



## Piston Automotive LLC - Purchase Order Terms and Conditions

1. **ACCEPTANCE:** Seller has read and understands its order and agrees that Seller's written acceptance or commencement of any work or service under this order shall constitute Seller's acceptance of these terms and conditions only. All terms and conditions proposed by Seller which are different from, or in addition to, this order are unacceptable to Buyer, are expressly rejected by Buyer, and shall not become a part of this order. Any modifications to this order shall only be made in writing.
2. **DELIVERY:** Time is of the essence with regard to this order. Delivery shall be made in quantities and at times specified herein or otherwise specified by Buyer. Buyer shall not be required to make payment for goods delivered to Buyer in advance of schedule or which are in excess of the quantities specified in this order and, at its option, may return such goods to Seller at Seller's risk and expense. Buyer may change the rate of scheduled shipments or direct temporary suspension of scheduled shipments, neither of which shall entitle Seller to a modification of the price for goods or services covered by this order. For orders of goods where quantities and/or delivery schedules are not specified, Seller shall deliver goods in such quantities and at such times as Buyer may direct in subsequent releases.
3. **INSPECTION:** Seller agrees that Buyer shall have the right to enter Seller's facility at reasonable times to inspect the facility, goods, materials and any property of Buyer covered by this order. Buyer's inspection of the goods, whether during manufacture, prior to delivery or within a reasonable time after delivery, shall not constitute acceptance of any work-in-process or finished goods. The method of inspection may be by selective random or 100% sampling, at the sole discretion of Buyer.
4. **SHIPMENT OF HAZARDOUS MATERIALS:** Prior to offering shipments for transportation, a supplier must determine if Federal hazardous material/dangerous goods regulations apply. Hazardous materials/dangerous goods are regulated in the U.S. by the Code of Federal Regulations Title 49 (49CFR), in Canada by the Transportation of Dangerous Goods Regulations (TDG) and in Mexico by the Secretary of Communication and Transportation (SCT). These regulations apply to the safe transportation, documentation, marking, labeling and packaging of all hazardous materials/dangerous goods. **WARNING!** Federal law places responsibility for proper shipment of hazardous materials/dangerous goods on the shipper. The shipper cannot delegate these duties to the carrier, freight consolidator, Piston Automotive, or any other party involved. Failure to comply with hazardous material/dangerous goods regulations is a violation of Federal law and may result in civil and/or criminal fines, penalties and/or imprisonment. Additional information can be obtained from: The United States Department of Transportation Pipeline and Hazardous Materials Safety Administration (<http://www.phmsa.dot.gov/>) In addition the suppliers also need to consider international regulations regarding transportation by vessel (International Maritime Dangerous Goods code - IMDG) and air (International Civil Aviation Organization - ICAO). Information regarding these regulations is also referenced on the PHMSA website. The United States Department of Transportation ([www.dot.gov](http://www.dot.gov/)).
5. **NON-CONFORMING GOODS:** To the extent Buyer rejects goods as non-conforming, the quantities under this order will automatically be reduced unless Buyer otherwise notifies Seller. Seller will not replace quantities so reduced without a new order or schedule from Buyer. Non-conforming goods will be held by Buyer for disposition in accordance with Seller's instructions at Seller's risk. Seller's failure to provide written instructions within ten (10) days, or such shorter period as may be commercially reasonable under the circumstances, after notice of non-conformity shall entitle Buyer, at Buyer's option, to charge Seller for storage and handling or to dispose of the goods, in either case without liability to Seller. Payment for non-conforming goods shall not constitute an acceptance thereof, limit or impair Buyer's right to assert any legal or equitable remedy, or relieve Seller's responsibility for latent defects.
6. **COUNTERFEIT PARTS:** Seller must prevent the purchase, use and/or shipment of counterfeit material to Buyer. Counterfeit parts are described as a copy or substitute without the legal right or authority to do so or a part whose material, performance, or characteristics are knowingly misrepresented by the Seller. Counterfeit parts are considered non-conforming. Therefore, the rule in the above section "Non-Conforming Goods" shall apply.
7. **RISK OF LOSS:** Seller retains all responsibility for risk of loss or other damage to goods until delivered to and accepted by Buyer.
8. **FORCE MAJEURE:** Any delay or failure of either party to perform its obligations hereunder shall be excused if and to the extent that it is caused by an event or occurrence beyond the reasonable control of the party and without its fault or negligence, such as, by way of example and not by way of limitation, acts of God, acts of any governmental authority (whether valid or invalid), fires, floods, wind storms, explosions, riots, natural disasters, wars, sabotage, labor problems (including lockouts, strikes and slowdowns), inability to obtain power, material, labor, equipment or transportation, or court injunction or order, provided that written notice of such delay (including the anticipated duration of the delay) shall be given by the affected party to the other party within ten (10) days. For the avoidance of doubt, to the extent that the party seeking to be excused from timely performance is able to avoid failing to timely perform its obligations hereunder by any means, including, without limitation, expedited shipping, alternate sourcing of materials or goods, alternate methods of manufacture or production, or alternate or additional sources of financing, this force majeure clause does not excuse timely performance, it being understood that neither economic hardship, fluctuation in performance costs, unprofitability, nor increased difficulty in performance shall excuse timely performance despite the occurrence of any of the events identified in the previous sentence. During the period of an excused delay or failure to perform by Seller, the Buyer, at its option, may purchase goods



