

Hutchings Automotive Products

PURCHASE ORDER TERMS AND CONDITIONS

1. **Orders.** Purchase orders are not valid unless signed by the Purchaser's buyer. Purchaser will not recognize claims based on verbal orders.
2. **Acceptance of Purchase Order.** This purchase order constitutes Buyer's offer to Seller and shall become a binding contract upon the terms and conditions stated in this purchase order upon acceptance by Seller by any expression of acceptance, or commencement of performance, whichever occurs first. Any terms and conditions proposed by Seller in acknowledging or accepting Buyer's offer which are different from or in addition to the terms set forth in this purchase order shall not be binding upon Buyer and shall be void and of no effect, except to the extent expressly accepted in writing by Buyer's authorized procurement representative(s).
3. **Data.** Seller acknowledges that it has in its possession all applicable specifications, drawings, and documents (including, without limitation, statements of work) necessary to perform its obligations under this purchase order at the price and schedule stated on this purchase order or its attachments. All such documentation shall be deemed to be a part of this purchase order.
4. **Packing and Shipping.** Products shall be made as specified on this purchase order without charge for packaging or storage unless otherwise agreed in writing by Buyer. Products shall be suitably packed to secure the lowest transportation costs and in accordance with the requirements of the carriers of the releases or orders subject to this purchase order. Seller shall use the carrier(s) selected by Buyer if Buyer so requests. Buyer's order numbers must be plainly marked on all packages, bills of lading and shipping orders. Buyer's count or weight shall be conclusive. Seller shall not ship in advance of schedule or make partial shipment unless otherwise agreed in writing by Buyer. Risk of loss shall be retained by Seller until delivery of the parts at the location specified on this purchase order. Delivery according to schedule is a material condition of this purchase order. If in order to comply with Buyer's required delivery date it becomes necessary for Seller to ship by a more expensive way than specified in this purchase order, any increase in transportation costs resulting there from shall be paid for by Seller unless the necessity for such rerouting or expedited handling has been caused by Buyer.
5. **Taxes and Duties.** The prices stated in this purchase order include all applicable taxes and duties. This purchase order shall include all related customs duty and import drawback rights, if any, including rights developed by substitution and rights, which may be acquired from Seller's suppliers, which Seller shall transfer to Buyer. Seller agrees to inform Buyer of the existence of all such rights, and to supply such documents as may be required to obtain such drawbacks, unless waived in writing by Buyer. Seller agrees to certify and to deliver to Buyer the country of origin and a Manufacturer's Affidavit of Origin for all products delivered under this purchase order.
6. **Payments and Prices.** Unless different payment terms are expressly stated on this purchase order, payment terms shall be 45days from the Buyers receipt of Seller's presented invoice. Seller warrants that prices quoted to or paid by Buyer shall not exceed current prices charged to any other customer of Seller for products which are the same or substantially similar to, and in the same or substantially similar quantities. Seller shall refund or Buyer may set off against subsequent invoices any amounts paid by Buyer in excess of such price(s). The price stated in this purchase order includes all charges for packaging, boxing, crating, and special handling, and freight, F.O.B. destination. No modification or adjustment of the stated price may be made without the signed written agreement of Buyer.
7. **Set-off.** Buyer shall be entitled at all times to set off any amount owing at any time from Seller to Buyer (or any of Buyer's affiliated and subsidiaries) against any amount payable at any time by Buyer (or any of its affiliates or subsidiaries) to Seller.
8. **Warranty.** Seller warrants that all goods or services will conform to applicable specifications,

