



## ROAD EQUIPMENT PARTS CENTER TERMS AND CONDITIONS OF SALE

(Effective April 2022)

### 1. Offer and Acceptance.

(a) These ROAD EQUIPMENT Parts Center Terms and Conditions of Sale (these “*Terms and Conditions*”), together with the terms of any other document in which these Terms and Conditions are attached or are incorporated (collectively, this “*Agreement*”) apply to (i) any quotation, proposal, or offer to sell (“*Offer*”) made by Hinton Transportation Investments, Inc. d/b/a ROAD EQUIPMENT Parts Center (“*Seller*”) for the sale of Seller’s goods and/or services (collectively, the “*Goods*”); (ii) any purchase order or related attachments, schedules, exhibits, designs and drawings (collectively, an “*Order*”), issued by the buyer-party purchasing the Goods or that party’s subsidiaries and affiliates (collectively, “*Purchaser*”); and (iii) any written master purchaser or supply agreement executed by Seller and Purchaser for the sale of the Goods. Purchaser accepts, and will be deemed to be bound by, the terms of this Agreement upon the first to occur of the following: (A) Purchaser’s written acknowledgment of this Agreement in writing; (B) Purchaser placing an Order with Seller; (C) delivery of the Goods by Seller pursuant to any Order or similar type of request by Purchaser; (D) acceptance of the Goods by Purchaser; or (E) payment for the Goods by Purchaser.

(b) Purchaser’s acceptance is expressly limited to the terms of this Agreement and this Agreement exclusively governs the sale of Goods by Seller. Any reference in this Agreement to any request for quotation, request for proposal, or any other similar bid document made by Purchaser is solely for the purpose of incorporating the description and specifications of the Goods contained in such document, but only to the extent that such description and specifications do not conflict with the description and specifications contained in this Agreement or otherwise agreed to or accepted by Seller in writing. Any additional or different terms proposed by Purchaser, whether in Purchaser’s Order or otherwise (including, without limitation, Purchaser’s general terms and conditions of purchase), or any attempt by Purchaser to vary the terms of this Agreement in any way, are expressly rejected by Seller, are not part of this Agreement and do not apply to the sale of Goods, and are not binding on Seller without the express prior written acceptance of such terms by Seller’s authorized representative; *provided, however*, Seller will be deemed to accept those portions of an Order issued by Purchaser that contain terms and conditions that are same as the terms and conditions set forth in this Agreement. The parties have agreed and it is their intent that the “battle of the forms” described in Section 2-207 of the Uniform Commercial Code will not apply to this Agreement or to any Order or other purchasing document of Purchaser relating to this Agreement.

(c) None of the terms, provisions or conditions of this Agreement may be modified, altered or added to except by written instrument signed by a duly authorized representative of Seller and Purchaser. Any agreed upon change may be subject to an equitable adjustment in the purchase price and/or time for performance.

2. Duration. Unless otherwise agreed by Seller in writing, the term of this Agreement shall take effect immediately and will expire twelve (12) months thereafter (the “*Term*”). Notwithstanding the expiration or termination of this Agreement, Purchaser will be responsible for the payment of any finished Goods, work-in-progress, and all costs incurred or other materials made or committed for this Agreement as a result of an Order issued by Purchaser to Seller.

3. Quantity. Even if this Agreement does not require Seller to supply a specified quantity of Goods or an Order is designated as “blanket” or does not contain a specific quantity, this Agreement is not a requirements contract and Seller is only obligated to supply Purchaser the Goods in an amount not less than one (1) unit. Each Order must be separately accepted by Seller to be binding and Seller may accept such Order by agreeing to deliver the Goods in writing or delivering the Goods. Any variation in quantities shipped over or under the quantities ordered (not to exceed 10%) will constitute compliance with Purchaser’s Order; provided, however, the stated price will be equitably adjusted to account for any quantities under shipped.

