



**Nexteer Automotive Corporation
Nexteer Industria e Comercio de Sistemas Automotivos Ltda.
Nexteer Automotive (Suzhou) Co., Ltd. Nexteer
Nexteer Lingyun Driveline (Wuhu) Co., Ltd.
Nexteer Lingyun Driveline (Zhuozhou) Co., Ltd.
Nexteer Automotive Systems (Liuzhou) Co., Ltd.
Chongqing Nexteer Steering Systems Co., Ltd.
PT. Nexteer Automotive Indonesia
Nexteer Automotive Poland sp. z.o.o
Nexteer Automotive Japan LLC
Nexteer Automotive Korea Limited
Nexteer Automotive Luxembourg S.à.r.l.
Steeringmex S. de R.L. de C.V.
Nexteer Automotive Mexico S. de R.L. de C.V.
Nexteer Automotive India Private Limited
Nexteer Automotive France SAS
Nexteer Automotive Germany GmbH
Nexteer Automotive Italy S.r.l.
Nexteer Otomotiv Sanayi ve Ticaret Limited Sirketi
Nexteer Automotive Australia Pty Ltd.**

Tooling Terms and Conditions

Effective October 15, 2016

[These Tooling T&Cs apply when referenced by Buyer's purchase order or other documentation]

TOOLING TERMS AND CONDITIONS

Effective October 15, 2016

1. GENERAL GUIDELINES

1.1. These "Tooling Terms and Conditions" shall apply to all tooling purchase orders and shall be construed, to the extent possible, as consistent with the Nexteer General Terms and Conditions and as cumulative. In the event of an inconsistency between these Tooling Terms and Conditions and the Nexteer General Terms and Conditions, these Tooling Terms and Conditions shall control as to all Tooling. Capitalized terms used in these Tooling Terms and Conditions, but not defined, shall have the meanings given such terms in the Nexteer General Terms and Conditions.

1.2. "Tooling" means any die, jig, fixture, mold, pattern, template, gage, testing device, supplies, materials or other items that are purchased by Buyer or specially constructed for Buyer's use or the use of its outside suppliers on Buyer's behalf in the manufacture of parts for specific models, assemblies, or products and which has a normal physical life of one year or more. The determination of what constitutes "Tooling" is based on the item's physical aspects and use, the specific characteristics of the production and service parts or assemblies to be produced, and upon its intended life which is generally limited (without substantial modification or alteration) to the production and service life of specific models, assemblies or products.

1.3. The Supplier is expected to invest in and own its facilities, machinery, and other capital equipment. However, to the extent that any Contract between Buyer and Supplier covers Buyer's purchase of, reimbursement to Supplier for, or other ownership of, any Tooling to be used in connection with Supplier's actual or anticipated supply of goods to Buyer, the Buyer will own the Tooling that is used with the Supplier's equipment to make parts for the Buyer. Buyer may file any legal notices or documents to protect its ownership interest, including but not limited to a UCC-1 financing statement. It is therefore essential that the Tooling be clearly identified and marked, in a durable and legible manner, as the property of the Buyer. The Supplier may not take any action concerning the Tooling that is inconsistent with the Buyer's ownership of the tooling. Supplier shall assign to Buyer any contract rights or claims in which Supplier has an interest with respect to such Tooling. Supplier shall establish a reasonable accounting system that readily enables the identification of Supplier's costs.

1.4. All Tooling and Materials which Buyer furnishes, either directly or indirectly, to Supplier or which Buyer buys from, or gives reimbursement to, Supplier in whole or in part (collectively, "Buyer's Property") will be and remain the property of Buyer and be held by Supplier on a bailment basis. Title to all replacement parts, additions, improvements and accessories purchased by Supplier will vest in Buyer immediately upon attachment to or incorporation into Buyer's Property. Supplier releases, discharges and waives any lien, action, suit, debt due, sum of money, account, claim and demand whatsoever in law or in equity or other rights that Supplier might otherwise have on or in any of Buyer's Property for work performed on, or utilizing, such property or otherwise.

1.5. Tool models and tool prints are considered part of the Tooling and are also the property of the Buyer. Notwithstanding the foregoing, any Seller claims of proprietary tooling, or tooling design, shall be deemed intellectual and physical property of the Seller, and therefore not compensable or reimbursable by the Tooling Purchase Order. Any Seller claimed proprietary tooling or designs included in the Tooling Purchase Order by Seller may be removed at any step of the review, payment or audit process by Buyer. Buyer shall have access to all special tooling data and designs at its request.

