

Standard Terms & Conditions

This Supply Agreement (“Agreement”) is entered into by and between DAVCO Technology, LLC (“Buyer”) and “Supplier” as of the effective date.

Supplier agrees to sell to Buyer and Buyer agrees to buy from Supplier under purchase orders issued by Buyer on a nonexclusive basis the Products in accordance with the terms and conditions stated herein.

1. ACCEPTANCE – COMPLETE AND EXCLUSIVE AGREEMENT

Buyer’s issuance of an order is expressly made conditional upon Seller’s assent that the terms, provisions and conditions set forth in this document, together with the order, shall constitute the sole and exclusive agreement between Buyer and Seller, which assent by Seller shall be deemed given unless Seller shall notify Buyer of its objection to any such term, provision or condition herein or in the order within five (5) days after receipt of the order from Buyer. The terms and conditions of sale as stated herein and in the order govern in the event of conflict with any terms of Seller’s proposal and are not subject to change by reason of written or verbal statements by Seller or by any terms stated in Seller’s acknowledgement. No modification or change of any kind shall be valid, enforceable or binding on Buyer, unless such modification or change has been expressly agreed to in writing by Buyer.

2. PRICING

All prices contained in an order are final and binding and are not subject to change unless noted therein or such price change is expressly agreed to in writing by Buyer. Seller shall give Buyer at least six months advance notice of any price change. All prices changes will be effective January of the following year. No additional charges will be allowed or enforceable against Buyer for packing, boxing, or cartage unless specifically stated in the order.

3. PAYMENT TERMS

Terms of payment will be 45 days. Checks are processed on the 1st and the 16th of every month.

4. TAXES

Except as may be indicated in the order, the order price includes all applicable federal, state and local taxes in effect on the order date. In case of new taxes, increased rates, repeal of taxes or reduction of rates pertinent to the order, the order price shall be adjusted accordingly.

5. AFTERMARKET AND SERVICE REQUIREMENTS

Seller shall maintain availability of the goods purchased under this purchase order at a reasonable price for at least ten years, following cessation of production use of the product.

6. ASSIGNMENT

Order may not be assigned or delegated, in whole or in part, without Buyer’s prior written consent, including, but not limited to, the subcontracting of work to be performed or the transfer of tooling to third parties for the performance of work under this order.

7. PRODUCT SPECIFICATIONS

Goods called for by Buyer’s order must conform to the specifications and quantities so ordered and shall be produced as a minimum in compliance with the applicable certified quality system standard or equivalent to ISO9001, or TS16949. No substitutions are to be made by Seller unless expressly agreed to in advance and in writing by Buyer. Seller is responsible for submitting written notification of any product changes sixty (60) days prior to change. Buyer reserves the right to make modifications to the specifications of products not previously authorized for manufacture or delivery to Buyer and Buyer shall notify Seller of such modifications of specifications.

Standard Terms & Conditions

8. PACKING; MARKING; SHIPPING

Shipments shall be routed in accordance with Buyer's instructions, and Seller agrees to reimburse Buyer for all expense incurred by Buyer as a result of improper packing, marking or routing. Buyer's purchase order number, part number, and Seller's shipment identification number will appear on each package and bill of lading. Seller will promptly forward the original bill of lading or other shipping receipt for each shipment in accordance with Buyer's instructions. Buyer may specify the carrier and/or method of transportation and Seller will process shipping documents and route shipments of the goods from the FOB point accordingly. Buyer may from time to time change shipping schedules previously furnished Seller, or direct temporary suspension of scheduled shipments. Buyer's count will be accepted as final on all shipments. Shipments in excess of those authorized may be returned to Seller, and Seller shall pay the transportation charges both ways for such shipments. Unless otherwise expressly agreed to in writing by Buyer, no charge shall be made for containers, crating, boxing, bundling, dunnage, drayage, or storage. Buyer will not be responsible for delays in the payment of invoices if these requirements are not met. Buyer requires the use of Automotive Industry Action group (AIAG) parts identification label standard. In case packaging is not specified, it is the responsibility of the supplier to make sure parts are shipped in packaging that does not cause damage during shipping or storage.

9. RIGHT TO INSPECT

Buyer reserves the right to conduct an inspection on-site at Seller's location on product ordered. In addition, all goods will be subject to Buyer's inspection and approval after delivery at Buyer's destination. Nothing herein shall relieve Seller from its obligation of testing, inspection, quality control or compliance with product specifications. Seller is responsible for submitting any requested test data to Buyer prior to shipment.