### 4. Price and Payment.

(a) **Price.** Prices for the Goods will be as agreed by Seller and Purchaser in a signed writing or, if there is no writing signed by the Parties as to the price of the Goods, the price specified in the Offer. All Offers are open for acceptance by Purchaser for thirty (30) days from the date Seller issues the Offer to Purchaser. After thirty (30) days, prices and lead times set forth in the Offer are subject to change without notice and may be re-quoted. All Offers must be in writing and verbal Offers are not binding on Seller unless confirmed in a writing signed by Seller. Any prices shown in any other material of Seller (including catalogs, brochures, and websites) are subject to change without notice. Unless otherwise agreed by Seller in a signed writing, Seller's prices do not include transportation, freight, handling, special handling, delivery and insurance costs or any all foreign or domestic federal, state, provincial and local taxes (including sales, use, value-added and excise taxes), assessments, tariffs, duties, and any similar fiscal contribution related to the sale, use, shipment, transportation, or delivery of the Goods, all of which shall be the sole responsibility of Purchaser and payable by Purchaser (whether directly or by reimbursement to Seller) in addition to Seller's price.

(b) **Payment.** Purchaser will pay for Goods without setoff, recoupment, or deduction of any kind, in U.S. funds (or the currency agreed upon by Purchaser and Seller in a signed writing). Unless otherwise set forth in a writing signed by Seller, payment for the Goods will be due and payable within **thirty (30) days** following the earlier of (i) the date of Seller's invoice or (ii) Purchaser's receipt of the Goods. Purchaser will not be entitled to any discount for early payment. Notwithstanding the preceding sentence, and unless set forth in a signed writing by Seller, a down payment of thirty-five percent (35%) for payment due under an Order must be paid by Seller to Purchaser (and will be a condition precedent to acceptance of the Order) for (1) all Orders that Seller considers to be large as determined by Seller and communicated by Seller to Purchaser; (2) Purchaser's first Order with Seller; and (3) any other Order that Seller, in its reasonable discretion, determines requires such down payment. If payment is not made as provided in this Agreement, Seller may, at its option and without notice: (A) suspend performance of its obligations under this Agreement, including, without limitation, delay or suspend shipments to Purchaser until such breach has been cured; (B) require payment in advance as to future deliveries or require security to ensure payment; (C) demand return from Purchaser of any Goods for which payment has not been made; or (D) cancel this Agreement. If Seller's performance or shipment is delayed or suspended at the request of Purchaser, payment shall become due on the date when the Seller is prepared to make shipment and such payments shall be made based on the purchase price and the percentage of completion. All amounts due to Seller but not paid by Purchaser on the due date will bear interest on the unpaid balance of amounts due at a rate that is equal to one percent and one-half percent (1.5%) per month, or the maximum rate permitted by law, until paid. Purchaser agrees to indemnify and hold harmless Seller from any and all legal fees and costs that may be required to collect any overdue balances. If deliveries of Goods are to be made in installments, the purchase price of each installment shall, at Seller's option, be recoverable as a separate sale. The remedies contained in this **Section 4** are cumulative and shall be in addition to any other remedies available to Seller under applicable law.

## 5. **Delivery; Import and Export; Risk of Loss.**

(a) Delivery dates are estimates only and Seller will use commercially reasonable efforts to deliver the Goods on dates requested by Purchaser. All delivery dates are subject to Seller's lead times as communicated by Seller to Purchaser. Seller shall not be liable for any delay in delivery of any kind, regardless of cause or extent. All sales and delivery dates are contingent on the ability of Seller and its suppliers and manufacturers to secure any applicable raw materials and the absence of any event of Force Majeure (as defined below). Unless otherwise agreed in writing by Seller, **Seller will deliver the Goods EX WORKS (Incoterms 2020) to Purchaser's carrier at the designated manufacturing facility. Title and risk of loss to the Goods will pass to Purchaser when the Goods are placed in the possession of Purchaser's carrier; provided, however, Seller shall retain a purchase-money security interest in the Goods as security until payment in full is received. Seller assumes no liability for any loss or damage to Goods during shipment or transportation, whether from the manufacturing facility and regardless of whether Purchaser or Seller is responsible for the transportation of the Goods.** Purchaser must inspect shipments before shipment or during unloading to identify any such loss or damage. Any claims for lost or damaged Goods by Purchaser must be made to the applicable third-party carriers or freight forwarders, as applicable; provided, however, if Seller is responsible for the transportation then Seller will provide Purchaser commercially reasonable assistance in the submission of the claim. Seller may, at its option, deliver all Goods in one lot or several lots from time to time, as long as such delivery are within the time frame set forth in the Order or this Agreement, as the case may be. To the extent delivery is in several lots, Purchaser agrees that the prices for the Goods can be apportioned and can be demanded for in each lot.