1.6. Unique computer software required to operate the Tooling is considered part of Tooling and is also the property of the Buyer.

1.7. Unless otherwise agreed in writing between the parties, the Supplier will be paid in full for the Production Tooling after Part Submission Warrant (PSW) full approval is submitted and provided along with the proper documentation which is further described in section 2 herein.

1.8. The Supplier is responsible for ensuring that its sub-supplier(s) adhere to these Terms and Conditions, when Tooling is located at sub-supplier facilities. The Supplier is responsible for the quality of and payment for all subcontracted Tooling and outsourced components and to ensure conformity of subcontracted Tooling with the Tooling Purchase Order.

1.9. Tooling should be designed and manufactured to last for the life of the part it was designed and manufactured to produce, including post-production Service Parts.

1.10. If Tooling is designed specifically for the Supplier's own equipment and facilities, it should be able to be modified for use by another supplier with similar equipment and facilities. In the event that there are any costs associated with such modification, those costs will be reimbursed by the Supplier.

2. TOOLING PROCESS

2.1. The Supplier may not fabricate or acquire Tooling unless a Tooling Purchase Order has been issued by the Buyer authorizing the fabrication or acquisition of the Tooling.

2.2. The Buyer has the authority, at its discretion, to select a Tooling source and issue Tooling Purchase Orders directly to Toolmaker. The Supplier will work with the Toolmaker to complete the Tooling, which the Supplier will use to demonstrate compliance with Phased PPAP and produce parts.

2.3. All Tooling requested on a Tooling Purchase Order must be new tooling not previously used by any party, unless otherwise specified and approved by the Buyer.

2.4. Production Tool Orders and Amendments to Production Tool Orders must be quoted, written and placed such that each Tool Order (and any Amendment) includes sufficient detail and itemization to enable the Buyer-owned Tooling to be visually identified at the Supplier location.

2.5. All rights, title, and interest in and to any part of Tooling to be paid for by the Buyer will vest immediately in Buyer as soon as the Tooling is acquired by the Supplier or fabricated by the Supplier in accordance with a Tooling Purchase Order, and such Tooling shall be held as Buyer's property by Supplier. In the event a court of competent jurisdiction determines Buyer has not retained or obtained ownership of any Tooling, Supplier agrees to be deemed to have granted Buyer a security interest giving Buyer all the rights of a secured creditor as to such items under the Uniform Commercial Code as in effect in that jurisdiction.

3. PAYMENT

3.1. The price for any Tooling to be paid for by Buyer under the Contract shall be the price set forth in the Tooling Purchase Order according to the payment schedule, if applicable. Unless otherwise expressly stated in the Tooling Purchase Order, the purchase price is a fixed price, and is not subject to increase for any reason, including, without limitation, increased raw material costs, increased labor or other manufacturing or supply costs, increased development costs, inflation, changes in foreign exchange rates, changes in the availability of materials or supplies or any other changes.

3.2. Unless otherwise agreed to in writing between the Parties, the price set forth in the Tooling Purchase Order will be paid to Supplier after Buyer is satisfied that certain conditions have been fulfilled including, but not limited to, the following:

- 3.2.1. The Tooling has been fabricated or acquired by the Supplier;
- 3.2.2. Requested Tooling documentation requirements have been provided to and approved by Buyer.
- 3.2.3. The Supplier has produced acceptable samples meeting all the requirements and PPAP specifications;
- 3.2.4. The Part Submission Warrant (PSW) has been appropriately approved; and,
- 3.2.5. The Tooling Invoice has been submitted with the appropriately approved PSW, and photographic evidence submitted by Seller meets Nexteer's Rebill Identification Requirements.

3.3. The Supplier shall not submit a Tooling Invoice for payment until the Supplier receives full PPAP approval. The Tooling Invoice date shall not be earlier than the PPAP Warrant approval date. Supplier shall attach an approved PPAP Warrant to the Tooling Invoice and send the same via e-mail to the Buyer. Failure to comply with these requirements will result in the Tooling Invoice being rejected and returned.