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drawings, descriptions, and samples, and will be of new manufacture, good workmanship and materials, and free from design defect, claim, encumbrance or lien, and be suitable for the purpose intended by Buyer. Seller warrants that it has full title, right, power and authority to enter into this purchase order and perform its obligations under the purchase order. If the materials delivered under this purchase order do not meet the warranties specified in this purchase order or other applicable warranties, Buyer may, at its option, return at Seller's expense, the defective or nonconforming materials for credit, refund, or set-off, or require Seller to correct or replace, at no cost to Buyer, any defective or nonconforming materials. Return shipping to Buyer of corrected or replacement materials shall be at Seller's expense. Materials required to be corrected or replaced shall be subject to this Section 8 and Section 9 (Inspection) in the same manner and to the same extent as materials originally delivered under this purchase order. Seller's warranties shall run to Buyer, its affiliates, subsidiaries, customers, or users of the materials and shall not be deemed to be exclusive of any other remedy at law or inequity available to Buyer, its affiliates, subsidiaries, customers, or users of the materials. Buyer's inspection, approval, acceptance, use of, or payment for all or any part of the materials shall in no way affect its warranty rights. Seller shall, at its expense, indemnify, defend, and hold harmless, Buyer, its directors, officers, employees, affiliates, subsidiaries, agents, customers, and end users from any and all loss, damages, or liability (including, without limitation, reasonable legal fees and costs) arising out of or resulting in any way from any defect in the materials, or from any act or omission of Seller, its agents, employees, or permitted subcontractors in Connection with the materials. This indemnification shall be in addition to Seller's warranty obligations.

9. **Inspection.** The materials may be inspected and/or tested by Buyer at any time, place and stage of production or distribution, and if at Seller's premises, Seller, without additional charge, shall provide all reasonable facilities and assistance required for safe and convenient inspection and testing. The foregoing shall not relieve Seller of its obligation to permit Buyer full and adequate inspection and testing away from Seller's premises. Payment shall not constitute Buyer's Acceptance of the materials nor impair Buyer's right to inspect and/or test the materials or exercise any of its remedies. Upon notice of rejection of defective materials, risk of loss of such materials shall be upon Seller until redelivery, if any, to Buyer. Rejected materials may be returned to Seller or held by Buyer, both at Seller's risk and expense, subject to Seller's disposal instructions.
10. **Default.** Buyer may, by written notice to Seller, cancel this purchase order or any release or order subject to this purchase order for default, (a) if Seller fails to deliver the materials strictly within the time specified in this purchase order, or if no time is specified, within a reasonable time; (b) if the materials delivered do not conform to this purchase order or if Seller fails to perform any of the other provisions of this purchase order, or so fails to make progress as to endanger performance of this purchase order in accordance with its terms; or (c) if Seller's financial condition shall at any time become unsatisfactory to Buyer. Upon such cancellation, Buyer shall not be liable to Seller for any amount. Seller will deliver to Buyer any of the materials for which Buyer shall make written request prior to or upon cancellation, for which Buyer will pay Seller the fair value of any such materials so requested and delivered. Buyer may pursue any remedies available at law or inequity and Seller shall be liable to Buyer for any and all damages suffered by Buyer by reason of Seller's default. Seller shall cooperate with any transition of the delivery of the materials as reasonably requested by Buyer.
11. **Change Orders and Material Substitution.** Buyer shall have the right by written notice to change the terms of the purchase order, the drawings, specifications or other descriptions, the time, method or place of delivery or the method of shipment or packaging or to suspend delivery of the

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materials. Upon receipt of such notice, Seller shall proceed promptly to make such changes. If any such change causes a change in the cost of the materials or in the time required for performance, Seller shall provide prompt notice to Buyer of any such change and an equitable adjustment shall be negotiated promptly and this purchase order shall be modified in writing accordingly. Seller shall not substitute or replace or add new raw materials or components in the goods or change the specifications related to such materials without first notifying Buyer in writing and receiving Buyer's written consent.