10. PERFORMANCE; DELAYS

Timely delivery is essential; however, neither party shall be liable to the other for any delay or failure to perform where such delay or failure is caused by events beyond the reasonable control of the affected party. The foregoing shall be subject to the affected party giving reasonable notice to the other party. When deliveries are specified to be in accordance with Buyer's written releases, Seller will not fabricate or assemble any goods except to the extent authorized by the written releases or to the minimum delivery quantities in this purchase order. 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 contract. Where quantities and/or delivery schedules are not specified, Seller shall deliver goods in such quantities and times as Buyer may direct in subsequent releases. In the event of delay or failure to perform by Seller, Buyer may give written notice to Seller of either termination of the purchase order or rejection of any partial or future performance. All damages suffered by Buyer and any premium transportation or other costs required to meet the specified delivery schedule will be at the expense of Seller.

11. DEFECTIVE MATERIAL

In the event of any defect or noncompliance to specifications with Buyer's order, Buyer shall have the right to reject any shipments containing defective goods or goods failing to conform to the product specifications contained in Buyer's order. Buyer shall have the right to return such rejected goods or shipments to Seller at Seller's expense or, in Buyer's discretion, the right to make repairs to defective goods and to charge Seller with Buyer's actual costs of making such repairs. Buyer shall be entitled to liquidate damages credit of \$100 USD per delivery of defective product components and/or materials.

Standard Terms & Conditions

12. WARRANTY

Seller warrants that all goods and services covered by this order conform to the specifications, drawings, samples or other description upon which this order is based, shall be fit and sufficient for the purpose intended, merchantable, of good material and workmanship and free from defect. This warranty runs to Buyer, its customers and users of its products. Seller agrees to promptly replace or correct defects of any goods or services not conforming to the foregoing warranty, without expense to Buyer, when notified of such nonconformity by Buyer. If Seller fails to promptly correct defects in or replace nonconforming goods, Buyer may make such corrections or replace such goods and services at Seller's expense or return them for credit or refund. In addition to other remedies, Buyer may reject nonconforming goods and return them to Seller at Seller's expense. Nonconforming goods may not be replaced without Buyer's written authorization. Please refer to DAVCO's warranty policy for coverage details at <http://www.davco.com/warranty.htm>.

13. RECALL / REPAIR CAMPAIGN

If Seller's products or services create or contribute to a vehicle or component repair campaign or safety recall due to a vehicle or component defect, or non-compliance with the National Traffic and Motor Vehicle Safety Act, as revised, Seller shall pay the cost of repair or recall and correction, including labor and administrative costs, based upon Seller's proportionate responsibility for the defect or non-compliance. This section does not limit Seller's liability under other provisions of this purchase order.

14. REMEDIES; WAIVER; APPROVAL

The rights and remedies reserved in this order to Buyer are cumulative and in addition to any other or further rights and remedies available at law or in equity. Without limiting the foregoing, if any goods fail to conform to the warranties provided by Seller, Buyer shall notify Seller and Seller shall, if requested by Buyer, reimburse Buyer for any incidental and consequential damages caused by the nonconforming goods, including costs, expenses and losses incurred by Buyer (a) in inspecting, sorting, repairing or replacing nonconforming goods; (b) resulting from production interruptions, (c) conducting recall campaigns or other corrective service actions, and (d) claims for personal injury (including death) or property damage caused by such nonconforming goods. No waiver of any breach of any provision of this order will constitute a waiver of any other breach or a waiver of such provision. Buyer's approval of documents shall not relieve Supplier from complying with any requirements of this order.

15. PATENT INFRINGEMENT

Seller agrees, as to products or goods, sold by Seller to Buyer, defend, indemnify and hold Buyer harmless from any and all losses, damages or costs arising out of any infringements or claims of infringements of any patent, copyright, intellectual property right or trademark right of any party by reason of the sale or use of any item contained in an order, either alone or in conjunction with other items and Seller will, after notice by Buyer, appear and defend at its own expense any such suit or action. Buyer shall have the right to be represented by its own counsel in any suit or action.

16. CONFIDENTIALITY – BUYER'S INTELLECTUAL PROPERTY

Where articles are made according to drawings or specifications submitted by Buyer, the design shall be solely owned by Buyer, with Buyer holding all intellectual property rights to the design. Seller agrees not to reveal to any other person or use for any other purpose other than the fulfillment of Buyer's order any information that is considered proprietary by Buyer, unless such has been expressly agreed to in writing by Buyer.

Standard Terms & Conditions

17. BUYER'S PROPERTY

All designs, tools and material furnished by Buyer, together with any replacements or additions, shall remain the property of Buyer and shall not be used for any purpose other than completing an order made by Buyer, and all such shall be returned to Buyer on demand. All designs, tools and material owned by Buyer should be clearly identified as Buyer's property. Seller shall keep in full force and effect a policy of property damage insurance with respect to Buyer's property in the possession of Seller. Such policy shall name Buyer and Seller as insured to the full extent of the policy and shall contain a clause that the insurer will not cancel or change the insurance without first giving Buyer ten (10) days prior written notice.