3.4. The Buyer has the right to verify the actual cost of the Tooling by auditing all books, records, facilities, work, material, inventories, invoices, purchase orders, proofs of payment, and any other information the Buyer deems relevant and reasonably necessary.

3.5. The Supplier is responsible for notifying the Buyer of any movement of Buyer Tooling to a new location. The Supplier must notify the Buyer using the Supplier Suggestion Change Request (SSCR). The Supplier must obtain prior written consent and approval from the Buyer before moving Tooling. Tooling movements also require that PPAP is conducted and the submission of PSW approval documentation for the new location. The Supplier may move Tooling for not more than 2 business days for cleaning and routine maintenance.

4. TOOLING COSTS

4.1. The Buyer's contractual obligation is to reimburse actual Tooling costs incurred up to the amount authorized on the Tool Order. The Buyer will not reimburse the Supplier for Tooling costs in excess of the amount authorized or for any Tooling costs that were not specified (and authorized) on the Tool Order or an Amendment.

4.2. Acquired Tooling: If the Supplier acquires the Tooling from a third party, such as an outside tool shop/toolmaker, the Supplier may not add any markups, surcharges or the like to the Tooling beyond its cost. Tooling acquired by a third party must be supported by purchase order(s), invoices, and proofs of payment. The Supplier should not make any profit on Tooling or prototype Tooling manufactured by an outside tool shop.

4.2.1. Any additional costs associated with acquisition of the Tooling are considered to be part of the Supplier's overhead and therefore will not be charged to Buyer.

4.2.2. The Supplier is responsible for the quality of, and payment for, all Tooling and outsourced components acquired from the tool shop/toolmaker and for ensuring conformity of sub-contracted Tooling with the Tool Order.

4.3. In-House Tooling: If the Supplier fabricates the Tooling, the Supplier may request, in writing, in advance, reimbursement for only the actual cost of fabricating the Tooling, including material costs, labor hours and labor rates for, plus allowable and agreed upon one-time only costs, if appropriate, which must be itemized on a Tool Order or an Amendment. The Supplier must maintain a reasonable accounting system to segregate, accumulate, and document expenditures for Tooling. The Supplier's accounting system must ensure that all eligible costs are documented adequately and include the following:

- 4.3.1. In-House Material: Material costs must be supported by documentation that indicates the quantities used and unit cost for each Tool. Material will be reimbursed at actual costs based on material invoices. If the Tool is not completed due to program or part cancellation, scrap value should be documented.
- 4.3.2. In-House Labor Rate: All overhead costs and profit associated with the design, development, and manufacture of the Tooling should be included in the fully accounted Tooling labor rates. This rate should be comprised of direct labor, indirect labor, fringe benefits, payroll taxes and overhead. The fully accounted labor rate shall be included in the Supplier's Tooling quotation.
 - 4.3.2.1. Hours: All direct hours worked to design and fabricate the Tooling must be supported by a time reporting system that identifies hours worked on each Tool specified on the Tool Order and the employee(s) who performed the work.
 - 4.3.2.2. Cost: Labor costs should be calculated by applying the fully accounted labor rates to the direct hours worked to design and fabricate the Tooling. A reasonable profit may be included if the tool shop is operated as a separate profit center.

5. TOOL ORDER COST AUDIT

- 5.1. Audit Process. All Tool Orders placed are subject to audit and recovery by the Buyer. If an audit of Tooling costs reveals that the Buyer was overcharged, the Supplier will repay the overcharge through a debit against its accounts or by direct payment to the Buyer or by a combination of these methods, at the Buyer's discretion.
- 5.2. Validation Audit Process Tooling Orders that achieved their targets are nonetheless subject to audit in order to ensure that no capital equipment is included on the Tool Order. If capital equipment is included on any Tool Order, it will be amended to remove the capital equipment, and the cost will be reallocated to non-capital equipment line items.
- 5.3. Documentation Required for Buyer Tooling Audit. If the Tooling costs are audited by the Buyer, the Supplier must make available all documents supporting the actual and reasonable costs associated with the Tool Orders selected for audit. Furthermore, if the initial (or base) Tooling was sourced by the Buyer on a competitive basis, but the Supplier's records do not segregate costs for the competitively sourced Tooling from Amendments (which are not quoted on a competitive basis), the Buyer's auditor will verify all costs supporting the Tool Order and the cost of Amendments.
 - 5.3.1. The Supplier must submit evidence of what was actually paid to sub-suppliers. If the Buyer's audits of Supplier Tooling costs result in significant cost recoveries due to a lack of compliance with these Tooling guidelines, the 8D (8 Discipline) process may be used to address significant audit findings.