(b) Unless agreed in writing by Seller, Purchaser or its designated agent: (i) will be the importer and exporter of record on all cross-border transfers, returns, and others shipments of Goods, (ii) will not list Seller on any import, export, or other customs documentation, and (iii) will be directly responsible for ensuring that such cross-border transfers and shipments of the Goods comply with all export, import and other applicable laws (including export licensing, shippers export declaration, and export invoice). As the importer and exporter of record, Purchaser or its designated agent will be responsible for payment of any taxes, duties or fees, and will be responsible for all required recordkeeping, registration, reporting and licensing. Seller will incur no liability arising from any assistance Seller provides in preparing any documentation or otherwise.

(c) Title and risk of loss to the Goods will pass to Purchaser when the Goods are placed in the possession of Purchaser's carrier; provided, however, Seller shall retain a purchase-money security interest in the Goods as security until payment in full is received. Seller assumes no liability for any loss or damage to Goods during shipment or transportation, whether from the manufacturing facility and regardless of whether Purchaser or Seller is responsible for the transportation of the Goods. Purchaser must inspect shipments before shipment or during unloading to identify any such loss or damage. Any claims for lost or damaged Goods by Purchaser must be made to the applicable third-party carriers or freight forwarders, as applicable; provided, however, if Seller is responsible for the transportation then Seller will provide Purchaser commercially reasonable assistance in the submission of the claim. Seller shall not be responsible for the accuracy of shipping weights, if any, listed on any transportation documents. Such weights are given only for the purpose of enabling Purchaser to estimate transportation cost.

6. **Force Majeure.** Seller will not be held liable, or deemed in default, for any failure or delay in fulfilling or performing any of its obligations under this Agreement if such failure or delay is caused by, or results from, acts beyond Seller's reasonable control, whether or not foreseeable, including, without limitation, fire, flood, drought, acts of nature, war, hostilities, terrorist threats or acts, riot or other civil unrest, strikes, lockouts, slowdowns or other labor unrest, delays in transportation, shortage of power, unavailability of raw materials, increased costs in raw materials or related components (including any increase in costs by governmental action that were not in place at the commencement of this Agreement), embargo, government action (including any law, rule, order or action of any court or instrumentality of the federal or of any state government or Seller's good faith compliance with any governmental directive concerning the health and safety of Seller's personnel)), earthquake, explosion, emergency (whether national, regional, state, or local), pandemic, epidemic, plague, disease, virus, other outbreak, quarantine or travel restrictions (collectively, the "**Force Majeure**"). A Force Majeure being experienced by Seller's subcontractors or third party manufacturers (or any other party in Seller's supply chain) will be deemed a Force Majeure being experienced by Seller. During the period of Force Majeure, at Seller's option, either (i) the date of delivery shall be extended for a period equal to the time lost due to any Force Majeure, or (ii) any quantity of Goods affected by a Force Majeure shall be deducted from the total quantity required to be sold to Purchaser. Seller, during any period of shortage due to a Force Majeure, may allocate its available supply of Goods among itself and its customers on whatever basis it deems desirable and Purchaser agrees that Seller is not required to mitigate any impact of the Force Majeure.