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from other sources and reduce its obligations under this order by such quantities, without liability to Seller, or may have Seller provide the goods from other sources in quantities and at times requested by Buyer and at the price set forth in this order. If requested by the Buyer, the Seller shall, within ten (10) days of such request, provide adequate assurances that the delay shall not exceed thirty (30) days. If the delay lasts more than thirty (30) days or the Seller does not provide adequate assurance that the delay will cease within thirty (30) days, Buyer may immediately cancel the order without liability.

9. Notwithstanding any of the other provisions of this force majeure clause, to the extent that Buyer's contracts with any other person or entity, the common law, or any statutes require Buyer to supply goods that consist of or incorporate goods identified in this order, Seller shall not be excused from timely supplying such goods to Buyer despite the occurrence of any of the events contemplated by this force majeure clause, and this force majeure clause shall have no force or effect.
10. **WARRANTY:** Seller expressly warrants that all goods or services covered by this order shall be of first class quality and shall conform to the specifications, drawings, samples or descriptions furnished to or by the Buyer, and will be merchantable, of good material and workmanship and free from defects, latent or patent. In addition, Seller acknowledges that Seller knows of Buyer's intended use and expressly warrants that all goods covered by this order have been selected, designed, manufactured, or assembled by Seller based upon

Buyer's stated use, and will be fit and sufficient for the particular purposes intended by Buyer. No materials may be substituted in lieu of those specified without Buyer's prior written consent. Seller agrees to cooperate in Buyer's defense of any claim or lawsuit wherein it is alleged that injury or damage was caused by a defect of any kind in goods sold by Seller to Buyer. Buyer agrees to give Seller reasonable notice of such claims or lawsuits and a reasonable opportunity to compromise or settle same, and agrees to permit Seller to intervene in any such lawsuits as an additional defendant if Seller so elects. If a court, wherein such a lawsuit is brought against Buyer, determines that the damages were caused by a defect in Buyer's goods, or if after Buyer makes and Seller refuses a tender of defense of such lawsuit, Buyer makes a settlement of same, in either event Seller will indemnify and save Buyer harmless from any and all costs, expenses, fees (including attorney's fees), judgments and payments made by Buyer as a result thereof. It is agreed that this warranty shall survive acceptance and payment.

11. **INSOLVENCY:** Buyer may immediately cancel this order without liability to Seller in the event of the happening of any of the following or any other comparable event: (a) insolvency of the Seller; (b) filing of a voluntary petition in bankruptcy by Seller; (c) filing of an involuntary petition in bankruptcy against Seller; (d) appointment of a receiver or trustee for Seller; or (e) execution of an assignment for the benefit of creditors by Seller, provided that such petition, appointment, or assignment is not vacated or nullified within fifteen (15) days of such event.
12. **SECRET MATTERS:** Seller agrees to be responsible for the safeguarding of all secret, confidential or restricted matter that may be disclosed to or developed in connection with this order and will bring to the attention of all persons connected with the performance of this order any government regulations in connection therewith.
13. **COMPLIANCE WITH LAWS:** Seller represents that the items called for herein will be produced, manufactured and delivered in accordance with all applicable federal, state or local laws, including without limitation the Walsh-Healy Act of 1936, as amended, and the Fair Labor Standards Act of 1938, as amended. Seller agrees to furnish on each invoice a statement (in form approved by the U.S. Department of Labor) certifying that the items covered by such invoice were produced, manufactured and delivered in accordance with the Fair Labor Standards Act of 1938, as amended, and all lawful regulations and orders issued thereunder. Seller shall not, in performing the work required by this order, discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age or handicap. Seller will comply with all provisions of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, as amended, the Rehabilitation Act of 1973, the Vietnam Era Veterans Readjustment Act of 1974, Executive Orders no. 11246 of September 25, 1965, and No. 11141 of February 12, 1964 and the rules and regulations created thereby and the requirements of the Clean Air Act, Federal Water Pollution Act, as amended, and Executive Order No. 11738, dated September 10, 1973.