6. TOOLING INVENTORY MANAGEMENT

- 6.1. The Supplier shall furnish a Tooling Inventory of all Tooling owned by Buyer (active and inactive) in the Supplier's possession. The Tooling Inventory shall be submitted to Buyer annually by January 31, or upon request by Buyer at any time. The Tooling Inventory shall contain the following information for each piece of Tooling owned by Buyer:
 - 6.1.1. Tool part number(s) (typed in numerical order)
 - 6.1.2. Current tool revision

6.1.3. Description of Tool

6.1.4. Date of last ordered of Tool

6.1.5. Total cost of Tool

6.1.6. Quantity of parts produced from Tool

6.1.7. Remaining Tool life

6.1.8. Any previous part number if Tool has been changed to produce a new part number

6.1.9. Design engineer name

6.2. While Buyer's Property is in Supplier's possession and until Supplier delivers Buyer's Property back to Buyer, Supplier bears the risk of loss, theft and damage to Buyer's Property. Supplier will be responsible for the cost of repairing or replacing Buyer's Property if it is stolen, damaged or destroyed regardless of cause or fault. Supplier will at all times: (a) regularly inspect, maintain in good condition, and repair Buyer's Property at Supplier's own expense, (b) use Buyer's Property only for the performance of this Contract, (c) deem Buyer's Property to be personal property, (d) conspicuously mark Buyer's Property as the property of Buyer and maintain such markings, (e) not commingle Buyer's Property with the property of Supplier or with that of a third person, (f) not move Buyer's Property from Supplier's applicable shipping location (as shown by the shipping address of Supplier) without prior written approval from an authorized employee of Buyer, and (g) use Buyer's Property in compliance with Buyer's or the manufacturer's instructions and in compliance with all federal, state and local laws, ordinances and regulations.

6.3. If Supplier is tool design responsible, reproducible tooling prints shall be completed by Supplier within 6 weeks after PPAP approval (or at start of regular production, whichever comes first) on all new program tools, tools undergoing an engineering change, and current tools that are revised. Supplier, upon request by Buyer, shall provide reproducible tooling prints for existing tools.

6.4. Supplier will not sell, lend, rent, encumber, pledge, lease, transfer or otherwise dispose of Buyer's Property without Buyer's prior written consent. Furthermore, Supplier will not assert, or permit any person claiming an interest through Supplier to assert any claims of ownership to or any other interest in Buyer's Property.

6.5. Buyer will have the right to enter Supplier's premises at all reasonable times to inspect Buyer's Property and Supplier's records with respect thereto.

6.6. Supplier, at its expense, will furnish, keep in good condition, and replace when necessary all Tooling owned by Supplier that is used to produce goods for Buyer. Supplier agrees to maintain adequate storage to ensure that all Tooling owned by Supplier is stored in useable condition and in such a location or facility to protect against theft and damage. Supplier will insure Supplier's Tooling with fire and extended coverage insurance for its full replacement value. Supplier grants Buyer an irrevocable option to take possession of, and title to, all or part of Supplier's Tooling that is specially designed or outfitted for the production of the goods for Buyer, in which event Buyer will, within 45 days following delivery of such Supplier's Tooling to Buyer, pay to Supplier of the lower of (i) the net book value of such Supplier's Tooling (i.e., actual cost less amortization) or (ii) then current fair market value of such Supplier's Tooling, in each case less any amounts that Buyer has previously paid to Supplier on account of such Supplier's Tooling. The foregoing option will not apply to the extent that Supplier's Tooling is used to produce goods that are the standard stock of Supplier and are then being sold by Supplier to other customers. Buyer's right to exercise the foregoing option is not conditioned on Supplier's breach or Buyer's termination of any underlying Contract or upon payment of any other amounts due under any underlying Contract.