7. **Acceptance and Return of Goods.** Purchaser will inspect the Goods immediately upon receipt. Unless Purchaser provides Seller with written notice stating with specificity any defects, nonconformities, or shortage relating to the Goods within the **forty-eight (48) hours** following Purchaser's receipt of the Goods, such Goods will be deemed fully and finally inspected, checked and accepted by Purchaser, and any such claims for defects, nonconformities, or shortages will be waived by Purchaser. Upon acceptance of Goods, Purchaser waives any right to revoke such acceptance for any reason, whether known or unknown to Purchaser at the time of acceptance. Seller has a reasonable period of time to cure any nonconformity. **Goods may not be returned without Seller's prior written return authorization and, once authorized, Purchaser may return the Goods Delivery Duty Paid (Incoterms 2020) to the destination determined by Seller and in accordance with instructions issued by Seller, including provision of the packing list and corresponding Seller invoice.** Failure to follow Seller's return procedures may result in lost Goods, delays, additional service, restocking charges, warranty denial, or refusal of a shipment. Seller has the right to reject Goods returned without Seller's approval.

8. **Cancellation and Changes.** Purchaser may not cancel Orders, change the timing of scheduled shipments, or direct temporary suspension of scheduled shipments without Seller's prior written consent. Cancellations of Orders or rescheduling of shipments shall be subject to cancellation charges which will include (i) payment of any finished Goods, work-in-progress, and all other materials made, purchased by Seller, or otherwise committed for the Order; (ii) any liability, damages, or claims incurred by Seller arising from such cancellation; and (iii) the gross profit on the cancelled portion of the Orders, which amount will not equal less than fifteen percent (15%) of the unpaid portion price. The cancellation charges described in the preceding sentence are not a penalty or liquidated damages, but are in recognition of the lost opportunity cost to Seller. All changes to Orders must be submitted by Purchaser to Seller in writing and will not be effective unless and until Seller consents in writing to the change(s). Seller will advise Purchaser in writing of the price and/or delivery schedule impact, if any, of the change request. Seller will not be required to accept any changes without Purchaser's written acknowledgement of any price and/or delivery schedule adjustments, if any.

9. **Allocation.** Seller will not be required to sell a greater quantity of Goods than Seller or Seller's subcontractors has available or has allocated for this Agreement. If Seller is unable to supply the total demands for any Goods, Purchaser acknowledges and agrees that Seller may allocate its available supply among its customers in any manner Seller deems fair and equitable. SELLER WILL NOT BE OBLIGATED UNDER ANY CIRCUMSTANCES TO PURCHASE GOODS FROM PARTIES OTHER THAN ITS DESIGNATED SUPPLIERS OR MANUFACTURES TO MEET PURCHASER'S DEMANDS, NOR WILL IT BE LIABLE FOR ANY DAMAGES OR CLAIMS ARISING THEREFROM.

10. **Intellectual Property.** Except to the extent provided in a separate written agreement between Purchaser and Seller,

this Agreement will not be deemed to transfer, assign, or license any right, title, or interest in and to, any idea, invention, concept, discovery, work of authorship, patent, copyright, trademark, trade secret, know-how, formula, design, engineering drawing, device, compilations of information, manufacturing methods or processes, tooling or other intellectual property owned by a party or its third party licensors (collectively "**Intellectual Property**"). Notwithstanding the foregoing, each party hereby provides the other party with a limited, revocable, and royalty free license to such party's Intellectual Property solely to extent required for a party to perform its obligations under this Agreement. Purchaser will not use Seller's or its subcontractor's Intellectual Property, in whole or in part, to copy, redesign, reverse engineer, replicate or manufacture (or enable manufacture by itself or any third party) all or any portion of the Goods.