A copy of such policy or a certificate of insurance shall be delivered to Buyer. Seller shall be responsible to assure that property owned by Buyer shall be maintained and kept in good working condition.

18. COMPLIANCE WITH LAW

Seller agrees to comply with all applicable federal, state and local laws, regulations and ordinances and to indemnify Buyer against all liability for Seller's failure so to comply. The foregoing obligation includes without limitation compliance with all statutory, regulatory and contractual requirements that may be applicable to environmental matters, wages, hours and conditions of employment, subcontractor selection, discrimination, occupational health/safety and motor vehicle safety. The foregoing obligation further includes without limitation compliance with all statutory, regulatory and contractual requirements that may be applicable to Seller pursuant to Buyer's status as a contractor with the U.S. Government, the provisions of which are made a part of this purchase order by reference and include, without limitation, Federal Acquisition Regulations commonly known as Equal Opportunity, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era, Affirmative Action for Workers with Disabilities and Utilization of Small Business Concerns Laws. Seller will comply with the requirements of the Customs Trade Partners Against Terrorism (C-TPAT) initiative.

19. ENFORCEMENT; SEVERABILITY

Buyer's failure to enforce any provisions of this purchase order or any other right or option available to it will not be construed as a waiver of such provisions, rights, or options or in any way to affect the validity of this purchase order. In the event that any one or more of the provisions are for any reason held invalid or unenforceable in any respect, that does not affect any other provision of this purchase order and the remaining provisions will remain in full force and effect.

20. SURVIVAL OF OBLIGATIONS

All warranty and indemnification provisions set forth in this agreement, including all revisions and modifications of those provisions to which the parties may agree in the future, shall remain in full force and effect notwithstanding the termination or expiration of this agreement.

21. GOVERNING LAW; JURISDICTION

This order is to be governed by and construed under the laws of the State of Buyer's address. As permitted by Article 6 of the Convention on Contracts for the International Sale of Goods, Buyer and Seller agree that this purchase order is not governed by the Convention on Contracts for the International Sale of Goods. Any action or proceedings by Buyer against Seller may be brought by Buyer in any court having jurisdiction over Seller or, at Buyer's option, in a court having jurisdiction over Buyer's location, in which event Seller consents to jurisdiction and service of process in accordance with applicable procedures. Any actions or proceedings by Seller against Buyer may be brought by Seller only in a court having jurisdiction over the location of Buyer from which this contract is issued.

Standard Terms & Conditions

22. HAZARDOUS SUBSTANCE AND MATERIAL DATA SHEETS

Seller will notify Buyer in writing upon receipt of this purchase order if the products are subject to laws or regulations relating to hazardous or toxic substances, hazardous waste disposal, or to any other environmental or safety and health regulations. Seller will furnish all appropriate shipping certification and instructions for shipping, safety, handling, exposure, and disposal (including without limitation material data safety sheets) in a form understandable by Buyer's non-technical personnel and in enough detail to identify all action that the user must take concerning the material. On request of Buyer Seller will submit MSDS sheets in accordance with IMDS.

23. INDEMNITY; WORK ON BUYERS PREMISES

SELLER AGREES TO INDEMNIFY AND SAVE HARMLESS BUYER, ITS AGENTS AND CUSTOMERS AND THE USERS OF ANY GOODS OR SERVICES COVERED BY THIS ORDER FROM ANY AND ALL LIABILITY, LOSS, DAMAGE, OR EXPENSE WHICH MAY BE INCURRED BY ANY OF THEM, INCLUDING WITHOUT LIMITATION ATTORNEY FEES AND COSTS, ARISING OUT OF, OR IN CONNECTION WITH, OR RELATED TO ANY CLAIM OF DEFECT IN THE DESIGN, MATERIALS, MANUFACTURE OR SALE OF SUCH GOODS OR SERVICES, OR IN ANY WAY RELATED TO SELLER'S PERFORMANCE OF ITS OBLIGATIONS UNDER THIS ORDER. If Seller performs any work on Buyer's premises or uses Buyer's property either on or off Buyer's premises, Seller shall take all necessary precautions to prevent the occurrence of any injury to person or property during the performance of such work. Seller shall indemnify and protect Buyer against all liabilities, claims, or demands for injuries or damage to any person or property arising out of the performance of work on or use of Buyer's property, including without limitation attorney fees and costs.

Buyer will no longer be submitting copies of the terms and conditions with each individual order. The above terms and conditions will apply to all orders that you will receive from Buyer. Please sign, date and return this copy to Buyer showing that you have received and agree with the terms and conditions.

Signature: _____

Company: _____

Position: _____

Date: _____