7. TOOL MARKING REQUIREMENTS; TOOL DISPOSAL REQUESTS

7.1. Tool Marking Requirements: Unless specified otherwise by Buyer, the Buyer owns the Tooling, and it is essential that the Tooling be clearly identified and marked or tagged with the part number(s) provided by Buyer. The physical asset tag must be attached with a rivet or screw, not with adhesive. Supplier shall provide to Buyer photographic evidence of compliance with this Section. Photographic evidence shall include: a close-up picture of the tag on the Tool (clear and legible) and a picture of the whole Tooling showing that the tag is attached. If the Tooling is a mold or die, a photo of the mold or die in the open and closed position is required. Supplier shall comply with additional instructions regarding Tool tagging and photographic evidence as may be provided by Buyer in worksheets. The Supplier may not take any action concerning the Tooling that is inconsistent with the Buyer's ownership of the Tooling.

7.2. Tool Retention: Supplier must retain Tooling for a period of 15 years after end of production and thereafter to return, transfer to another location or to remit the proceeds of the sale for scrap to the Buyer's Director of Global Supply Management as so instructed by Buyer.

7.3. Tool Disposal Requests: The Buyer has established a system for proper control and disposal of Buyer-owned Tooling at a Supplier site. In order to minimize the Buyer's costs and to ensure continuous availability of Service Parts to end-users, the Service Parts Purchasing activity must be consulted before either reworking the Tooling to a new design level or scrapping the Tooling.

7.4. Return of Buyer's Tooling: Supplier agrees that Buyer has the right, at any time and from time to time, with or without reason and without payment of any kind, to retake possession of or request the return of Buyer-owned Tooling. Without further notice or court hearings, which rights, if any, are hereby waived, Buyer or its designee(s) will have the right to enter Supplier's premises and take possession of any and all of Buyer's Tooling. Upon Buyer's request and in accordance with Buyer's instructions, Buyer's Tooling will be immediately released to Buyer or delivered to Buyer by Supplier, either (i) Ex Works (IncoTerms 2010) at Supplier's plant properly packed and marked in accordance with the requirements of the carrier selected by Buyer to transport such Buyer's Property or (ii) to any location Buyer designates, in which event Buyer will pay Supplier the reasonable costs of delivering Buyer's Property to the location Buyer designates. If Supplier does not release and deliver any Buyer's Tooling in accordance with this Article, Buyer may obtain an immediate writ of possession without notice and without the posting of any bond and/or enter Supplier's premises, with or without legal process, and take immediate possession of Buyer's Tooling.

7.5. Disposal Request: To initiate a disposal request the Supplier must contact the designated Buyer.

7.6. If the Supplier receives a Part Termination Notice, it should contact the Buyer immediately to request directions for tooling disposition. By certifying that the Tooling may be disposed of, the Supplier verifies that it has diligently investigated past and current use of the Tooling to ensure that there is no further need for the Tooling. If it is determined that the Supplier has improperly or incompletely conducted this investigation and the Tooling was scrapped in error, the Supplier will be responsible for reimbursing the Buyer for the cost of replacement Tooling.

7.7. Prototype Tool Disposal: Supplier must obtain written authorization from the Buyer prior to prototype Tooling disposal.

7.8. Questions: Questions should be directed to the person listed on the Tool Order as representing the Buyer.

8. DISCLAIMER OF WARRANTIES

Supplier acknowledges and agrees that (i) Buyer is not the manufacturer of Buyer's Tooling nor the manufacturer's agent nor a dealer therein, (ii) Buyer is bailing Buyer's Tooling to Supplier for Supplier's benefit, (iii) Supplier is satisfied that Buyer's Tooling is suitable and fit for its purposes, and (iv) BUYER HAS NOT MADE AND DOES NOT MAKE ANY WARRANTY OR REPRESENTATION WHATSOEVER, EITHER EXPRESS OR IMPLIED, AS TO THE FITNESS, CONDITION, MERCHANTABILITY, DESIGN OR OPERATION OF BUYER'S TOOLING OR ITS FITNESS

FOR ANY PARTICULAR PURPOSE. Buyer shall not be liable to Supplier for any loss, damage, injury or expense of any kind or nature caused, directly or indirectly, by Buyer's Tooling, including, without limitation, the use or maintenance thereof, or the repair, service or adjustment thereof, or by any interruption of service or for any loss of business whatsoever or howsoever caused, including, without limitation, any loss of anticipatory damages, profits or any other indirect, special or consequential damages and/or personal injury or death.