A) Further, all materials used by Seller in the Supplies or in their manufacture shall satisfy current governmental and safety constraints on restricted, toxic and hazardous materials as well as environmental, electrical and electromagnetic considerations that apply to the country of manufacture, sale or destination. For purposes of the Order, applicable laws include without limitation rules, regulations, orders, conventions, ordinances and standards that relate to the content, source of content, manufacture, labeling, transportation, importation, exportation, licensing, approval, certification, or purchase or sale of the Supplies. Applicable laws also include without limitation all laws relating to environmental matters, the handling and transportation of dangerous goods or hazardous materials, data protection and privacy, hiring, wages, hours and conditions of employment, subcontractor selection, discrimination, occupational health, safety, conflict minerals, motor vehicle safety, and anti-corruption laws such as the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act, all as amended from time to time.

B) Seller shall require compliance with all anti-corruption laws by not only itself and its Seller's employees, affiliates, subsidiaries, and agents, but also its subcontractors, vendors, and other associated third parties. Seller further warrants that neither Seller nor any of its employees, affiliates, subsidiaries, agents, subcontractors, vendors and other associated third parties will engage in any form of commercial bribery, or directly or indirectly provide or offer to provide anything of value to or for the benefit of any official or employee of a governmental authority or of any government-owned, -controlled, or -affiliated entity, in order to obtain or retain any contract, business opportunity or other business benefit or to influence any act or decision of that person in his or her official capacity.



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C) At Buyer’s request, Seller will certify compliance with this Section 11. Further, Seller will indemnify Buyer against and hold Buyer harmless from any liability claims, demands or expenses (including attorney’s fees and other professional fees, settlements and judgments) relating to Seller’s noncompliance with this Section 11. Seller and its employees also will abide by applicable ethics policies of Buyer and its Customers, or Seller’s own equivalent ethics policy.

14. **INSURANCE:** Seller will obtain and maintain, at Seller’s expense, the insurance coverage listed below, or in additional amounts and coverages as may be reasonably requested by Buyer or (to the extent directed by Buyer) Customer(s), in each case naming Buyer and its affiliates and Customer(s) (as applicable) as loss payees and as "additional insureds". Such insurance shall be obtained and maintained from companies listed in the then-current “Best’s Insurance Guide” as possessing a minimum policy holders rating of “A-“ (excellent) and a financial category no lower than “IX”. Seller will furnish to Buyer a certificate showing compliance with this requirement or certified copies of all insurance policies within ten (10) days of Buyer’s written request. The certificate will provide that Buyer (and, if applicable, Customers) will receive thirty (30) days prior written notice from the insurer of any termination or reduction in the amount or scope of coverage. The existence of insurance does not release Seller of its obligations or liabilities under the Order. Minimum coverage is as follows:

<u>Coverage</u>	<u>Limits of Liability</u>
Workers compensation	Statutory
Employer’s liability	US\$100,000 / each accident, disease policy limit, disease each employee
Comprehensive general liability insurance, including contractual liability coverage general aggregate, products & completed operations aggregate	US\$5,000,000 / each occurrence
Comprehensive automobile liability insurance	US\$1,000,000 / each occurrence combined single limit
Business interruption insurance	As specified by Buyer

Minimum coverage also shall include full fire and extended coverage insurance for the replacement value of (i) all Seller’s Property and all losses related thereto and (ii) any Buyer’s Property (including without limitation Bailed Materials) in Seller’s care, custody or control, and all losses related thereto.

15. **CANCELLATION FOR BREACH:** Buyer reserves the right to cancel all or any part of this order, without liability to Seller, if Seller (a) repudiates or breaches any of the terms of this order, including Seller’s warranties, (b) fails to perform services or deliver goods as specified by Buyer, or (c) fails to make progress so as to endanger timely and proper completion of services or delivery of goods, and in any case does not correct such failure or breach within ten (10) days (or such shorter period of time as is commercially reasonable under the circumstances) after receipt of written notice from Buyer specifying such failure or breach. In the event of any such cancellation, Buyer without prejudice to any other rights available to it for breach of contract, shall have the right (a) to refuse delivery of goods or performance of work, (b) to return to Seller goods already received, to recover from Seller all payments made therefore including freight, storage, handling and other expenses and to be relieved from liability for any future payments to Seller, (c) to recover any advanced payments to Seller for undelivered or returned goods or work to be performed, and (d) to purchase elsewhere and charge Seller with any resultant losses. No returned goods shall be replaced without Buyer’s written replacement order. Any cancellation under this order shall not excuse the Seller from performing non-cancelled work.

