



Robert Bosch LLC Terms & Conditions of Sale – Automotive

1. **GENERAL.** THE SALE OF PRODUCTS ("PRODUCTS") BY ROBERT BOSCH LLC ("BOSCH") TO THE BUYER ("BUYER") IS EXPRESSLY LIMITED TO BUYER'S ACCEPTANCE OF THE TERMS OF BOSCH'S QUOTATION AND THE TERMS AND CONDITIONS CONTAINED HEREIN. 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 Federal, State, Provincial or local taxes or assessments. Such taxes and assessments will be included in Bosch's invoice and paid by Buyer. All prices are subject to adjustment, at any time, by Bosch 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.

3. **CANCELLATIONS AND CHANGES.** No cancellations of or changes to the Products ordered by Buyer shall be effective without Bosch's written consent. Without such consent, a cancellation of or change to the Products ordered by Buyer shall entitle Bosch to all remedies available by law or equity including, but not limited to, cancellation costs or increased prices.

4. **SHIPMENT AND DELIVERY.** All delivery dates are estimates only. Bosch's only obligation with respect to delivery dates shall be to use reasonable efforts to meet same. Delivery terms shall, unless otherwise specified in Bosch'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 Bosch facility; and (b) all other shipping will be FCA (as defined in Incoterms 2000) at the designated Bosch 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, Bosch will ship via industry standard means for the applicable Products. Bosch 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 Bosch'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 Bosch within ten (10) days after receipt of the Products by Buyer.

5. **FORCE MAJEURE.** In the event either party is unable to fully perform its obligations hereunder (except for Buyer's obligation to pay for Products ordered) due to events beyond its reasonable control including but not limited to acts of God, action by any governmental authority (whether valid or invalid), fires, floods, windstorms, explosions, riots, natural disasters, wars, sabotage, labor problems (including lockouts, strikes, slowdowns), inability to obtain power, material, labor, equipment or transportation, or court injunction or order, that party shall be relieved of its obligations to the extent it is unable to perform. Timely notice of such inability to perform shall be given to the other party. In the event of Bosch's inability to perform due to force majeure, Buyer shall be entitled to reduce its purchase obligations towards Bosch by the quantities purchased from other sources, but shall not have the right to terminate this Agreement.

6. **PAYMENT TERMS.** Unless otherwise specified in Bosch's quotation, terms of payment are net thirty (30) days from date of shipment, with no discount allowed for early payment. Bosch reserves the right to alter or

suspend credit terms, require C.O.D. or advance payment, whenever Bosch has reasonable doubt as to Buyer's credit worthiness. If Buyer becomes delinquent in payment or refuses to accept C.O.D. shipments, Bosch 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 Bosch 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 Bosch's quotation, Bosch warrants that the Products will conform to the applicable specifications and will be free of defects in design (to the extent that Bosch furnishes the design), material and workmanship. Unless otherwise specified in Bosch'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 Bosch will provide free of charge to Buyer replacement Products or, at Bosch'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 Bosch 100% or a statistically relevant share, as mutually agreed upon, of any Product claimed to be defective. Bosch 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 Bosch 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 Bosch shall not be liable for such products or any damage caused by such products.

7.4 If Buyer 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 Bosch, keep Bosch at all times fully informed and consult with Bosch 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 Bosch. Prior to any recall involving the Products, Bosch 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 Bosch 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 Bosch's liability hereunder exceed 10% of the average yearly net invoiced value of the aggregate sales of the Products concerned, nor shall Bosch 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. BOSCH ASSUMES NO LIABILITY FOR INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES. THE REMEDIES SET FORTH IN THIS SECTION 7 REPRESENT BUYER'S SOLE AND EXCLUSIVE REMEDIES FOR ANY BOSCH BREACH OF WARRANTY.

8. **PROTOTYPE WARRANTY.** 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. Bosch shall have no liability for claims related to the prototype components. Buyer shall indemnify and hold Bosch 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 Bosch's facility, such special tooling shall be held for the exclusive use of Buyer (except that Bosch may use such special tooling for the supply of Products to the aftermarket organizations of Bosch, and its affiliates) and shall be maintained in accordance with Bosch's usual practice. Buyer shall bear the risk of ordinary wear and tear, or loss or damage other than such caused by Bosch. 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 Bosch elects to continue to use special tooling for the aftermarket as described above, Bosch 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 Bosch may, at Buyer's expense and without any liability towards Buyer, dispose of such in a manner it deems fit. Bosch 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 In the event that Buyer cancels the program after business award but before the agreed upon end of program duration, Buyer shall reimburse appropriate cancellation charges for unrecoverable investment including but not limited to capital equipment, Bosch 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 Bosch 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 Bosch in a manner which infringes a patent covering the combination, or (c) used in a manner not reasonably anticipated by Bosch. Bosch's obligation hereunder is conditioned upon Buyer: (i) giving Bosch prompt written notice of any infringement claim; (ii) cooperating fully with respect to the defense of such claim; and (iii) upon Bosch's request, providing Bosch full control of the defense including settlement and/or litigation of such claim.

11.2 Bosch 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 Bosch 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 Bosch's costs or liability, Bosch 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 Bosch.

13. **CONFIDENTIAL INFORMATION.** Any and all information concerning the Products or the transaction covered hereunder which Bosch discloses to Buyer, or which Buyer otherwise obtains knowledge of hereunder, remains the exclusive property of Bosch and shall not be disclosed by Buyer to third parties without Bosch'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. Bosch 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.** Bosch's rights and remedies set forth herein shall be in addition to any legal or equitable right or remedy available to Bosch. No waiver of any of Bosch's rights or remedies shall be effective without Bosch's express written consent. Bosch shall not be liable for any incidental, consequential, special or punitive damages arising from the sale or use of any Products or Bosch'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 Bosch to Buyer from its debts towards Bosch.

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 Bosch 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 except for its choice of law rules; 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. **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 Bosch's quotation.