9. INDEMINIFCATION

Supplier will defend,, hold harmless and indemnify Buyer, Buyer's affiliates, Buyer's customers, and their respective successors, assigns, directors, officers, employees and agents (collectively, "Buyer Indemnified Parties") from and against any and all lawsuits, actions, claims, demands, judgments, fines, costs (including attorney and other professional fees and disbursements), expenses, losses, liabilities and damages, including any special, incidental, consequential, punitive and exemplary damages that any Buyer Indemnified Party may suffer or sustain or be in any way subjected to on account of: (a) Seller's failure to perform its obligations under these Tooling Terms and Conditions or applicable law, including claims based on Supplier's breach of warranty (regardless of whether the alleged damages arise under tort, negligence, contract, warranty, strict liability or any other legal theories); (b) infringement or alleged infringement, including patent, trademark, copyright, moral, industrial design or other proprietary rights, or misuse or misappropriation of trade secrets relating to the Tooling (Supplier expressly waives any claim against Buyer that any such infringement arose out of compliance with Buyer's specifications); (c) 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 gross negligence or willful misconduct of Buyer or Buyer's customer; and (d) any third-party claims or demands to recover for personal injury or death, property damage or economic loss caused by any of the Tooling supplied by Supplier (regardless of whether such claim or demand arises under tort, negligence, contract, warranty, strict liability or any other legal theories).

10. FORCE MAJEURE

Neither party shall be liable to the other if it cannot perform its contractual obligations due to circumstances beyond the control of the parties, such as fire, explosion, labor dispute, or a failure to act by authority or government. Such excuse from performance shall only continue for the duration of the event described above. In such cases, the Buyer shall have the right to purchase products or services covered by the Contract elsewhere for the duration of said circumstances. The Buyer shall be allowed to reduce its purchases in the context of the Contract accordingly, without incurring liability to the Supplier. If Supplier 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 Contract without any liability to Supplier or obligation to purchase the Tooling.

11. REMEDIES AND INJUNCTIVE RELIEF

The rights and remedies reserved to Buyer in this Contract are cumulative with, and in addition to, all other or further remedies provided in law or equity. Supplier will reimburse Buyer for any direct, indirect, incidental, consequential or other damages (including lost profits) caused or required by Supplier's breach of this Contract. Seller acknowledges and agrees that money damages would not be a sufficient remedy for any actual, anticipatory or threatened breach of this Contract by Supplier with respect to its timely delivery of Tooling to Buyer and that, in addition to all other rights and remedies which Buyer may have, Buyer shall be entitled to specific performance and injunctive or other equitable relief to enforce this Contract, without any requirement of a bond or other security to be provided by Buyer.

12. CUSTOMS AND EXPORT CONTROLS

12.1 Credits and Refunds. Transferable credits or benefits associated with or arising from Tooling purchased under this Contract, including trade credits, export credits or rights to the refund of duties, taxes or fees, belong to Buyer.

Supplier will, at its expense, provide all information necessary (including written documentation and electronic transaction records in Buyer-approved formats) to permit Buyer to receive these benefits, credits, or rights. Supplier will furthermore, at its expense, provide Buyer with all information, documentation, and electronic transaction records relating to the Tooling necessary for Buyer to fulfill any customs-related obligations, origin marking or labeling requirements and certification or local content reporting requirements, to enable Buyer to claim preferential duty treatment for Tooling eligible under applicable trade preference regimes, and to make all arrangements that are necessary for Tooling to be covered by any duty deferral or free trade zone program(s) of the country of import. Seller will, at its expense, provide Buyer or Buyer's nominated service provider with export documentation to enable the Tooling to be exported, and obtain all export licenses or authorizations necessary for the export of the Tooling unless otherwise indicated in this Contract, in which event Seller will provide all information as may be necessary to enable Buyer to obtain such licenses or authorization(s).

12.2 Customs-Trade Partnership Against Terrorism. To the extent any Tooling covered by this Contract is to be imported into the United States of America, Seller shall comply with all applicable recommendations or requirements of the Bureau of Customs and Border Protection's Customs-Trade Partnership Against Terrorism ("C-TPAT") initiative. Upon request, Seller shall certify in writing its compliance with the C-TPAT initiative.