16. **TERMINATION:** In addition to any other rights of Buyer to cancel or terminate this order, Buyer may at its option immediately terminate all or any part of this order, at any time and for any reason, by giving written notice to Seller. Upon such termination, buyer shall pay to Seller, without duplication, (a) the order price for all goods or services which have been completed in accordance with this order and not previously paid for, and (b) the actual costs of work-in-process and raw materials incurred by Seller in furnishing the goods or services under this order to the extent such costs are reasonable in amount not and are allocable or apportionable under generally accepted accounting principals to the terminated portion of this order, less, however, the reasonable value or costs (whichever is higher) of an goods or materials used or sold by Seller without Buyer’s written consent, and the costs of any damaged or destroyed goods or material. Buyer will make no payment for finished goods, work-in-process, or raw materials fabricated or procured by Seller in amounts in excess of those authorized in delivery releases nor for any undelivered goods which are in Seller’s standard stock or which are readily marketable. Payments made under this Paragraph shall not exceed the aggregate purchase price payable by Buyer for finished goods which would be produced by Seller under delivery or release schedules outstanding at the date of termination. Except as provided in this Paragraph, 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, unobserved 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 from termination of this order. Within sixty (60) days from the effective date of



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termination, Seller shall submit a comprehensive termination claim to Buyer with sufficient supporting data to permit Buyer's payment hereunder, and shall thereafter promptly furnish such supplemental and supporting information as Buyer shall request. Buyer, or its agents, shall have the right to audit and examine all books, records, facilities, work, material, inventories, and other items relating to any termination claim of Seller.

17. **TAXES AND PRICE:** Any taxes now or hereafter imposed by any governmental authority upon the sale, transportation, or use of the goods, materials, products or services sold to Buyer shall be paid by Seller. Seller agrees that its prices do not and its invoices shall not include any tax with respect to which exemption is available or indicated for Buyer in this order or otherwise, or as to which Buyer has furnished Seller with an applicable exemption certificate. Seller agrees and warrants that its price to Buyer will not be higher than the lowest price to any other purchaser for goods of like grade and quantity.
18. **NON-ASSIGNMENT:** Seller may not assign or delegate this order, its obligations hereunder or the proceeds hereof without the prior written consent of Buyer.
19. **REMEDIES:** The rights or remedies reserved to Buyer in this order shall be cumulative and in addition to all other or further remedies provided at law or in equity.
20. **SET-OFF:** In addition to any right of set-off provided by law, all amounts due Seller shall be considered net of indebtedness of Seller to Buyer; and Buyer may deduct any amounts due or to become due from Seller to Buyer or its subsidiaries from any sums due or to become due from Buyer or its subsidiaries to Seller.
21. **NO IMPLIED WAIVER:** The failure of either party at any time to require performance by the other party of any provision of this order shall in no way affect the right to require such performance any time thereafter, nor shall the waiver of either party of a breach of any provision of this order constitute a waiver of any succeeding breach of the same or any other provision.
22. **GOVERNING LAW, JURISDICTION:** This order shall be considered as a contract made and to be performed in the State of Michigan and shall be governed by and construed in accordance with the laws of Michigan including the Uniform Commercial Code. The 1980 U.N. Convention on Contracts for the International Sale of Goods shall not apply. All disputes with regard to this order shall be brought in the Superior Court of Michigan, Oakland County, MI or in the U.S. District Court for the Eastern District of Michigan.
23. **SEVERABILITY:** If any term of this order is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such term shall be deemed reformed or deleted, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule, and the remaining provisions of this order shall remain in full force and effect.
24. **PERFORMANCE:** If Supplier fails to perform any such milestone(s) in a timely or quality manner, through no fault of Buyer, then Supplier shall expedite delivery at Supplier's sole expense, and Supplier shall bear responsibility for Buyer's incurred additional costs caused by Supplier's untimely performance or poor quality. Buyer will provide Seller written copies of incurred additional costs caused by Supplier.
25. **APPLICABILITY:** These terms and conditions shall survive the execution or acceptance of any subsequent purchase order for the deliverables, shall be deemed incorporated into any such purchase Order despite any integration clause contained therein; and shall otherwise govern to the extent that it differs from or contradicts any terms or provisions of said purchase Order.
26. **ENTIRE AGREEMENT:** This order, together with the attachments, exhibits, or supplements specifically referenced in this order, constitute the entire agreement between Seller and Buyer with respect to the matter contained herein and supersede all prior oral written representations and agreements. This order may only be modified by a written purchase order amendment/alteration issued by Buyer.