11. **Confidentiality.** All Intellectual Property, and all other confidential and proprietary information provided by a party (the "**Disclosing Party**") to another party (the "**Receiving Party**") under this Agreement including, without limitation, any samples, drawings, know-how, processes, and other technical, business, or financial information, whether provided orally, in writing, by demonstration, or otherwise (collectively, "**Confidential Information**"): (a) is owned by the Disclosing Party; (b) must be kept confidential by Receiving Party and may not be disclosed by Receiving Party to third parties without the express prior written consent of Disclosing Party; *provided, however*, Receiving Party may disclose Disclosing Party's Confidential Information to Receiving Party's employees, attorneys, agents, and subcontractors who have a "need to know" the Confidential Information for purposes of carrying out Receiving Party's obligations under this Agreement as long as such individual and entities are bound by confidentiality terms no less restrictive than those contained in this Agreement; and (c) may not be used by Receiving Party other than is required for Receiving Party to perform its obligations under this Agreement. The confidentiality restrictions in this Section 11 do not apply to information which is (i) already known by the Receiving Party prior to the date of this Agreement and without breach of the confidentiality restriction that the Receiving Party was subject; (ii) acquired by the Receiving Party from a third party which was not, to the knowledge of Receiving Party, under an obligation to the Disclosing Party not to disclose such information; (iii) which is or becomes publicly available through no breach by Receiving Party of confidentiality restrictions to which such Party is or was subject; or (iv) independently developed by the Receiving Party without the use of the Disclosing Party's Confidential Information. Notwithstanding the above, a Receiving Party may disclose Disclosing Party's Confidential Information if required by a judicial or government request, requirement, or order as long as (A) to the extent not prohibited by law, Receiving Party gives Disclosing Party written notice prior to such disclosure and (B) Disclosing Party only discloses that portion of Confidential Information required to comply with such requirement, request, or order. Upon the termination or expiration of this Agreement, Receiving Party agrees to return, or destroy (to the extent feasible), Disclosing Party's Confidential Information in Receiving Party's possession; provided, however, Receiving Party may retain one (1) copy of Confidential Information to the extent required to comply with any legal obligation as long as Receiving Party continues to comply with the provisions of this Agreement.

12. **Warranty.**

(a) **Seller Warranty.** Subject to the limitations set forth in this Agreement, and for a period of one (1) day following Seller's delivery of the Goods (the "**Warranty Period**"), Seller warrants to Purchaser (and not to any third party) the Goods will be free from significant defects in material and workmanship (the "**Seller Warranty**"); provided, however, (i) all Goods sold by Seller are manufactured by third party suppliers and manufactures and (ii) the Seller Warranty will be no greater than the warranties provided Seller's suppliers or manufacturer and apply only to the extent that Seller can recover from such third party on their applicable warranty (and Seller will use all commercially reasonable efforts to do so). Upon request, Seller will assign (to the extent assignable) any warranty provided by Seller's supplier or manufacturer to Purchaser. **THE SELLER WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EITHER EXPRESS, STATUTORY OR IMPLIED, WHICH ARE HEREBY DISCLAIMED AND EXCLUDED BY SELLER, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, AND ALL OBLIGATIONS OR LIABILITIES ON THE PART OF SELLER FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE, REPAIR, OR PERFORMANCE OF THE GOODS.** No third party, including any employee or agent of Seller, is authorized to make any representation, promise, or warranty concerning the Goods and any statements made by those parties are not binding on Seller unless in writing signed by an authorized representative of Seller. Any technical advice furnished by Seller or its employees or agents is for Purchaser's convenience only and Seller assumes no obligation or liability for the advice given or the results obtained from that advice. A defect in one Good shall not be deemed a defect in all the Goods of a shipment unless each Good is shown to have a defect.

(b) **Warranty Claims.** In order to make a claim under the Seller Warranty, Purchaser must (i) notify Seller, in writing, of the alleged claim or defect and such writing must (A) set forth with specificity the nature of the defect in the Seller Warranty and (B) be delivered to Seller no later than ten (10) business days following Purchaser's discovery of the defect. Seller reserves the right to test or inspect the Goods to confirm the defect as a condition to any remedy under the Seller Warranty.

(c) **Exclusive Remedy.** **PURCHASER'S SOLE AND EXCLUSIVE REMEDY AGAINST SELLER, AND**

**SELLER'S SOLE OBLIGATION FOR ANY AND ALL CLAIMS, WHETHER FOR BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, SHALL BE LIMITED TO, AT SELLER'S OPTION, SELLER REPLACING THE NON-CONFORMING GOODS WITH CONFORMING GOODS, REPAIRING THE APPLICABLE GOODS, OR REFUNDING THE PURCHASE PRICE PAID BY PURCHASER TO SELLER FOR THE APPLICABLE GOODS. IN NO EVENT SHALL SELLER HAVE ANY LIABILITY FOR DAMAGES IN AN AMOUNT EXCEEDING THE PURCHASE PRICE OF THE APPLICABLE GOODS.**

(d) **Withdrawal of Goods.** If Seller determines that any Goods sold to Purchaser may be defective, at Seller's request, Purchaser will withdraw all similar Goods from sale and, at Seller's option, either return such Goods to Seller or destroy the Goods and provide Seller with written certification of such destruction.