13. SETOFF

With respect to any monetary obligations of Seller or Seller's affiliates to Buyer or Buyer's affiliates, including, without limitation, direct and indirect losses, costs and damages resulting from Seller's failure to timely delivery of any Tooling, the failure of any Tooling to conform to applicable warranties or other breach by Seller of this Contract, in addition to any right of setoff or recoupment provided by law, Buyer may at any time, as applicable, recover, recoup or setoff such amounts by deducting such amounts from any sums that are, or will become, owing, due or payable to Seller or Seller's affiliates by Buyer or Buyer's affiliates.

14. NO ADVERTISING

Seller will not, in any manner, advertise or publish that Seller has contracted to furnish Buyer with Tooling covered by this Contract or use any trademarks or trade names of Buyer without Buyer's prior written consent.

15. NO IMPLIED WAIVER

The failure of either party at any time to require performance by the other party of any provision of this Contract will not affect the right to require such performance at any later time, nor will the waiver by either party of a breach of any provision of this Contract constitute a waiver of any succeeding breach of the same or any other provision. No failure or delay in exercising any right or remedy will operate as a waiver thereof nor will any single or partial exercise thereof preclude other or further exercise thereof. No course of dealing or course of performance may be used to evidence a waiver or limitation of Seller's obligations under this Contract.

16. ASSIGNMENT AND CHANGE IN CONTROL

Buyer may assign its rights and obligations under this Contract without Seller's prior written consent. Seller may not assign, subcontract or delegate its rights or obligations under this Contract without the prior written consent from an authorized employee of Buyer. In the event of any approved assignment (including, without limitation, subcontract), sale or delegation authorized by Buyer, Seller retains all responsibility for the Tooling, including all related warranties and indemnification obligations stated in these Tooling Terms and Conditions, unless otherwise expressly agreed in writing by Buyer. In addition, Buyer may terminate this Contract on sixty (60) days' advanced notice to Seller, without any liability to Seller whatsoever, if Seller (i) sells, or offers to sell, a material portion of its assets or (ii) sells or exchanges, or offers to sell or exchange, or causes to be sold or exchanged, a sufficient amount of its stock or other equity interests that effects a change in the control of Seller or (iii) executes, or otherwise becomes subject to, a voting or other agreement or trust that effects a change in the control of Seller.

17. RELATIONSHIP OF PARTIES

Seller and Buyer are independent contracting parties. Nothing in this Contract makes either party the agent or legal representative of the other for any purpose whatsoever, nor grants either party any authority to assume or create any obligation on behalf of or in the name of the other party.

18. GOVERNING LAW AND JURISDICTION

18.1. U.S. Contracts. If any of the following apply: (i) this Contract is issued by Buyer from a location within the United States of America or its territories (as shown by the issuing address of Buyer), (ii) this Contract is issued, in whole or part, for Tooling or Services to be shipped to a Buyer location within the United States of America or its territories (as shown by the ship to or receiving address of Buyer) or (iii) Seller's applicable shipping location is within the United States of America or its territories (as shown by the shipping address of Seller), then: (a) this Contract is to be construed according to the laws of the United States of America and the State of Michigan, excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods and any choice-of-law provisions that would require application of any other law, and (b) with respect to any action, litigation or proceeding of any kind whatsoever arising out of, or in connection with, this Contract, each party irrevocably submits to the exclusive jurisdiction of and venue in the United States District Court for the Eastern District of Michigan or in any state court of Michigan sitting in Oakland County, Michigan, and specifically waives any and all objections to such jurisdiction and venue.

18.2. Non-U.S. Contracts. In all cases not covered by Section 29.1 above, (a) this Contract is to be construed according to the laws of the country (and state or province, if applicable) of Buyer's location as shown by the issuing address of Buyer as set forth in this Contract, excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods and any choice-of-law provisions that would require application of any other law; (b) any legal or equitable action or proceedings by Buyer against Seller arising out of, or in connection with, this Contract may be brought by Buyer in the court having jurisdiction over Seller or, at Buyer's option, in the court having jurisdiction over Buyer's location as shown by the issuing address of Buyer, in which event Seller consents to such jurisdiction and venue, including service of process in accordance with applicable procedures; and (c) any legal or equitable actions or proceedings by Seller against Buyer arising out of, or in connection with, this Contract may be brought by Seller only in the court(s) having jurisdiction over Buyer's location as shown by the issuing address of Buyer.

19. SEVERABILITY

If any provision of this Contract is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such provision will be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule, and the remaining provisions of this Contract will remain in full force and effect.