12. **Confidential Information.** Seller shall not disclose to any third party or use any confidential Information of Buyer's concerning this purchase order without Buyer's prior written consent. Any knowledge or information which Seller may disclose to Buyer in connection with the purchase of any of the materials shall not, unless Buyer otherwise specifically agrees in writing, be deemed to be confidential information and shall be acquired free from any restriction as part of the consideration for this purchase order.
13. **Termination for Convenience of Buyers.** Buyer reserves the right to terminate this order or any part hereof or its sole convenience. In the event of such termination, Seller shall immediately stop all work hereunder, and shall immediately cause any of its suppliers or subcontractors to cease such work. Seller shall be paid a reasonable termination charge, consisting of a percentage of the order price reflecting the percentage of the work performed prior to the notice of termination, plus actual deposit costs resulting from termination. Seller shall not be paid for any work done after receipt of the notice of termination, nor for any costs incurred by Seller's suppliers or subcontractors which Seller could reasonably have avoided.
14. **Delays.** Whenever an actual or potential labor dispute or other event beyond the reasonable control without the fault or negligence of the Seller is delaying or threatens to delay the timely delivery of the materials, Seller shall immediately give written notice of delay, including all relevant information regarding the delay, to Buyer. In addition, Seller shall take all reasonable steps to avoid or remove the cause of such delay and mitigate the harm of such delay to Buyer and will resume performance (if suspended) as soon as the cause of delay is removed. In the event the Seller's performance is delayed or is expected to be delayed by more than five (5) business days, the Buyer upon written notice to Seller may terminate this purchase order for its convenience in accordance with Section 13 of this purchase order.
15. **Assignments and Subcontracting.** No part of this order may be assigned or subcontracted without prior written approval of Buyer.
16. **Personal Injury and Property Damage Indemnification.** Seller agrees at its expense to indemnify, defend, and hold harmless Buyer, its directors, officers, employees, affiliates, subsidiaries, agents, customers, and end users from any and all loss, claims, and liability, including, without limitation, reasonable legal fees and costs for death, injury, or disability of any person or damage to or destruction of property (including, without limitation, the loss of use of any property or the presence of hazardous substances at any property) caused by or resulting from the acts or omissions of Seller, its agents, suppliers, or employees in connection with the performance of this purchase order. During the performance of this purchase order, Seller shall maintain in full force and effect, at its sole cost and expense, reasonable insurance coverage (based on the size and revenues of Seller's business and industry norms) covering activities performed under this purchase order.
17. **Hazardous Chemicals and Hazardous Materials.** Prior to shipment or transfer of any hazardous chemical(s), as defined by regulations promulgated pursuant to the Occupational Health and Safety Act (OSHA), Seller shall provide Buyer with a complete, up-to-date Material Safety Data Sheet and shall properly mark such hazardous chemical(s) with a label satisfying the Requirements of OSHA's Hazard Communication Standard (29 CFR Part 1910.1200 et seq.). Any shipment or transfer by

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Seller of any hazardous material(s) (as defined by regulations promulgated by the U.S. Department of Transportation (DOT) and Appendix A of Federal Standard number 313A) shall be conducted consistent with the requirements of DOT regulations promulgated at 40 CFR Part 171 et seq.

18. **Relationship of Parties.** The Seller and Buyer are independent contractors. Nothing in this purchase order shall be deemed to create a partnership, joint venture, franchise, employment, or agency relationship between the parties. Neither party shall have the power or authority to bind or obligate the other party.
19. **Tooling.** Production Tooling included in this purchase order must be kept in good condition for ten years after production ceases; and must be labeled and pictured. Seller is required to have Buyer's written authorization to scrap any tooling included in this purchase order.
20. **Waiver.** Any failure or delay by either party in exercising any right or remedy will not constitute a waiver.
21. **Entire Agreement.** Unless another agreement expressly references and incorporates this purchase order into such agreement (or otherwise makes this purchase order supplementary to such agreement) and such agreement provides for an order of precedence, this purchase order, together with any data referenced in Section 3 of this purchase order, constitutes the entire agreement and exclusive statement of the terms between the parties with respect to the purchase and sale of the materials under this purchase order and terminates and supersedes all previous negotiations, communications, representations, or agreements between the parties. No alteration, modification, or amendment of any of the provisions in this purchase order shall be binding unless in writing and signed by Buyer's authorized procurement representative(s). If any provision of this purchase order is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, all other provisions shall remain in full force and effect.
22. **Governing Law and Venue.** This purchase order shall be governed by the laws of the State of Florida, U.S.A., without giving effect to conflicts of law principles. Seller and Buyer consent to the exclusive jurisdiction of, and venue in, the state and federal courts within the State of Florida, U.S.A.
23. **Survival.** Any provision in this purchase order which, by its nature, would reasonably be expected to be performed after the termination of this purchase order shall survive and be enforceable after such termination.
24. **Limitation of Liability.** In no event shall Buyer be liable for any incidental, indirect, special, and consequential or punitive damages, even if Buyer knew or should have known of the possibility of such damages.