13. **Limitation of Liability.** IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY, WHETHER IN CONTRACT OR IN TORT OR UNDER ANY OTHER LEGAL THEORY, FOR (I) ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL LOSSES OR DAMAGES, INCLUDING, BUT NOT LIMITED TO, ANY DIRECT OR INDIRECT LOST PROFITS OR REVENUE REGARDLESS OF WHETHER SUCH LOSS OR DAMAGE WAS FORESEEABLE OR A PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE OR (II) ANY DIRECT DAMAGES IN AN AMOUNT EXCEEDING THE PRICE PAID OR PAYABLE FOR THE GOODS AT ISSUE; PROVIDED, HOWEVER, SELLER SHALL BE ENTITLED TO THE PRICE PAYABLE FOR THE GOODS AND THE FOREGOING SHALL NOT BE DEEMED TO LIMIT SELLER'S RIGHT TO SUCH PRICE EVEN IF SUCH PRICE INCLUDES SELLER'S PROFIT.

14. **Termination for Cause.** Either party may terminate this Agreement for cause prior to expiration of the Term by providing written notice to the other party specifying the applicable date of termination, upon the occurrence of any one or more of the following events: (a) excluding payment obligations, a party materially breaches this Agreement and does not cure such breach within thirty (30) days after receipt of written notice of such breach; (b) a party fails to make any payment due to the other party under this Agreement on or before the due date; or (c) a party (i) becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (ii) is dissolved or liquidated or takes any corporate action for such purpose; (iii) makes a general assignment for the benefit of creditors; or (iv) has a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business. Any termination by a party pursuant to this Section 14 will not constitute a waiver of any of any rights or remedies under this Agreement or otherwise provided by law.

15. **Indemnification.** To the maximum extent allowed by law, Purchaser will defend, indemnify and hold harmless Seller and its present and future directors, officers, shareholders, members, employees, attorneys, agents, representatives, parents, affiliates, and subsidiaries from and against any and all claims, costs, demands, losses, indirect and direct damages (including lost profits, incidental, consequential, and punitive damages), liabilities, causes of action, judgments, settlements, awards, fines, penalties, assessments, and expenses (including costs of defense, mediation, settlement and reasonable attorneys' and other professionals' fees), however described or denominated, brought by any third party (including, Purchaser's employees, subcontractors, laborers, agents, and assigns) arising out of, incidental to, or resulting from (i) Purchaser's negligence, use, ownership, maintenance, transfer, transportation or disposal of Goods; (ii) any infringement or alleged infringement of the industrial and intellectual property rights of others arising from Purchaser's plans, specifications (including Purchaser's trademarks and brand names) or production of Goods ordered by Purchaser; (iii) any personal injury, bodily injury (including death), or property damages arising out of the use of the Goods; (iv) Purchaser's violation or alleged violation of any federal, state, county or local laws or regulations; (v) any negligent or willful act or omission of Purchaser or its respective subcontractors, agents, employees or other representatives; or (v) Purchaser's breach of this Agreement.

16. **General Terms.**

(a) **Notices.** All notices, claims and other communications to required or permitted under this Agreement will be made in writing and will be effective only upon receipt.

(b) **Entire Agreement.** This Agreement, including any attachments, exhibits or supplements attached hereto, and other matter incorporated herein by specific reference, constitutes the entire agreement between Seller and Purchaser with respect to the subject matter of this Agreement and supersedes all prior or contemporaneous oral or written discussions, understandings, representations and agreements.

(c) **Subcontracting.** Purchaser expressly agrees that Seller may subcontract all or part of the manufacture of the Goods to a thirty party subcontractor, supplier, or manufacturer and the manufacture of the Goods by such third party is not a breach of this

Agreement.

