, Seller will reimburse DEP for any incidental or consequential damages caused by nonconforming goods, including but not limited to, costs, expenses, and losses incurred directly or indirectly by DEP or its customers in inspecting, sorting, repairing or replacing the nonconforming goods and from personal injury (including death) or property damage caused thereby.

22. **Required Compliance.** In providing goods or services hereunder, Seller will comply with any and all applicable federal, state, and local laws, (including Canadian or other foreign laws), and regulations promulgated thereunder. Seller will defend, indemnify and hold DEP harmless from and against any and all claims, losses, damages, costs, and expenses resulting from or arising out of any failure of Seller or Seller's employees, agents, subcontractors and representatives to comply with any applicable governmental regulations and/or statutes.
23. **Governing Law.** The Order and all transactions between DEP and Seller will be governed by and construed in accordance with the laws of Michigan as if entirely performed therein, without reference to conflicts of law principles.
24. **Survival.** The obligations of Seller to DEP survive termination of the Order, except as otherwise provided in the Order.
25. **Samples.** Seller at its expense shall fabricate from production tooling and processes and furnish to DEP the number of samples specified on the face of the Order, or if none is specified, a reasonable number of samples. Seller shall inspect such samples before delivery and shall certify inspection results as requested by DEP.
26. **Minority Supplier Development.** DEP recognizes that the owner(s) of a minority business must own, operate, manage and control at least fifty-one percent of the company. Minority persons are U.S. Citizens who are Hispanic American, African American, Native American, Asian-Indian American or Asian-Pacific American. As a minority owned business, DEP shares the economic and competitive concerns of diverse businesses. Therefore, it is our company policy to provide all businesses an equal opportunity to bid on goods and services, which meet our organizational and customer needs. In support of this policy, DEP will actively participate in activities that provide means for identifying potential MBE suppliers, maintain a bidding process which gives equal opportunity to all suppliers, and assist in the development and certification of non-certified companies.
27. **Severability.** If any Terms herein are deemed invalid or unenforceable under any applicable law, such term(s) will be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with such law, and the remaining provisions of the Order will remain in full force and effect.
28. **Interpretation.** The parties drafted this form without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.
29. **Amendment and Modification.** No amendment to the Order or these Terms is effective unless it is in writing identified as an amendment to this form and signed by an authorized representative of DEP and Seller.

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Rev. #	Rev. Date	<u>Reason for Document Change</u>
2	04/08/2011	ADDED NEW LOGO
3	05/01/2018	UPDATED TO CURRENT PROCESS REQUIREMENTS