20. RIGHT TO AUDIT AND INSPECT

Seller grants Buyer access to Seller's premises and all Seller's relevant books, records, income statements, balance sheets, cash flow statements, payroll data, receipts and other related supporting data, including Seller's administrative and accounting policies, guidelines, practices and procedures, in order to (i) substantiate any charges and other matters under this Contract and (ii) assess Seller's ability to perform its obligations under the Contract. Seller will maintain and preserve all such documents for a period of four (4) years following final payment under this Contract. Seller will provide Buyer with reasonable access to its facilities and otherwise cooperate and facilitate any such audits by Buyer. Any such audit or inspection conducted by Buyer or its representatives will not constitute acceptance of any Tooling or Service (whether in progress or finished), relieve Seller of any liability under this Contract or prejudice any rights or remedies available to Buyer.

21. ENTIRE AGREEMENT, MODIFICATIONS, AND BUYERS WEBSITE

This Contract constitutes the entire agreement between Seller and Buyer with respect to the matters contained in this Contract and supersedes all prior oral or written representations and agreements, with the exception of any non-disclosure agreements and then only to the extent they have terms of confidentiality that conflict with these Tooling Terms and Conditions. This Contract may only be modified by a written contract amendment issued by Buyer. Notwithstanding anything to the contrary contained herein, Buyer explicitly reserves, and this Contract will not constitute a waiver or release of, any rights and claims against Seller arising out of, or relating to, any fraud or duress in connection with the formation of this Contract or any breach or anticipatory breach of any previously existing contract between Buyer and Seller (whether or not such previously existing contract related to the same or similar Tooling, Services or subject matter as this Contract). All payments by Buyer to Seller under this Contract are without prejudice to Buyer's claims, rights, or remedies.

Buyer may modify Purchase Order terms and conditions from time-to-time by posting revised Purchase Order terms and conditions to Buyer's internet website (or such other website as may be directed through links available on such website) as specified on the face of the Purchase Order ("Buyer's Website") at <http://www.nexteer.com/doing-business-with-nexteer-2/>, prior to the date when any modified terms and conditions become effective. Such revised Purchase Order terms and conditions shall apply to all purchase order revisions/amendments/alterations and new Purchase Orders issued on or after the effective date thereof. Seller shall be responsible to review Buyer's Website periodically. In the event of any inconsistency between the Purchase Order and Buyer's Website, the terms of the Purchase Order shall prevail, unless the requirements specified on Buyer's Website expressly provide otherwise

22. TRANSLATIONS

Buyer may provide various translated versions of these Tooling Terms and Conditions for informational purposes only. However, the English language version of these Tooling Terms and Conditions will apply in the event of any disagreement over the meaning or construction of any translated version of these Tooling Terms and Conditions.

23. WAIVER OF JURY TRIAL

BUYER AND SELLER ACKNOWLEDGE THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH OF BUYER AND SELLER, AFTER CONSULTING (OR HAVING THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING TO ANY CONTRACT OR OTHER DOCUMENT PERTAINING TO ANY CONTRACT.

24. CLAIMS BY SELLER

Any legal action or arbitration proceedings by Seller under any Contract must be commenced no later than one (1) year after the breach or other event giving rise to Seller's claim occurs, or Seller becomes aware of the existence (or facts and circumstances giving rise to the existence) of such claim, whichever occurs first.

25. BATTLE OF THE FORMS NOT APPLICABLE

The parties have agreed and it is their intent the battle of the forms Section 2-207 of the Uniform Commercial Code shall not apply to these Tooling Terms and Conditions or to any invoice or acceptance form of Seller relating to these Tooling Terms and Conditions. It is the parties' intent these Tooling Terms and Conditions shall exclusively control the relationship of the parties, and in the event of any inconsistency between any invoice or acceptance form sent by Seller to Buyer and these Tooling Terms and Conditions, these Tooling Terms and Conditions shall control.

26. TRAVEL

Buyer will reimburse Seller for reasonable travel and other expenses incurred while performing the obligations required pursuant to this Agreement, according to Buyer's current travel policy in place as of the effective date of the Agreement, copies of which are available upon request. All travelers are expected to exercise discretion and good judgment when incurring business-related expenses, and to work to minimize expenses whenever possible. All travel not deemed necessary is to be avoided.