(d) Severability. If any clause in this Agreement is determined by a court of competent jurisdiction to be invalid, the invalidity of such clause shall not affect the validity of the remainder of this Agreement.

(e) Remedies. Except to the extent limited by this Agreement, the right and remedies reserved to a party under this Agreement are cumulative and in addition to all other rights and remedies provided by law or equity.

(f) Assignment. Purchaser may not assign this Agreement or assign or delegate its rights or obligations under this Agreement without Seller's prior written consent. Any purported assignment in violation of this Section will be null and void and of no force or effect.

(g) Governing Law; Venue. This Agreement, and all related documents and matters arising out of or relating to this Agreement, are governed by, and will be construed in accordance with, the laws of the State of Michigan, without regard to any conflict of law provisions. The United Nations Convention on Contracts for the International Sale of Goods is expressly excluded from applying to this Order. Purchaser and Seller each irrevocably and unconditionally agree that the sole and exclusive forum, venue, and jurisdiction for any legal or equitable action or proceeding arising out of or in connection with this Agreement will lie in the United States District Court for the Western District of Michigan, the courts in the State of Michigan sitting in Kent County, and any appellate court with jurisdiction over such courts. The parties hereby irrevocably and unconditionally (i) waive any objection which it may have or hereafter have to the laying of the venue of any such suit, action or proceeding and any claim that any such suit, action or proceeding has been brought in an inconvenient forum including, without limitation, any defense of *forum non conveniens*, international comity, or any other defense based on the location of the parties and (ii) submits to the sole and exclusive personal jurisdiction of such courts. To the extent Purchaser is located outside of the United States of America, Purchaser agrees that any breach of this Agreement and any resulting injury will be deemed to occur in the State of Michigan, United States of America.

(h) Relationship of Parties. Seller and Purchaser are independent contracting parties and nothing in this Agreement will make either party the agent or legal representative of the other for any purpose, nor does it grant either party any authority to assume or to create any obligation on behalf of or in the name of the other.

(i) No Third Party Beneficiary. Except as otherwise provided in this Agreement, the parties agree that the rights and interests of the parties under this Agreement are intended to solely benefit Seller and Purchaser.

(j) Interpretation. For purposes of this Agreement (i) whenever the word "including" (or any variation thereof) is used, it is deemed to be followed by the words "without limitation;" (ii) the word "or" is not exclusive; (iii) section headings are for convenience or reference only, and do not affect the meaning of this Agreement; and (iv) any agreement, instrument, statute, law, regulation or rule defined or referred to herein shall be deemed to mean such agreement, instrument, statute, law, regulation or rule as from time to time amended, modified or supplemented, and includes, in the case of agreements and instruments, references to all attachments thereto and instruments incorporated therein. Both Purchaser and Seller are experienced in business and had the opportunity to have this Agreement reviewed by counsel. Accordingly, no provision in this Agreement may be construed against either Purchaser or Seller as the drafting party.

(k) Survival. To the extent that any provisions of this Agreement are meant to remain valid after this Agreement has terminated, expired or otherwise ended, such provisions have continued validity even after termination.

(l) **CONSULTATION WITH COUNSEL. PURCHASER AND SELLER ACKNOWLEDGE THAT THEY HAVE BEEN GIVEN THE OPPORTUNITY TO CONSULT WITH COUNSEL OF THEIR CHOICE BEFORE ENTERING INTO THIS AGREEMENT AND ARE DOING SO WITHOUT DURESS, INTIMIDATION, OR COERCION AND WITHOUT RELIANCE UPON ANY REPRESENTATIONS, WARRANTIES, OR COMMITMENTS OTHER THAN THOSE REPRESENTATIONS, WARRANTIES, OR COMMITMENTS SET FORTH IN THIS AGREEMENT.**

(m) **JURY TRIAL WAIVER. PURCHASER AND SELLER ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH OF PURCHASER 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 THIS AGREEMENT OR ANY OTHER DOCUMENT PERTAINING TO THIS AGREEMENT.**

**\*\*\*End of ROAD EQUIPMENT Parts Center Terms and Conditions of Sale\*\*\***